REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0101

**DEADLINE FOR RECEIPT: FRIDAY, OCTOBER 11, 2013**

***NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a)(4) page 2 line 12 it seems to me that “other” in “other violations” should be deleted.*

*In (b) line 14 please make “Complainant” lowercase.*

*Further in that same line change “Board-approved” to “Board provided” without a hyphen.*

*In (e)(3) line 23, (h) line 29 please make “Complainant” lowercase.*

*In (f)(2) line 27; (g) line 28; (h) line 29; (i) line 31; (m) page 3 line 4; (n) lines 6 and 8; and (o) line 14 make “Respondent” lowercase.*

*In (j) line 31 wouldn’t “shall be” be better if it were “is?”*

*In (l) and (m) please change “[t]his notification/letter shall not be a public record … G.S. 93D-13(c)” to “[t]he Board does not consider this notification/letter a public record … G.S. 93D-13(c)” or similar language. You could also add, or change it to, a provision that you will not release those records to any member of the public. There is no authority for the board to pronounce what is or is not a public record although it is free to announce its interpretation that it does not believe or will treat this as a public record. This same situation applies in (n) line 7, and (p)(1) although with different language.*

*In (o) line 15 either delete “under terms agreed upon by the Board,” or refer to where the approval standards are found, or set out the approval standards.*

*In (p)(1) line 19 please make “Notice of Hearing” lowercase.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0103

**DEADLINE FOR RECEIPT: FRIDAY, OCTOBER 11, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) line 6 change “that” to “who.”*

*In (b)(2) and (3) either delete or define “concise.”*

*In (b)(4) either delete or define “clear and.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0105

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*In (b) line 16 there is no “Rule 4(J).” It seems to me that your reference should probably be to “Rule 4(j) and (j1).” However you need to determine for yourself what the board intends and whether there are any other references that should be included.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0109

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) line 7 either delete or define “within a reasonable time.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0110

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*In (d) lines 14 and 15 it seems to me that the “affidavit of disqualification” and “[a]ny other affidavit” are actually the same thing. The difference between the two seems to be the time the affidavit is filed. If that is correct the two sentences would read better if they were either joined in a form such as: “An affidavit of disqualification … 10 calendar days before the hearing or if it is filed at the first opportunity ….” Another approach might be to change the second sentence to make it clear what affidavit is referred to: “An affidavit of disqualification shall also be considered timely if it ….:*

*It seems to me that (f) should either be deleted or provide that the disqualified member “shall not participate in the hearing, deliberations, or decision.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0113

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*It seems to me that in (a)(2) line 3, since the subpoena may be for a person without including anything else for the person to bring, “description of the books,” should be “description of any books, ….”*

*That same request would apply in (b)(4) as well.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0115

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*The timeline in (a) is not completely clear given the different timeline for submitting “proposed decisions” in (g). You need to clarify the interaction of the two provisions. It also seems that the contents of (g) should be moved to immediately after (a), either as a new (b) or as part of (a).*

*In (d) it seems to me that “request for further oral argument” is simply the “request for oral argument” that is initiated in (c). If this is so please delete “further.” If that is not correct the rule is unclear.*

*In (e) line 21 it is not necessary to put “’final agency decision’” in parentheses and they should be deleted. You should also delete “for the right to judicial review.” It is the general statutes that determine when the right to judicial review accrues, not your rules.*

*In (f) line 27 delete “further.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC HEARING AID DEALERS AND FITTERS BOARD

RULE CITATION: 21 NCAC 22L .0116

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In the technical change request for Rule 22L .0101 I referred to changes in (l) and (m) of that rule concerning the reference to “public records.” You need to make the same changes in (b) of this rule and state how you will handle, treat, or interpret “the content of the private reprimand,” not make your own determination of what is or is not a public record.*

*For much the same reason you need to either delete paragraph (d) or provide verification that the provision in (d) is authorized under your records retention schedule as set by state archives. If it is authorized you should cite the appropriate statutory authority authorizing that record destruction in your history note.*

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Joseph J. DeLuca, Jr.

Commission Counsel