

**RULES REVIEW COMMISSION MEETING
MINUTES
September 21, 2017**

The Rules Review Commission met on Thursday, September 21, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew P. Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amanda Reeder, Abigail Hammond, Amber Cronk May, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 10:01 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

Commissioner Doran introduced Nada Modhazi, a student at Raleigh Charter High School, to the Commission.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the August 17, 2017 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Child Care Commission

10A NCAC 09 .0102, .0201, .0204, .0205, .0301, .0302, .0304, .0403, .0508, .0509, .0510, .0511, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0608, .0701, .0702, .0703, .0704, .0705, .0707, .0710, .0711, .0712, .0713, .0714, .0801, .0802, .0803, .0804, .0806, .0901, .0902, .0903, .1001, .1002, .1003, .1004, .1005, .1101, .1102, .1103, .1104, .1105, .1106, .1301, .1302, .1303, .1304, .1401, .1402, .1403, .1701, .1702, .1703, .1704, .1706, .1707, .1708, .1709, .1710, .1711, .1712, .1713, .1714, .1716, .1718, .1719, .1720, .1721, .1722, .1723, .1724, .1725, .1726, .1727, .1728, .1729, .1730, .1801, .1802, .1803, .1804, .1901, .1903, .2101, .2102, .2214, .2215, .2318, .2401, .2402, .2403, .2404, .2405, .2406, .2407, .2408, .2409, .2410, .2411, .2501, .2502, .2503, .2504, .2505, .2506, .2507, .2508, .2509, .2510, .2512, .2901, .2902, .2903, .2904, .2905, .3001, .3002, .3003, .3005, .3006, .3007, .3008, .3009, .3010, .3011, .3012, .3013, .3014, .3015, .3016, and .3017
– All rules were unanimously approved.

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

The Commission reviewed the rewritten rules in response to the June 15, 2017 objections. The Commission continued their objections to Rules .0205 and .0206 in accordance with G.S. 150B-21.12.

The Commission approved 10A NCAC 27H .0202, .0203, and .0204. In accordance with 26 NCAC 05 .0114, the Commission made their approval of Rule .0203 contingent upon a technical change to Item (5). The agency subsequently submitted Rule .0203 to satisfy the contingency.

The Commission objected to 10A NCAC 27H .0205, finding that the Commission for MH/DD/SAS lacked the statutory authority regarding (a), (e), (f), and (g).

The Commission also objected to 10A NCAC 27H .0206, finding that (b) was ambiguous as written with Commissioners Atkins, Choi, and Currin voting against the objection.

Commissioner Poley left the meeting during this discussion. He was not present for the vote concerning these Rules or for the remainder of the meeting.

Commissioner Hyde left the meeting during this discussion. He was not present for any discussion or vote for the remainder of the meeting before the closed session.

Richard P. Leissner, Jr., General Counsel for Trillium Health Resources, addressed the Commission.

William Walton, with the Attorney General's office, representing the agency, addressed the Commission.

Denise Baker, the rulemaking coordinator with the agency, addressed the Commission.

The meeting went into recess at 11:48 a.m. The meeting resumed at 11:57 a.m.

Social Services Commission

10A NCAC 70I .0101, .0201, .0202, .0302, .0305, .0306, .0308, .0405, .0503, .0504, .0506, .0601, .0604, .0609, .0613, and .0614 – All rules were unanimously approved.

Social Services Commission

10A NCAC 97B .0401, .0402, .0403; 97C .0104, .0106, .0108, .0109, and .0111 - The agency is addressing the objections from the July meeting. No action was required by the Commission.

Chairman Dunklin introduced OAH extern Haley McCloud to the Commission.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Radiation Protection Commission

10A NCAC 15 .0611 was unanimously approved.

Commission for Public Health Title 10A

All rules were unanimously approved.

Board of Recreational Therapy Licensure

All rules were unanimously approved.

Non Pre-Reviewed Rules

Criminal Justice Education and Training Standards Commission

All rules were approved. Counsel advised the Commission to object due to failure to comply with the APA, but the Commission determined that the agency substantially complied with the APA pursuant to G.S. 150B-18, with Commissioner Doran voting against.

