



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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October 23, 2012

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

Re: 04 NCAC 10C .0108, .0201, .0202

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 .0108 due to ambiguity. In (e)(1), it is not clear what is meant by the requirement that a rehabilitation professional not "initiate" a request for impairment ratings, second opinions or independent medical examinations. It is also possible that this requirement conflicts with the requirement in 04 NCAC 10C .0106(a) that a rehabilitation professional shall exercise independent professional judgment in making and documenting recommendations for medical and vocational rehabilitation for an injured worker.

The Commission objected to Rule .0201 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 .0202 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.

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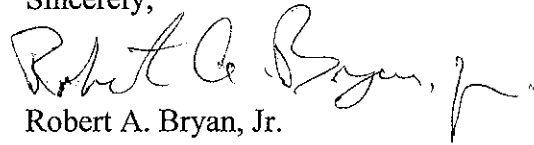
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Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert A. Bryan, Jr.", with a long, sweeping flourish extending to the right.

Robert A. Bryan, Jr.
Commission Counsel

RAB:tdc