

**RULES REVIEW COMMISSION MEETING
MINUTES
January 16, 2014**

The Rules Review Commission met on Thursday, January 16, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Stephanie Simpson and Ralph Walker.

Staff members present were: Commission Counsels Amanda Reeder and Abigail Hammond; and Molly Masich, Dana Vojtko, Julie Brincefield, and Tammara Chalmers.

The meeting was called to order at 10:00 a.m. with Vice-Chairman Currin presiding. She read the notice required by NCGS 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts.

APPROVAL OF MINUTES

Vice-Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the December 19, 2013 meeting. There were none and the minutes were approved as distributed

FOLLOW-UP MATTERS

NC Rural Electrification Authority

04 NCAC 08 .0101, .0102, .0107, .0108, .0109, .0110, .0111, .0112, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302, .0303, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401, .0404 - There has been no response from the agency and no action was taken.

Home Inspector Licensure Board

All rules were unanimously approved.

Environmental Management Commission

The rule was unanimously approved.

Board of Occupational Therapy

Both rules were unanimously approved.

LOG OF FILINGS

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

Child Care Commission

The Commission extended the period of review on 10A NCAC 09 .0302, .1702, .2506, .2701, .2702, .2703, .2704 and .2903 in accordance with G.S. 150B-21.13. The Commission extended the period of review to allow the Child Care Commission additional time to review staff's Request for Technical Changes.

Commission for Mental Health

The Commission objected to Rule 10A NCAC 27G .0504 based on lack of statutory authority, as there does not appear to be any authority for the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services to alter the language of G.S. 122C-64 as set forth in Subparagraph (b)(5) of the Rule.

W. Denise Baker with the agency addressed the Commission.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Sheriffs' Education and Training Standards Commission

All of the rules were unanimously approved with the following exception:

The Commission objected to Rule 12 NCAC 10B .1901 based on lack of statutory authority to abrogate the statute by requiring the military trained applicant to have a Military Occupational Specialty or equivalent training, testing or completed a military training of program, when both are required by the law. Further, the Rule is unclear what will constitute equivalent experience for this licensure.

Marine Fisheries Commission

All of the rules were unanimously approved with the following exceptions:

15A NCAC 03J .0207 and 15A NCAC 03Q .0202 were withdrawn by the agency.

Wildlife Resources Commission

Both rules were unanimously approved.

Appraisal Board

21 NCAC 57A .0202 was unanimously approved.

Speech and Language Pathologists and Audiologists, Board of Examiners for

The Commission objected to Rules 21 NCAC 64 .0206, .0219 and .0307 because the agency failed to comply with the Administrative Procedure Act, as it adopted the Rules before the close of the comment period.

The Commission also objected to Rule .0219 on the grounds of ambiguity. It is unclear in Paragraph (d) what the "requirements of the patient site" are.

The Commission additionally objected to Rule .0307 based upon ambiguity, as it is unclear what the Board meant to references to the "Article" in this context, and ambiguity regarding what will constitute "inconsistent and in conflict."

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

Vice-Chairman Currin presided over the review of the log of RRC Certification.

Department of Justice

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 12 .0101, .0102, .0202, .0204, .0205, .0208, .0210, .0214, .0304, and .0501.

The Commission did not certify Rules 02I .0104, .0203, .0206, .0211, .0212, .0213 and .0306, finding the Department does not have the statutory authority for certain requirements proposed in the amended Rules, including sanctioning individuals or agencies for five years when the statute limits such sanctions to three years.

Trevor Allen, who is with the agency, addressed the Commission.

2014 STATE MEDICAL FACILITIES PLAN

The Commission found that the Department of Health and Human Services and the State Health Coordinating Council complied with G.S. 131E-176(25) in the adoption of the 2014 Plan.

COMMISSION BUSINESS

The Commission discussed the adoption of Rule 26 NCAC 05 .0211, which sets forth the schedule the Commission will use in implementing the HB 74 rule review process. RRC Rule .0211 was proposed for adoption and publication in the NCR and is attached. The Commission approved publishing the rule for a 45 day comment period.

