

**RULES REVIEW COMMISSION MEETING
MINUTES
January 20, 2022**

The Rules Review Commission met on Thursday, January 20, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, and Bob Rucho were present in the Commission Room. Commissioners present via WebEx were Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Paul Powell.

Staff members present were Alexander Burgos; Commission Counsel Lawrence Duke, Brian Liebman, and Amber May.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair introduced new Commission Counsel Lawrence Duke to the Commission.

The Chair 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 appearance of conflicts of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the December 16, 2021, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Soil and Water Conservation Commission

02 NCAC 59A .0101, .0102, .0103, .0104, .0201, .0202, .0203, .0204, .0301, and .0302 - The agency is addressing the request for technical changes from the December meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02L .0202 - The agency is addressing the request for technical changes from the December meeting. No action was required by the Commission.

Board of Examiners of Electrical Contractors

21 NCAC 18B .0308 - The agency is addressing the objection from the December meeting. No action was required by the Commission.

Board of Pharmacy

21 NCAC 46 .1417 and .1816 - The agency is reviewing comments received from the public from the December meeting. No action was required by the Commission.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 .0415 - The agency is addressing the objection from the December meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

DHHS - Division of Health Service Regulation

Upon the call of the Chair, 10A NCAC 14C .1703 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Marine Fisheries Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Coastal Resources Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission objected to 12 NCAC 09B .0101 and 09G .0205 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The RRC reviewed the amendments to 12 NCAC 09B .0101 and 09G .0205 filed by the Criminal Justice Education and Training Standards Commission CJETS on January 13, 2022. The Findings of Need Forms filed with these Rules indicate that the Rules were adopted by the agency on January 10, 2022. The Commission declined to approve the temporary rules in accordance with G.S. 150B-21.1(b), finding that the agency did not meet the required implementation date set forth in Session Law 2021-138, Section 7.(i).

The Findings of Need Forms for the Rules state that the temporary rules were mandated by Session Law 2021-138, Section 7(c), which states the following:

SECTION 7.(c) G.S. 17C-10(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the employment, training, and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice officers, ~~and the officers.~~ The Commission shall prescribe the means for

presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the criminal justice officer's psychological suitability to properly fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months."

Session Law 2021-138, Section 7.(i) further states:

SECTION 7.(i) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

The RRC found the agency lacked the statutory authority to promulgate temporary rules under G.S. 150B-21.1(2) as Session Law 2021-138 required the Criminal Justice Education and Training Standards Commission to "implement the requirements... no later than January 1, 2022." Based upon the Findings of Need form filed with the above-referenced Rules on January 13, 2022, the agency did not adopt these Rules until January 10, 2022, and did not meet the required date of January 1, 2022 to "implement the requirements" of the Session Law.

Charminique Williams, the rulemaking coordinator with the agency, addressed the Commission.

Review of the 2022 State Medical Facilities Plan

Upon the call of the Chair, the 2022 State Medical Facilities Plan was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

COMMISSION BUSINESS

Medical Care Commission

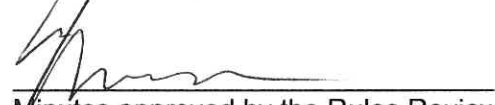
Due to a clerical error of OAH Staff, upon the call of the Chair, the Commission voted to rescind the approval of Rule 10A NCAC 13F .0405 from the December meeting and voted to approve the revised version of this Rule by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The meeting adjourned at 9:29 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 17, 2022, at 9:00 a.m.



Alexander Burgos, Paralegal



Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

Rules Review Commission Meeting January 20, 2022
Held Via WebEx

Name	Agency
Charminique Williams	CJETS
Nadine Pfeiffer	DSHR
Jennifer Everett	DEQ
Catherine Blum	Marine Fisheries
Amy Craddock	DHHS
Ross Smith	NC Manufacturers
Hannah Jernigan	DOT
Shalisa Jones	DHHS
Tom Hudson	WEYERHAEUSER
Laura Rowe	Treasurer
Micheala Mitchell	DHHS
Jessica Adams	Cardinal Health
Ashley Pekarul	WRC
Dodie Renfer	Nelson Mullins
Helen Landi	DOT
Libby Kinsey	DHHS
Dennis Seavers	Barber Examiners
Libby Kinsey	DHHS
Maria Bruner	DOJ
Bridget Shelton	DENR