

RULES REVIEW COMMISSION MEETING
MINUTES
July 31, 2024

The Rules Review Commission met on Wednesday, July 31, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via Webex.

Commissioners Wayne R. Boyles III, Jeanette Doran, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker were present in the Commission Room.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

Chair Doran introduced Judge Chris Dillon of the North Carolina Court of Appeals, to the Commission.

Judge Chris Dillon administered the Oath of Office to newly appointed Commissioner John S. Hahn.

Judge Chris Dillon administered the Oath of Office to Commissioners Jeanette Doran, Jeff Hyde, and Randy Overton.

The Chair read into the record the Evaluation of Statement of Economic Interest for John S. Hahn, which states the NC Ethics Commission did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

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 from the July 9, 2024 special meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the special meeting minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes from the June 26, 2024 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 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission found that the agency had satisfied the Commission's June 2024 objection and temporary rule 12 NCAC 09C .0401 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

Board of Examiners in Optometry

21 NCAC 42D .0102 was withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Marine Fisheries Commission

Upon the call of the Chair, 15A NCAC 03I .0101, .0113; 03K .0101, .0104, .0110, .0301, .0401, .0403, .0405; 03O .0101, .0109, .0112, .0301, .0501, .0503; 03R .0117; 18A .0302, .0901, and .0906 were approved by roll-call vote, ayes 6, noes 1 as follows: Voting in the affirmative: John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 6. Voting in the negative: Wayne R. Boyles III - 1.

Pursuant to Session Law 2019-37, s.3.(d), 15A NCAC 03O .0201 is exempt from RRC review and will become effective under G.S. 150B-21.3(b1) as if the rule had received 10 letters requesting legislative review. The agency withdrew the Rule from Commission review, and no action was required by the Commission.

Christine Ryan with the Department of Justice and representing the Department of Environmental Quality, addressed the Commission.

Jennifer Everett, the rulemaking coordinator with the agency, addressed the Commission.

Board of Dental Examiners

Upon the call of the Chair, 21 NCAC 16A .0101, .0107; 16B .0303; 16C .0303; 16H .0104; 16N .0202; .0501, .0502, .0503, .0504; and 16U .0104 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

Board of Pharmacy

Upon the call of the Chair, 21 NCAC 46 .2201 and .2516 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Appraisal Board

Upon the call of the Chair, 21 NCAC 57A .0204, .0206, .0301, .0303, .0406, .0501; 57B .0302; 57D .0101, .0202 and .0302 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01C was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01E .1901, .1902, .1903, .1904, .1905, .1906, .1907, .1908, .1909, and .1910 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Building Code Council

Upon the call of the Chair, the 2024 NC Residential Code/Referenced Standards, Chapter 44 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III,

John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

LOG OF FILINGS (TEMPORARY RULES)

State Board of Elections

Upon the call of the Chair, 08 NCAC 02 .0110; 09 .0107, and .0110 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Wildlife Resources Commission

Upon the call of the Chair, 15A NCAC 10C .0307 and 10D .0252 were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Existing Rules Review

Division of Mental Health/DD/SAS and Commission for Mental Health/DD/SAS

10A NCAC 27G Division, 10A NCAC 27G Commission, and 10A NCAC 27G Commission/Division

Prior to the review of the reports from the Division of Mental Health/DD/SAS and Commission for Mental Health/DD/SAS, Commissioner Leebrick recused himself and did not participate in the discussion or vote concerning the reports because of the potential for a conflict of interest.

Upon the call of the Chair, the reports for 10A NCAC 27G Division, 10A NCAC 27G Commission, and 10A NCAC 27G Commission/Division were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Bill Nelson, Randy Overton, and Jake Parker – 6. Voting in the negative: None

Industrial Commission

Upon the call of the Chair, the report for 11 NCAC 23 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Irrigation Contractors' Licensing Board

Upon the call of the Chair, the report for 21 NCAC 23 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Board of Examiners for Nursing Home Administrators

Upon the call of the Chair, the report for 21 NCAC 37 was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None

Onsite Wastewater Contractors and Inspectors Certification Board

Upon the call of the Chair, the report for 21 NCAC 39 was approved contingent upon a typographical correction to column K of the report for Rule 21 NCAC 39 .0601 from "One or more comments with merit" to "No comment with merit" by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None. The correction was made after the meeting.

COMMISSION BUSINESS

The Chair read into the record the Letter of Appreciation for Service to outgoing Commissioner John (Jay) Hemphill to the Commission.

Staff presented to the RRC a memo regarding instructions to counsel regarding the return of rules under G.S. 150B-21.12. Upon Commissioner Hyde's motion, and Commissioner Overton's second, the Commission voted to adopt the following resolution:

Pursuant to G.S. 150B-21.12(d), staff is authorized on behalf of the Commission to return rules to agencies without delay and without further Commission consideration when the agency submits a response to a Commission objection which clearly indicates that the agency has decided not to change the rule or if the agency fails to submit any response within the time limit established by G.S. 150B-21.12(b). Otherwise, staff shall bring the question before the Commission for its consideration.