Vice-Chairman Currin opened the meeting for a public hearing on the proposed adoption of Rules 26 NCAC 05 .0201-.0210 at 11:00 a.m. Vice-Chairman Currin called on anyone present who wished to comment on or object to the adoption of 26 NCAC 05 .0201-.0210 as they were noticed in the NC Register. Nadia Luhr from the NC Conservation Network, Brooks Rainey Pearson from the Southern Environmental Law Center, and Lacy Presnell from the Department of Environment and Natural Resources made their comments before the Commission. Staff informed the Commission that it received four written comments before the meeting, and that the comments will become part of the rulemaking record. The period to receive comments will expire at 5:00 p.m., February 14, 2014. The Commission may vote on the adoption of 26 NCAC 05 .0201-.0210 at its regularly scheduled meeting in February.

The public hearing portion of the meeting was closed at 11:12 a.m.

The Commission's Bylaws require that elections be held at the January meeting. The following members were elected as officers:

Margaret Currin was elected Chairman.

Garth Dunklin was elected 1st Vice-Chairman.

Stephanie Simpson was elected 2nd Vice-Chairman.

The Commission thanked Judge Walker for his service as Chairman.

The meeting adjourned at 11:25 a.m.

A special meeting for the review of Temporary Rules is scheduled on Wednesday, January 29th, at 9:30 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 20th 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,

Dana Vojtko
Publications Coordinator

Minutes approved by the Rules Review Commission:

Margaret Currin, Vice-Chair

26 NCAC 05 .0211 is proposed for adoption as follows:

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 05 – RULES REVIEW COMMISSION

SECTION .0200 PERIODIC REVIEW OF EXISTING RULES

26 NCAC 05 .0211 SCHEDULE

(a) The Commission shall review the report prepared for the identified portion of the Administrative Code on the month and year as set forth below:

July 2014	August 2014	September 2014	October 2014	November 2014
21 NCAC 23 21 NCAC 37 25 NCAC 01A 25 NCAC 01B 25 NCAC 01C 25 NCAC 02 03 NCAC 01	04 NCAC 24 21 NCAC 08 21 NCAC 52 24 NCAC 02	02 NCAC 57 04 NCAC 17 15A NCAC 01A 15A NCAC 01S 18 NCAC 03 18 NCAC 05 21 NCAC 01 21 NCAC 30 21 NCAC 42 21 NCAC 45	15A NCAC 02T 15A NCAC 02U 15A NCAC 01G 15A NCAC 02B 15A NCAC 02H	04 NCAC 14 11 NCAC 14 11 NCAC 18 11 NCAC 20 11 NCAC 21 11 NCAC 22 13 NCAC 08 13 NCAC 10 15A NCAC 12A 15A NCAC 12B 15A NCAC 12C 15A NCAC 12D 15A NCAC 12F 15A NCAC 12G 15A NCAC 12I 15A NCAC 12J 15A NCAC 12K 15A NCAC 01H 21 NCAC 20 21 NCAC 21 21 NCAC 28 21 NCAC 69
December 2014	January 2015	February 2015	March 2015	April 2015
10A NCAC 45 21 NCAC 02 21 NCAC 14 21 NCAC 62	02 NCAC 09B 02 NCAC 09C 02 NCAC 09D 02 NCAC 09E 02 NCAC 09F 02 NCAC 09G 02 NCAC 09H 02 NCAC 09J 02 NCAC 09K 02 NCAC 09M 02 NCAC 09N 02 NCAC 09O 02 NCAC 38 02 NCAC 43F	09 NCAC 03 09 NCAC 06 10A NCAC 97 15A NCAC 02S 21 NCAC 06	04 NCAC 08 10A NCAC 05 10A NCAC 09	10A NCAC 13L 10A NCAC 13M 10A NCAC 13O 10A NCAC 26A 10A NCAC 26B 10A NCAC 26D 15A NCAC 02R 15A NCAC 18D 21 NCAC 11 21 NCAC 32

