

**MINUTES OF THE JANUARY 2017 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, January 6, 2017, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Mark Chelgren and Mark Costello; Representatives Megan Jones, Rick Olson, and Guy Vander Linden were present. Senators Thomas Courtney and Pam Jochum and Representative Lisa Heddens were not 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** Christin Mechler presented the LSA fiscal report. Also representing the LSA fiscal services division was fiscal analyst Adam Broich.
- In response to a question from Rep. Pettengill regarding ARC 2867C, Mr. Broich explained that, as is the practice of some of the agencies, the economic development authority attributed the fiscal impact of the rule making to the fiscal note for 2016 Iowa Acts, Senate File 2300. Mr. Broich agreed to provide Rep. Pettengill with information about how LSA calculated the fiscal impact, specifically, the number of manufacturers included in the calculation and the reason for the yearly reductions in general fund revenue.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Deb Johnson represented the department. Other interested parties included Shelly Chandler and Craig Syata on behalf of the Iowa Association of Community Providers and Rep. Art Staed.

ARC 2846C No action on an amendment to 79.1(2) regarding a rate increase for the home health low utilization payment adjustment (LUPA).

ARC 2848C No action on amendments to chs 78, 79 and 83 pertaining to rate increases and the annual limit for HCBS and intellectual disability (ID) waiver services and specialized medical equipment. Ms. Freudenberg summarized the public comments, which stated that managed care organizations (MCOs) should be directed to pay the higher of the increased rate floors or the provider contract rates; that the MCOs should retroactively pay all claims since July 1, 2016, at the new increased rates; and that the provisions for recoupment be stricken because they are punitive. Ms. Freudenberg stated that the rate increases are contractual issues outside the scope of the legislation and are to be negotiated between the MCOs and providers; and that the recoupment provisions are not punitive.

In response to questions from Sen. Costello, Ms. Johnson explained that increases in the rate floor are applicable to providers on fee for service but are not applicable to the proprietary contracts between MCOs and providers. Ms. Johnson added that for the 30,000 to 40,000 persons on fee for service, the department is considering a change from fee for service to a fee schedule. In response to questions from Rep. Pettengill, Ms. Chandler summarized the rebasing process and described the MCO-provider rate negotiation process. Sen. Costello expressed the hope that the floor rates would increase over time and that the MCOs would consider raising rates. In response to a question from Rep. Staed, Ms. Chandler stated that MCOs United Healthcare and Amerigroup are paying the 1 percent rate but AmeriHealth Caritas is not.

Ms. Chandler stated that the legislature appropriated funds for HCBS providers, including funds for the MCOs, one of which has agreed to negotiate rates, to pay rates at the rate floor or above, and that the MCOs should be required to pay providers at the 1 percent rate floor. In addition, she stated that the department did not follow its own rules by rebasing rates, continues to require cost reporting, and is recouping funds based on outdated rates. Mr. Syata further explained the process of rebasing rates in response to a question from Rep. Pettengill, and he concurred with Ms. Chandler regarding the inappropriateness of the department’s actions concerning rebasing of rates and recoupment.

Human Services Department (continued)

- In response to a request from Sen. Costello, Ms. Johnson will provide the committee with information that explains the department's reason for not rebasing rates.
- ARC 2884C No action on an amendment to 11.5(1)"a"(3) pertaining to the time frame for referral of delinquent claims related to the supplemental nutrition assistance program (SNAP).
- ARC 2885C No action on the rescission of chs 150 and 152, the adoption of a new ch 152, and amendments to chs 156, 172 and 202 regarding purchase of service, foster care contracting, and foster care rates and payments.
- ARC 2886C No action on amendments to chs 36 and 82 regarding fee assessments by intermediate care facilities for persons with an intellectual disability.  
Ms. Chandler thanked the department for working with the association to clarify the process and base the rule on paid claims.
- ARC 2891C No action on amendments to chs 51 and 52 regarding cost-of-living increases for state supplementary assistance.  
In response to a question from Rep. Pettengill regarding 52.1(2), Ms. Freudenberg stated that "aged" means a person 65 years of age or older and added that other requirements regarding state supplementary assistance would also apply.

