**RULES REVIEW COMMISSION**

**September 20, 2012**

**MINUTES**

The Rules Review Commission met on Thursday, September 20, 2012, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Addison Bell, Margaret Currin, Jeanette Doran, Garth Dunklin, Pete Osborne, Bob Rippy, Stephanie Simpson, Ralph Walker; Faylene Whitaker.

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

The meeting was called to order at 10:01 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 August 16, 2012 meeting. There were none and the minutes were approved as distributed.

Chairman Walker recognized Andrew Baird, and Extern with the Office of Administrative Hearings.

**FOLLOW-UP MATTERS**

10A NCAC 09 .0901, .0902, .1702, .1706, .1718 – Child Care Commission – The Commission objected to these rules based on ambiguity. It is unclear whether the opt-out provisions apply to only the entire supplemental nutrition program in its entirety or whether a parent may opt-out of individual components of the program.

Jani Kozlowski from the agency addressed the Commission.

Lexi Gruber from the agency addressed the Commission.

12 NCAC 09E .0102 – Criminal Justice Education and Training Standards Commission. The Commission approved the rewritten rule submitted by the agency.

**LOG OF FILINGS**

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

**Department of Health and Human Services**

All rules were approved unanimously.

**Commission for Public Health**

All rules were approved unanimously.

**Department of Environment and Natural Resources**

Jennifer Everett from the agency addressed the Commission.

15A NCAC 01A .0102 was approved contingent on receiving a technical change. The technical change has been subsequently received.

**Commission for Public Health**

15A NCAC 18A .2528 was approved contigent on receiveing a technical change. The technical change has been subsequently received.

Commissioner Bell was not present for the vote on these rules.

Prior to the discussion of this Rule, Commissioner Rippy recused himself and did not participate in any discussion or vote concerning these rules because he owns public swimming pools.

**Board of Architecture**

All rules were approved unanimously.

Commissioners Osborne and Bell were not present during the vote on these rules.

**Board of Cosmetic Art Examiners**

Lynda Elliot from the Board addressed the Commission.

All rules were approved unanimously. 21 NCAC 14T .0612 and 21 NCAC 14T .0701 were approved contigent on receiving a technical change. The technical change has been subsequently received.

**Board of Podiatry Examiners**

Penny DePas addressed the Commission.

All rules were approved unanimously with the following execptions:

21 NCAC 52 .0205 was objected to based on lack of statutory authority. There is no authority for the requirement in the first sentence that an applicant for podiatric licensure complete a “practice and ethics orientation” prior to granting the applicant a license.

**Social Work Certification and Licensure Board**

All rules were approved unanimously.

**TEMPORARY LOG OF FILINGS**

**Real Estate Commission**

All rules were approved unanimously.

Prior to the discussion of these rules, Commissioner Currin recused herself and did not participate in any discussion or vote concerning these rules because she holds an inactive real estate broker's license.

Prior to the discussion of these rules, Commissioner Dunklin recused himself and did not participate in any discussion or vote concerning these rules because he practices before the North Carolina Real Estate Commission.

Commissioner Dunklin was not present for the vote on these rules.

**Building Code Council**

All rules were approved unanimously.

Prior to the discussion of these rules, Commissioner Doran recused herself and did not participate in any discussion or vote concerning these rules because her spouse works in the contstruction industry for a general contractor.

Prior to the discussion of these rules, Commissioner Osborne recused himself and did not participate in any discussion or vote concerning these rules because he is employed by a general contractor.

**RRC CERTIFICATION**

**Criminal Justice Education and Training Standards Commission**

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09H .0101, .0102, .0103, .0104 and .0105.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09F .0102, 09B .0226, .0227, .0232 and .0233.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09B .0202, .0304, .0414 and .0415.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09A .0103, 09G .0101, .0102, .0202, .0203, .0204, .0205, .0206, .0301, .0302, .0303, .0304, .0306, .0412, .0413, .0415, .0416, 0504 and .0602.

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 09E .0104, .0105 and .0106.

**OTHER BUSINESS**

The staff reviewed Andy Willis’ response to the letter sent to him in September explaining the May letter to the General Assembly.  It was announced that the Office of State Budget and Management would do a presentation following the October RRC meeting  on how it analyses and evaluates costs in its review of fiscal notes.

The staff reviewed its response to Representative Chuck McGrady’ s letter expressing concern that the RRC attorneys were over-stepping their bounds.

Staff shared a copy of the complaint in a case where several environmental groups sued the Wildlife Resources Commission over temporary rules allowing the hunting of coyotes with lights.  The RRC had approved those rules at its August meeting.

The meeting adjourned at 12:03 p.m.

The next scheduled meeting of the Commission is Thursday, October 18th 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

