

**MINUTES OF THE APRIL 2016 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, April 8, 2016, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Mark Chelgren, Mark Costello, Thomas Courtney, and Pam Jochum; Representatives Lisa Heddens, Megan Jones, Rick Olson, and Guy Vander Linden were present.
- Also present: Jack Ewing and Tim Reilly, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Colin Smith, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.
- Convened Sen. Horn convened the meeting at 9 a.m.
- Fiscal overview** Adam Broich presented the LSA fiscal report.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Wendy Rickman, Deb Johnson and Teresa Armstrong represented the department. Other interested parties included chief juvenile court officers Tom Southard, Second Judicial District, Ames, and Tim Ross, Fourth Judicial District, Council Bluffs, and contract administrator Michelle Thorn, Second Judicial District, Ames; and Bethany Wheaton, mental health advocate for Benton, Buchanan, Delaware, Jones and Linn Counties.

ARC 2469C No questions on proposed amendments to 75.1(39)“b”(3) regarding premiums for applicants and recipients under the Medicaid for employed people with disabilities (MEPD) program.

ARC 2462C Proposed amendments to ch 170 pertain to eligibility, certification, and payment to providers related to child care assistance. Rep. Pettengill inquired about the source of the \$8 million increase in the cost of the child care assistance (CCA) program intended to implement mandated changes from the federal child care and development block grant (CCDBG). Ms. Rickman explained the payment of benefits and described the combination of funding sources, including federal funds and state and federal child care dollars. Rep. Pettengill requested that the department provide the committee information about the impact of the increase in the cost of CCA on state general fund dollars.

ARC 2449C No questions on proposed amendments to 170.4(2)“a” concerning the child care assistance sliding fee schedule.

ARC 2435C No action on amendments to ch 151 pertaining to juvenile court services directed programs.

At the February meeting, Sen. Courtney requested that two chief juvenile court officers appear at the review of the adopted amendments. As background for the discussion by the chief juvenile court officers, Ms. Freudenberg provided an outline of the main changes to the rules, including an update of the description of the services.

In response to questions from Sen. Courtney, Mr. Southard explained that the chief juvenile court officers work with juvenile probation and have implemented a series of services, including research-based skills, training and therapy, to reduce the risk of a juvenile’s repeating violations of the law. He confirmed that drug courts are included in the system. He also stated, and Mr. Ross concurred, that recidivism rates among low-risk juveniles have been reduced. Mr. Southard enumerated the research grants in progress with several universities and expressed appreciation to the department, which is the service-funding organization.

In response to an inquiry from Sen. Chelgren, Mr. Southard explained that 18- to 20-year-olds who voluntarily remain on caseloads may be assisted during a period of transition to productive adulthood (e.g., receiving further drug treatment, securing housing). According to Mr. Southard, these 18- to 20-year-olds would be prosecuted as adults if they committed violations of the law.

Human Services Department (continued)

In response to an inquiry from Sen. Jochum regarding assistance for moderate- to high-risk juveniles, Mr. Southard cited functional family therapy and multidimensional family therapy, both of which require participation by and benefit the entire family. In addition, he stated that all juvenile court officers, by the end of April, will be trained in a new, more comprehensive supervision method.

Sens. Courtney and Chelgren commended the program, and Sen. Jochum thanked Mr. Southard, Mr. Ross and Ms. Thorn for appearing before the committee.

ARC 2438C

Amendments to ch 25 pertain to mental health advocates. Ms. Freudenberg explained the changes from the Notice that resulted from public comment.

Rep. Pettengill inquired about the timing, cost and need for data collection and, in particular, commitment information described in 25.106; the possibility of a July 1, 2016, effective date; and the quality assurance system. Sen. Jochum asked about additional costs to counties for upgrading information technology systems and the purpose for data collection. In response, Ms. Armstrong stated that the department will work collaboratively with regions on all aspects of data collection, including timing. She stated that the collection of commitment information will be used for long-term analysis to assist the regions in developing effective mental health services and that the regions pay for the services provided by the advocates. She stated that 25.107 addresses the quality assurance of the system, not the performance of employees.

Ms. Wheaton stated her understanding that counties will incur increased costs for the upgrading of information technology and for collection of data that counties and regions already possess and that the implementation of a quality assurance system to evaluate one county employee is not necessary because each county will evaluate its own advocate.