**AGING, DEPARTMENT ON** Brian Majeski represented the department.

- ARC 2851C No questions on proposed ch 21, service of case management.

**ATTORNEY GENERAL** Dave Dorff and Mark Schuling represented the attorney general.

- ARC 2877C Proposed amendments to 34.1 pertain to a statement of a property owner's rights. In response to an inquiry from Rep. Jones, Mr. Schuling explained that the consumer advocate's office requested updates to 34.1, specifically, statutory references, and that the language of numbered paragraph 10 of the statement of a property owner's rights was amended to be consistent with statute.

**SOIL CONSERVATION AND WATER QUALITY DIVISION** Margaret Thomson represented the division.

- ARC 2868C No questions on proposed amendments to 6.2 regarding invitation for bids and solicitation of quotations related to contracts for public improvements.

**BANKING DIVISION** Zachary Hingst represented the division.

- ARC 2869C No action on ch 25, appraisal management companies.

**INSURANCE DIVISION** Rosanne Mead represented the division.

- ARC 2872C No action on amendments to ch 50 pertaining to business continuity and succession plans related to the regulation of securities offerings and those who engage in the securities business.  
In response to an inquiry from Rep. Pettengill, Ms. Mead stated that the July 1, 2017, deadline for the establishment by an investment adviser of a succession plan allows six months for formulation of the plan and that an investment adviser may request a waiver. Ms. Mead added that she had received no public comments regarding the time frame and that investment advisers considered to be in compliance with the federal requirements are considered to be in compliance with Iowa requirements.
- ARC 2873C No action on 90.4(4) pertaining to when an annual privacy notice to customers is required.

**ECONOMIC DEVELOPMENT AUTHORITY** Kristen Hanks-Bents and Jennifer Klein represented the authority.

- ARC 2864C No questions on proposed chs 214 and 215 regarding the enhance Iowa board and the sports tourism program.
- ARC 2867C Proposed ch 81 pertains to the renewable chemical production tax credit program. In response to questions from Sen. Chelgren, Ms. Klein stated that because the legislation and the rules require an eligible business to expand production to qualify for the program, the authority anticipates product diversity. Sen. Chelgren expressed the hope that the authority will give weighting for diversification to ensure that tax credits are not granted for products that already dominate the market. At the request of Rep. Pettengill, Ms. Klein will provide the committee with the authority's report of the program's fiscal impact to the state as a whole by year.

**STATE PUBLIC DEFENDER** Kurt Swaim represented the state public defender.

ARC 2830C No questions on a proposed amendment to 12.2(3)“a” pertaining to timely submittal of adult claims for indigent defense services.

**LAW ENFORCEMENT ACADEMY** Russell Rigdon represented the law enforcement academy.

ARC 2850C No questions on proposed amendments to 2.1 and 10.100 regarding out-of-state residency and driver’s licenses for certified peace officers and reserve peace officers.

**NATURAL RESOURCE COMMISSION** Todd Rozendaal represented the commission.

ARC 2831C No questions on proposed amendments to ch 21 regarding the lease to beginning farmers program.

**PUBLIC HEALTH DEPARTMENT** Susan Dixon represented the department.

ARC 2836C No action on amendments to ch 7 regarding the immunization registry information system related to the meningococcal vaccine, confidentiality and release of information, and access to the system.

ARC 2837C No action on amendments to ch 26 pertaining to backflow prevention assembly tester registration.

ARC 2838C No action on amendments to ch 43 concerning minimum requirements for radon testing and analysis.

ARC 2839C No action on amendments to ch 73 pertaining to the special supplemental nutrition program for women, infants, and children (WIC).

ARC 2840C No action on amendments to ch 77, relating to local boards of health, specifically, district board formation, city board dissolution, and Iowa public health standards.

ARC 2841C No action on amendments to ch 127 regarding payment for services for county medical examiners.

**DENTAL BOARD** Phil McCollum and Jill Stuecker represented the board. Other interested parties included Michael Kanellis of the University of Iowa College of Dentistry.

ARC 2870C No action on amendments to ch 11 regarding licensure to practice dentistry or dental hygiene.

ARC 2871C No action on amendments to 12.1 to 12.4 pertaining to clinical examinations for dentistry and dental hygiene.

