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IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

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2014 Interim Final Issue

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Friday, February 6, 2015—NOTE DATE CHANGE

Administrative Rules Review Committee

9:00 a.m., Room 116, Statehouse

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AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

Administrative Rules Review Committee—NOTE DATE CHANGE

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

Location: Room 116, Statehouse

Date & Time: Friday, February 6, 2015, 9:00 a.m.

Contact Persons: Jack Ewing, LSA Counsel, (515) 281-6048; Tim Reilly, LSA Counsel, (515) 725-7354.

Agenda: Published in the Iowa Administrative Bulletin:

<https://www.legis.iowa.gov/iowaLaw/AdminCode/bulletinSupplementListing.aspx>

Internet Page: <https://www.legis.iowa.gov/committees/committee?endYear=2014&groupID=705>

ADMINISTRATIVE RULES REVIEW COMMITTEE

January 6, 2015

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

DENTAL BOARD, *Dental Assistants*, SPECIAL REVIEW

Background. A committee member received concerns from a member of the public regarding a potential change in interpretation of one of the Dental Board's existing rules. The committee member requested a spokesperson attend the meeting and address the issue. The rule relates to the types of activities that may and may not be performed by a dental assistant; notably, a dental assistant cannot place sealants without a dentist's supervision.

The issue arose when a member of the Department of Public Health (DPH) attended the October 2014 meeting of the Dental Board and subsequently summarized in a letter what he perceived as a change in rule interpretation that would essentially cost dental assistants who work in public health settings their jobs.

Commentary. The Dental Board representative explained that the statement from the DPH member in his letter was incorrect and that no rules had been reinterpreted. He explained that the issue revolves around the scopes of practices for dental assistants in comparison with dental hygienists. An individual representing dental hygienists expressed concern with being governed by the Dental Board rather than their own board. The president of the Iowa Dental Association expressed approval of hygienists being able to employ assistants. The Dental Board representative indicated the board will be considering a modification to the rule at issue in the near future.

Action. No action taken.

ECONOMIC DEVELOPMENT AUTHORITY, *Workforce Housing Tax Incentives Program; High Quality Jobs Program; Enterprise Zone Program; Wage Thresholds and Local Match*, 12/24/14 IAB, ARC 1801C, ADOPTED.

Background. Pursuant to 2014 Iowa Acts, HF 2448, this rulemaking establishes a new tax incentives program for assisting in the development of workforce housing and describes the manner in which the authority intends to implement and administer the program. The rulemaking also makes amendments to the High Quality Jobs Program and the Enterprise Zone Program.

Commentary. Discussion centered on 261 IAC 48.7(2), which permits the authority to reallocate unused funds for the workforce housing tax incentives program to other programs under Iowa Code section 15.119, if funds allocated for the program exceed demand. Committee members questioned whether the reallocation of unused funds from one tax credit program to another, or the receiving program's use of more funds than originally allocated to it, is permitted by statute or in keeping with legislative intent for these programs. An authority representative stated that such reallocations are permitted by Iowa Code section 15.119 and are in keeping with legislative intent that funds for these programs be used in an efficient manner rather than going unused. Committee members voted to delay the effective date of this filing until the adjournment of the 2015 Legislative Session. The filing will automatically go into effect upon adjournment if the General Assembly does not take action relating to it.

Action. Session delay.

INSURANCE DIVISION, *Prior Authorization—Prescription Drug Benefits*, 12/10/14 IAB, ARC 1772C, NOTICE.

Background. The proposed rules describe the requirements for prior authorization for prescription drug benefits. The Commissioner of Insurance is required to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

Commentary. The Insurance Division representative indicated she had received 40 written comments and seven phone calls in response to this noticed rule. The major point of contention regarding the rule is the portion detailing the time frames allowed for types of claims. The rule as written permits the division 72 hours to respond to an urgent claim and 15 days for nonurgent claims. The time frames included in the bill that passed the 2014 Legislative Session were item vetoed by the Governor. The division selected the time frames to maintain consistency with certain federal requirements. Various consumer groups advocated for 24-hour and 72-hour time frames for urgent and nonurgent claims, respectively, asserting that shorter time frames would better serve consumers. Insurance industry representatives expressed approval of the rule as drafted, asserting that it would be problematic for the industry to be subject to differing state and federal standards in this area.