Whitney Belich, with the Attorney General's office, representing the agency, addressed the Commission.

Charminique Williams, the rulemaking coordinator with the agency, addressed the Commission.

Wildlife Resources Commission

All rules were unanimously approved.

Commission for Public Health Title 15A

All rules were unanimously approved.

Local Government Commission

All rules were unanimously approved.

Board of Chiropractic Examiners

21 NCAC 10 .0306 was unanimously approved.

Prior to the review of the rule from the Board of Chiropractic Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rule because her law firm provides legal services to the Board.

Veterinary Medical Board

21 NCAC 66 .0108 was unanimously approved.

Building Code Council

All rules were unanimously approved.

Barry Gupton, the rulemaking coordinator with the agency, addressed the Commission.

LOG OF RULES (TEMPORARY RULES)**Environmental Management Commission**

All rules were unanimously approved.

EXISTING RULES REVIEW**Banking Commission**

04 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

Commission for Public Health

10A NCAC 43A - The Commission unanimously approved the report as submitted by the agency.

Commission for Public Health

10A NCAC 43B - The Commission unanimously approved the report as submitted by the agency.

Commission for Public Health

10A NCAC 43F - The Commission unanimously approved the report as submitted by the agency.

Social Services Commission

10A NCAC 70H - The Commission unanimously approved the report as submitted by the agency.

The Commission previously deferred review of this report from the August meeting pursuant to Rule 26 NCAC 05 .0210 because it had a question regarding a discrepancy in the report.

Board of Pharmacy

21 NCAC 46 – The Commission unanimously approved the report as submitted by the agency.

North Carolina Psychology Board

21 NCAC 54 - The Commission unanimously approved the report as submitted by the agency.

Department of Revenue

17 NCAC 05 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than June 30, 2018 pursuant to G.S. 150B-21.3A(d)(2).

Interpreter and Transliterators Licensing Board

21 NCAC 25 - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Board of Landscape Architects

21 NCAC 26 - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules no later than January 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Board of Funeral Service

21 NCAC 34 - As reflected in the attached letter, the Commission voted to schedule re-adoption of these Rules no later than September 30, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Prior to the review of the re-adoption of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the re-adoption of these Rules because her law firm provides legal services to the Board.

COMMISSION BUSINESS

The Commission voted on the rescheduling of the December meeting date. The December meeting will be held on December 14, 2017.

At 12:35 p.m., Chairman Dunklin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S. 143-318.11(a)(3) to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

The Commission came out of closed session and reconvened at 1:25 p.m., along with Commissioner Hyde.

The meeting adjourned at 1:25 p.m.

The next regularly scheduled meeting of the Commission is Thursday, October 19th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

Garth Dunklin, Chair

September 21, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Rebel Stegeman	DHHS/OSS
Wanda G. B. [unclear]	NC OSS / PITHR
[unclear]	NC DOS
Betsy [unclear]	American Heart Assn
Thomas R. Sullivan	NC Board of Chiropractic Examiners
Nisa Bradley	NC DOJ
Mary Ann Buzhant	NC DHHS / DPH / NSIS
[unclear]	NCUMB
Clint [unclear]	BOP
Carol Hollis	OSIBU
Becy Garrett	NCBRTL
[unclear]	NC DPH
Nada [unclear]	
JOHN SEIBERT	NC DOR
Tricia Angeli	DPH
Cindy Callahan	DPH
Christina McLaurin	NCBFS
Jon Granger	NC DHHS
W. Denise Baker	NC DHHS OMA / PPH / IA
Carrie Ruhoman	NC WRC
Tamara Zmuda	NC DOJ