Mr. Kanellis expressed appreciation to the board and support for the amendments.

**PHARMACY BOARD** Jennifer O’Toole and Jennifer Tiffany represented the board.

ARC 2834C No action on ch 30, Iowa monitoring program for pharmacy professionals.

ARC 2858C Proposed amendments to chs 10 and 100 pertain to controlled substances and to the Iowa real-time electronic pseudoephedrine tracking system.

In response to an inquiry from Rep. Jones, Ms. O’Toole summarized the qualifications of a pharmacy technician and verified that action may be taken against a pharmacy technician’s certification for failure to fulfill the professional and legal responsibilities required of a pharmacy technician.

ARC 2859C No questions on proposed amendments to 2.6 regarding the reexamination waiting period for pharmacist licensure.

**PUBLIC SAFETY DEPARTMENT** Barbara Edmondson represented the department.

ARC 2874C No action on amendments to ch 226 pertaining to public fueling of motor vehicles with liquid petroleum gas.

At the request of Rep. Pettengill, Ms. Edmondson will provide information about whether the state fire marshal inspects E-85 and liquefied petroleum (LP) gas pumps.

**REVENUE DEPARTMENT** Victoria Daniels represented the department.

ARC 2833C No action on amendments to 42.47 pertaining to geothermal tax credits.

ARC 2865C Proposed 42.56 and 52.49 pertain to the renewable chemical production tax credit program. In response to questions from Sen. Chelgren, Ms. Daniels explained refundability related to the tax credit, that is, any credit in excess of the tax liability is refundable to a taxpayer, but in lieu of claiming a refund, the taxpayer may choose to have the overpayment credited to the tax liability for the following tax year. Ms. Daniels stated that the tax credit may only be carried over to the next tax year.

**SECRETARY OF STATE** Eric Gookin represented the secretary of state.

ARC 2856C A proposed amendment to 4.2(2) and proposed ch 12 pertain to disaster recovery for out-of-state entities.

In response to a question from Rep. Jones, Mr. Gookin stated that disaster recovery for out-of-state entities will be implemented when the rules are effective.

**TRANSPORTATION DEPARTMENT** Shawn Majors, Tim Crouch, Tracy George, Tim Allen and Sara Siedsma represented the department.

ARC 2842C No action on amendments to ch 821 regarding the highway-railroad grade crossing surface repair fund.

ARC 2843C No action on ch 162, surface transportation block grant program.

ARC 2863C Proposed amendments to 143.1 and 143.4(1) pertain to the addition of an adaptive signal control system to the types of coordinated traffic signal systems.

In response to questions from Rep. Pettengill, Mr. Crouch explained the effects of a coordinated traffic signal system.

ARC 2878C No questions on proposed amendments to 520.1(1), 529.1 and 607.10(1)“c” regarding the adoption by reference of federal motor carrier safety and hazardous materials regulations.

ARC 2887C No action on amendments to 400.58(1), 410.1(3) and 410.2 pertaining to the maximum speed of a motorized bicycle and technical updates to the rules. In response to a question from Rep. Olson, Mr. Allen will provide information about the reason for the definition of “motorized bicycle” in Iowa Code section 321.1(40).

ARC 2888C No action on amendments to chs 605 and 630 pertaining to a veteran designation on a driver’s license or nonoperator’s identification card.

In response to an inquiry from Rep. Pettengill, Ms. Siedsma stated that a veteran may qualify for a veteran designation based on 90 days of active duty, excluding training, and Rep. Vander Linden added that active duty may be domestic or overseas.

ARC 2889C No action on amendments to chs 1, 10 to 12, 112, and 115 regarding department organization and technical updates to the rules.

**TREASURER OF STATE** Adam Phillips represented the treasurer of state.

ARC 2875C No action on amendments to ch 16 pertaining to the Iowa educational savings plan trust.

In response to a question from Rep. Pettengill, Mr. Phillips explained that the term “Iowa 529 plan” was removed from the rules to eliminate confusion and stated the Iowa advisor 529 plan is associated with Voya and the Iowa 529 plan with Vanguard.

**LABOR SERVICES DIVISION** Kathleen Uehling represented the division.

ARC 2866C A proposed amendment to 10.20 concerns the adoption by reference of federal occupational safety and health standards related to walking and working surfaces.

