

**RULES REVIEW COMMISSION MEETING
MINUTES
September 15, 2016**

The Rules Review Commission met on Thursday, September 15, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

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

The meeting was called to order at 10:01 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 August 18, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Environmental Management Commission

15A NCAC 02H .1019, .1042, .1043, .1044, .1045, .1050, .1051, .1052, .1053, .1054, .1055, .1056, .1059, .1060 – The Commission objected to the rewritten rules for lack of statutory authority. Specifically, the Commission found that the term “licensed professional” as defined in 15A NCAC 02H .1050(14) is outside the authority of the agency. The Commission found that the agency lacks the statutory authority to set requirements of who can design stormwater systems, with the exception of fast-track permitting rules authorized under G.S. 143-215.7B.

Jennie W. Hauser, with the Attorney General's Office representing the agency, addressed the Commission.

Annette Lucas, with the Department of Environmental Quality, addressed the Commission.

Craig Bromby, General Counsel with the Department of Environmental Quality, addressed the Commission.

Board of Barber Examiners

21 NCAC 06B .0105, .0503, .0505; 06C .0202, .0203; 06F .0116; 06G .0106; 06I .0101, .0105; 06J .0101; 06K .0104; 06L .0118, .0119; 06N .0103, .0104, .0106, .0108; 06Q .0101, .0103, and .0104 were unanimously approved.

21 NCAC 06O .0120 was withdrawn by the agency.

LOG OF FILINGS (PERMANENT RULES)

Medical Care Commission

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because the Medical Care Commission is a client.

HHS - Division of Health Service Regulation

All rules were unanimously approved.

Commission for Public Health

10A NCAC 41A .0101 was unanimously approved.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved with the following exception:

The Commission objected to 12 NCAC 09B .0203 because the agency failed to comply with the Administrative Procedure Act, as it adopted the Rule before the close of the comment period.

Wildlife Resources Commission

15A NCAC 10F .0366 was unanimously approved.

Department of State Treasurer

20 NCAC 01A .0101 was unanimously approved.

Board of Chiropractic Examiners

21 NCAC 10 .0503 was unanimously approved.

Veterinary Medical Board

21 NCAC 66 .0105 was unanimously approved.

Office of Administrative Hearings

All rules were unanimously approved contingent upon receiving technical changes to add "non-Medicaid cases" to Page 1 line 20 of Rule 26 NCAC 03 .0502. The technical changes was received following the meeting.

Commissioner Currin was not present and did not participate in any discussion or vote concerning the rules or any other matters after this point in the meeting.

LOG OF RULES (TEMPORARY RULES)

Child Care Commission

All rules were unanimously approved.

The agency requested a waiver pursuant to G.S. 150B-21.1(a2) waiving the 210-day limitation found in G.S. 150B-21.1(a1). The waiver request was unanimously approved.

Alexi Gruber with the Attorney General's Office representing the agency, addressed the Commission.

Pamela Shue with the agency, addressed the Commission.

EXISTING RULES REVIEW

Department of Justice

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

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

12 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

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

Department of Public Safety

14B NCAC 18 - The Commission unanimously approved the report as submitted by the agency.

Board of Dietetics/Nutrition

21 NCAC 17 - The Commission unanimously approved the report as submitted by the agency.

Board of Examiners for Speech and Language Pathologists and Audiologists

21 NCAC 64 - The Commission unanimously approved the report as submitted by the agency.

Office of State Human Resources

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

25 NCAC 01K – The Commission unanimously approved the report as submitted by the agency.

25 NCAC 01L – The Commission unanimously approved the report as submitted by the agency.

25 NCAC 01M – The Commission unanimously approved the report as submitted by the agency.

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

Department of Natural and Cultural Resources

07 NCAC 11 – The agency requested for 07 NCAC 11 to be removed from the periodic review as set forth in 26 NCAC 05 .0211 because the agency is exempt from rulemaking under G.S. 150B.

The Commission unanimously approved the request and amended 26 NCAC 05 .0211.

COMMISSION BUSINESS

The meeting adjourned at 11:42 a.m.

The next regularly scheduled meeting of the Commission is Thursday, October 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,



Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:



Garth Dunklin, Chair

September 15, 2016

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| Name | Agency |
|---------------------------|-------------------|
| Jennifer Everett | DEQ |
| Jennie Hauser | AG/EMC |
| Dennis Seavers | BBE |
| Nadine Pfeiffer | DHSE |
| Carey Gaulty | DHSR |
| Melissa Triple | DOJ |
| Charmique Branson | CJETS |
| Rich Spent | CSSAS |
| Martha Frisone | DHHS, DHSR, HPCON |
| Bethany Burgum | DOJ |
| Angel Gray | NC SBI |
| Ted Smalley | NCUMB |
| DM BAYLW | INSIDOR |
| Alexi Gruber | DOJ |
| Lorie Pugh | DCDEE |
| Pamela Shue | DCDEE |
| Dean Ann | DCDEE |
| Tasha D. Green | DCDEE |
| Ashley Snyder | DWCR |
| Patrice Alexander | DST |
| Charla Burrill | NCBPN |
| Wahale Freelant Kalkas | NCBOESLPA |
| Sandra Capps | " " |

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| Name | Agency |
|----------------------------------|---------|
| Julie Ventaloro | NC DEQ |
| Virginia Niehaus | NC DMA |
| Annette Lucas | NC DEQ |
| Craig Bromby | NC DEQ |
| Margaret Duce | OSHR |
| Bob MARTIN | DPH |
| Betsy Hynson | NC WRC |
| Libby King | NC DHHS |
| Dorey B... <i>(Signature)</i> | DHHS |
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