	02 NCAC 51 02 NCAC 52A 02 NCAC 52K 02 NCAC 54 10A NCAC 13A 10A NCAC 13D 10A NCAC 13G 10A NCAC 14I 15A NCAC 01F			
May 2015	June 2015	July 2015	August 2015	September 2015
07 NCAC 04 15A NCAC 08 15A NCAC 18D 17 NCAC 03 17 NCAC 06	04 NCAC 02R 10A NCAC 21 10A NCAC 22 21 NCAC 50 21 NCAC 61	02 NCAC 20B 02 NCAC 37 02 NCAC 42 02 NCAC 59A 02 NCAC 59B 02 NCAC 59C 02 NCAC 59E 02 NCAC 59F 02 NCAC 59G 02 NCAC 60A 02 NCAC 60B 15A NCAC 01I 15A NCAC 09 21 NCAC 60 21 NCAC 63	10A NCAC 13H 10A NCAC 70I 10A NCAC 70K 19A NCAC 01 19A NCAC 04 19A NCAC 05 19A NCAC 06	04 NCAC 15 10A NCAC 63 15A NCAC 18C
October 2015	November 2015	December 2015	January 2016	February 2016
10A NCAC 40 10A NCAC 47 11 NCAC 11 11 NCAC 19 18 NCAC 01 18 NCAC 04 18 NCAC 13 25 NCAC 01D 06 NCAC 01 06 NCAC 02 06 NCAC 03 06 NCAC 04	10A NCAC 14J 10A NCAC 46 10A NCAC 48 13 NCAC 15 13 NCAC 20 15A NCAC 12H	15A NCAC 02Q 15A NCAC 02D 15A NCAC 07B	01 NCAC 01 01 NCAC 03 01 NCAC 04 01 NCAC 25 01 NCAC 26 10A NCAC 13P 10A NCAC 26E 10A NCAC 26F 15A NCAC 04 21 NCAC 18 21 NCAC 29	10A NCAC 10 10A NCAC 89 13 NCAC 07 13 NCAC 12
March 2016	April 2016	May 2016	June 2016	July 2016
04 NCAC 01 10A NCAC 17 15A NCAC 01L 15A NCAC 01N 20 NCAC 01 20 NCAC 04 20 NCAC 07	10A NCAC 13J 10A NCAC 27A 10A NCAC 27B 10A NCAC 27D 11 NCAC 06 11 NCAC 13 16 NCAC 01 16 NCAC 02 16 NCAC 03 25 NCAC 01F	01 NCAC 05 10A NCAC 23 10A NCAC 25 21 NCAC 38 26 NCAC 01 26 NCAC 02 26 NCAC 03 26 NCAC 04	04 NCAC 02S 17 NCAC 01 17 NCAC 09 17 NCAC 10 17 NCAC 11 17 NCAC 12	19A NCAC 02
August 2016	September 2016	October 2016	November 2016	December 2016
10A NCAC 06 10A NCAC 67 10A NCAC 68 10A NCAC 69 10A NCAC 70A	12 NCAC 01 12 NCAC 02 12 NCAC 03 12 NCAC 04 12 NCAC 06	10A NCAC 39 10A NCAC 43C 10A NCAC 43E 10A NCAC 43G 10A NCAC 43H	10A NCAC 14F 15A NCAC 10F 15A NCAC 10H 20 NCAC 03 20 NCAC 08	01 NCAC 09 01 NCAC 15 01 NCAC 17 01 NCAC 19 01 NCAC 35

