



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

October 23, 2012

Abigail Hammond
Industrial Commission
4336 Mail Service Center
Raleigh, NC 27699-4336

Re: 04 NCAC 10A .0404, .0502, .0617, .0801, .0802

Dear Ms. Hammond:

At its October 18, 2012 meeting the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to Rule .0404 based on lack of statutory authority and ambiguity. In (f), it is not clear what is meant by "good cause shown." Twice when it is used, it modifies a requirement set by rule without the specific guidelines required by G.S. 150B-19(6). The first time it is used, it repeats the statutory standard and is therefore acceptable. In addition, in (d), there is no authority cited for the requirement that the Industrial Commission refuse to accept a filing that specifies the number of pages. The Commission also requests that the agency change "set without delay" back to "peremptorily set" as a technical change in (g).

The Commission objected to Rule .0502 based on ambiguity. In (b)(4), it is not clear what about the "issues in dispute" will result in the Industrial Commission approving the non-payment of unpaid medical bills by an employer, carrier or administrator.

The Commission objected to Rule .0617 based on ambiguity. In (c), it is not clear what would constitute "good cause shown" for the Commission to allow an attorney to withdraw from representation.

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

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

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fax: 919/431-3100

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

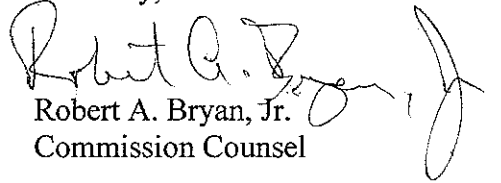
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The Commission objected to Rule .0801 due to lack of statutory authority. "In the interests of justice or to promote judicial economy" is not sufficient specific guideline for the agency to use in determining whether to waive or modify a requirement set by rule as required by G.S. 150B-19(6).

The Commission objected to Rule .0802 due to lack of statutory authority. There is no authority cited for the agency to impose sanctions for violations of every rule in this Subchapter.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Bryan, Jr.", followed by a large, stylized flourish or loop.

Robert A. Bryan, Jr.
Commission Counsel

RAB:tdc