

RULES REVIEW COMMISSION MEETING
MINUTES
July 16, 2015

The Rules Review Commission met on Thursday, July 16, 2015, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, and Stephanie Simpson.

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

The meeting was called to order at 10:06 a.m. with Chairman Dunklin presiding.

Chairman Dunklin introduced OAH extern Andrew Dennis.

Chairman Dunklin welcomed new Commission Counsel Jason Thomas.

Jason Thomas addressed the Commission.

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.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the June 16, 2015 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Pesticide Board

02 NCAC 09L .0529, .1103, and .1109 - The Commission approved the rewritten rules.

02 NCAC 09L .0504, .0505, .0507, .0522, .1102, .1104, and .1108 - The Commission extended the period of review for these rules.

Commissioner Hemphill was not present during the vote.

LOG OF FILINGS (PERMANENT RULES)

Child Care Commission

10A NCAC 09 .0607 was unanimously approved.

Commissioner Hemphill was not present during the vote.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Commissioner Hemphill was not present during the vote.

Board of Electrolysis Examiners

The Commission voted to object to Rule 21 NCAC 19 .0409. The Commission found that the agency did not cite to any authority for the Rule. Specifically, the Commission found that while the Rule purports to govern client evaluations by electrologists and laser hair practitioners, the Board cites to only G.S. 88A-16 as the authority for this Rule. That statute applies only to electrologists and governs the practice in permanent establishments. G.S. 88A-16 only requires the Board to write rules governing sanitation standards, equipment, and supplies in those establishments. It also requires the Board to create rules for the use of equipment and instruments outside the office. The cited statute does not

contain any language to give the Board authority to govern client evaluations and require records for them.

In addition, the Commission voted to extend the period of review for Rules 21 NCAC 19 .0201, .0202, .0203, .0204, .0407, .0501, .0602, .0608, .0622, .0701, and .0702 in accordance with G.S. 150B-21.10. They did so in response to a request from the Board of Electrolysis Examiners to extend the period in order to allow the agency to make technical changes and submit the rewritten rules at a later meeting.

Commissioner Hemphill was not present during the vote.

Board of Massage and Bodywork Therapy

The Commission voted to extend the period of review for 21 NCAC 30 .0201, .0701, .0702, .1001, .1002, .1003, .1004, .1005, .1006, .1007, .1008, .1009, .1010, .1011, .1012, .1013, .1014, and .1015 in accordance with G.S. 150B-21.10. They did so in response to a request from the Board to provide them additional time to revise the rules in response to technical change requests.

Commissioner Hemphill was not present during the vote.

Board of Examiners for Nursing Home Administrators

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

Prior to the discussion of the rules from the Board of Examiners for Nursing Home Administrators, Commissioner Choi recused herself and did not participate in any discussion concerning these rules because her law firm provides legal representation to the Board.

Board of Pharmacy

21 NCAC 46 .1801 was unanimously approved.

Substance Abuse Professional Practice Board

All rules were unanimously approved.

State Human Resources Commission

All rules were unanimously approved.

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

EXISTING RULES REVIEW

Board of Agriculture

02 NCAC 20B - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 37 - The Commission unanimously approved the report as submitted by the agency.

Gasoline and Oil Inspection Board

02 NCAC 42 - The Commission unanimously approved the report as submitted by the agency.

Soil and Water Conservation Commission

02 NCAC 59A - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 59B - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 59C - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 59E - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 59F - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 59G - The Commission unanimously approved the report as submitted by the agency.

Board of Agriculture

02 NCAC 60A, transferred and recodified from 15A NCAC 09A - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 60B, transferred and recodified from 15A NCAC 09B and 15A NCAC 09C - The Commission unanimously approved the report as submitted by the agency.

02 NCAC 60C, transferred and recodified from 15A NCAC 01I - The Commission unanimously approved the report as submitted by the agency.

Board of Employee Assistance Professionals

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

Board of Refrigeration Examiners

21 NCAC 60 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Board of Refrigeration Examiners, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the report because her law firm provides legal representation to the Board.

Social Work Certification and Licensure Board

21 NCAC 63 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Social Work Certification and Licensure Board, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the report because her law firm provides legal representation to the Board.

Office of State Budget and Management

09 NCAC 03 – As reflected in the attached letter, the Commission voted for readoption of these rules pursuant to G.S. 150B-21.3A(c)(2) no later than April 30, 2016.

Board of Barber Examiners

21 NCAC 06 – As reflected in the attached letter, the Commission voted for readoption of these rules pursuant to G.S. 150B-21.3A(c)(2) no later than March 31, 2016.

Social Services Commission

10A NCAC 70I and 10A NCAC 70K - The Commission reviewed the Social Services Commission's request for an extension of time to complete the Periodic Review and Expiration of Existing Rules for the reports, scheduled for review in August 2015. The Commission granted the motion for an extension of time, and rescheduled the reports to be reviewed at the March 2016 meeting with Commissioners Choi, Currin, Dunklin, Hemphill, Hyde, and Simpson voting in favor of the motion for an extension and rescheduling of review, and Commissioner Doran voting against both motions.

Carlotta Dixon with the agency addressed the Commission.

Commission for Public Health

10A NCAC 40 and 10A NCAC 46 - The Commission approved the waiver request of the comment period requirement under 26 NCAC 05 .0206 (b)(3) pursuant to Rule 26 NCAC 05 .0112. These reports will be reviewed at the October and November 2016 meetings.

