

**RULES REVIEW COMMISSION MEETING
MINUTES
December 16, 2021**

The Rules Review Commission met on Thursday, December 16, 2021, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Andrew Atkins, Bobby Bryan, Jeanette Doran, Margaret Currin, Randy Overton, and Bob Rucho were present in the Commission Room. Commissioners present via WebEx were Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, and Paul Powell.

Staff members present were Alexander Burgos; Commission Counsel Brian Liebman and Amber May.

The meeting was called to order at 9:02 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Temporary rules for Department of Health and Human Services, Board of Examiners of Electrical Contractors, and Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the November 18, 2021, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0202, .0209, .0210, .0211, .0212, .0213, .0214, .0226, .0232, .0233, .0237, .0238, .0242, .0244, .0417; 09G .0414, .0415, and .0416 – The rules were returned at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Soil and Water Conservation Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Medical Care Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

DHHS - Division of Health Service Regulation

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Environmental Management Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

15A NCAC 02L .0202 - Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Marine Fisheries Commission

The rules were withdrawn at the request of the agency. No action was required by the Commission.

Board of Chiropractic Examiners

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Licensing Board for General Contractors

Prior to the review of the rules from the Licensing Board for General Contractors, Commissioner Boyles recused himself and did not participate in any discussion or vote concerning the rules because in Rule 21 NCAC 12A .0202, page 4, lines 4-10, has as their subject matter, railroad construction standards. He has a client who has a railroad that he represents in federal matters. Although this Rule pertains to State standards, he has abstained from voting for the potential of a conflict of interest.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Board of Landscape Architects

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Medical Board

Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 8. Voting in the negative: None.

Board of Pharmacy

Upon the call of the Chair, the period of review was extended as requested by the agency to allow the Board an opportunity to review comments received from the public by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Department of Health and Human Service

Upon the call of the Chair, 10A NCAC 22Q .0101, .0102, .0103, .0104, .0105, .0106; 22R .0101, .0102, .0103, .0104, and .0105 were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Curtis B. Venable with Ott, Cone, and Redpath, P.A., addressed the Commission.

Anthony Okunak with the North Carolina Healthcare Association addressed the Commission.

Sheriffs' Education and Training Standards Commission

12 NCAC 10B .0301 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

12 NCAC 10B .0704 was withdrawn at the request of the agency. No action was required by the Commission.

Board of Examiners of Electrical Contractors

Upon the call of the Chair, the Commission objected to 21 NCAC 18B .0308 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The Commission objected to 21 NCAC 18B .0308 in accordance with G.S. 150B-21.1(b) for lack of statutory authority. Specifically, the Commission found that the State Board of Examiners of Electrical Contractors did not have authority under G.S. 87-1.1 to limit the percentage of plumbing, heating, or fire sprinkler contracting work in any bid submitted pursuant to that statute.

Reed Fountain, the rulemaking coordinator with the agency, addressed the Commission.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

Upon the call of the Chair, the Commission objected to 21 NCAC 50 .0415 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The Commission objected to 21 NCAC 50 .0415 for lack of statutory authority. Specifically, the Commission found that the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler

Contractors did not have authority under G.S. 87-1.1 to limit the percentage of electrical contracting work in any bid submitted pursuant to that statute.

Reed Fountain, the rulemaking coordinator with the agency, addressed the Commission.

COMMISSION BUSINESS

Upon the call of the Chair, the RRC voted to designate Amber May as the new rulemaking coordinator for the Commission by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The Chair announced that the Rules Division is set to launch the new E-filing system on January 18, 2022.

The Chair asked for any questions or concerns regarding the 2022 RRC meeting dates. There were none and the dates were approved as distributed.

The meeting adjourned at 10:19 a.m.

The next regularly scheduled meeting of the Commission is Thursday, January 20, 2022, at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

Rules Review Commission Meeting December 16, 2021
Held Via WebEx

Name	Agency
Maria Bruner	DOJ
John Barr	DEQ
Calvin Kirven	Landscape Contractors
Elizabeth Robinson	Retail Merchants
Helen Landi	DOT
Kerri Johnson	Chewy.com
Jessica Adama	Telepharm.com
Paul Drake	PPDFSU
C Baker	DHHS
Anna Choi	General Contractors
Carrie Hollis	OSBM
Elizabeth Grady	DHHS
Diane Konopka	SHETS
Mike Ranck	EMC
Atul Bhikha	DHHS
Bridget Shelton	DEQ
Lara Klibansky	DENR
Hannah Jernigan	DOT
Laura Rowe	Treasurer
Shalisa Jones	DHHS
Curtis Venable	Ott Cone & Redpath, P.A.
C.Frank Wiesner	General Contractors
Christian Waters	WRC
Megan Lamphere	DHHS
Michael Briggs	WRC
Ademola Are	Pillpack.com
Reed Fountain	Plumbing, Heating and Fire
Ashley Pekrul	WRC
Micheala Mitchell	DHHS
Lisa Pittman	DHHS
Kathy Rawls	DENR
Catherine Blum	EMC
Shawn Maier	DOJ
Nadine Pfeiffer	DSHR
Alicia Palombo	
Charminique Williams	CJETS

Kim Harron	DHHS
Jennifer Everett	DEQ
Clint Pinyan	Pharmacy
Gabrielle Chianese	DENR

DRAFT

December 16, 2021

Rules Review Commission
Meeting
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