**RULES REVIEW COMMISSION**

**May 17, 2012**

**MINUTES**

The Rules Review Commission met on Thursday, May 17, 2012, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Addison Bell, Margaret Currin, Garth Dunklin, George Lucier, Bob Rippy, Stephanie Simpson, Ralph Walker and Faylene Whitaker. Curtis Venable joined via Skype.

Staff members present were: Joe DeLuca and Bobby Bryan, Commission Counsel; Molly Masich; Julie Edwards; and Tammara Chalmers.

The meeting was called to order at 10:02 a.m. with Judge 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 April 19, 2012 meeting. There were none and the minutes were approved as distributed.

**FOLLOW-UP MATTERS**

19A NCAC 02D .0531, .0532 – Department of Transportation. The rules will be returned to the agency at its request. No action is necessary.

25 NCAC 01J .1101 – State Personnel Commission. The Commission approved the re-written rule submitted by the agency.

Nellie Riley addressed the Commission.

**LOG OF FILINGS**

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

**Gasoline and Oil Inspection Board**

02 NCAC 42 .0401 was approved unanimously.

**Commission for Public Health**

10A NCAC 41A .0205 – The Commission objected to this rule based on lack of statutory authority and ambiguity. In (g), it is not clear when the State Tuberculosis Medical Director will approve a regimen other than a standard multi-day regimen. G.S. 150B-19(6) prohibits an agency from adopting a rule that allows the agency to waive or modify a requirement set in a rule when a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.

**Criminal Justice Education and Training Standards Commission**

Teresa Marella addressed the commission.

All rules were approved unanimously with the following exception:

12 NCAC 09E .0102 – The Commission objected to this rule based on lack of necessity. This rule is entirely replicated in 09E .0105(a) and one of the two rules is unnecessary. Rule 09E .0102 should be repealed since there is other content in Rule 09E .0105.

**Hearing Aid Dealers and Fitters Board**

Catherine Jorgensen addressed the Commission.

All rules were approved unanimously with the following exception:

21 NCAC 22F .0103 - The Commission objected to Rule .0103 due to lack of authority. There is no authority cited for Subparagraph (a)(4) for treating an audiologist who is a registered apprentice any different than any other apprentice. G.S. 93D-14(b) exempts licensed audiologists who have a doctoral degree in Audiology from licensure requirements, but without the doctorate, an audiologist is subject to the same requirements as any other apprentice. There is no authority cited for the first sentence in Paragraph (b). Pursuant to G.S. 93D-5(c) with limited exceptions a person must serve a one-year apprenticeship as a prerequisite for a license. The 250-hour exception (arguably) only applies to licensed audiologists who have undergone supervision in another state. There is no authority cited for any exception for a person with a master's degree in audiology.

21 NCAC 22F .0114 - The Commission objected to Rule .0114 based on lack of authority. There is no authority cited for the exception for Audiologists in the first sentence.

These objections apply to existing language in the rules.

**Real Estate Commission**

21 NCAC 58A .0114 was approved unanimously.

Commissioner Dunklin recused himself and did not participate in any discussion or vote concerning this rule because he practices before the Real Estate Commission.

**OTHER BUSINESS**

The Commission discussed the possibility of adding a sunset requirement for rules in the Administrative Procedure Act.  Staff was directed to send a letter to the Speaker of the House of Representatives and President Pro-Tempore of the Senate containing suggestions from the Commission about proposed legislative changes the Commission considers helpful.  The letter and suggested language for a sunset provision are attached to the minutes.

The Commission also briefly discussed proposed legislation establishing an expedited rulemaking procedure for Department of Revenue rules dealing with forced combinations and the Regulatory Reform Act of 2012 along with suggested amendments from the Office of Administrative Hearings.

The meeting adjourned at 12:24 p.m.

The next scheduled meeting of the Commission is Wednesday, June 20 at 10:00 a.m.

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

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 Date