The motion carried by roll-call vote, ayes 7, noes 0, as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

At 10:53 a.m., upon a motion by the Chair and a second by Commissioner Overton, the Commission voted to enter into closed session pursuant to G.S. 143-318.11(a)(3) to consult with counsel regarding CJETS v. RRC and Ashley Snyder in her official capacity as Codifier of Rules, as well as CRC v. RRC and Ashley Snyder in her official capacity as Codifier of Rules by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

At 11:36 a.m., upon a motion by Commissioner Overton and a second by Commissioner Hyde, the Commission voted to come out of closed session and reconvene the public meeting of the Rules Review Commission by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, John S. Hahn, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, and Jake Parker – 7. Voting in the negative: None.

The meeting was adjourned at 11:37 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, August 28, 2024, at 10:00 a.m.

Alexander Burgos, Paralegal

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

July 31, 2024

Rules Review Commission
Meeting
Please **Print** Legibly

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Rules Review Commission Meeting July 31, 2024

Via WebEx

Name	Agency
Sophie Plott	Labor
Elizabeth Hawley	Treasurer
Julie Ventaloro	OSBM
Joelle Burleson	DEQ
Neal McHenry	Auditor
Emily Jones	DOT
Paul Cox	Elections
Grace Hardwick	OSBM
Jonathan Howell	DEQ
Virginia Niehaus	DHHS
Sharon Martin	Commerce
Dana McGhee	OAH
Arthur Harrell	OAH
Ashley Snyder	OAH
Denise Mazza	SHRC
Stephanie McFadden	SHRC
Shannon Jenkins	DEQ
Michelle Brodeur	DEQ
Jesse Bisette	DEQ
Andrew Valmassoi	DEQ
Lori Hend	odu.edu
Cindy Daniels	waketech.edu
Genevieve Kaplan	stateside.com
Rachael Hoch	WRC
Cathy Mathews Thayer	OAH
Tara Muller	disabilityrightsnc.org
Chris Millis	NCHBA
Sam Hayes	NCLEG
Corey Oakley	WRC
Seavers, Dennis	Barber Board
Janice Peterson	Optometry
Laura Lansford	DOR
Alex Ward	DOJ
William Rafferty	Optometry
Laura Rowe	Treasurer

Don Rodgers	NCAB
Blum, Catherine	DEQ
Martha N Bell	NCBENHA
Brandy March	NCAB
Dauna Bartley	Brocker Law Firm
Brandi Salmon	DEQ
Michelle Schilling	CJETS
Barbara Geiger	NCICLB
Jennifer Grady	BCBSNC
Emily Urch	DOJ
Sondra Panico	DOJ

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from
taking any verbal or written action, including voting, on the agenda item regarding

III. 1. Review of Reports - HHS - Division of Mental Health / DPHS and Commissioner
I have abstained because of potential conflict of interest for Mental Health / DPHS
_____.

This the 31st day of July, 2024.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member or the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

July 8, 2024

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

**Re: Evaluation of Statement of Economic Interest Filed by Mr. John S. Hahn
Appointee to the Rules Review Commission**

Dear Senator Berger:

Our office has received **Mr. John S. Hahn's** 2024 Statement of Economic Interest as an appointee to the **Rules Review Commission (the "Commission")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Rules Review Commission has authority to review all temporary and permanent rules proposed by North Carolina government agencies, including the authority to veto rules that fail to satisfy specific statutory criteria. Generally speaking, those rules are intended to implement or interpret laws adopted by the General Assembly or Congress or certain federal regulations. Temporary or permanent rules approved by the Commission are filed with the Office of Administrative Hearings to be included in the North Carolina Administrative Code.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

The Honorable Phil Berger
July 8, 2024
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Mr. Hahn is an attorney who owns John S. Hahn PLLC. In addition, he receives professional fees from the law firm of Mayer Brown LLP which could represent clients that come before the Commission during the rulemaking process. As such, Mr. Hahn has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving his clients, the law firm of Mayer Brown LLP or their clients come before the Commission for official action.

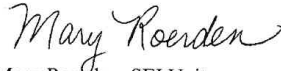
In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

A handwritten signature in cursive script that reads "Mary Roerden".

Mary Roerden, SEI Unit
State Ethics Commission

cc: John S. Hahn
Alexander Burgos, Ethics Liaison

Attachment: Ethics Education Guide



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, John S. Hahn, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, John S. Hahn, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, John S. Hahn, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.

A handwritten signature in blue ink, reading "John S. Hahn", written over a horizontal line.

Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.

A handwritten signature in black ink, reading "Chris Dillon", written over a horizontal line.

Chief Judge Chris Dillon
North Carolina Court of Appeals



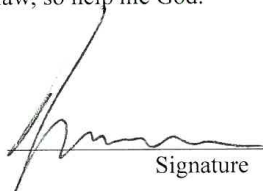
STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, Jeanette K. Doran, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeanette K. Doran, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.



Chief Judge Chris Dillon
North Carolina Court of Appeals



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH


I, Randy O. Overton, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Randy O. Overton, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Randy O. Overton, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.


Chief Judge Chris Dillon
North Carolina Court of Appeals



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

OATH

I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will support the Constitution of the United States.

I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States.

I, Jeffrey T. Hyde, do solemnly swear (affirm) that I will well and truly execute the duties of my office as a member of the Rules Review Commission according to the best of my skill and ability, according to law, so help me God.


Signature

Sworn to and subscribed before me, this
the 31st day of July 2024.



Chief Judge Chris Dillon
North Carolina Court of Appeals