



HOUSE BILL 1145: Disapprove Dental Examiners Rule.

2015-2016 General Assembly

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| Committee: | | Date: | August 4, 2016 |
| Introduced by: | | Prepared by: | Theresa Matula |
| Analysis of: | S.L. 2016-31 | | Legislative Analyst |

OVERVIEW: *S.L. 2016-31 disapproves the General Anesthesia and Sedation Definitions Rule (21 NCAC 16Q .0101) as adopted by the North Carolina Board of Dental Examiners and approved by the Rules Review Commission, changes the effective dates of other related rules, and directs the Board not to enforce certain rules.*

This act became effective June 22, 2016.

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 receives 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.

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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 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 act disapproves 21 NCAC 16Q .0101 (General Anesthesia and Sedation Definitions) which 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. Since this act was enacted, the rule is disapproved and will not become effective.

Section 2 pertains to rules that were listed in a written statement from the NC Board of Dental Examiners to the Rules Review Commission on March 31, 2016 and 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 of the act. The rules included in this section are those rules listed in the written statement minus the rules covered by Section 3 of the act. The rules covered by this section 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 act provides that the seven rules listed below are effective April 1, 2016:

- 21 NCAC 16Q .0204 (Procedure for General Anesthesia Evaluation or Inspection and Re-inspection)
- 21 NCAC 16Q .0205 (Results of Site Evaluation and Reevaluation)
- 21 NCAC 16Q .0306 (Procedure for Moderate Conscious Sedation Evaluation or Inspection and Re-Inspection)
- 21 NCAC 16Q .0408 (Procedure for Moderate Pediatric Conscious Sedation Evaluation or Inspection and Re-Inspection)
- 21 NCAC 16Q .0703 (Reports of Adverse Occurrences)
- 21 NCAC 16Q .0601 (Reports of Adverse Occurrences)
- 21 NCAC 16Q .0602 (Failure to Report)

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. Those three rules are as follows:

- 21 NCAC 16O .0301 (Nitrous Oxide Sedation)
- 21 NCAC 16O .0302 (Nitrous Oxide Monitoring)
- 21 NCAC 16O .0401 (Non-Delegable Functions)

EFFECTIVE DATE: This act became effective June 22, 2016.