10A NCAC 70B 10A NCAC 70C 10A NCAC 70D 10A NCAC 70E 10A NCAC 70F 10A NCAC 70G 10A NCAC 70H 10A NCAC 72	21 NCAC 12 21 NCAC 17 21 NCAC 22 21 NCAC 64 25 NCAC 01E 25 NCAC 01K 25 NCAC 01L 25 NCAC 01M 25 NCAC 01N 25 NCAC 01O	10A NCAC 43I 10A NCAC 43J 18 NCAC 06 18 NCAC 07 18 NCAC 10	20 NCAC 09 20 NCAC 10	08 NCAC 01 08 NCAC 02 08 NCAC 03 08 NCAC 04 08 NCAC 05 08 NCAC 06 08 NCAC 07 08 NCAC 08 08 NCAC 09 08 NCAC 10 08 NCAC 12 08 NCAC 13 11 NCAC 10 11 NCAC 16 14B NCAC 01 14B NCAC 02 14B NCAC 03 14B NCAC 04 14B NCAC 05 14B NCAC 06 14B NCAC 07 15A NCAC 02A 15A NCAC 02C 15A NCAC 02E
January 2017	February 2017	March 2017	April 2017	May 2017
02 NCAC 48C 02 NCAC 48D 02 NCAC 48F 02 NCAC 52B 02 NCAC 52C 02 NCAC 52D 02 NCAC 52E 02 NCAC 52F 02 NCAC 52G 02 NCAC 52H 02 NCAC 52I 02 NCAC 59D 02 NCAC 59H 10A NCAC 27E 10A NCAC 27F 10A NCAC 27H 15A NCAC 05A 15A NCAC 05B 15A NCAC 05C 15A NCAC 05F 15A NCAC 05G	04 NCAC 06 10A NCAC 01 15A NCAC 01D 15A NCAC 01E 25 NCAC 01H 25 NCAC 01I 25 NCAC 01J	10A NCAC 71 21 NCAC 04 21 NCAC 31	10A NCAC 27I 10A NCAC 28A 13 NCAC 14 15A NCAC 01C 15A NCAC 13A 15A NCAC 13B 15A NCAC 13C	07 NCAC 01 07 NCAC 02 07 NCAC 03 07 NCAC 05 07 NCAC 06 07 NCAC 07 07 NCAC 08 07 NCAC 09 07 NCAC 10 07 NCAC 11 07 NCAC 12 10A NCAC 13B 12 NCAC 10
June 2017	July 2017	August 2017	September 2017	October 2017
04 NCAC 02T 17 NCAC 05 21 NCAC 25 21 NCAC 26	02 NCAC 29 02 NCAC 31 02 NCAC 39 02 NCAC 53 02 NCAC 58 02 NCAC 43A 02 NCAC 43B 02 NCAC 43C 02 NCAC 43D	04 NCAC 12 10A NCAC 70 10A NCAC 70J 10A NCAC 70L 10A NCAC 70M 10A NCAC 70N 10A NCAC 70O 12 NCAC 11 21 NCAC 57	04 NCAC 03 10A NCAC 43A 10A NCAC 43B 10A NCAC 43F	10A NCAC 13C 10A NCAC 42 10A NCAC 43D 10A NCAC 44 15A NCAC 02K 18 NCAC 02 18 NCAC 12