COMMISSION BUSINESS

Staff gave the Commission a brief legislative update.

At 11:00 a.m., Chairman Dunklin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S. 143-318.11(a)(3) to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

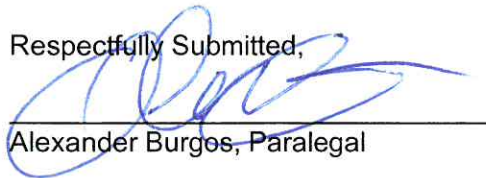
The Commission came out of closed session and reconvened at 12:47 p.m.

The meeting adjourned at 12:47 p.m.

The next regularly scheduled meeting of the Commission is Thursday, August 20th 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,

A handwritten signature in blue ink, appearing to read "Alex Burgos", is written over a horizontal line.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

A handwritten signature in blue ink, appearing to read "Garth Dunklin", is written over a horizontal line.

Garth Dunklin, Chair

July 2015

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Paula Kukulinski	OSHR
Curtis R. Ryan	BOF
Tina Hlabse	NCDACS
Jim Burdette	NCDACS
Trevor Allen	CJETS!
Richard Harrison	NC DOT
Katie Gilmore	NCSAPPB
DAVID PISCE	OSHR
Tony Beatty	NCSAPPB
Shari Howard	OSHR
Maggie Craven	OSHR
Bob Martin	IDPH
Micki Lilly	NC SWCLB
Elizabeth Pope	NC SWCLB
E. Ann Christian	NCSAPPB
Vandi	DOT

July 2015

Rules Review Commission
Meeting
Please Print Legibly

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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

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

July 17, 2015

Lindsey E. Wakely, Deputy General Counsel
Office of the Governor
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 09 NCAC 03

Dear Ms. Wakely:

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 16, 2015 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 April 30, 2016.

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

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

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

An Equal Employment Opportunity Employer

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2014 through June 30, 2015
State Budget and Management, Office of
Total: 14**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
<u>09 NCAC 03A .0103</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0201</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0202</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0203</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0205</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0401</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0501</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0601</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0701</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0702</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0703</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0704</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0801</u>	Necessary with substantive public interest	April 25, 2015
<u>09 NCAC 03M .0802</u>	Necessary with substantive public interest	April 25, 2015



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

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

July 17, 2015

W. Bain Jones, Jr.
Board of Barber Examiners
5809-102 Departure Drive
Raleigh, North Carolina 27616

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 06**

Dear Mr. Jones:

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 16, 2015 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 March 31, 2016.

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

Sincerely,

Abigail M. Hammond
Commission Counsel

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

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

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Rules Review
Commission
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fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

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**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2014 through June 30, 2015
Barber Examiners, Board of
Total: 131**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
<u>21 NCAC 06A .0102</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0101</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0103</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0105</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0202</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0204</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0301</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0302</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0305</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0306</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0307</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0308</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0309</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0501</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0502</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0503</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06B .0505</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0101</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0201</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0202</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0203</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0204</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0205</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0501</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0502</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0503</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0504</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0601</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0701</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0801</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0807</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0808</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0903</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0904</u>	Necessary with substantive public interest	April 25, 2015
<u>21 NCAC 06C .0905</u>	Necessary with substantive public interest	April 25, 2015

21 NCAC 06C .0906	Necessary with substantive public interest	April 25, 2015
21 NCAC 06C .0907	Necessary with substantive public interest	April 25, 2015
21 NCAC 06C .0909	Necessary with substantive public interest	April 25, 2015
21 NCAC 06D .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0102	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0103	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06F .0109	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06F .0111	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0113	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0114	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0116	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06F .0119	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06F .0121	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0122	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0123	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0124	Necessary with substantive public interest	April 25, 2015
21 NCAC 06F .0125	Necessary with substantive public interest	April 25, 2015
21 NCAC 06G .0103	Necessary with substantive public interest	April 25, 2015
21 NCAC 06H .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06H .0102	Necessary with substantive public interest	April 25, 2015
21 NCAC 06I .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06I .0105	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06L .0107	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06L .0112	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0113	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0114	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0115	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0116	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0117	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0118	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0119	Necessary with substantive public interest	April 25, 2015
21 NCAC 06L .0120	Necessary with substantive public interest	April 25, 2015
21 NCAC 06M .0102	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0102	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0103	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06N .0105	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0106	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0107	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0108	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06N .0111	Necessary with substantive public interest	April 25, 2015
21 NCAC 06N .0112	Necessary with substantive public interest	April 25, 2015
21 NCAC 06O .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06O .0102	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06O .0115	Necessary with substantive public interest	April 25, 2015
21 NCAC 06O .0116	Necessary with substantive public interest	April 25, 2015
21 NCAC 06O .0117	Necessary with substantive public interest	April 25, 2015
21 NCAC 06P .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06P .0102	Necessary with substantive public interest	April 25, 2015
21 NCAC 06P .0103	Necessary with substantive public interest	April 25, 2015
21 NCAC 06Q .0101	Necessary with substantive public interest	April 25, 2015
21 NCAC 06Q .0102	Necessary with substantive public interest	April 25, 2015
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21 NCAC 06S .0101	Necessary with substantive public interest	April 25, 2015