

**MINUTES OF THE JULY 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 Thursday, July 6, 2017, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative Dawn Pettengill, Chair; Senators Mark Costello, Wally Horn, Pam Jochum, and Jack Whitver; Representatives Megan Jones, Rick Olson, Art Staed, and Guy Vander Linden were present. Senator Mark Chelgren, Vice Chair, was 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 Rep. Pettengill convened the meeting at 9:05 a.m.

**Fiscal overview** Adam Broich presented the LSA fiscal report.

In response to a question from Sen. Horn regarding ARC 3087C, Mr. Broich stated that the purpose for the fee increase is to cover the cost of conducting the program. Regarding Notice ARC 3123C and Filed Emergency ARC 3124C, Rep. Pettengill commented on the difference between the estimated fiscal impact by the public safety department and by LSA and noted that the fiscal impact can be reexamined when ARC 3123C is Adopted and Filed.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.

ARC 3092C No action on amendments to ch 170 pertaining to the fee schedule for child care assistance and to job searches for new applicants.

ARC 3093C No action on amendments to ch 7 regarding appeals and hearings.

ARC 3094C No action on amendments to 75.1(39)“b”(3) pertaining to premiums for applicants and recipients under the Medicaid for employed people with disabilities (MEPD) program.

ARC 3095C No action on amendments to chs 109, 110 and 120 concerning child care and development block grant (CCDBG) reauthorization and first-aid/CPR training in child care settings.

ARC 3096C No action on 109.10(10), 110.8(1)“s” and 120.8(1)“p” regarding the reporting of serious injuries in child care settings.

**ADMINISTRATIVE SERVICES DEPARTMENT** Tami Wiencek and Susan Hemminger, assistant attorney general, represented the department. Other interested parties included Maj. Kathy Barton of the Iowa National Guard, Kaye Lozier on behalf of the Terrace Hill Commission, and Joe Happe on behalf of the Terrace Hill Society Foundation.

ARC 3115C No action on an amendment to 63.9 pertaining to military leave.

Maj. Barton confirmed for Rep. Pettengill that the amendment will create greater parity for other service members.

ARC 3113C Proposed amendments to ch 116 concern the Terrace Hill endowment for the musical arts (THEMA). Ms. Wiencek stated that the Terrace Hill commission (commission) has proposed the amendments to align and be consistent with Iowa Code section 8A.326, which was amended in 2013, and to reflect and clarify commission practice. Rep. Pettengill requested public comment.

Mr. Happe summarized the history of the involvement of the currently named Terrace Hill Society Foundation (society foundation) with Terrace Hill, beginning in the 1970s, and with THEMA. He stated that the society foundation paid for the restoration of the grand piano used for the piano competition. Mr. Happe expressed opposition to the amendments, which he characterized as part of a program of excluding citizen involvement in Terrace Hill and specifically with regard to THEMA. In response to a question from Sen. Jochum, he stated a specific objection to the amendments to 116.1, structure, and 116.4, funding, noting the striking of references to the society foundation in both rules and the insertion of references to the Terrace Hill partnership in 116.4.

Administrative Services Department (continued)

Ms. Lozier stated that the amendments are needed to update the name of the organization to its current name and to clarify the operating procedures for the THEMA competition. Ms. Lozier stated that the THEMA board of trustees, not the society foundation, operates the competition and did the fund-raising for the grand piano, which the society foundation supported. Regarding the governance of Terrace Hill, Ms. Lozier summarized the process by which the commission sought to provide a 28E agreement, pursuant to the 2013 legislation, that would be agreeable to the society foundation and to the commission but that the society foundation chose not to enter into the agreement. Ms. Lozier asserted that the society foundation is not being excluded by the commission but instead is choosing not to work with the commission or with the structure in place.

Rep. Staed inquired about whether the concerns regarding the amendments to 116.1 and 116.4 are the same concerns that prevented the commission and the society foundation from reaching an agreement. In response, Ms. Lozier stated that the issue is one of the autonomy of the commission related to the 2013 legislation, which clarified the role and authority of the commission, and that it is the view of the commission that a written agreement is needed to set forth how the commission will work with the society foundation. In response to a question from Rep. Pettengill, Mr. Happe explained that the society foundation did not enter into the 28E agreement because a provision in section 8.4 would have required that, upon termination of the 28E agreement, the society foundation would change its name, transfer title of all property at Terrace Hill mansion to the commission and/or to the state of Iowa, and turn over the principal of its foundation amounts to the state of Iowa. He explained that should the 28E agreement be terminated at any time, the society foundation would no longer remain in existence.

In the course of discussion, Rep. Vander Linden clarified for Mr. Happe that the committee is concerned only that the amendments to 116.1 and 116.4 comport with the Iowa Code and that if the Iowa Code needs to be changed, the society foundation may have a good case but it is a legislative issue.