Motion to delay

Rep. Pettengill moved a 70-day delay on 25.106 regarding data collection requirements.

Motion carried

On a voice vote of ten to zero, the motion carried.

The committee requested that the rule making be placed on the June agenda.

ARC 2471C

Amendments to chs 77 to 79 and 83 relate to prevocational and supported employment services under the habilitation and brain injury and intellectual disability waiver programs.

Rep. Jones asked why an appropriation of \$750,000 set forth in 2015 Iowa Acts, Senate File 505, had not been used for prevocational and supported employment and asked who had approved the transfer of the appropriation to the Medicaid budget. Ms. Johnson stated that the \$750,000 was not a separate line item but instead was part of the appropriation bill and that she did not know who approved the transfer. Sen. Jochum agreed that Senate File 505 did not contain policy language but that, in a July 2015 letter to the department, Rep. Heaton and Sen. Ragan had explained that the \$750,000 allocation was intended for prevocational and supported employment. Rep. Olson requested that the person who approved the transfer of the \$750,000 to the Medicaid budget appear before the committee at the May meeting.

CHIEF INFORMATION OFFICER, OFFICE OF THE Robert von Wolfradt, CIO, represented the Office.

Special Review

In addition to summarizing a written update on the development of broadband rules, Mr. von Wolfradt explained that OCIO is charged with the development of two primary broadband rules, one regarding the grant program process and one regarding certification of an installation of broadband infrastructure performed or completed in a targeted service area. According to Mr. von Wolfradt, OCIO is focusing on the certification rule, has received stakeholder comment, has had discussions with participants at revenue department meetings and has engaged two telecommunication companies to assist in development of draft rules on the certification process.

Discussion pertained to the delay of the rule-making process and its effects and the development of a public portal Web site to allow the public access to information about applications and status reports. Mr. von Wolfradt first addressed the absence of a general fund appropriation to compensate staff time and then the complexity of the certification process that may appear to be causes for the delay.

Chief Information Officer, Office of the (continued)

He reassured the committee, however, that OCIO has worked with the revenue department; that the certification process has moved forward as evidenced by more than 30 applications for certification, one of which has received initial certification; that two telecommunication companies will be assisting in the rule-making process; and that the portal should be operational later this year.

In response to an inquiry from Rep. Olson, Mr. von Wolfradt stated that OCIO should have a prepublication draft of the rules ready in 60 to 90 days. Reps. Jones, Pettengill and Heddens emphasized the importance of having rules in place. Rep. Olson explained the need to set forth a certification appeals process in particular and encouraged OCIO to seek rule-making assistance from OCIO's assistant attorney general.

PROFESSIONAL LICENSURE DIVISION Venus Vendoures Walsh and Sarah Reisetter represented the division.

ARC 2467C No questions on proposed 60.5(6) regarding the oversight only by the medicine board of the practice of aesthetics by estheticians.

ARC 2465C Proposed amendments to chs 61 and 63 pertain to licensure and sanitation of salons and schools of cosmetology. Committee members requested that the board reconsider the amendments regarding the following topics: the inclusion of the term "processed metals" in the definition of "nonporous"; the restriction on the use of bar soap; the restriction on opening doors and windows; the visibility to the public of the salon license card; the restrictions on metal pedicure instruments; and the removal of the requirement regarding hazardous waste bags.

Ms. Vendoures Walsh, in response to a question from Sen. Chelgren, explained that the use of UV sterilizing light boxes has not been proven to provide the required sterilization of tools and instruments. In response to an inquiry from Rep. Pettengill, Ms. Vendoures Walsh explained that the changes relating to permitted pedicure instruments are intended to prevent cuts to the skin and to clarify that pedicurists may not use instruments that cannot be sanitized and used on another person. In response to a question from Rep. Olson, Ms. Vendoures Walsh explained that inspections regarding the posting of licenses are conducted on a complaint basis.

ARC 2436C No action on amendments to 327.4(2) pertaining to the reinstatement of biweekly supervision by physicians who supervise physician assistants.

