

RULES REVIEW COMMISSION MEETING
MINUTES
July 18, 2019

The Rules Review Commission met on Thursday, July 18, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Garth Dunklin, Jeff Hyde, Brian LiVecchi, and Paul Powell; and Jeanette Doran present via telephone.

Staff members present were Commission Counsel Amber Cronk May, Ashley Snyder, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:05 a.m. with Chairman Dunklin presiding and with Commissioner Doran present via telephone.

Commissioner LiVecchi joined the meeting at 9:06 a.m.

Commissioner Doran was advised quorum was established with the arrival of Commissioner LiVecchi. Commissioner Doran left the meeting at 9:07 a.m.

The Chair introduced OAH extern Stokes Lassiter to the Commission.

Chairman Dunklin read the notice required by G.S. 163A-159 and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the June 20, 2019 meeting. There were none and the minutes were approved as distributed.

The Chairman notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matter for DHHS/Division of Health Benefits and Permanent Rules for Board of Dietetics/Nutrition.

FOLLOW UP MATTERS

Board of Elections

The agency is addressing the objections for 08 NCAC 10B .0101, .0102, .0103, .0104, .0105, .0106, and .0107. No action was required by the Commission.

Social Services Commission

10A NCAC 06R .0101, .0102, .0201, .0302, .0304, .0305, .0401, .0403, .0501, .0502, .0503, .0504, .0506, .0508, .0509, .0601, .0801, .0802, .0804, .0806, .0902, .0904; 06S .0101, .0102, .0203, .0204, .0301, .0302, .0402, .0403, .0404, .0405, .0501, .0508; and 06T .0201 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

DHHS/ Division of Health Benefits

The Commission unanimously waived Rule 26 NCAC 05 .0103 and allowed the speaker to submit written comments opposing the rules at the meeting.

Matthew Cochran, with Ott Cone and Redpath, speaking in opposition to the rules, addressed the Commission.

Shazia Keller, the rulemaking coordinator for the agency, addressed the Commission.

Brenda Edy, with the Attorney General's Office and representing DHHS, addressed the Commission.

Dana Lee, with the Attorney General's Office, addressed the Commission.

10A NCAC 23E .0105, .0202; 23G .0203; and 23H .0109 were unanimously approved.

The Commission objected to 10A NCAC 23G .0304 for ambiguity. Specifically, the Commission found that the rule is unclear regarding whether the individuals addressed in Paragraph (b) will receive the notice required by Paragraph (a). In addition, it is unclear if the term "change of situation" is intended to apply to Paragraph (b), as that term is not used in the Paragraph; instead, Paragraph (b) refers to "a change in the budget unit's situation."

Commission for the Blind

The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

Social Services Commission

10A NCAC 67A .0101, .0103 .0105, .0106, .0107, .0108, .0201, .0202, .0203, .0204, .0205, .0206; 68 .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0202, .0203, .0204, .0205, .0206, .0208, .0301, .0302, .0303; 69 .0101, .0102, .0201, .0202, .0203, .0204, .0205, .0301, .0302, .0303, .0304, .0305, .0306, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0601, .0602, .0603, .0604, .0605; 72 .0101, .0102, .0201, .0202, .0203, and .0301 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

Department of Justice

The agency is addressing the objections for 12 NCAC 02I .0213 and .0306.

At the June meeting, the RRC voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget to determine if 12 NCAC 02I .0306 has a substantial economic impact and therefore requires a fiscal note. The RRC is awaiting a response from the Office of State Budget. No action was required by the Commission.

Environmental Management Commission

The agency is addressing the objections for 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, and .1206. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02C .0101, .0102, .0105, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, .0116, .0117, .0118, .0119, .0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0211, .0217, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0229, .0230, .0240, .0241, and .0242 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02T .1601, .1602, .1604, .1605, .1606, .1607, and .1608 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07J .0409 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

State Human Resources Commission

25 NCAC 01E .0210; 01I .1702, .1805, .1902, .1903, .1905, .2003, .2105, .2302, .2303, .2304, .2305, .2306, .2307, and .2310 - The agency is addressing the technical change requests from the June meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**Department of Administration**

All rules were unanimously approved.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Sheriffs' Education and Training Standards Commission

All rules were unanimously approved.

Department of Transportation

All rules were unanimously approved.

The Chair called the meeting into recess at 11:10 a.m.

The meeting resumed at 11:21 a.m.

Board of Dietetics/Nutrition

The Commission unanimously waived Rule 26 NCAC 05 .0103 and allowed the submission of untimely written comments opposing the rules at the meeting.