Ms. Hemminger stated that the commission established the Terrace Hill partnership as a public nonprofit corporation after the commission was not able to reach agreement with the society foundation and that the amendments to the rules are consistent with statute. She also stated that the statute requires that the organizations with which the commission enters into contracts act solely for the purpose of supporting Terrace Hill. Ms. Hemminger added that the commission recently became aware that the society foundation amended its articles of incorporation such that if the corporation would dissolve for any reason, its assets could go to any charitable literary or educational purpose, one of which may be to provide resources for Terrace Hill.

Rep. Pettengill requested that to show that the rules are consistent with the Iowa Code, Ms. Hemminger provide the committee with a side-by-side comparison between the applicable Iowa Code section(s) and rules 116.1 and 116.4 and that Mr. Happe provide the committee with the names of the members of the private nonprofit Terrace Hill society foundation. Sen. Jochum asked that Ms. Lozier provide the committee with the names of the board of directors, the executive committee, and volunteers for the public nonprofit Terrace Hill partnership.

Rep. Pettengill expressed the hope that the commission can come to a resolution with the society foundation. Sen. Costello commended the piano competition.

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Margaret Thomson represented the department.

ARC 3091C No questions on proposed amendments to chs 36, 45, 63 and 68 regarding licensure of egg handlers, milk haulers, milk graders, bulk milk tankers, can milk truck bodies and pesticide dealers.

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

ARC 3086C No questions on proposed amendments to chs 1 to 3, 10 to 12, 20 to 22, 30, 40, 50, and 60 concerning the state soil and water quality committee, including a change in committee name, the definition of “edge-of-field practice,” and the mineral mining license renewal and fee.

ARC 3112C No questions on proposed amendments to ch 12 pertaining to water protection practices funds.

**INSURANCE DIVISION** Kim Cross and Jim Armstrong represented the division.

ARC 3144C No action on amendments to ch 96 pertaining to synthetic guaranteed investment contracts.

ARC 3145C No action on amendments to ch 98 concerning internal audit function requirements.

**UTILITIES DIVISION** Cecil Wright represented the division. Other interested parties included Tim Whipple on behalf of the Iowa Association of Municipal Utilities (IAMU).

ARC 3118C No questions on proposed ch 30, renewable energy percentage verification.

ARC 3119C Proposed amendments to ch 37 pertain to the equipment distribution program. In response to a question from Rep. Pettengill, Mr. Wright stated that through the dual party relay council, the board communicates with stakeholders that are interested in relay service and equipment distribution programs.

ARC 3120C Proposed amendments to ch 32 pertain to reorganization of public utilities.

Regarding Item 6, Mr. Wright stated that new 32.10 would require private water, sanitary sewer and storm water drainage utilities to notify the board about future acquisitions so that the board has necessary information to set rates when it receives rate cases. He explained that because ch 32 deals with natural gas and electric utilities, the board will instead propose a new rule in ch 21, which pertains to service supplied by water utilities.

Mr. Whipple stated that by proposing new 32.10, the board intends to force certain water, sewer, and storm water utilities to notify the board of transactions by the utilities and to disclose information about the transactions despite no legislation enacted to require such notification. He requested that the board withdraw Item 6 and agreed that placement of the new rule in ch 21, as Mr. Wright suggested, would be preferable. Mr. Whipple stated that though IAMU does not intend to dismiss the board’s legitimate role in protecting rate payers and consumers in transactions by utilities, IAMU would rather see a change through legislation than through rule making.

In response to a question from Rep. Olson, Mr. Whipple stated that 32.10 does not give the board authority to halt the purchase, sale or lease or other acquisition or disposition of a public utility, but that ch 32 implements subchapter XI of Iowa Code chapter 476, which provides the board authority over gas and electric utility reorganizations and grants the board authority to disapprove of transactions. Mr. Whipple added that IAMU does not believe that the subchapter grants the board any jurisdiction over water utilities. Mr. Whipple confirmed for Rep. Pettengill IAMU’s willingness to work with the board.

ARC 3121C No questions on proposed amendments to 16.6 and 16.7 pertaining to accounting.

ARC 3122C No questions on proposed amendments to ch 44 regarding certificates of franchise authority for cable and video service.

**PAROLE BOARD** Steve Clark represented the board.

ARC 3117C No questions on proposed amendments to chs 2 to 8, 11, and 14 to 16 pertaining to the review of rules, including the title of designated official, communication methods and interview proceedings, juveniles serving life sentences, hearings via videoconferencing, and parole.

**EDUCATION DEPARTMENT** Nicole Proesch, Melissa Walker, Thomas Mayes, Phil Wise and Jeremy Varner represented the department. Other interested parties included Sandra Miller on behalf of the Iowa Association for Career and Technical Education.