	02 NCAC 43E 02 NCAC 43G 02 NCAC 43L 02 NCAC 43M 21 NCAC 54 24 NCAC 01 24 NCAC 03			
November 2017	December 2017	January 2018	February 2018	March 2018
01 NCAC 38 01 NCAC 39 01 NCAC 40 01 NCAC 43 01 NCAC 44 10A NCAC 14 A 10A NCAC 14G 10A NCAC 14H 11 NCAC 08 14B NCAC 08 14B NCAC 09 14B NCAC 10 14B NCAC 11 14B NCAC 12 14B NCAC 13 14B NCAC 14 21 NCAC 39	10A NCAC 41A 10A NCAC 41B 10A NCAC 41D 10A NCAC 41E 10A NCAC 41F 10A NCAC 41G 15A NCAC 03 15A NCAC 10B 15A NCAC 10C	10A NCAC 13F 10A NCAC 28B 10A NCAC 28C 15A NCAC 07A 15A NCAC 07H 15A NCAC 07I 15A NCAC 07J 15A NCAC 07K 15A NCAC 07L 15A NCAC 07M	04 NCAC 19 15A NCAC 02L 15A NCAC 02N 15A NCAC 02O 15A NCAC 02P	21 NCAC 58 21 NCAC 68
April 2018	May 2018	June 2018	July 2018	August 2018
10A NCAC 26C 10A NCAC 27C 10A NCAC 28D 10A NCAC 28E 11 NCAC 12 15A NCAC 22 15A NCAC 28 21 NCAC 19	01 NCAC 06 01 NCAC 30 13 NCAC 01 13 NCAC 04 13 NCAC 05 13 NCAC 06 13 NCAC 13 13 NCAC 16 13 NCAC 17 13 NCAC 18 13 NCAC 19 21 NCAC 33 21 NCAC 36	21 NCAC 07 21 NCAC 34 21 NCAC 46	19A NCAC 03	12 NCAC 07 20 NCAC 02 21 NCAC 48 21 NCAC 65 21 NCAC 66
September 2018	October 2018	November 2018	December 2018	January 2019
02 NCAC 09L 02 NCAC 34 04 NCAC 16	10A NCAC 13K 10A NCAC 41H 17 NCAC 04 18 NCAC 08 18 NCAC 11 21 NCAC 40	10A NCAC 14C 11 NCAC 05 11 NCAC 07 15A NCAC 18A	10A NCAC 41C 15A NCAC 01O 15A NCAC 18B 15A NCAC 18C 15A NCAC 27 15A NCAC 02G 15A NCAC 02I 15A NCAC 02J 15A NCAC 10A 15A NCAC 10D 15A NCAC 10E 15A NCAC 10G 15A NCAC 10I 15A NCAC 10J 15A NCAC 10K	02 NCAC 46 02 NCAC 48A . 02 NCAC 48B 02 NCAC 52J 02 NCAC 61 11 NCAC 01 11 NCAC 04 11 NCAC 17 15A NCAC 18A, Sections .0100, .0300 - .0900 and .3400

February 2019	March 2019	April 2019	May 2019	June 2019
04 NCAC 20 21 NCAC 03 21 NCAC 10 21 NCAC 16 21 NCAC 53 21 NCAC 56	12 NCAC 09 17 NCAC 07	15A NCAC 11 15A NCAC 14	04 NCAC 10 10A NCAC 27G	10A NCAC 14E 10A NCAC 28F 10A NCAC 28G 10A NCAC 28H 10A NCAC 28I 10A NCAC 29C 10A NCAC 29D

(b) The report shall be filed in accordance with Rule .0203 of this Chapter.

History Note: Authority G.S. 150B-21.3A.

Rules Review Commission
 Meeting
 Please Print Legibly

JANUARY 16, 2014

Name	Agency
Ann Wall	Sec of State
CATHERINE BLUM	DENR-DMF
Joelle Burleson	DENR-DAQ
Julia Lohman	NCDOT - Sheriff's Stds
Trevor Allen	CETS
Steve Schliesser	DENR-DAQ
Megan Langhorne	DHHS
Nadine Pfeiffer	DHHS
Mina Hgdok	NCDZI/NCHILB
Don Steele	City of Durham
RETE BURICE	NC Bd of Funeral Service
Anca GROZAV	NC OSBM
PATRICIA BUFFKIN	NCAEC
Karen Waddell	NCDOT
Elizabeth Kirk	NCBMBT/NCBOT
Charles Wilkins	NCBMBT/NCBOT
Denise Stanford	NC HILB
Jennifer Percy	NCHFA
Janice Davidson	DOR
Denise Baker	DHHS - DMH/IDHS
Roberta Ouellette	NC DOT

Rules Review Commission
 Meeting
Please Print Legibly

Name	Agency
Charla Burill	NCBDN
Jennifer Everett	NCDENR
Stelley Caraway	NCDHHSR
Chris Evans	BOBWC
Cassie Gann	Grenier Club
Lou Martin	SBE
Curtis Aldendifer	NCREC
Brooks Rainey Pearson	SECC
Nadia Luhr	NCCN
Anne Coan	NC Farm Bureau Federation
Lacy Presnell	DENR
Jeff Manning	DENR-DWR
May Madeh Asili	SECC
Alyssa Weaver	DENR-DWR
Lisa Martin	NC Home Builders Assoc
Stewart Hess	NCHBA