Rep. Pettengill and Sen. Chelgren thanked Ms. Reisetter for the reinstatement of the biweekly supervision requirement. In response to an inquiry from Rep. Pettengill regarding waivers, Ms. Reisetter stated that in the supervision requirement in 327.4(2), the remote site visits must occur "at least every two weeks or less frequently as specified in special circumstances." Ms. Reisetter stated that the board on occasion has reviewed requests for approval of special circumstances as opposed to requests for waivers. She stated that from October 2014 through July 2015, six supervising physician-physician assistant teams have been granted approval of special circumstances. Rep. Pettengill requested that the information be forwarded to the medicine board to facilitate communication between the physician assistant board and the medicine board. In response to an inquiry from Sen. Horn, Ms. Reisetter affirmed the quality of medical care provided by physician assistants under the supervision of physicians. Sen. Courtney added that physician assistants provide quality medical care.

PUBLIC HEALTH DEPARTMENT Paul Watson, Victoria Brenton, Debbi Cooper, Doreen Chamberlin, Diane Williams, Betsy Richey and Stacy Hewitt represented the department. Other interested parties included Sean Casey of the department of education, Steve Muller of the Homestead, Shelly Chandler on behalf of the Iowa Association of Community Providers, and Maria Valdovinos of Drake University.

ARC 2446C Proposed amendments to ch 10 pertain to the Iowa get screened: colorectal cancer program. In response to an inquiry from Rep. Pettengill, Ms. Brenton explained the five-year federal grant to institute systems-level changes and the state appropriation to fund colon and cervical screening. In response to a question from Sen. Costello, Ms. Brenton explained that the program is attempting to reach underserved, uninsured, non-Medicaid individuals who have high insurance deductibles.

Public Health Department (continued)

- ARC 2447C No questions on proposed amendments to ch 21 regarding the central registry for brain and spinal cord injuries.
- ARC 2459C Proposed amendments to ch 22 pertain to the practice of tattooing. Mr. Watson summarized the amendments, which concern requirements for applications and fee schedules; tattoo artists and tattoo establishments, including permits; sanitation and infection control; tattoo equipment and tattooing procedures; inspections and inspectors; and enforcement actions. The amendments also propose that no new mobile units will be permitted.
- Rep. Vander Linden questioned how the amendments advance the public health. He expressed concern regarding the following: requirements for tattoo artist training, mobile tattoo units and guest artists; enforcement of the rules; application fees; and methods of sterilization. In particular, he questioned why the amendments allow currently permitted mobile tattoo units to continue operation but do not allow new mobile tattoo units. Sen. Jochum inquired about the membership of the stakeholder group and questioned why any mobile tattoo units are allowed. Sen. Horn asked about the requirements for removal of tattoos. Sen. Chelgren inquired about the difference between the requirements for applying permanent makeup versus tattooing.
- In response, Ms. Cooper stated that annual inspections of mobile tattoo units have raised concerns about operating procedures. She agreed to provide a comparison of fees paid by tattoo artists with fees paid by cosmetologists and barbers; information regarding the change from “shall” to “may” in 22.16(2); and examples of other professions whose training includes the use of needles. Ms. Cooper stated that the stakeholder group consisted of three department staff members, three staff members from county departments of health, and three tattoo artists. She stated that the medicine board oversees the regulation of tattoo removal. She explained that the rules for permanent makeup are the same as those for tattooing but that the ink used for permanent makeup is not injected as deeply into the skin as the ink used for tattoos.
- Sen. Chelgren stated that the sterilization requirements for tattoos should mirror those of cosmetology salons and schools. Rep. Jones stated that in 22.9(5), the use of a copy of a person’s birth certificate as proof of age is not legal. Rep. Vander Linden asserted that the amendments should be completely rewritten with a view toward tightening the requirements.
- ARC 2461C No questions on proposed amendments to ch 24 regarding grants to counties for private well testing, reconstruction and plugging.
- ARC 2474C No action on amendments to ch 25 regarding the adoption by reference of the 2015 edition of the Uniform Plumbing Code in the state plumbing code.
- ARC 2473C No action on amendments to 61.2 concerning the update of references in the state mechanical code.
- ARC 2460C Proposed ch 107 concerns the board-certified behavior analyst and board-certified assistant behavior analyst (BCBA/BCaBA) grants program. Mr. Watson stated that the purpose of the program is to increase the number of and access to certified behavior analyst and certified assistant behavior analyst professionals in Iowa. He explained that the program provides grants to Iowa resident and nonresident applicants who have been accepted for admission to or are attending a board of regents university, a community college, or an accredited private institution; are enrolled in a program to be eligible for board certification; and demonstrate financial need.
- Committee members inquired about the adequacy of the grant funds to address the shortage of behavior analysts; the priority status of Iowa resident applicants and consistency in defining residency; the permissibility and adequacy of online training; and the role of area education agencies (AEAs) in providing services by behavior analysts.
- Ms. Chamberlin explained the projected distribution of the \$250,000 appropriation allocated from the grant program for autism support set forth in 2015 legislation. Mr. Casey stated that there are 92 board-certified analysts in Iowa and that approximately 80 percent have master’s degrees.

