



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

October 1, 2018

Virginia Niehaus, Rulemaking Coordinator
NC Department of Health and Human Services – Division of Medical Assistance
Sent via email only: virginia.niehaus@dhhs.nc.gov

Re: Objection to Rules 10A NCAC 22F .0301 and 22J .0106

Dear Ms. Niehaus:

At its meeting on June 14, 2018, the Rules Review Commission objected to 10A NCAC 22F .0301 and 22J .0106 in accordance with G.S. 150B-21.10. At its meeting on August 16, 2018, the Rules Review Commission reviewed rewritten rules submitted by the Division in response to the June 14, 2018 objections. At that time, the Rules Review Commission objected to 10A NCAC 22F .0301 on the basis of ambiguity and continued their objection to 10A NCAC 22J .0106, finding that the rewritten rule had not met their objection. At their September 20, 2018 meeting, the Rules Review Commission continued their objections to both 10A NCAC 22F .0301 and 22J .0106.

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 feel free to contact me.

Sincerely,

Amber May
Commission Counsel

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September 21, 2018

Kathie Trotter, Rulemaking Coordinator
Commission for the Blind
Sent via email only: Kathie.trotter@dhhs.nc.gov

Re: 10A NCAC 63C .0203, .0204, .0403, and .0601.

Dear Ms. Trotter:

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

The Commission objected to Rule .0203, Paragraph (d)(6), because it lacks statutory authority to require an operator to provide a copy of his or her concealed weapons permit. The Commission also objected to Paragraphs (b) and (c) ("conventional means"), (d)(1) ("may be suspended or terminated"), (d)(4) ("information"), and (d)(11) and (d)(12) ("failing to cooperate") because the indicated terms are unclear and ambiguous.

The Commission objected to Rule .0204 because the rule as submitted for review by the Commission differs substantially from the rule proposed in the North Carolina Register, in violation of G.S. 150B-21.2(g). The Commission also objected to Rule .0204, Paragraphs (c) (criteria for evaluating "adjustments") and (d)(7) (tie breaking procedures), because the indicated terms or procedures are unclear and ambiguous.

The Commission objected to Rule .0403 because the rule as submitted for review by the Commission differs substantially from the rule proposed in the North Carolina Register, in violation of G.S. 150B-21.2(g).

The Commission objected to Rule .0601, Paragraphs (a)(4) ("full managerial attention"), (a)(5) ("maintain professional relationships"), (a)(6) ("neat, business-like appearance" and "orderly, business-like manner"), (a)(8) ("in which are maintained to operate"), (a)(12)

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("business consultation"), (a)(13) ("consultation to support operations"), and (a)(15) ("appropriate actions"), because the indicated terms are unclear and ambiguous.

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 action, please let me know.

Sincerely,

/s/ Jason Thomas
Commission Counsel

Cc: Cynthia Speight (cynthia.speight@dhhs.nc.gov)



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September 21, 2018

Charminique Williams, Rulemaking Coordinator
Criminal Justice Education and Training Standards Commission
Sent via email only to: cdwilliams@ncdoj.gov

Re: Objection to Rule 12 NCAC 09G .0103
Extension of the Period of Review for Rules 12 NCAC 09B .0101, .0203, .0301;
09G .0102, .0304, .0504, .0505, and .0701

Dear Ms. Williams:

At its meeting yesterday, the Rules Review Commission objected to Rule 12 NCAC 09G .0403 in accordance with G.S. 150B-21.10.

The Commission objected the Rule based upon ambiguity and a lack of statutory authority. Specifically, the Commission found that the agency lacks authority to require the items in Subparagraphs (a)(2) (as it relates to repealed rules, which is also unclear as written), (a)(3), (a)(4) (as it relates to the effect on existing decisions, which is also unclear as written), (a)(5), (a)(6), and (a)(7). The Commission also found that Paragraph (c) is unclear as written, as it relates to a cross-reference that does not exist. Finally, in Paragraph (d), the agency did not present any statutory authority that it allowed it to set the deadline to request a contested case at 30 days.

Please respond to this objection in accordance with the provisions of G.S. 150B-21.12.