Action. No action taken.

MEDICINE BOARD, *Standards of Practice—Telemedicine*, 12/10/14 IAB, ARC 1769C, NOTICE.

Background. This proposed rule would establish standards of practice for medical physicians and osteopathic physi-

(Administrative Rules Review Committee continued from Page 3)

icians who use telemedicine, which is the practice of medicine using electronic communication, information technology, or other means of interaction between a licensee in one location and a patient in another location with or without an intervening health care provider. The standards require physicians using telemedicine to have an active Iowa medical license and utilize evidence-based telemedicine practice guidelines if available. The rule also includes requirements relating to standards of care and professional ethics, the physician-patient relationship, medical history and physical examination, nonphysician health care providers, follow-up care, emergency services, medical records, privacy and security, and technology and equipment.

Commentary. A board representative explained that the board has put significant effort into developing these standards, which are in keeping with state law and existing national model standards. Committee members raised questions about what types of medications could be administered, provided, or prescribed without a doctor's physical presence. Committee members also questioned whether pursuing this rulemaking is appropriate in light of ongoing litigation regarding the board's rules of telemedicine abortion. The board representative explained that these rules are separate from and can function independently from the rules being litigated. Committee members and the public also voiced concerns about potential issues arising during emergencies, such as what type of care a nonphysician could provide during an emergency and whether someone could jeopardize their license by taking certain actions in response to an emergency. A group representing physician assistants opposed the rule because it would conflict with existing rules regarding physician supervision of physician assistants, thus confusing practitioners. The board representative indicated these concerns are similar to other "scope of practice" questions regarding what needs to be done by a physician and what can be delegated to others.

Action. No action taken.

REVENUE DEPARTMENT, *Multiresidential Property Tax Classification*, 12/10/14 IAB, ARC 1765C, ADOPTED.

Background. This rulemaking implements new Iowa Code section 441.21, subsection 13, which was enacted by 2013 Iowa Acts, SF 295, which took effect January 1, 2015. SF 295 created a new classification of property for property taxation purposes called "multiresidential." The rulemaking sets out the multiresidential property tax classification and provides for the determination of aggregate actual values of multiresidential real estate, is the valuation and assessment of property classified as multiresidential, and the valuation and assessment of property with a dual classification.

Commentary. A department representative stated that the department received much public comment on the rulemaking, largely from local governments asserting that it would negatively affect their budgets. The representative explained that the rulemaking would affect only a small proportion of properties in the state, although some cities might be significantly affected, depending on the types of property they contain. She stated that the department has sought to implement SF 295 as written and as intended and is willing to assist in any further legislative action on the matter during the 2015 Legislative Session.

Committee members stated that some legislators who voted on the legislation in 2013 believed SF 295 required that each portion of a multiresidential property would be taxed according to its use, instead of the whole property being taxed according to its primary use, as the rulemaking requires. Committee members questioned whether the legislation required that two otherwise identical businesses would be taxed differently because one of them shares a building with apartments. The representative responded that the department believes its approach is what the legislation requires. Committee members and the agency representative agreed that a statutory change would likely be necessary to resolve the issue.

Committee members asked if a property owner has a remedy if the owner disagrees with a local assessor's decision regarding a property's primary use. The representative explained that an owner can appeal to a local board of review, and then to the Property Assessment Appeal Board or district court.

Action. No action taken.

Next Meeting. NOTE DATE CHANGE. The next committee meeting will be held in Statehouse Room 116, on **Friday, February 6, 2015**, beginning at 9:00 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Jack Ewing, LSA Counsel, (515) 281-6048; Tim Reilly, LSA Counsel, (515) 725-7354.

Internet Page: <https://www.legis.iowa.gov/committees/committee?groupID=705>