**RULES REVIEW COMMISSION MEETING**

**MINUTES**

***August 15, 2013***

The Rules Review Commission met on Thursday, August 18, 2013, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Baird Choi, Margaret Currin, Jeanette Doran, Jeff Hyde, Ralph Walker and Faylene Whitaker. Garth Dunklin joined via skype.

Staff members present were: Joe DeLuca and Amanda Reeder, Commission Counsel; Molly Masich, Dana Vojtko, Julie Brincefield and Tammara Chalmers.

The meeting was called to order at 10:03 a.m. with Vice-Chairman Currin presiding. She 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).

New Commissioner Jeff Hyde was welcomed and introduced by Chairman Walker. He then administered the oath of office to the new Commissioner.

Vice-Chairman Currin read into the record the statement of economic interest for Jeff Hyde, which stated there was no actual conflict of interest or the potential for a conflict of interest.

**APPROVAL OF MINUTES**

Vice-Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the July 18, 2013 meeting. There were none and the minutes were approved as distributed.

**FOLLOW-UP MATTERS**

**Private Protective Services Board**

12 NCAC 07D .0104, .0115, .0203, .0301, .0302, .0401, .0501, .0601, .0807, .0907, .0909 – No action was taken on these rules.

**Board of Barber Examiners**

Prior to the review of the rules from the Board of Barber Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these rules because the law firm where she is employed provides legal services to the Board.

21 NCAC 06A .0103, .0303; 06C .0907, 06F .0101, .0116; 06H .0101; 06I .0105; 06J .0101; 06K .0104; 06L .0103; .0114, .0118, .0119; 06M .0101, .0102; 06N .0104, .0105, .0108, .0109, .0112; 06Q .0101, .0103; 06S .0101 -

The Commission objected to the following rules from the board:

21 NCAC 06A .0301 and .0303 based on lack of authority. In the first rule the agency has no authority to require by rule that the executive director be a licensed barber. There is no authority to assign a management function to the director in the second rule without the governor’s approval as required by G.S. 143B-10(j)(2). The Commission approved the repeal of these rules.

21 NCAC 06H .0101 based on ambiguity. In item (2) it is unclear what is meant by requiring that all students “are instructed alike.” The Commission approved the rewritten rule.

21 NCAC 06L .0103 based on lack of authority. There is no authority to require that all equipment “must be manufactured specifically for barbering.” The Commission approved the rewritten rule.

21 NCAC 06L .0118 based on ambiguity. The rule is unclear as to whom it applied, how the ratings were to be scored, where they were to be displayed and other minor points concerning the ratings. The Commission approved the rewritten rule.

21 NCAC 06L .0119 based on ambiguity. It is unclear as to what constitutes “well repaired” in (1), “general condition of the barber shop” in (2), and “good repair” in (3)(c). The Commission approved the rewritten rule.

21 NCAC 06M .0101 based on lack of authority. There is no authority to require that a barber inspector be a registered barber. Even if there were such authority, it is unclear what constitutes sufficient experience to be considered an “experienced barber”. The Commission approved the repeal of this rule.

21 NCAC 06Q .0101 based on lack of authority. There is no authority to adopt rules that purport to apply to non-licensees who do not practice barbering. The Commission approved the rewritten rule.

21 NCAC 06Q .0103 was withdrawn by the agency.

The Commission approved the remaining rules.

Bain Jones with the Board addressed the Commission.

**Board of Dental Examiners**

Prior to the review of the rules from the Board of Dental Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these rules because the law firm where she is employed provides legal services to the Board.

21 NCAC 16A .0104; 16B .0101, .0317, .1001, .1002; 16C .0101, .0301; 16G .0107, .0108; 16M .0101 – The Commission approved the re-written rules.

**Hearing Aid Dealers and Fitters Board**

21 NCAC 22F .0120, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209 – The Commission approved the re-written rules.

**LOG OF FILINGS**

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

**Home Inspector Licensure Board**

11 NCAC 08 .1110 was unanimously approved.

**Environmental Management Commission**

Both rules were unanimously approved.

**Coastal Resources Commission**

Both rules were unanimously approved.

**Wildlife Resources Commission**

Both rules were unanimously approved.

**Hearing Aid Dealers and Fitters Board**

All rules were unanimously approved with the following exception:

The Commission objected to 21 NCAC 22A .0503 based on ambiguity. The rule is unclear as to which applications the rule is referring to: applications for licensure or applications to take the exam. The rule is vague in setting out the deadline for an applicant to supplement and complete an application before it is denied or considered “abandoned by the board. The rule is vague in when to begin counting down the deadline. The rule is unclear whether a denial or “abandonment” occurs in every case or what the standards are for granting any deadline waivers.

The agency requested that the Commission waive Rule 26 NCAC 05 .0108 and review the rewritten rule at the meeting. The Commission voted to approve the waiver and voted to approve the rewritten rule.

Catherine Jorgensen with the agency addressed the Commission.

Vice-Chairman Currin excused herself from the meeting and Chairman Walker presided over the remainder of the meeting.

**Building Code Council**

All rules were unanimously approved.

**G.S 150B-19.1(h) RRC CERTIFICATION**

**Criminal Justice Education Training and Standards Commission**

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09B .0235 and .0236.

Commissioner Whitaker was not present during the vote for these rules.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rule 12 NCAC 09E .0105.

**COMMISSION BUSINESS**

Amanda Reeder and Molly Masich updated the Commission on H.B. 74.

Amanda Reeder updated the Commission on legislation being tracked by staff.

The meeting adjourned at 11:28 a.m.

The next scheduled meeting of the Commission is Thursday, September 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,

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Julie Brincefield

Editorial Assistant

Minutes approved by the Rules Review Commission:

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Margaret Currin, Vice-Chair

