

**RULES REVIEW COMMISSION MEETING
MINUTES
April 21, 2016**

The Rules Review Commission met on Thursday, April 21, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Danny Earl Britt, Jr., Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Poley, and Stephanie Simpson.

Staff members present were Commission Counsels Abigail Hammond, Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 10:02 a.m. with Chairman Dunklin presiding.

Chairman Dunklin 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 appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the March 17, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

911 Board

09 NCAC 06C .0111, .0112, .0113, .0114, .0205, and .0216 – The agency is addressing the objections from the January meeting by publishing a Notice of Text in the North Carolina Register. No action was required by the Commission.

Social Services Commission

10A NCAC 71P .0101, .0102, .0103, .0201, .0202, .0301, .0302, .0303, .0304, .0306, .0401, .0402, .0403, .0404, .0405, .0406, .0501, .0502, .0504, .0505, .0506, .0507, .0508, .0601, .0602, .0603, .0604, .0608, .0701, .0702, .0704, .0705, .0801, .0802, .0803, .0804, .0805, .0902, .0903, .0904, .0905, and .0906 – The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

Department of Insurance

11 NCAC 18 .0103; 20 .0202, .0203, .0204, .0301, .0302, .0404, .0410, .0601; and 21 .0106 were withdrawn at the request of the agency.

As these rules were readoptions scheduled by the Commission pursuant to G.S. 150B-21.3A(d)(2), the Commission will set a new readoption date for these Rules at the May meeting.

Property Tax Commission

17 NCAC 11 .0216, and .0217 - The agency is addressing the objections from the October meeting by publishing a Notice of Text in the North Carolina Register. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Pesticide Board

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Pesticide Board to extend the period in order to allow the agency to make technical changes and submit the rewritten rules at a later meeting.

Child Care Commission

10A NCAC 09 .1718 was unanimously approved.

Radiation Protection Commission

All rules were unanimously approved.

Criminal Justice Education and Training Standards Commission

12 NCAC 09F .0106 was unanimously approved.

Department of Revenue

All rules were unanimously approved.

Board of Dental Examiners

21 NCAC 16T .0101 was unanimously approved.

Brooke Ottesen, an attorney representing the agency, addressed the Commission.

Board of Examiners of Electrical Contractors

All rules were approved with the following exception:

21 NCAC 18B .0502 was withdrawn at the request of the agency.

Medical Board

21 NCAC 32T .0101 was unanimously approved.

Midwifery Joint Committee

21 NCAC 33 .0110 was unanimously approved.

Board of Pharmacy

21 NCAC 46 .3101 was unanimously approved.

Real Estate Commission

2nd Vice Chairman Simpson presided over the discussion and vote on the Real Estate Commission rules.

All rules were unanimously approved.

Prior to the review of the rules from the Real Estate Commission, Commissioner Currin recused herself and did not participate in any discussion or vote concerning the rules because she has an inactive broker's license.

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

EXISTING RULES REVIEW**DHHS/Medical Care Commission**

10A NCAC 13J – The Commission unanimously approved the report as submitted by the agency, with the exception that it reclassified Rules .1107 and .1502 as “Necessary with Substantive Public Interest.”

Prior to the review of the report from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because he has a business conflict.

DHHS/Commission for Mental Health

10A NCAC 27A - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 27B - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 27D - The Commission unanimously approved the report as submitted by the agency.

Department of Insurance

11 NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

11 NCAC 13 - The Commission unanimously approved the report as submitted by the agency.

State Board of Education

16 NCAC 01 - The agency did not conduct the review and all rules contained in the report expired on April 21, 2016 pursuant to G.S. 150B-21.3A(d). No action was required by the Commission.

16 NCAC 02 - The Chapter is repealed. No action was required by the Commission.

16 NCAC 03 - The Chapter is repealed. No action was required by the Commission.

State Human Resources Commission

25 NCAC 01F - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the State Human Resources Commission, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the report because she is a State employee.

Alcoholic Beverage Control Commission

04 NCAC 02R (recodified as 14B NCAC 15A .1403) - As reflected in the attached letter, the Commission voted to schedule readoption of the Rule pursuant to G.S. 150B-21.3A(c)(2) no later than May 31, 2017.

Social Services Commission

10A NCAC 10 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules pursuant to G.S. 150B-21.3A(c)(2) no later than May 31, 2019.

Sedimentation Control Commission

15A NCAC 04 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules pursuant to G.S. 150B-21.3A(c)(2) no later than November 30, 2019.

Acupuncture Licensing Board

21 NCAC 01 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules pursuant to G.S. 150B-21.3A(c)(2) no later than May 31, 2017.

Licensing Board for General Contractors

The Board requested a waiver of Rules 26 NCAC 05 .0203 and .0211 for the report for 21 NCAC 12.

The waiver request was unanimously approved, and the Commission rescheduled the date of review for the report.

The Commission will review the Board's report at its May 19, 2016 meeting.

Catherine Lee, with the Law Office of Nichols, Choi & Lee, PLLC, representing the Board, addressed the Commission.

Molly Masich, Codifier of Rules with OAH, addressed the Commission.

COMMISSION BUSINESS

The Commission amended 26 NCAC 05 .0211 to reflect the recodification of rules in the Code.