Public Health Department (continued)

According to Mr. Casey, three institutions of higher education, Briar Cliff College, the University of Iowa and Drake University, are offering or will offer programs to train behavior analysts. Regarding online coursework, Ms. Chamberlin stated that the legislation specifies that institutions of higher education offer the coursework but does not specify the mode of training. Mr. Watson added that the rule may be clarified to state that online coursework is allowed. Ms. Chamberlin stated that the request for proposal (RFP) would address the requirements related to the obligation of applicants to work in Iowa after completion of training. Mr. Casey explained that a small number of behavior analysts are on staff at AEAs.

Mr. Muller expressed support for online programs. He also stated that because the legislation did not specify in-state programs, the rules should allow out-of-state online programs and that a four-year contract to complete the training should be required. Ms. Chandler concurred with Mr. Muller's support of online programs and added that because the legislation did not specify in-state or out-of-state institutions of higher education, the rules should not restrict attendance to in-state institutions. Ms. Valdovinos expressed concern about online programs, citing higher pass-fail rates, less rigor, and additional costs for supervision and voiced support for encouraging students to stay in Iowa. Mr. Casey stated that online programs are consistently below average in the number of graduating behavior analysts and pointed out that the hands-on experience is the most essential aspect of the training. He concluded by stating that the availability of funding will increase the number of trained behavior analysts in order to address the needs of autistic children.

Mr. Watson agreed to provide the committee with information about the source of the definition of "resident."

- ARC 2476C No action on amendments to ch 113 regarding public health response teams.
- ARC 2443C No questions on proposed amendments to ch 114 regarding the preparedness advisory committee. In response to an inquiry from Rep. Pettengill, Ms. Williams explained that the requirement regarding a quorum is found in chs 114, 130 and 138, and Rep. Heddens noted that in ch 114, this requirement is found in 114.5(3).
- ARC 2444C No questions on proposed amendments to ch 130 relating to the emergency medical services advisory council.
- ARC 2448C No questions on proposed ch 138, trauma system advisory council.
- ARC 2477C No action on amendments to ch 141 pertaining to love our kids grants.
- ARC 2458C Proposed amendments to ch 177 regard collection of and access to health data. In response to an inquiry from Rep. Pettengill, Ms. Richey explained that patient names would be collected to implement ch 21 regarding brain injury and to provide epidemiological value in the collection of information to follow patients across data sets. Ms. Richey stated that the proposed amendments to ch 177 will allow the collection of patient names while ensuring the confidentiality of patient identity.
- ARC 2457C Proposed ch 179 pertains to collection of delinquent debts. In response to a question from Sen. Jochum, Ms. Hewitt explained that the administrative services department requires that the public health department have in place an appeals process related to the collection of delinquent debts. Ms. Hewitt further explained that the provisions of ch 179 would enable the public health department, which may have paid claims on a service contract but later discovered an ineligible expense, to pursue through the offset program repayment of the amount of the ineligible expense.

LABOR SERVICES DIVISION Kathleen Uehling represented the division.

- ARC 2455C No action on 72.26 and 73.27 pertaining to child safety measures for residential elevators that are operated in public buildings. Rep. Pettengill thanked the division for allowing the rules to be more workable for affected parties as well as maintaining the safety of the public.
- ARC 2428C At the March meeting, the committee reviewed this rule making, which pertains to standards for amusement rides and devices, concession booths, and bungee jump operations, and voted to impose a 70-day delay on the entire rule making.