ARC 3087C Proposed amendments to ch 21 regard community colleges.

Education Department (continued)

Discussion pertained to the increase in the tuition fee, from \$85 to \$140, and in the administrative fee, from \$10 to \$15, for the state-mandated course for drinking drivers delivered by community colleges and other eligible private providers.

In response to questions from committee members, Mr. Varner explained that reports by providers of canceled sections of the course in rural areas due to low enrollment led the department to conduct an analysis of tuition and administrative fees and of the cost of offering the course, a review which had not been conducted in almost 15 years. He stated that the analysis included a comparison of the fees charged for other state-mandated courses, other noncredit offerings, and courses for drinking drivers in other states. The analysis of fees revealed that the existing tuition fees are well below those of other state-mandated courses and other noncredit offerings, and are, in fact, unsustainably low. Mr. Varner explained that the department analysis of the cost of the course had shown that the cost had increased and that enrollment was insufficient to recoup the increasing cost, even in larger institutions, resulting in cancellation of courses, which, in turn, restricts access to a state-mandated course by persons who need the course to maintain or recover their driver's licenses. Ms. Proesch clarified that with a tuition fee increase, the difference between the actual cost and the current tuition fee will be compensated and enrollment will be maintained, thereby providing access to the state-mandated course. Mr. Varner assured committee members who have concerns regarding the size of the increase in tuition and providers' potential profit that the department seeks to establish the lowest tuition fee necessary to offer the course and the lowest administrative fee necessary for the department to administer the course.

At the request of Rep. Olson, the department will provide the committee with the comparison used in the analysis of tuition fees.

ARC 3088C

Proposed amendments to chs 14 and 41 relate to school mental health services and to special education.

In response to a question from Rep. Pettengill regarding the definition of "health assessment," Mr. Mayes stated that data collection revolves around a specific student's health needs, and Ms. Walker added that the data collection is individualized to aid communication between the school nurse and the child's medical practitioner and to maintain continuity of care between the school and the home.

Rep. Jones questioned the absence of an impact on jobs given the need for special education teachers and inquired about consideration of practical experience as a qualification for licensure as a special education teacher. Ms. Proesch confirmed for Rep. Jones that the educational examiners board is charged with determining the qualifications of special education teachers.

ARC 3089C

Proposed amendments to ch 33 pertain to educating homeless youth and children.

In response to a question from Sen. Horn, Ms. Proesch stated that homelessness of youth and children varies by area of the state; that in Iowa, the number of homeless youth and children is underidentified and underreported; and that school district staff need improved training to properly identify homeless youth and children. Mr. Mayes added that there is not hard data regarding homeless youth and children in rural areas but that anecdotal data suggests that in all 99 counties, homelessness extends from urban to suburban areas and to rural areas.

Rep. Pettengill noted that tornadoes in her district caused 46 families to become homeless and to be dispersed to other school districts for lack of housing and expressed appreciation for tools and training provided by the department to assist school districts in addressing homelessness among youth and children.

Special Review

Amendments that rescinded chs 46 and 47 and adopted new ch 46 were published in the 2/15/17 IAB as ARC 2947C. Ch 46, which is intended to implement 2016 Iowa Acts, House File 2392, division II, establishes new standards for career and technical education (CTE), including requirements for CTE service areas, regional secondary CTE planning partnerships, career academies and regional centers.

## Education Department (continued)

At the March 10, 2017, meeting, the committee voted to impose a session delay on ARC 2947C in light of legislation then in process (2017 Iowa Acts, House File 648), which was intended to address agriculture teachers' concerns by allowing partnerships to expend funds on consumables. House File 648 passed in the House but not in the Senate and could still be enacted during the 2018 legislative session.

At the June 13, 2017, meeting, discussion pertained to the department's authority for implementation of the statute through guidance and to the allocation of funds to CTE programs while the rules are session-delayed. Committee members requested additional information regarding these issues, and the rule making was placed on the July agenda for special review.

Mr. Wise addressed the questions that remained after the June meeting. He stated that House File 2392, division II, is largely, though not altogether, a self-implementing statute, which is sufficiently comprehensive and detailed to allow implementation without administrative rules. Mr. Wise distributed a side-by-side comparison of House File 2392, division II, and new ch 46 to illustrate the similarity between the statute and the rules. He also noted that 2017 Iowa Acts, House File 564, which was enacted by the legislature, relates to the issuance of guidance by the department and that the issuance of guidance for the implementation of ch 46 is consistent with House File 564.

