**RULES REVIEW COMMISSION**

**April 21, 2011**

**MINUTES**

The Rules Review Commission met on Thursday, April 21, 2011, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners physically present were: Jim Funderburk, Jeff Gray, Dan McLawhorn, George Lucier, Ann Reed, David Twiddy, and Ralph Walker. Commissioners Jerry Crisp and Jennie Hayman joined via telephone conference. Commissioner Curtis Venable joined via Skype.

Staff members present were: Joe DeLuca and Bobby Bryan, Commission Counsel; Tammara Chalmers, Dana Vojtko and Julie Edwards

The following people were among those attending the meeting:

Bob Hamilton ABC Commission

Andrew Morgan Well Contractors Certification Commission

Jason Watkins DENR/Division of Waste Management

Bobby D. White NC Dental Board

David Kalback NC Board of Nursing

Betsy West State Board of Nursing

Sue Kornegay NC Opticians Board

Casie Goode NC Dental Board

Nancy Pate Department of Environment and Natural Resources

Mary Boone Department of Cultural Resources

Laura O'Donoghue Department of Cultural Resources

Anna B. Choi Allen and Pinnix

Robert Patterson DENR/Division of Water Quality

Bradley Bennett DENR/Division of Water Quality

Carlotta Dixon DHHS/Division of Social Services

Nancy Scott Attorney General's Office/Division of Waste Management

The meeting was called to order at 9:00 a.m. with Mr. Funderburk presiding. He reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e).

**APPROVAL OF MINUTES**

Vice-Chairman Funderburk asked for any discussion, comments, or corrections concerning the minutes of the March 17, 2011 meeting. There were none and the minutes were approved as distributed.

**FOLLOW-UP MATTERS**

07 NCAC 02H .0102, .0203, .0305 – Department of Cultural Resources. The Commission approved the rewritten rules submitted by the agency.

Prior to the review of the rule from the Commission for Public Health, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning this rule because his employer's fiscal interests are impacted.

15A NCAC 13B .1635 – Commission for Public Health. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 27 .0301, .0702 – Well Contractors Certification Commission. The Commission approved the rewritten rules submitted by the agency.

21 NCAC 14N .0113 – Board of Cosmetic Art Examiners. No rewritten rule was submitted by the agency and no action was taken.

21 NCAC 32F .0103 – Medical Board. The Commission approved the repeal submitted by the agency.

21 NCAC 40 .0214 – State Board of Opticians. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 57D .0402 – Appraisal Board. No rewritten rule was submitted by the agency and no action was taken.

21 NCAC 68 .0101, .0204, .0208, .0217, .0226 – Substance Abuse Professional Practice Board. The agency requested that the RRC rescind its March approval of these rules since the rules that were filed and approved were not the rules adopted by the board. The RRC considered this request, reviewed prior examples of it, and decided that it had no authority to take any such action. It did agree that the agency should be able to file amendments to these rules without any prior notice or hearing based upon the typographical error that the approved rules were not the typed rules that were filed with the RRC for review.

**LOG OF FILINGS**

Vice-Chairman Funderburk presided over the review of the log of permanent rules.

**Social Services Commission**

10A NCAC 70B .0105 was approved unanimously.

**Environmental Management Commission**

Prior to the review of the rules from the Environment Management Commission, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning these rules because his employer's fiscal interests are impacted.

These rules were submitted to the RRC to re-codify rules that were originally adopted by the Environmental Management Commission. They were then approved by the RRC (after considerable discussion and rewriting). The legislature disapproved the original set, but rewrote them in session laws and set them out as a note to the General Statutes. According to the session law the agency is free to adopt the session law provisions as rules but they must be “substantively identical to the provisions of Sections 2 through 13 of this act.” It appears these rules have to be filed with the RRC in the course of this rulemaking. There was no action for the RRC to take on any of these rules except for 15A NCAC 02H .1002 which is an amendment to an existing definition rule. The Commission approved the amendments.

**Commission for Public Health**

All permanent rules were approved unanimously.

**Board of Dental Examiners**

All permanent rules were approved unanimously.

**Midwifery Joint Committee**

21 NCAC 33 .0108 was approved unanimously.

**Office of Administrative Hearings**

Commissioner Gray served as staff for review of the rules from the Office of Administrative Hearings; therefore he did not participate in any discussion or vote concerning these rules.

All permanent rules were withdrawn by the agency and refiled for the May meeting.

**TEMPORARY RULES**

Vice-Chairman Funderburk presided over the review of the log of temporary rules.

All temporary rules were approved unanimously.

**COMMISSION PROCEDURES AND OTHER BUSINESS**

The Staff informed the Commission of bills affecting rulemaking.

The Commission discussed the possibility of having lunch after the June meeting.

The meeting adjourned at 10:25 a.m.

The next scheduled meeting of the Commission is Thursday, May 19 at 9:00 a.m.

Respectfully Submitted,

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Julie Edwards

Editorial Assistant

Minutes approved by the Rules Review Commission.

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Jennie J. Hayman/Chair

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Date