**RULES REVIEW COMMISSION**

**February 21, 2013**

**MINUTES**

The Rules Review Commission met on Thursday, February 21, 2013, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Addison Bell, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Pete Osborne, Bob Rippy, Stephanie Simpson, Ralph Walker and Faylene Whitaker.

Staff members present were: Joe DeLuca, Bobby Bryan and Amanda Reeder Commission Counsel; Dana Vojtko, Julie Edwards and Molly Masich.

The meeting was called to order at 10:00 a.m. with Chairman Walker 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**

Chairman Walker asked for any discussion, comments, or corrections concerning the minutes of the January 20, 2013 meeting. There were none and the minutes were approved as distributed.

Senior Administrative Law Judge Fred Morrison introduced OAH Law Clerk Ann Maness.

Commissioner Walker introduced new Commission Counsel Amanda Reeder.

Commissioner Walker read a resolution honoring Commission Counsel Bobby Bryan. It was adopted by acclamation and a copy is attached.

**FOLLOW-UP MATTERS**

10A NCAC 09 .3004, .3008 – Child Care Commission. Rule .3008 was approved unanimously.

The Commission objected to Rule .3004 based on lack of statutory authority. There is no authority to prohibit a “religious sponsored child care facility” from offering religious instruction. G.S. 110-88.1 specifically forbids “the State to determine the training or curriculum offered in any religious-sponsored child care facility.”

Lexi Gruber from the agency addressed the Commission.

Margaret Hamilton from Upper Room Christian Academy addressed the Commission.

10A NCAC 13D .2105 – Medical Care Commission – The Commission approved the re-written rule unanimously.

10A NCAC 43D .0708 – Commission for Public Health – The Commission approved the re-written rule unanimously.

19A NCAC 01C .0201 – Department of Transportation – The Commission approved the re-written rule unanimously.

19A NCAC 02D .0414 – Department of Transportation – The Commission approved the re-written rule unanimously.

Betsy Strickland from the agency addressed the Commission.

21 NCAC 64 .0903 – Board of Examiners for Speech and Language Pathologists and Audiologists. The Commission approved the re-written rule unanimously.

**LOG OF FILINGS**

Chairman Walker presided over the review of the log of permanent rules.

**Department of Commerce – Credit Union Division**

All rules were approved unanimously.

**Environmental Management Commission**

All rules were approved unanimously.

**Board of Cosmetic Art Examiners**

All rules were approved unanimously.

**Hearing Aid Dealers and Fitters Board**

All rules were approved unanimously with the following exceptions:

The Commission objected to Rule 21 NCAC 22F .0108 for failure to comply with the Administrative Procedure Act. Despite the certification on the form and introductory statement, a notice of text for this rule was not published in the North Carolina Register. G.S. 150B-21.2(a)(1) requires an agency to publish a notice of text in the Register before it adopts a permanent rule.

The Commission objected to Rule 21 NCAC 22F .0120 due to ambiguity, as it is unclear what standards the Board will use in approving continuing education, what topic content categories are applicable for continuing education credit and the applicable clock hours for those topics. In addition, the Commission objected to the rule because the Board lacks statutory authority to set continuing education requirements outside of rulemaking.

The Commission objected to Rule 21 NCAC 22I .0103 due to ambiguity, as it is not clear in Paragraph (e) what standards of practice the Board considers to be “recognized”.

The Commission objected to Rule 21 NCAC 22J .0103 based upon ambiguity, as Item (3) is unclear regarding how the Board will determine if a person is a “nationally recognized celebrity”.

Catherine Jorgensen with the agency addressed the Commission.

**Board of Pharmacy**

All rules were approved by the Commission

**Board of Podiatry Examiners**

The rules were withdrawn by the agency and resubmitted for the March meeting.

**Building Code Council**

All rules were approved by the agency Commission.

Barry Gupton from the agency addressed the Commission.

**RRC CERTIFICATION**

**Home Inspector Licensure Board**

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 11 NCAC 08 .1008, .1110.

**Private Protective Services Board**

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 07D .0707, .0909.

**OTHER BUSINESS**

The meeting adjourned at 12:02 p.m.

The next scheduled meeting of the Commission is Thursday, March 21st 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 Edwards

Editorial Assistant

Minutes approved by the Rules Review Commission.

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Judge Ralph A. Walker/Chair

