



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 27609-6285

January 21, 2016

Teresa Bank
NC Department of Information Technology
Sent via email to Teresa.Bank@nc.gov

Re: Objection to Rules 09 NCAC 06C .0105, .0106, .0107, .0111, .0112, .0113, .0114, .0205, .0216, .0302, .0303, and .0304.

Dear Ms. Bank:

At its meeting today, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to Rules .0111, .0112, .0113, .0114, .0205, and .0216, finding the agency failed to comply with the Administrative Procedure Act because the rules were not published in the NC Register for the public comment period required by G.S. 150B-21.2. The Commission is aware that the Board has submitted these Rules for publication in the February 1, 2016 Register.

The Commission also objected to Rule .0112 because as the Rule was originally submitted, the Board proposed to respond requests for declaratory ruling outside of the timeline set forth in G.S. 150B-4. Therefore, the Commission found that the Board did not have the statutory authority to change the timeline set forth in statute.

The Commission objected to Rules .0107, .0302, .0303, and .0304, finding the Board lacked statutory authority to require CMRS providers to submit a plan for preapproval of all reimbursable costs. Further, the Commission found the Board does not have the authority to require submission of records to prove that costs were incurred. These requirements exceed the requirements of G.S. 62A-45.

The Commission objected to Rules .0105 and .0106 for ambiguity. Specifically, Paragraph (c) of both rules state that the Board “may, in its discretion, file a complaint with any other regulatory body exercising jurisdiction.” There is no guidance in the rule as to when this may occur and therefore, the Rules are ambiguous.

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

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

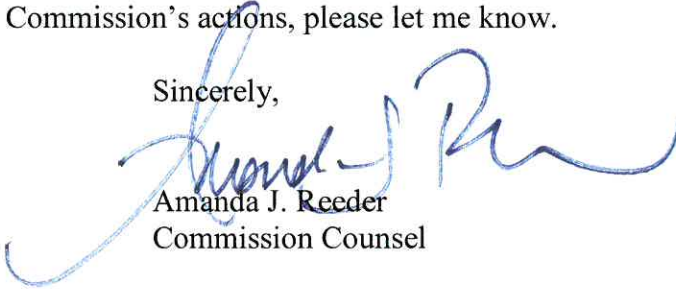
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919/431-3000
fax: 919/431-3104

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919/431-3036
fax: 919/431-3103

The Commission also objected to Rule .0106 for lack of statutory authority, as Paragraph (d) states that the Board may suspend disbursements of a PSAP that is not compliant with the statutes, rules, or requirements of an FCC order. However, G.S. 62A-48 states that the Board is required to suspend disbursements under these circumstances. Therefore, the Commission found that the Board does not have authority for the Rule as submitted.

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,

A handwritten signature in blue ink, appearing to read "Amanda J. Reeder", is written over the typed name and title.

Amanda J. Reeder
Commission Counsel



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January 21, 2016

Sent via email jennifer.everett@ncdenr.gov:

Jennifer Everett, Rulemaking Coordinator
Environmental Management Commission
1601 Mail Service Center
Raleigh, NC 27699-1601

Re: Extension of the Period of Review for Rules 15A NCAC 02L .0102, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0512, .0513, .0514, .0601, .0602, .0603, .0701, .702, .0703, .0704, and .0705

Dear Ms. Everett:

At its January 21, 2016 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 in response to a request from the Coastal Resources Commission to allow additional time for review of technical change requests.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3074.

Sincerely,

Amber Cronk May
Commission Counsel

cc: Mike Lopazanski via email

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January 21, 2016

Vance Kinlaw
Board of Chiropractic Examiners
Sent via email to kinlawyer@triad.twcbc.com

Re: Extension of the Period of Review for Rules 21 NCAC 10 .0106 and .0208.
Objection to Rule 21 NCAC 10 .0214.

Mr. Kinlaw:

At its meeting today, the Rules Review Commission extended the period of review for Rules 21 NCAC 10 .0106 and .0208 and objected to Rule 21 NCAC 10 .0214 in accordance with G.S. 150B-21.10.

The Commission extended the period of review for Rules .0106 and .0208 in response to a request from the Board to extend the period in order to allow the agency to determine whether to move forward with rulemaking for these Rules.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

The Commission objected to Rule .0214, finding that the language in Paragraph (b) that referred to the "Secretary's professional judgment" is ambiguous.

Please respond to the objection 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,

Amanda J. Reeder
Commission Counsel

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fax: 919/431-3100

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