In response to questions from Rep. Vander Linden, Ms. Uehling explained that the federal Act which created the Occupational Safety and Health Administration (OSHA) requires that enforcement of OSHA regulations either be conducted by the federal government or, as in Iowa, by the state through rules in which the federal regulations are adopted by reference. In addition, Ms. Uehling confirmed that OSHA regulations are available to the public online and that additional nonfederal division regulations that are referred to in statute and adopted by reference are available at the division offices.

Rep. Vander Linden stated that all regulations adopted by reference should be available for free to the public. At the request of Rep. Pettengill, Ms. Uehling agreed to provide information about the proposed regulations to explain the estimated reductions per year in fatalities (29) and lost-workday injuries (5,842) stated in the preamble of the Notice.

**EDUCATION DEPARTMENT** Nicole Proesch, Kelly Rice, Eric St Clair and Amy Williamson represented the department. Other interested parties included Matt Eddy of the Southeast Polk Community School District; Jim Russ of the New Hampton Community School; Monty Collins of the Pleasantville Community School District and the Iowa Agriculture Teachers Association; Emily Piper on behalf of the Iowa Association of School Boards; Danny Carroll, Marvin Smith, Gabe Larsen and Brad Cranston on behalf of the Anchor Character Training Center.

ARC 2844C No action on amendments to ch 56 pertaining to Iowa vocational rehabilitation services.

ARC 2853C Proposed amendments to 24.3 and 24.5 pertain to community college accreditation. In response to a question from Rep. Jones, Ms. Proesch stated that the public hearing for this rule making was scheduled before the department was informed of the committee review, both of which were scheduled for the same day. Mr. Ewing added that the unusual conflict could not be avoided.

ARC 2855C The proposed rescission of chs 46 and 47 and the adoption of a new ch 46 pertain to career and technical education and to career academies.

Rep. Jones asked questions about the standards for career and technical education in 46.5, student assessment in 46.6(1)“b”(4), the membership of program advisory councils and of the career and technical education (CTE) task force in 46.8(4), data collection in 46.11(5), and the contextualized learning component referred to in 46.11(1)“b”(3). Rep. Jones requested that the program standards and the requirements for data collection be included in the rules and that the reference to a contextualized learning component be clarified. Rep. Pettengill concurred with Rep. Jones’s requests. In addition, Rep. Pettengill stated that she prefers a rescission of an existing chapter and the adoption of a new chapter in lieu thereof be shown with strike-through and underscore.

Mr. Eddy stated that no agriculture teachers were included on the CTE task force to develop the rules; that funds will no longer be allocated directly to schools and will instead be funneled through regional partnerships only for specified costs; and that decision making will lie with regional partnerships, which will perform the work that school district programs already perform. Mr. Russ stated that all expenditures for allowable uses must conform to the requirements of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, which would not allow expenditures for consumables; that summer contracts would be affected; that program evaluation is already being done; that expenditures for busing to career centers will add costs and discourage enrollment; and that classes should be taught only by teachers certified in career and technical education. Mr. Collins, who stated that he had expressed opposition to 2016 Iowa Acts, House File 2392, before it was passed, asserted that the legislation and the rules take moneys away from school districts, constricting supplies for learning opportunities, and that local control of agriculture programs is being lost. Ms. Piper stated that the rules better update and align CTE criteria with the modern world but expressed concern regarding the tools to be used as clear evidence of compliance, the availability and sufficiency of funds to cover the costs, and the technical and financial assistance available for schools to perform required program evaluation.

Rep. Vander Linden requested that the department consult with and address the concerns of agriculture teachers and others whose current programs are affected by the rules. Rep. Olson suggested that the committee review the program in a year’s time, to which Mr. Ewing responded that a special review of any rule may be requested at any time. Sen. Horn expressed concern regarding the department’s interpretation of the statute.

In response to concerns of committee members, Mr. St Clair and Ms. Proesch stated that changes to the proposed rules are already under consideration. In addition, Ms. Proesch stated that pre-Notice objections to the rules concerned the statutory allocation of funds, and Mr. St Clair stated that the rules implement the requirements of the statute, including the allocation of funds through regional partnerships.