Labor Services Division (continued)

Ms. Uehling addressed the issues of concern to the committee, including owners' inspections of their own air-supported amusement devices, the legal liability to the state for such inspections, the air-supported amusement devices subject to inspections based on commercial use versus private use, and the entities whose standards are incorporated by reference in the rules. Ms. Uehling stated that the same state employees who inspect amusement rides and devices also inspect elevators, escalators and similar conveyances and explained that the increase in amusement inspections has hampered the division's ability to conduct timely elevator inspections. She stated that the division intends to designate some owners of air-supported amusement devices to perform their own annual inspections to provide for maximum safety and to ensure that the division stays within its budget. Ms. Uehling explained that the division will retain jurisdiction over its employees to perform spot inspections, will inspect if an event has a combination of mechanical and air-supported equipment, and will also inspect if there is a report of an accident or other problem. She stated that an owner of an air-supported device will be required to apply for designation to perform the owner's own inspections, to provide proof of formal training, and to submit an affidavit regarding the performance of the inspection and correction of any hazards that the owner identifies.

Regarding legal liability, Ms. Uehling stated that the attorney general's office indicated that the commissioner has the duty to follow the law and implement the rules and that designating the owners as inspectors of air-supported amusement devices is not unreasonable in light of the circumstances and of the rules. In addition, according to Ms. Uehling, the attorney general's office stated that if the commissioner follows the division's rules, it is unlikely that the state would be exposed to liability, whereas if the commissioner does not follow the rules, exposure to liability is possible. Ms. Uehling stated that according to the attorney general's office, if the state were subject to a lawsuit, a number of other factors and doctrines would affect the actual liability imposed and many of those factors would greatly limit the liability.

Ms. Uehling stated that the adopted rules do not regulate air-supported devices for private use, such as at a backyard party at a private residence.

Finally, Ms. Uehling described the composition of the committees that develop national consensus codes. She stated that the American Society for Testing and Materials (ASTM) committee for amusement rides is comprised of engineers, regulators, consumer advocates, industry representatives, academics and others; the American National Standards Institute (ANSI) committee for aerial tramways and lifts is comprised of engineers, regulators, and industry representatives.

Motion to lift delay

Sen. Courtney moved to lift the 70-day delay on ARC 2428C.

Motion carried

On a voice vote of ten to zero, the motion carried.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department. Other interested parties included Kellie Paschke on behalf of Petroleum Marketers and Convenience Stores of Iowa (PMCI).

ARC 2479C

Proposed amendments to chs 12 to 14 and 16 pertain to the renewable fuel infrastructure program.

Discussion pertained to the coproducts advisory committee, approval of dispenser components, the "super" or "plus" labeling of ethanol blended gasoline with an 87 octane rating, the composition of the stakeholder group, and department accommodation of industry concerns.

Ms. Thompson explained that the coproducts advisory committee operates within the department, that dispenser components are listed by an independent testing laboratory and approved by the manufacturer, that the "super" or "plus" labeling of ethanol blended gasoline with an 87 octane rating is not an enforcement issue for the department, that the stakeholder group includes entities that supply the fuel, that the department set the enforcement date in 2018 to accommodate labeling and liability concerns, and that the department would request specific examples before consideration of exemptions from the National Institute of Standards and Technology (NIST) Handbook 130.

Agriculture and Land Stewardship Department (continued)

Ms. Paschke suggested technical and substantive changes to the amendments before their adoption. Regarding technical changes, she stated that in 14.2(3)“d,” the summer month exemption for E-15 should be referenced and that “and” should be changed to “or” in the phrase “for the storage and dispensing of E-15 or E-85 gasoline, biodeiesel or biodiesel blended fuel at retail.” Regarding substantive changes, Ms. Paschke expressed concern about inconsistencies between state rules and federal regulations and expressed opposition to the Iowa label in 12.4 since a new federal label will serve the same purpose and to the labels themselves. Noting that E-85 is allowed by Iowa law but not by federal law, she explained that in 85.48(10), the potential for multiple labels would be confusing to consumers and could expose retailers and consumers to liability for misfueling. She also explained that to provide retailers flexibility in labeling ethanol and nonethanol products, 85.48(13) in Item 13 should not be adopted.

Ms. Thomson agreed to review a request by Rep. Pettengill to use “shall” instead of “may” in 12.4(2). Sen. Chelgren requested that the marketing of ethanol and nonethanol fuels be standardized. Sens. Chelgren and Courtney and Rep. Vander Linden agreed that the department should consider and accommodate in the adopted amendments the concerns of fuel industry stakeholders regarding labeling and liability.

