**RULES REVIEW COMMISSION**

**May 19, 2011**

**MINUTES**

The Rules Review Commission met on Thursday, May 19, 2011, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Jennie Hayman, George Lucier, Dan McLawhorn, Ann Reed, David Twiddy, and Ralph Walker. Commissioner Curtis Venable joined via Skype.

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

The following people were among those attending the meeting:

Doug Shackelford NC State Highway Patrol

Barry Gupton NC Department of Insurance/NC Building Code Council

Penny De Pas NC Board of Podiatry Examiners

Rebecca Shigley NC Department of Insurance

Lynda Elliot Board of Cosmetic Art Examiners

Elizabeth Turgeon Office of Administrative Hearings

The meeting was called to order at 9:02 a.m. with Ms. Hayman 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).

The Chairman introduced Elizabeth Turgeon, an extern from the University of North Carolina School of Law.

**APPROVAL OF MINUTES**

Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the April 21, 2011 meeting. There were none and the minutes were approved as distributed.

**FOLLOW-UP MATTERS**

21 NCAC 14N .0113 – Board of Cosmetic Art Examiners. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 57D .0402 – Appraisal Board. The agency indicated that they would not make any changes in the rule. The agency understands that this terminates the rulemaking proceeding on this rule.

**LOG OF FILINGS**

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

**Department of Insurance**

Prior to the review of the rule from the Department of Insurance, Commissioner Twiddy recused himself and did not participate in any discussion or vote concerning this rule because he is the former owner of an insurance agency and in negotiations to purchase another one.

11 NCAC 06A .0802 was approved unanimously.

**Department of Crime Control and Public Safety**

14A NCAC 09J .0101 was approved unanimously.

**Board of Examiners for Electrical Contractors**

All permanent rules were withdrawn by the agency and refiled for the June meeting.

**Medical Board/Perfusion Advisory Committee**

21 NCAC 32V .0103 was withdrawn by the agency.

**Board of Podiatry Examiners**

All permanent rules were approved unanimously with the following exception:

21 NCAC 52 .0206 – The Commission objected to this rule based on lack of necessity. This rule is unnecessary and reflects internal action. G.S. 143b-10(j)(3)specifies that such policies are internal matters and “shall not be adopted or filed“ as rules under G.S. 150B. This “rule” neither requires the applicant to take any action nor forbids the applicant from taking any action. To the extent that it binds the board or the agency it seems to bind them to act with common sense and take the steps an occupational licensing agency would be expected to take in issuing any license to practice that occupation. That is unnecessary and does not help the applicant. Ms. De Pas indicated the agency intends to repeal the rule next month.

**Respiratory Care Board**

21 NCAC 61 .0302 was approved unanimously.

**Substance Abuse Professional Practice Board**

All permanent rules were 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 approved unanimously.

**Building Code Council**

All permanent rules were approved unanimously.

**TEMPORARY RULES**

There were no temporary rules filed for review.

**COMMISSION PROCEDURES AND OTHER BUSINESS**

The Commission discussed Session Law 2011-13 and the staff’s opinion that the provisions apply on an individual rule basis.

The meeting adjourned at 9:40 a.m.

The next scheduled meeting of the Commission is Thursday, June 16 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