



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

April 20, 2020

Loretta Peace-Bunch
Department of Insurance
Sent via email only: loretta.peace-bunch@ncdoi.gov

Re: Objection to Rules 11 NCAC 12 .0321 and .0514

Dear Ms. Peace-Bunch:

At its April meeting, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to Rule 11 NCAC 12 .0321 for lack of clarity. Line 5 cross-references a repealed rule. The Rule also uses the undefined terms “excessive,” “inadequate” and “unfairly discriminatory” as well as the phrase “data deemed necessary by the commissioner.”

The Commission also objected to Rule 11 NCAC 12 .0514 for lack of clarity. The Rule is unclear for reasons detailed in the staff opinion, including multiple versions and meanings of the word “plan.” It is also unclear whether “the order of benefit determination rules” refer to Item (3) of the Rule or Sub-item (3)(b) of the Rule. The Rule also uses the following undefined terms: “school accident-type coverage” at line 21; “parts” at line 29; “necessary, reasonable, and customary” at page 2, line 1; “services” at page 2, line 3; and “necessary medical expenses” at page 2, line 5.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission’s actions, please let me know.

Sincerely,

Ashley Snyder
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
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Civil Rights
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An Equal Employment Opportunity Employer



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April 16, 2020

Jeff Gray, Rulemaking Coordinator
Private Protective Services Board
Sent via email only: jgray@bdixon.com

Re: Objection to Rules 14B NCAC 16 .0109 and .0704

Dear Mr. Gray:

At its meeting today, the Rules Review Commission objected to Rules 14B NCAC 16 .0109 and .0704 in accordance with G.S. 150B-21.10.

The Commission objected to Rule 14B NCAC 16 .0109 for lack of clarity and necessity. Specifically, the Rule was unclear as written as to which of the OAH rules, which were incorporated by the Rule, will be used by the agency. In addition, the rule incorporated by reference OAH rule publication rules, which were already binding upon the agency. Therefore, that part of the Rule was unnecessary.

The Commission objected to Rule 14B NCAC 16 .0704 for lack of statutory authority and ambiguity. Specifically, the Commission found that the use of the term "administrator" throughout the Rule was ambiguous, as changes to G.S. 74C through Session Law 2001-487 established a new position of "Director" and it does not appear that the administrator position exists anymore.

In addition, Paragraph (a) of the Rule states that there shall be "such further investigation of the applicant as deemed necessary." The Rule does not say who will deem the investigation necessary, nor how the necessity will be determined. The Commission found that this language was ambiguous.

In Paragraph (b), the Rule states that any denial of the registration by the administrator will be subject to review of the Board. However, G.S. 74C-12 states that any denial of an application will be made by the Board. The agency did not cite to any authority for the administrator to issue a denial such that it is reviewable by the Board, nor any authority of the Board to delegate this decision. Therefore, the Commission found that the agency lacks statutory authority for this Paragraph.

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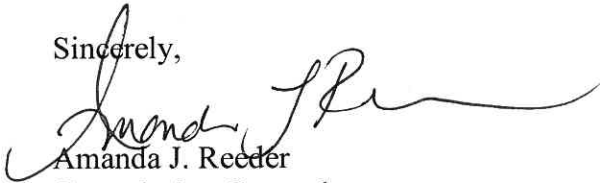
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Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Charles McDarris



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April 16, 2020

Charlie Diehl
Auctioneer Licensure Board
Sent via email only to: cdiehl@ncalb.org

Re: Extension of the Period of Review for Rules 21 NCAC 04B .0101, .0102, .0103, .0104, .0201, .0202, .0203, .0301, .0302, .0303, .0401, .0402, .0403, .0404, .0405, .0501, .0502, .0503, .0504, .0505, .0506, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0701, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0808, .0809, .0810, .0811, .0812, .0813, .0814, .0815, .0816, .0817, .0818, and .0819

Dear Mr. Diehl:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the requested technical changes and submit the revised rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: Rebecca Stewart, Auctioneer Licensing Board

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April 16, 2020

David Tuttle
Board of Examiners for Engineers and Surveyors
Sent via email only to: dstuttle@ncbels.org

Re: Extension of the Period of Review for Rules 21 NCAC 56 .0303, .0304, .0501, .0503, .0601, .0603, .0804, .0902, .1301, .1302, .1403, .1603, .1604, and .1607.

Dear Mr. Tuttle:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the requested technical changes and submit the revised rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

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