September 21, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
William Walton	NC DOJ
Jenny Rollins	NC RPS
Christy Britt	NC RPS
Alexi Grober	NC DOJ
Kimberly Mallady	NC DCDEE
BARBY SLETON	NC DOI/NCBCC
Chuck Church	NC DMV
Whitney Belich	NC DOJ
Richard Leissner	Trillium Health Resources
Jennifer Everett	DEQ
Katie Bosken	NC OCOB
Kristin Rice	NC OCOB
Lonnie Christopher	NC OCOB
John Barkley	DOJ for DHHS
Charmingue Williams	CJET
Nancy Sunn	NC DOJ
Laura Prowe	DST
Heather West	NC DSS
Lone Pugh	NC DCDEE
Oak Ann	DCDEE
Carolotta Duxon	DSS

Name	Agency
Shannon Deaton	NC Wildlife
Rob MARTIN	NC DPW
DAVID HATTOM	DHS
Anna Davis	DOJ
Maggie Crann	Bd Landscape Arch.
Jamic Keith	DMV
Helen Vande	DOT
Jeremy Popkewski	DEQ
Linda L Smith	DEQ
JAMES M. EDWARDS	DEQ
Arett Bullock	DEQ



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 21, 2017

John Seibert, Rulemaking Coordinator
Department of Revenue
Post Office Box 871
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 17 NCAC 05

Dear Mr. Seibert:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than June 30, 2018.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
June 15, 2017
APO Review: August 19, 2017
Revenue, Department of
Total: 11**

RRC Determination: Necessary with substantive public interest

Rule	Determination
17 <u>NCAC 05B .1105</u>	Necessary with substantive public interest
17 <u>NCAC 05B .1108</u>	Necessary with substantive public interest
17 <u>NCAC 05B .1110</u>	Necessary with substantive public interest
17 <u>NCAC 05B .1406</u>	Necessary with substantive public interest
17 <u>NCAC 05C .0101</u>	Necessary with substantive public interest
17 <u>NCAC 05C .0403</u>	Necessary with substantive public interest
17 <u>NCAC 05C .0801</u>	Necessary with substantive public interest
17 <u>NCAC 05C .0907</u>	Necessary with substantive public interest
17 <u>NCAC 05C .1506</u>	Necessary with substantive public interest
17 <u>NCAC 05C .1702</u>	Necessary with substantive public interest
17 <u>NCAC 05D .0112</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
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Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 21, 2017

Caitlin Schwab, Rulemaking Coordinator
Interpreter and Transliterater Licensing Board
Post Office Box 20963
Raleigh, North Carolina 27619

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 25

Dear Ms. Schwab:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: John Green

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 18, 2017
APO Review: July 22, 2017**

**Interpreter and Transliterator Licensing Board
Total: 2**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>21 NCAC 25 .0205</u>	Necessary with substantive public interest
<u>21 NCAC 25 .0501</u>	Necessary with substantive public interest

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Mailing address:
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Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 21, 2017

Jeff Gray, Rulemaking Coordinator
Board of Landscape Architects
Post Office Box 1351
Raleigh, North Carolina 27602

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 26

Dear Mr. Gray:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: Margaret Craven

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
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fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
June 15, 2017
APO Review: August 19, 2017
Landscape Architects, Board of
Total: 15**

RRC Determination: Necessary with substantive public interest

Rule	Determination
21 <u>NCAC 26 .0101</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0103</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0105</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0201</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0206</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0207</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0209</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0210</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0211</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0301</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0303</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0306</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0307</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0401</u>	Necessary with substantive public interest
21 <u>NCAC 26 .0510</u>	Necessary with substantive public interest



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1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 21, 2017

Christina McLaurin, Rulemaking Coordinator
Board of Funeral Service
1033 Wade Avenue, Suite 108
Raleigh, North Carolina 27605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 34**

Dear Mrs. McLaurin:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 21, 2017 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than September 30, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
June 15, 2017
APO Review: August 19, 2017
Funeral Service, Board of
Total: 6**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>21 NCAC 34A .0201</u>	Necessary with substantive public interest
<u>21 NCAC 34B .0310</u>	Necessary with substantive public interest
<u>21 NCAC 34C .0305</u>	Necessary with substantive public interest
<u>21 NCAC 34D .0105</u>	Necessary with substantive public interest
<u>21 NCAC 34D .0203</u>	Necessary with substantive public interest
<u>21 NCAC 34D .0303</u>	Necessary with substantive public interest

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