In response to a request from Rep. Pettengill, Ms. Proesch stated that the department will discuss whether the statute might need to be amended to address concerns about the program. Sen. Horn commended Mr. Eddy, Mr. Russ and Mr. Collins for their dedication to their respective agriculture programs and for attending the meeting.

Education Department (continued)

- ARC 2861C No action on amendments to 15.11 pertaining to waivers related to Iowa learning online (ILO) coursework. Sen. Horn expressed the need for careful implementation of online courses and testing.
- ARC 2862C No action on amendments to ch 62 regarding state standards for progression in reading.
- ARC 2854C No questions on proposed amendments to 12.8(1)“h” concerning the statewide science assessment.
- ARC 2852C Proposed ch 35 pertains to educational standards and program requirements for children’s residential facilities.
- Mr. Carroll introduced Mr. Smith, who stated that the purpose of the center that he founded is to provide Christian-based, affordable counseling, moral training, and education to children in grades K-12. Mr. Larsen requested clarification or confirmation or both from the department that the exemptions provided for in 2016 Iowa Acts, Senate File 2304, would apply to the center and that the center would not be required to meet the requirements of ch 35. Mr. Cranston described the accelerated Christian education (ACE) curriculum; cited Iowa Code sections exempting “religious education curricula at children’s residential facilities” from the standards of ch 35; and requested that the substance of an amendment to Senate File 2304, which passed in the House but failed in a conference committee, be reconsidered by the legislature in the current session.
- Sen. Chelgren informed the department that committee members are interested in the provisions of the Senate File 2304 which did not pass and that a session delay could be considered in order that a stand-alone bill might be introduced that would affect proposed ch 35.
- Ms. Williamson will provide the committee with a side-by-side comparison between proposed ch 35 and the provisions of Senate File 2304.

**MEDICINE BOARD** Mark Bowden and board chair Diane Clark represented the board.

- ARC 2860C Proposed amendments to ch 17 pertain to licensure of acupuncturists. Mr. Bowden introduced Ms. Clark, noting that she is the first nonphysician to chair the board in its 130-year history.
- In response to questions from Rep. Olson, Mr. Bowden stated that the inclusion of diagnostic and treatment modalities in rule provides the scope of practice for acupuncturists under the board’s purview; that, similar to other licensure boards, accreditation and certification of acupuncturists are provided by nationally recognized commissions; and that the amendments are satisfactory to interested parties and provide clarification related to changes in the practice of acupuncture.

**PROFESSIONAL LICENSURE DIVISION** Judy Manning, Susan Reynolds, Susan Koehler and John Aaronson represented the division. Other interested parties included Mark Bowden and Kent Nebel on behalf of the Medicine Board and Clare Kelly on behalf of the Iowa Medical Society (IMS).

- ARC 2845C No action on amendments to chs 31 and 32 pertaining to licensure and continuing education for marital and family therapists and mental health counselors.
- ARC 2857C No questions on proposed amendments to ch 41 regarding licensure of chiropractic physicians.
- ARC 2832C Proposed 327.8 pertains to a definition of physician supervision of a physician assistant.
- Ms. Koehler stated that the board of physician assistants (PA board) had received comments on Amended Notice of Intended Action ARC 2531C (IAB 5/11/16) regarding the PA board’s joint rule with the board of medicine (BOM). Ms. Koehler explained that the comments from stakeholders pertained to in-person visits and chart review that could have an administrative, cost, and jobs impact on stakeholders and affect the availability of health care to rural Iowans. Ms. Koehler stated that as a result of the comments, the PA board could not move forward with adoption of ARC 2531C and filed this second Amended Notice of Intended Action (ARC 2832C), which proposes a definition of physician supervision of a physician assistant.

## Professional Licensure Division (continued)

Regarding ARC 2832C, Ms. Koehler described the makeup and numbers of public commenters who responded in writing and those who attended the public hearing held earlier on January 6, 2017. She distributed copies of the written comment from the Federal Trade Commission (FTC) and an information bulletin regarding current PA board rules. She stated that the PA board will continue to work with the BOM to jointly adopt the definition of physician supervision required by 2015 Iowa Acts, Senate File 505.