ARC 2439C No action on amendments to ch 76 that adopt by reference federal regulations related to meat and poultry inspection.

PROFESSIONAL LICENSING AND REGULATION BUREAU Lori SchraderBachar represented the bureau.

ARC 2456C Proposed amendments to chs 1, 3, 5, 7 to 10 and 13 pertain to bureau organization and operation, vendor appeals, waivers, contested cases, license denial, suspension or revocation, rule making, declaratory orders, and public records.

Rep. Jones requested that substantive amendments be noticed separately from nonsubstantive amendments.

ARCHITECTURAL EXAMINING BOARD Lori SchraderBachar represented the board.

ARC 2480C No questions on proposed amendments to chs 1 and 2 regarding the roster of business ethics, administrator duties, board meetings, registration and fees.

LANDSCAPE ARCHITECTURAL EXAMINING BOARD Jill Simbro represented the board.

ARC 2475C No questions on proposed amendments to 2.6 relating to exemption from the written examination.

COLLEGE STUDENT AID COMMISSION Julie Leeper represented the commission.

ARC 2437C No questions on proposed amendments to ch 21 in this Amended Notice of Intended Action related to approval of postsecondary schools, the interstate reciprocity agreement and registration. Ms. Leeper explained that the passage of 2016 Iowa Acts, House File 2370, will necessitate additional amendments to this rule making.

EDUCATIONAL EXAMINERS BOARD Darcy Hathaway and Joanne Tubbs represented the board. Other interested parties included Katie Greving on behalf of Decoding Dyslexia Iowa.

ARC 2453C No questions on proposed amendments to ch 13 pertaining to adding endorsements and to licensure of out-of-state applicants from non-Iowa institutions.

ARC 2450C No questions on proposed amendments to 13.28 pertaining to reading endorsements. Ms. Hathaway stated that written comments and the oral comments at the public hearing focused on the need for language specific to dyslexia and that the board would be responsive to the comments. Ms. Tubbs added that based on public comment, revisions of the rule are currently in process that include the addition of a definition of “dyslexia” and requirements for practitioners, namely, knowledge of the specific signs and symptoms of dyslexia, of appropriate interventions and classroom accommodations, and of specific categories of linguistics to guide instruction and best practices.

Educational Examiners Board (continued)

Ms. Greiving expressed appreciation to the board and to the committee for the opportunity to participate in the rule-making process. She reviewed the components of reading instruction for students with dyslexia and emphasized the importance of instruction about dyslexia for prospective reading teachers at colleges and universities and of training offered by school districts to currently employed reading teachers.

ARC 2454C No questions on proposed amendments to ch 18 regarding temporary permits and experience requirements for administrators.

ARC 2452C No questions on proposed amendments to ch 20 pertaining to standard, master educator and administrator license renewal.

ARC 2445C No questions on proposed amendments to 22.1(2) concerning coaching authorizations.

ENVIRONMENTAL PROTECTION COMMISSION Wendy Hieb and Julie Faas represented the commission.

ARC 2441C Proposed amendments to ch 64 pertain to NPDES General Permit No. 7 for the discharge of pesticides. In response to an inquiry from Rep. Jones, Ms. Hieb explained that an extension provision in the permit allowed the permit to be extended administratively. She added that the prospective emergency after notice filing would shorten the extension of the permit during the primary pesticide application period and would confer a benefit on most pesticide applicators by eliminating much of the paperwork associated with the permit. Ms. Hieb also explained the lengthy rule-making process, which involved extensive review and stakeholder input prior to publication of the Notice.

ARC 2442C A proposed amendment to 64.15(5) relates to NPDES General Permit No. 5 for wastewater discharges from mines and quarries. In response to questions from Rep. Pettengill, Ms. Faas stated that the extension clause in the permit would allow a permittee to be covered by a renewed or reissued permit through the end date of the permit and to file for an individual permit for coverage after the permit's expiration date. She explained that in the case of a delay of the rule making, the facility would send a notice to the department to request coverage under a renewed or reissued permit until the delay is lifted. Ms. Faas also explained timing of the rule making regarding the next renewal of the permit.

NATURAL RESOURCE COMMISSION Mark Sedlmayr represented the commission.

