rrc staff OPINION

*Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.*

AGENCY: NC MEDICAL BOARD and NC BOARD OF PHARMACY

RULE CITATION: 21 NCAC 32U .0101 and 21 NCAC 46 .2507

RECOMMENDED ACTION:

 x Approve, but note staff’s comment

 Object, based on:

 Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to comply with the APA

 Extend the period of review

COMMENT:

These are identical rules adopted by the Medical Board and Board of Pharmacy pursuant to G.S. 90-85.3(r) that requires the rules to be adopted by each of the Boards of Pharmacy, the Board of Nursing, and the NC Medical Board. The Board of Nursing has taken the position that a rule about pharmacists administering vaccines is outside its realm of expertise. It has in place a current rule (21 NCAC 36 .0221(e)) that authorizes pharmacists to administer vaccines in accordance with this rule from the Board of Pharmacy. That provision has historically been seen as satisfactory adoption of whatever rule the Board of Pharmacy adopted.

Robert A. Bryan, Jr.

Commission Counsel