Committee members inquired about the proposed rule, specifically, in-person visits and chart review and related issues, including complaints; the current status of the joint rule making; and a way forward regarding the joint rule making by the BOM and the PA board.

Regarding 327.8(1) in ARC 2832C, Rep. Pettengill asked what provision in Iowa Code chapter 148C speaks to the physical presence of the supervising physician at the site where medical services are provided. Rep. Pettengill also inquired about the basis for the PA board's opposition to the BOM rule (Adopted and Filed ARC 2532C, IAB 5/11/16, effective 6/15/16). Rep. Pettengill stated that in a call to follow up on FTC feedback, she explained that the legislature had health and safety concerns and wanted supervising physicians to have input regarding requirements for in-person visits of physician assistants and that she had explained to the FTC that, contrary to the implication of the FTC's feedback and that of stakeholders reviewed by the FTC, components of the BOM rule were taken from existing PA board rules and do not require 2 additional annual in-person visits but instead reduce from 26 to 2 the number of annual in-person visits. Rep. Pettengill asked Ms. Koehler whether stakeholders who commented about duplicative requirements and additional costs thought 2 in-person visits would be added to the current 26. Rep. Pettengill also inquired about how stakeholders interpreted the chart review requirements. Rep. Jones questioned the purpose for involvement by the FTC.

In response, Ms. Koehler agreed to provide information regarding the reference in 327.8(1) to Iowa Code chapter 148C, which does not make reference to a visit by a supervising physician to a remote medical site at least every two weeks. Ms. Koehler explained that the PA board had solicited input, including a survey on jobs impact, from stakeholders across the state and from national organizations and had received cost impact statements from several organizations, including the University of Iowa. Ms. Koehler stated that the rule-making process had caused confusion about the interpretation of the in-person visit requirement. She stated, however, that the BOM rule requires 2 annual in-person visits at every medical site, whereas the existing PA board rules require an in-person visit every 2 weeks at remote medical sites. In reference to the comment from the FTC, she stated that stakeholders requested more information about a ruling by the U.S. Supreme Court in 2015, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, which addressed the nature of anticompetitive practices about which stakeholders had concerns related to the rule. Ms. Koehler stated that, as the board chair, she felt a responsibility to assist stakeholders and contacted the FTC about any interest it might have in examining the issue. According to Ms. Koehler, though she expected that the FTC would not be interested, the FTC did respond to the inquiry. Regarding chart review, Ms. Koehler stated that the current PA board rules do not mandate chart review or specific performance review requirements but that the concern with the BOM rule is not only the 2 in-person visits but also chart review requirements that exceed those of current PA board rules and place an administrative and cost burden on physicians and physician organizations. Ms. Koehler stated that a variety of methods are used by PAs in conducting chart review and that larger organizations questioned the physician-physician assistant chart review requirements.

Professional Licensure Division (continued)

Mr. Aaronson responded by providing an account of PA board rule makings related to in-person supervision. He explained that in response to ARC 2531C, stakeholders had expressed concern that many job opportunities for physician assistants in the state were being pushed back in favor of nurse practitioners, who are not subject to the same supervision requirement. Though he agreed that physician assistants must practice under supervising physicians, he stated that supervision should be determined at the local level and that telemedicine should be approved as equivalent to in-person supervision of a physician assistant. He added that the BOM rule has unintended consequences regarding in-person supervision and chart review, such as added costs, which the stakeholders from the University of Iowa had noted, and a reduction in job opportunities for physician assistants. Mr. Aaronson stated that based on his recollection from comments by University of Iowa stakeholders, the chart review requirements were thought to be added to existing requirements.

Sen. Chelgren followed up by seeking information from the BOM regarding in-person visits and chart review. Regarding the number of required in-person visits, Mr. Nebel stated that in the agreement between the subcommittees of the boards, the current PA board rules would be amended to change 26 remote-site visits every other week to 2 in-person annual visits. Mr. Bowden stated that the studies conducted and the comments received by the PA board concerned rules from the early stages of the process that the BOM did not adopt, a source of confusion for stakeholders. Regarding chart review, Mr. Bowden explained that the current PA rule implies ongoing review such that every chart is not required to be reviewed but that some of the charts will be reviewed. The subcommittees, he explained, met and agreed to a compromise in which the joint rule would change ongoing review to a representative sample. The compromise, he continued, also determined that there shall be a supervising physician for every physician assistant.