The Rules Review Commission extended the period of review for Rules 12 NCAC 09B .0101, .0203, .0301 and 12 NCAC 09G .0102, .0304, .0504, .0505, and .0701 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 requested technical changes and submit the rewritten 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.

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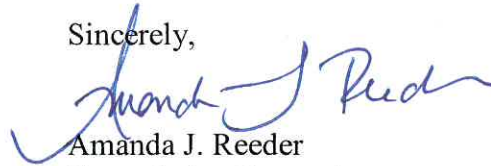
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If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amanda J. Reeder", with a stylized flourish at the end.

Amanda J. Reeder
Commission Counsel



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September 26, 2018

Chris Hoke, Rulemaking Coordinator
Commission for Public Health

Sent via email only to: chris.hoke@dhhs.nc.gov

Re: Extension of the Period of Review for Rules 15A NCAC 18A .1934, .1935, .1937, .1938, .1939, .1940, .1941, .1942, .1943, .1944, .1945, .1946, .1947, .1948, .1949, .1950, .1951, .1952, .1953, .1954, .1955, .1956, .1957, .1958, .1959, .1960, .1961, .1962, .1964, .1965, .1966, .1967, .1968, .1969, .1970, .1971; 18E .0101, .0102, .0103, .0104, .0105, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0301, .0302, .0303, .0304, .0305, .0401, .0402, .0403, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0509, .0510, .0601, .0602, .0701, .0702, .0703, .0801, .0802, .0803, .0804, .0805, .0901, .0902, .0903, .0904, .0905, .0906, .0907, .0908, .0909, .0910, .0911, .1001, .1002, .1101, .1102, .1103, .1104, .1105, .1106, .1201, .1202, .1203, .1204, .1205, .1206, .1302, .1303, .1304, .1305, .1306, .1307, .1401, .1402, .1403, .1404, .1405, .1406, .1501, .1502, .1503, .1504, .1505, .1601, .1602, .1603, .1701, .1702, .1703, .1704, .1705, .1706, .1707, .1709, .0710, .0711, .0712, .0713

Dear Mr. Hoke:

At its meeting last week, 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 requested technical changes.

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.

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

Sincerely,

Amber May
Commission Counsel

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September 24, 2018

Jennifer Grantham, Rulemaking Coordinator
Board of Registration for Foresters
Sent via email only to: info@ncrfb.org

Re: Extension of the Period of Review for Rules 21 NCAC 20 .0103 and .0104

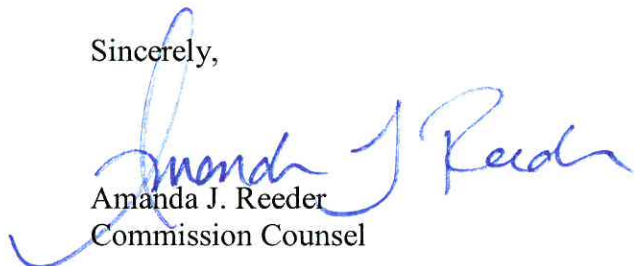
Dear Ms. Grantham:

At its meeting last week, 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 requested technical changes and submit the rewritten 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.

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

Sincerely,



Amanda J. Reeder
Commission Counsel

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September 21, 2018

Charles Wilkins, Rulemaking Coordinator
Board of Massage and Bodywork Therapy
Sent via email only to: cwilkins@bws-law.com

Re: Objection to Rules 21 NCAC 30 .1009 and .1010

Dear Mr. Wilkins:

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

The Commission objected to Rule 21 NCAC 30 .1009 based upon lack of statutory authority and ambiguity. Specifically, the Commission found that the agency does not have statutory authority to completely forbid transfers of licenses, and as written, the Rule appears to do that. In addition, the Rule is unclear as written because it appears to conflate licensure transfer with a change of ownership, and therefore, it is not clear what is intended in Paragraph (b).

The Commission objected to Rule 21 NCAC 30 .1010 for ambiguity, as it is unclear in Paragraph (a) if the agency is only requiring the submission of allegations of violations addressed in (a)(1) through (3), or all rules in the Chapter and the Practice Act as set forth in the first sentence of the Rule.

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: Elizabeth Kirk, Administrator

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