ARC 2478C No questions on proposed amendments to ch 15 regarding licenses, education and an apprentice designation related to hunting. Rep. Jones noted that the legislation implemented by these amendments was enacted in April 2015.

INSPECTIONS AND APPEALS DEPARTMENT David Werning represented the department.

ARC 2472C No action on amendments to ch 51 pertaining to hospital licensure and regulation.

ARC 2463C Amendments to chs 67, 69 and 70 pertain to regulation of elder group homes, assisted living programs, and adult day services.

Mr. Werning explained that the department revised 69.29(4) in Item 26 to remove the requirement that would have expanded the "awake staff" provision from only dementia-specific assisted living programs to all assisted living programs, noting that the requirement would have been a hardship on programs, particularly those operating in rural Iowa.

Reps. Pettengill and Vander Linden expressed concern regarding this revision. In response, Mr. Werning explained that a non-dementia-specific assisted living program consists of housing with contractual services and is not designed to provide medical care to tenants. According to Mr. Werning, tenants in non-dementia-specific assisted living programs are generally autonomous, well elders who have chosen to move to a facility and to contract for certain services. He added that these tenants, for the most part, are not medically needy.

Motion to delay Rep. Pettengill moved a 70-day delay on Item 26 (69.29(4)) and asked that the department reconsider 69.29(4).

Inspections and Appeals Department (continued)

Sen. Chelgren stated that if the provision in 69.29(4) regarding non-dementia-specific programs applies only to tenants who live independently and are asking only for assistance, he could not support the motion. Mr. Werning confirmed the statement by Sen. Chelgren, with which Sen. Costello concurred.

Motion withdrawn Following discussion, Rep. Pettengill withdrew the motion.

RACING AND GAMING COMMISSION Brian Ohorilko represented the commission.

ARC 2468C No action on amendments to chs 5, 6 and 10 pertaining to qualifying agreements, occupational licenses, licensing of jockeys, and thoroughbred and quarter horse racing. Mr. Ohorilko explained that there had been public comment and discussion regarding Item 6, which pertains to instances in which stewards' decisions cannot be appealed. He stated that the commission will continue to monitor this provision.

TRANSPORTATION DEPARTMENT Mark Lowe represented the department.

ARC 2451C Proposed amendments to ch 607 regard commercial driver licensing.
Rep. Pettengill expressed appreciation for the addition of certified third-party testing of commercial drivers to expand driver access to timelier testing. In response to an inquiry from Rep. Olson regarding 607.49(5)“d” in Item 22, Mr. Lowe explained the meaning of contributive accident in reference to a driver’s conduct as it relates to safety, not to damages.

REVENUE DEPARTMENT Brad Hopkins, Victoria Daniels and Julie Roisen represented the department.

ARC 2464C No questions on proposed amendments to ch 126 relating to the property assessment appeal board.

ARC 2466C Proposed 80.31 pertains to the broadband infrastructure property tax exemption. Ms. Daniels summarized the provisions of 2015 Iowa Acts, House File 655, which created a ten-year property tax exemption for companies that build broadband infrastructure in targeted service areas. She explained the tax exemption itself, the application process for the tax exemption, and other provisions. In addition, she described the department’s rule-making process, including the solicitation of comment from the stakeholders, attorneys general, department attorneys and staff prior to publication of the Notice. She stated that the department continues to receive comments and to have ongoing communications with stakeholders. Ms. Daniels apologized for the long rule-making process but noted the need for thorough preparation of complex rules.

Rep. Jones emphasized the importance of timeliness in rule making. Rep. Vander Linden expressed support for efficiency in rule making but, at the same time, appreciation for the complexity of these rules and the time required for thorough implementation.

Committee business The minutes of the March 4, 2016, meeting were approved.

The next meeting was scheduled for Tuesday, May 10, 2016, at 9 a.m.

Mr. Ewing presented the committee with a proposed model by which the implementation of legislation by rule making would be tracked. He requested that the committee provide feedback on the proposed model.

Rep. Jones provided an update on 2016 Iowa Acts, House File 2449, which requires executive branch agencies to promulgate rules within 180 days or submit written notice to the committee with information that includes an estimated timeline for submission of a Notice of Intended Action. Rep. Jones also requested that identification of the drafters of rule makings be provided.

Adjourned The meeting was adjourned at 2 p.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Wally Horn

Vice Chair Dawn Pettengill