Regarding complaints, Mr. Bowden stated that the BOM is not aware of the number of complaints received or investigations or peer reviews conducted by the PA board, but the BOM is informed of public actions taken. He also stated that the BOM receives complaints and refers complaints to the PA board and that the BOM investigates physicians for those complaints. Ms. Koehler stated that the PA board executive administers the complaint process, that founded complaints would be a matter of public record, and that questions regarding unfounded complaints and related issues would be referred to the board executive or the assistant attorney general.

A solution to the impasse was also discussed. Rep. Vander Linden expressed the opinion that the rule in ARC 2832C is unsatisfactory and suggested that if the process continues in this fashion, legislation may be proposed to dissolve the PA board. Rep. Olson suggested that Mr. Smith and the governor's office become involved in seeking a solution. Ms. Koehler stated that the two boards are closer to a solution than the boards realize and suggested outside mediation. Mr. Bowden noted that the PA board delayed action on the joint rule to solicit further public comment, which was fine, but he asserted that the PA board has abandoned the joint rule-making process and that the rule in ARC 2832C was not developed by joint rule making. He expressed the BOM's willingness to work with the governor's office, the committee and the legislature to provide appropriate legislation. Sen. Chelgren noted that at present the PA board is operating under existing rules and the BOM, under new rules, which has resulted in confusion. He suggested, and Mr. Aaronson stated his belief that the PA board would concur, that the boards would agree to 2 annual in-person visits between a supervising physician and physician assistant and that the supervising physician and physician assistant as a team would determine appropriate chart review. Sen. Chelgren asked the BOM and the PA board to formulate recommendations for legislation based on these two assumptions.



Professional Licensure Division (continued)

Ms. Kelly stated that IMS is on record in support of the PA board joint rule published as ARC 2417C, which was twice agreed to by both of the boards and represents reasonable, uniform minimum standards for appropriate supervision. She explained that at present the existence of two boards' rules cause confusion for physicians and clinic administrators unsure of the requirements for practice. She stated that IMS and organized medicine at the state and national levels generally support a collaborative, team-based care model to provide accessible, high-quality and safe care. However, she explained that often omitted in organized medicine at the national level are the following assertions regarding supervision of physician assistants: (1) the supervising physician has the ultimate responsibility for the care of the patient and the supervision of the physician assistant; (2) the supervising physician in collaboration with the physician assistant defines the role of the physician assistant in the practice, typically through a written delegation of practice or collaboration agreement, including responsibilities and oversight; and (3) physicians must be responsible and have authority for initiating and implementing quality control programs for nonphysicians delivering medical care in team-based practices.

Mr. Nebel followed Ms. Kelly's statements by asserting that physicians in Iowa are responsible for providing appropriate supervision of physician assistants but also that the standards and regulations for that supervision are controlled, enforced and waived by the PA board, not the BOM. He explained that the structure of the regulatory process needs to be examined, based on whether the physician or the physician assistant should control the supervisory rules. Rep. Pettengill stated that she has submitted a bill that would move the responsibility for supervision of physician assistants to the BOM through rule making.

**Committee business** The minutes of the December 13, 2016, meeting were approved.

The next meeting was scheduled for Friday, February 10, 2017, at 9 a.m.

Mr. Ewing discussed an updated summary of the LSA analysis of rule makings that implement bills enacted during the 2016 legislative session and noted the receipt of notifications by agencies to explain the reasons why the rule-making process regarding specific 2016 bills had not yet begun. Mr. Ewing explained that delayed rule making may reflect the need for nonsubstantive versus substantive amendments to the rules. Sen. Chelgren requested that the future summaries indicate this difference. Rep. Pettengill commended the work required to compile the summary.

At the request of Sen. Chelgren, Mr. Ewing agreed to contact Joe Royce, retired legal counsel to the committee, to address questions from the committee regarding the issues related to administrative rules.

Adjourned The meeting was adjourned at 2:20 p.m.

Respectfully submitted,

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Stephanie A. Hoff

APPROVED:

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Chair Wally Horn

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Vice Chair Dawn Pettengill