All rules were unanimously approved with the following exceptions:

The Commission objected to 21 NCAC 17 .0101 for lack of statutory authority. Specifically, the Commission found that the agency lacks statutory authority to narrow the terms to solely "medical nutrition therapy" in Subparagraphs (a)(2) and (3). Further, the Commission noted that Paragraph (b) contains both acronyms and initialisms.

The Commission objected to 21 NCAC 17 .0303 for lack of statutory authority. The Commission found that the agency lacks authority to contradict G.S. 90-368(2), which allows for supervision by those meeting the criteria in G.S. 90-357.5(a)(1)b and (c)(2).

Sabra Faires, with Bailey & Dixon, speaking in opposition to the rules, addressed the Commission.

Charla Burill, the rulemaking coordinator for the agency, addressed the Commission.

LOG OF FILINGS (TEMPORARY RULES)**State Board of Elections**

08 NCAC 17 .0108 was unanimously approved.

EXISTING RULES REVIEW**Radiation Protection Commission**

10A NCAC 15 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than February 28, 2027 pursuant to G.S. 150B-21.3A(d)(2).

Department of Health and Human Services

10A NCAC 15 (Section .1100) - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than June 30, 2021 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The meeting adjourned at 12:42 p.m.

The next regularly scheduled meeting of the Commission is Thursday, August 15, 2019 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

July 18, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Shazia Keller	DHB
Jennifer Everett	DEQ
Hannah Jennings	DOT
Charminique Williams	CJETS
Matthew Jordan Cochran	Off Cone + Redpath, P.A.
Marie Enitt	NCDOT - Sheriff
Clancy Phillips	NCDOT
Charla Burill	NCDN
Nadine Pfeiffer	NC DHHS - DHSR
Misty Parker-McWilliams	NC DHHS
Kyu Eun (Dana) Lee	DOJ.
Paris Penn	NC DHHS
Stokes Lassiter	OAH Extern
Ryan Eppenberger	DHB
Shanon Gierger	DOA
Sabra Faires	Bailey Dixon
James Albright	DAHS DHSR RPS
Kelly Tomlin	NCSBE
Gloria Cates	DAHS-DAAS
Katelyn Love	SBE
Tom Carr	SPO

July 18, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Andrea C Phillips	DHB (DHHS)
Kelvin Wade	NCDOT
Henny W. Jones, Jr.	NCBd D+N
Kim Miller	NCBDN
KEVIN LACY	NCDOT



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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6714 Mail Service Center
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Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

July 18, 2019

Nadine Pfeiffer, Rulemaking Coordinator
Radiation Protection Commission
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 10A NCAC 15

Dear Ms. Pfeiffer:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the July 18, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than February 28, 2027.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber May", is written over a horizontal line.

Amber May
Commission Counsel

Administration 919/431-3000 fax 919/431-3100	Rules Division 919/431-3000 fax 919/431-3104	Judges and Assistants 919/431-3000 fax 919/431-3100	Clerk's Office 919/431-3000 fax 919/431-3100	Rules Review Commission 919/431-3000 fax 919/431-3104	Civil Rights Division 919/431-3036 fax 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
April 18, 2019
APO Review: June 22, 2019
Radiation Protection Commission
Total: 257**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 15 .0101</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0102</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0103</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0104</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0105</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0106</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0107</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0108</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0109</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0110</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0113</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0114</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0115</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0116</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0117</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0118</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0202</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0203</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0204</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0205</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0206</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0207</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0209</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0210</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0213</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0214</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0301</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0302</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0303</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0304</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0305</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0306</u>	Necessary with substantive public interest
<u>10A NCAC 15 .0307</u>	Necessary with substantive public interest

[illegible]

[illegible]

<u>10A NCAC 15 .1650</u>	Necessary with substantive public interest
<u>10A NCAC 15 .1651</u>	Necessary with substantive public interest
<u>10A NCAC 15 .1652</u>	Necessary with substantive public interest
<u>10A NCAC 15 .1653</u>	Necessary with substantive public interest



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Raleigh, NC 27609-6285

July 18, 2019

Joel Johnson, Rulemaking Coordinator
Department of Health and Human Services
2001 Mail Service Center
Raleigh, North Carolina 27699-2001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 15 - Section .1100**

Dear Mr. Johnson:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the July 18, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than June 30, 2021.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

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Amber May
Commission Counsel

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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
April 18, 2019
APO Review: June 22, 2019**

**Health and Human Services, Department of
Total: 2**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 15 .1102</u>	Necessary with substantive public interest
<u>10A NCAC 15 .1106</u>	Necessary with substantive public interest