



# HOUSE BILL 1145: Disapprove Dental Examiners Rule.

2016-2017 General Assembly

<b>Committee:</b>		<b>Date:</b>	June 8, 2016
<b>Introduced by:</b>	Rep. Jones	<b>Prepared by:</b>	Theresa Matula
<b>Analysis of:</b>	Second Edition		Committee Staff

**SUMMARY:** *HB 1145 disapproves 21 NCAC 16Q .0101 General Anesthesia and Sedation Definitions, addresses issues pertaining to rules that should continue to be delayed; rules that could become effective although a delay was previously requested; and rules that became effective April 1, 2016, but the NC Board of Dental Examiners is directed not to enforce.*

**CURRENT LAW:** Under the Administrative Procedure Act (APA), contained in Chapter 150B, an agency adopting administrative rules must give the public notice of the proposed rules and an opportunity to comment. The agency may then adopt the rule, but the rules must be reviewed by the Rules Review Commission (Commission) before they can go into effect. If the rules are approved, they become effective on the first day of the month following review, unless the Commission receives written objections from 10 or more persons.

**G.S. 150B-21.3(b1) Delayed Effective Dates-** provides that if the Rules Review Commission received written objections to the rule, the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section.

If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

**G.S. 150B-21.3(b2) Objection** – provides that if the Rules Review Commission receives written objections from 10 or more persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, clearly requesting review by the legislature in accordance with instructions posted on the agency's Web site and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. The Commission must notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. When the requirements of this subsection have been met and a rule is subject to legislative disapproval, the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the North Carolina Register.

If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related rules adopted by the agency at the same

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

# House Bill 1145

Page 2

time, the agency that adopted the rule may cause any of the other rules in the group to become effective as provided in subsection (b1) of this section by submitting a written statement to that effect to the Commission before the other rules become effective.

## **BILL ANALYSIS:**

**Section 1** of the HB 1145 disapproves 21 NCAC 16Q .0101 (General Anesthesia and Sedation Definitions). This rule was adopted by the North Carolina Board of Dental Examiners on December 12, 2015, and approved by the Rules Review Commission on March 17, 2016. Pursuant to G.S. 150B-21.3(b1), Section 1 of the bill disapproves 21 NCAC 16Q .0101 (General Anesthesia and Sedation Definitions). Because this bill has been introduced the rule is stayed until the end of Session, if no further action is taken, the rule will become effective. If HB 1145 is enacted, the rule is disapproved and will not become effective.

**Sections 2, 3, and 4** are needed to address issues pertaining to rules that should continue to be delayed, rules that could become effective although a delay was previously requested, and rules that became effective April 1, 2016, but the NC Board of Dental Examiners is directed not to enforce.

**Section 2** pertains to rules that were listed in written statement from the NC Board of Dental Examiners to the Rules Review Commission on March 31, 2016, submitted pursuant to G.S. 150B-21.3(b2). The written statement requested a delay of an additional group of rules because they were related to the rule described in Section 1. The rules included in this section are those rules listed in the written statement minus the rules covered by Section 3 of the bill. The rules covered by this section of the bill are disapproved to the same extent as the rule listed section 1 of the bill, meaning that the rules referenced above are stayed until the end of Session. If no further action is taken, the rule will become effective. If HB 1145 is enacted, the rules are disapproved and will not become effective.

**Section 3** lists seven rules that were included in the written statement from the NC Board of Dental Examiners to the Rules Review Commission on March 31, 2016. This section of the bill provides that those seven rules are effective April 1, 2016.

**Section 4** lists three rules that became effective April 1, 2016, but instructs the NC Board of Dental Examiners to continue to enforce these rules as they existed prior to the amendments that became effective on April 1, 2016.

**EFFECTIVE DATE:** House Bill 1145 would become effective when it becomes law.