The Rules Review Commission met on Thursday, February 21, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Margaret Curran, Jeanette Doran, Garth Dunklin, Jeff Hyde, and Paul Powell.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:02 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 163A-159 and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

The Chairman notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: the temporary rules for the Commission for MH/DD/SAS.

**APPROVAL OF MINUTES**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the January 17, 2019 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS**

**Soil and Water Conservation Commission**

02 NCAC 59D .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110; 59H .0101, .0102, .0103, .0104, .0105, .0106, .0107, and .0108 - The agency is addressing the technical change requests from the January meeting. No action was required by the Commission.

**Board of Elections and Ethics Enforcement**

The agency is addressing the objections for 08 NCAC 02 .0112, .0113; 03 .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0301, .0302; 04 .0302, .0304, .0305, .0306, .0307; 06B .0103, .0104, .0105; 08 .0104; 09 .0106, .0107, .0108, .0109; 10B .0101, .0102, .0103, .0104, .0105, .0106, and .0107. No action was required by the Commission.

Prior to the review of the rules from the Board of Elections and Ethics Enforcement, Commissioner Doran recused herself and did not participate in any discussion concerning the rules because she has a matter pending before the Board.

**DHHS/Division of Health Benefits**

10A NCAC 22F .0301 was objected to by the Commission at the June 14, 2018, August 16, 2018, and September 20, 2018 meetings. At its November 15, 2018 meeting, the Commission determined that the rewritten rule submitted by the agency met the previous objection and it was approved. In addition to approving the rule, the RRC determined that the rewritten rule submitted in response to their objection resulted in substantial changes as referenced in 150B-21.12(c). As such, this Rule was required to be "published and reviewed in accordance with the procedure set forth in G.S. 150B-21.1(a3) and (b)." Upon completion of the procedure, this Rule was submitted for RRC review.

10A NCAC 22F .0301 was unanimously approved.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of 10A NCAC 22F .0301.
Commission for the Blind
The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

Coastal Resources Commission
15A NCAC 07H .0209, .0308, .1704, and .1705 - The agency is addressing the technical change requests from the January meeting. No action was required by the Commission.

Department of Transportation
19A NCAC 02D .0408; 02E .0412, .0418, .0419, .0420, .0421, and .1006 - All rules were unanimously approved.

Substance Abuse Professional Practice Board
21 NCAC 68 .0203, .0205, .0208, .0211, .0212, .0305 - All rewritten rules were unanimously approved.

LOG OF FILINGS (PERMANENT RULES)
Social Services Commission 10A NCAC 10
All rules were unanimously approved.

Commission for MH/DD/SAS
All rules were unanimously approved.

Social Services Commission 10A NCAC 67A
10A NCAC 67A .0301 was unanimously approved.

Industrial Commission
All rules were unanimously approved.

Department of Public Safety
All rules were unanimously approved.

Environmental Management Commission 15A NCAC 02B
All rules were unanimously approved.

Environmental Management Commission 15A NCAC 02T
15A NCAC 02T .1310 was unanimously approved.

Board of Cosmetic Art Examiners
All rules were unanimously approved.

Prior to the review of the rules from the Board of Cosmetic Art Examiners, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Medical Board
21 NCAC 32W .0112 was unanimously approved.

Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Board of Pharmacy
All rules were unanimously approved.
**State Human Resources Commission**
All rules were unanimously approved.

Prior to the review of the rules from the State Human Resources Commission, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she is a State employee and supervises State employees.

**LOG OF FILINGS (TEMPORARY RULES)**
**Commission for MH/DD/SAS**
The agency requested a waiver of the 210-day limitation provided in G.S. 150B-21.2(a2). The waiver request was unanimously approved.

All rules were unanimously approved.

Denise Baker, the rulemaking coordinator with the agency, addressed the Commission.

**EXISTING RULES REVIEW**
**Department of Commerce**
04 NCAC 20 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Department of Commerce, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the report because she works with the Division of Employment Security within the Department of Commerce.

**Department of Insurance**
11 NCAC 01 - The Commission unanimously approved the report as submitted by the agency.

**Board of Athletic Trainer Examiners**
21 NCAC 03 - The Commission unanimously approved the report as submitted by the agency.

**Board of Chiropractic Examiners**
21 NCAC 10 - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from the Board of Chiropractic Examiners, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the report because of a conflict.

**Board of Licensed Professional Counselors**
21 NCAC 53 - The Commission unanimously approved the report as submitted by the agency.

**Board of Examiners for Engineers and Surveyors**
21 NCAC 56 - The Commission unanimously approved the report as submitted by the agency.

**Medical Care Commission**
10A NCAC 13G - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than November 30, 2025 pursuant to G.S. 150B-21.3A(d)(2).

**DHHS/Division of Health Service Regulation**
10A NCAC 14C – As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than May 31, 2024 pursuant to G.S. 150B-21.3A(d)(2).
Department of Revenue/Excise Tax Division
17 NCAC 04 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than October 31, 2020 pursuant to G.S. 150B-21.3A(d)(2).

TSERS and LGERS Board of Trustees
20 NCAC 02 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than December 31, 2022 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS
The Chair gave an update on the consent order in the matter of DHHS/CPH v. RRC.

The meeting adjourned at 9:45 a.m.

The next regularly scheduled meeting of the Commission is Thursday, March 21, 2019 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair
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February 21, 2019

Nadine Pfeiffer, Rulemaking Coordinator
Medical Care Commission
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of Rule 13A NCAC 13G

Dear Ms. Pfeiffer:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the February 21, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than November 30, 2025.

If you have any questions regarding the Commission’s action, please let me know.

Sincerely,

Amber May
Commission Counsel

An Equal Employment Opportunity Employer
## RRC DETERMINATION
### PERIODIC RULE REVIEW
- **December 13, 2018**
- **APO Review: February 16, 2019**

**Medical Care Commission**
**Total: 54**

### RRC Determination: Necessary with substantive public interest

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February 21, 2019

Nadine Pfeiffer, Rulemaking Coordinator
DHHS – Division of Health Service Regulation
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 10A NCAC 14C

Dear Ms. Pfeiffer:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the February 21, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than May 31, 2024.

If you have any questions regarding the Commission’s action, please let me know.

Sincerely,

[Signature]

Amber May
Commission Counsel
RRC DETERMINATION
PERIODIC RULE REVIEW
November 15, 2018
APO Review: January 19, 2019
HHS - Health Service Regulation, Division of
Total: 39

RRC Determination: Necessary with substantive public interest

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February 21, 2019

Laura Lansford, Rulemaking Coordinator
Department of Revenue, Excise Tax Division
1429 Rock Quarry Road
Suite 105
Raleigh, NC 27610

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 17 NCAC 04

Dear Ms. Lansford:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the February 21, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than October 31, 2020.

If you have any questions regarding the Commission’s action, please let me know.

Sincerely,

[Signature]

Amber May
Commission Counsel
## RRC Determination: Necessary with substantive public interest

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February 21, 2019

Laura Rowe
TSERS and LGERS Board of Trustees
3200 Atlantic Avenue
Raleigh, NC 27604

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 20 N.C.A.C. 82

Dear Ms. Rowe:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the February 21, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than December 31, 2022.

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

Sincerely,

[Signature]

Amber May
Commission Counsel
## RRC DETERMINATION
### PERIODIC RULE REVIEW
July 01, 2018 through June 30, 2019
TSERS and LGERS Board of Trustees
Total: 99

### RRC Determination: Necessary with substantive public interest

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