The Commission discussed proposed amendments and adoptions of Rules 26 NCAC 05 .0103, .0104, .0301, .0302, and .0303.

Commission counsel discussed the written comments received and presented the Commission with a draft of proposed changes that staff prepared in response to the comments.

The Commission approved the Rules as presented with draft changes, except for Rule 26 NCAC 05 .0103. The Commission voted to amend Rule 26 NCAC 05 .0103(a) to state that the deadline to submit written comments for permanent rules is 5 p.m. the fifth business day before a meeting.

Molly Masich, Codifier of Rules with OAH, addressed the Commission.


Chairman Dunklin asked the Commission counsels to draft rule language for the Commission to consider when agencies ask to go earlier than scheduled.

The meeting adjourned at 11:29 a.m.

The next regularly scheduled meeting of the Commission is Thursday, May 19th 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,



Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:



Garth Dunklin, Chair

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Loretta Bunch	NC DOT
Khonda R Smith	NC DOR
Ben Ruffin	NC DOR
Brittan Johnson	NC DOR
Melissa Votto	NC REC
Chandra Graves	NJC
Larson Fazio	NC DHSE
Brooke Ottesen	NC State Board of DE
Debra Ann	DHHS / DDEE
Grant Panton	BOB
Catherine Rosford	NC DHHS -
Ashley Rodgers	NC DEGR DEMUR
Lorie Pugh	DHHS / DDEE
Bethany Burgin	DOJ / DCD
Catherine E Lee	Nichols Char. Lee
Jennifer Everett	DEE
Greta Hill	NC DHSR
Nancy Joyce	NC DHSR
Trena Allen	DOJ - CJETS!
Denise Baker	NC DHHS / DDEE
Alexi Grober	DOJ

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Madeline Pfeiffer	DHHS - DHSR
Catherine Rosford	DHHS - DHSR - RPS
Margaret Price	OSHR
Jennifer Johnson	BCDSE
Mr. Wm	SOS
Frank Wiesner	NC LIC. Bd for General Cont.



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April 21, 2016

Robert Hamilton, Rulemaking Coordinator
ABC Commission
400 East Tryon Road
Raleigh, North Carolina 27610

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 04 NCAC 02R (recodified to 14B NCAC 15A .1403)

Dear Mr. Hamilton:

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 April 21, 2016 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 May 31, 2017.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

cc: Renee Metz

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2014 through June 30, 2015
Alcoholic Beverage Control Commission
Total: 1**

RRC Determination: Necessary with substantive public interest**Rule**04 NCAC 02R .1404**Determination**

Necessary with substantive public interest

APO Review Date

August 22, 2015

DRAFT



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April 21, 2016

Dedra Alston, Rulemaking Coordinator
Carlotta Dixon, Rulemaking Coordinator
Social Services Commission
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

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

Dear Misses Alston and Dixon:

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 April 21, 2016 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 May 31, 2019.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
February 18, 2016
APO Review: March 01, 2016**

**Social Services Commission
Total: 39**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 10 .0102</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0202</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0203</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0306</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0307</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0308</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0309</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0310</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0311</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0312</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0313</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0502</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0503</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0504</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0505</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0506</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0601</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0602</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0701</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0702</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0902</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0903</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0904</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0905</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0906</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0907</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0908</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0909</u>	Necessary with substantive public interest
<u>10A NCAC 10 .0910</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1001</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1002</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1003</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1004</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1005</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1006</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1007</u>	Necessary with substantive public interest

<u>10A NCAC 10 .1101</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1102</u>	Necessary with substantive public interest
<u>10A NCAC 10 .1103</u>	Necessary with substantive public interest

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April 21, 2016

Jennifer Everett, Rulemaking Coordinator
Department of Environment Quality
Sedimentation Control Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 15A NCAC 04

Dear Ms. Everett:

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 April 21, 2016 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 November 30, 2019.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
January 21, 2016
APO Review: February 02, 2016
Sedimentation Control Commission
Total: 26**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 04A .0105</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0105</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0106</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0107</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0108</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0109</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0110</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0111</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0112</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0113</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0115</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0118</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0120</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0124</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0125</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0126</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0127</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0129</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0130</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0131</u>	Necessary with substantive public interest
<u>15A NCAC 04B .0132</u>	Necessary with substantive public interest
<u>15A NCAC 04C .0103</u>	Necessary with substantive public interest
<u>15A NCAC 04C .0106</u>	Necessary with substantive public interest
<u>15A NCAC 04C .0107</u>	Necessary with substantive public interest
<u>15A NCAC 04C .0108</u>	Necessary with substantive public interest
<u>15A NCAC 04D .0102</u>	Necessary with substantive public interest



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March 17, 2016

Michael J. Tadych
Acupuncture Licensing Board
Stevens Martin Vaughn & Tadych
1101 Haynes Street, Suite 100
Raleigh, North Carolina 27604

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 01

Dear Mr. Tadych:

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 April 21, 2016 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 May 31, 2017.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2014 through June 30, 2015
Acupuncture Licensing Board
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
<u>21 NCAC 01 .0104</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0201</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0301</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0402</u>	Necessary with substantive public interest	November 22, 2014