



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609

September 17, 2015

Sent via email to janet.shires@dornc.gov:

Janet L. Shires, Rulemaking Coordinator
North Carolina Property Tax Commission
501 N. Wilmington Street
Raleigh, North Carolina 27604

Re: 17 NCAC 11 .0216 and 17 NCAC 11 .0217

Dear Ms. Shires:

At its September 17, 2015 meeting, the Rules Review Commission extended the period of review on the above-identified rules in accordance with G.S. 150B-21.10 and G.S. 150B-21.13. The Commission extended the period of review to allow the North Carolina Property Tax Commission additional time to revise the rules in response to the technical change requests and to review the staff opinions.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3076.

Sincerely,

Abigail M. Hammond
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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Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 21, 2015

Charles Wilkins
North Carolina Board of Massage and Bodywork Therapy
Sent via email to cwilkins@bws-law.com

Re: Objections to Rules 21 NCAC 30 .0702, .1001, .1002, .1003, .1004, .1005, .1006, .1007, .1008, .1009, .1010, .1011, .1012, .1013, .1014, and .1015

Dear Mr. Wilkins:

At its meeting on September 17, 2015, the Rules Review Commission objected to the above-referenced rules in accordance with G.S. 150B-21.10.

The Commission objected to Rule 21 NCAC 30 .0702, finding the agency failed to comply with the Administrative Procedure Act. Specifically, the Commission found that changing the contact hours' equivalency for a semester credit hour at a post-secondary institution from "21" to "15" in Item (3) after publication constitutes a "substantial change" pursuant to G.S. 150B-21.2(g).

The Commission objected to Rules 21 NCAC 30 .1001 through .1015, finding the Board of Massage and Bodywork Therapy lacks the statutory authority to promulgate these rules regulating establishments.

In addition to the overall objection to Rules 21 NCAC 30 .1001 through .1015 for lack of statutory authority, the Commission issued additional objections to 21 NCAC 30 .1002, .1003, .1004, .1005, .1008, .1013, .1014, and .1015.

The Commission objected to Rule 21 NCAC 30 .1002 for lack of statutory authority to charge "the fee set forth in G.S. 90-628(b)(1) and (2)" contained in Subparagraph (a)(1). The Commission also objected to the requirement that establishments provide "proof of property damage and bodily injury liability insurance coverage" contained in Subparagraph (a)(2) for lack of statutory authority.

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919/431-3000
fax: 919/431-3100

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919/431-3000
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919/431-3000
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919/431-3000
fax: 919/431-3104

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919/431-3036
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The Commission objected to Rule 21 NCAC 30 .1003 for lack of statutory authority to charge “the required fees required in Rule .1013 of this Chapter.” The Commission also objected to the requirements contained in Items (2), (3), and (4) for lack of statutory authority. Further, the Commission objected to the requirement in Item (7) as being unclear and ambiguous. Item (7) requires that the applicant has “satisfied G.S. 90-629(3).” G.S. 90-629(3) requires that the applicant be “of good moral character as determined by the Board.” As written, the Rule provides no additional information regarding how “good moral character” will be determined by the Board.

The Commission objected to Rule 21 NCAC 30 .1004 for lack of statutory authority as not being “necessary to carry out the purposes of [Article 39] and the duties and responsibilities of the Board.”

The Commission objected to Rule 21 NCAC 30 .1005 for lack of statutory authority as not being “necessary to carry out the purposes of [Article 39] and the duties and responsibilities of the Board.

The Commission objected to 21 NCAC 30 .1008 for lack of statutory authority to charge the fee contained in Paragraphs (a) and (b).

The Commission objected to 21 NCAC 30 .1013 for lack of statutory authority to charge the fees contained in this Rule. The Commission also objected to this Rule as being unclear and ambiguous as it is unclear whether this Rule exclusively pertains to establishments.

The Commission objected to 21 NCAC 30 .1014 for lack of statutory authority to charge the fees contained in Paragraph (a). The Commission also objected to this Rule as being unclear and ambiguous as it is unclear whether this Rule exclusively pertains to establishments.

The Commission objected to 21 NCAC 30 .1015 as being unclear and ambiguous as it is unclear whether this Rule exclusively pertains to establishments. It also objected to the requirement that “the applicant provide all documentation related to the applicant’s compliance with 90-629(3).” G.S. 90-629(3) requires that the applicant be “of good moral character as determined by the Board.” As written, the Rule provides no additional information regarding how “good moral character” will be determined by the Board.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission’s actions, please let me know.

Sincerely,


Amber Cronk May
Commission Counsel