Mr. Wise explained that, in a few areas, ch 46 provides additional specificity regarding the allocation and use of CTE funds, as illustrated in a second side-by-side comparison of applicable financial components of the statute. He stated that the funds appropriated by the legislature, \$2.6 million, are required as the state match through the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Perkins Act). Mr. Wise explained that the statute states that the department must distribute those funds to the regional planning partnerships but does not specify a formula or a mechanism for the distribution of those funds. To equitably distribute the funds to the 15 already-established regional planning partnerships, he continued, the board determined that one-half of the total CTE funds would be allocated equally to each regional planning partnership and one-half of the total CTE funds would be allocated to the regional planning partnerships based on the number of students enrolled in an approved CTE program within that region. He stated that this distribution benefits rural districts.

Mr. Wise stated the four allowable uses for funds: to convene, lead, and staff regional CTE planning partnerships; to offer regional CTE professional development opportunities for CTE teachers; to coordinate and maintain a career guidance system; and to purchase equipment on behalf of school districts participating in CTE programs. In addressing the original concern regarding funds for consumables for vocational agriculture, Mr. Wise pointed out that 2017 Iowa Acts, House File 565, which was enacted by the legislature, allows a school district by resolution to create a flexibility account with four areas in that account to which unexpended and unencumbered funds may be transferred and, within those areas, House File 565 provides six uses for the flexibility account, including any school district general fund purpose such as vocational agriculture or FFA, or any of the other five CTE uses. Mr. Wise then discussed the provisions of 2017 Iowa Acts, House File 648, including the timing of the allocation of funds to the partnerships and the addition of consumables for any CTE program, and stated that the legislation would have had little impact on ch 46.

At the request of Rep. Pettengill, Mr. Ewing prepared a memorandum on the question of the department's implementation of 2016 Iowa Acts, House File 2392, division II, through guidance while the rule making is under a session delay. Following an analysis of House File 2392, division II, he explained that it is generally the case that a session delay imposed by the committee would prohibit an agency from implementing the policy carried out in the delayed rule making, in this case, ch 46, until the delay expires.

Education Department (continued)

However, Mr. Ewing stated that the specificity of the duties of the department and, in particular, the director of the department, in House File 2392, division II, combined with the June 30, 2017, deadline specified in House File 2392, division II, and the broad authority to interpret school laws accorded the director by House File 2392, division II, section 39, an argument may be made that the department be permitted to implement House File 2392, division II, through guidance until the department completes the rule-making requirements.

Rep. Pettengill questioned the department’s implementation of ch 46, specifically, the allocation of funds based on the specificity of the statute, when, at the same time, the statute does not specify a formula for allocation of the funds; asked whether 46.10(6)“b” applies to career pathways programs since grants for those programs could be more flexible if the requirements of the Perkins Act were not included in 46.10(6)“b”; and asked whether funds are being reimbursed at the end of the fiscal year or being disbursed in advance of the fiscal year.

In response, Mr. Wise acknowledged that the department and the committee disagree about whether the statute allows the department to determine a formula for the allocation of funds to the regional planning partnerships. Mr. Varner stated that funds disbursed through the Perkins Act must be expended pursuant to that Act’s requirements and that stakeholders had requested that the rules be the same for similar types of spending. He also stated that funds were disbursed at the end of the fiscal year just concluded. In response to a question from Sen. Costello, Mr. Wise stated that if House File 648 does pass in 2018, a fifth allowable use of funds, payment for consumables, would be added but that, at this time, the department would be exceeding its statutory authority if it allocated funds other than for the four currently specified uses. Mr. Varner added that the reports of negative impacts of the CTE rules on existing programs were empirically and anecdotally inaccurate.

Ms. Miller commended the collaboration among superintendents and other administrators in the distribution of resources for the regional planning partnerships and the implementation of CTE programs through staff participation in CTE conferences and student exploration of CTE career opportunities.

Motion to lift delay  
Motion failed

Sen. Jochum moved that the session delay be lifted.

On a roll call vote of 3 yes and 6 no, the motion failed.

In response to an inquiry from Rep. Pettengill regarding a petition for rule making recently received by the department, Mr. Wise stated that the department is in the process of responding to the petition, which pertains to ch 103, corporal punishment ban; restraint; physical confinement and detention, and he summarized the steps that the department will follow in the process of responding within 60 days of receipt of the petition as required by law.

**COLLEGE STUDENT AID COMMISSION** Julie Leeper represented the commission.

ARC 3125C No questions on proposed amendments to ch 8, all Iowa scholarship program, and the rescission of ch 9, all Iowa opportunity foster care grant program.

ARC 3126C No questions on proposed ch 11, Iowa tuition grant program—for-profit institutions.

**INSPECTIONS AND APPEALS DEPARTMENT** David Werning represented the department.

ARC 3109C No action on the ch 64 appendix, federal interpretive guidelines for facilities for the intellectually disabled.

ARC 3110C No questions on proposed amendments to 52.1 pertaining to the addition of personal degradation as a form of dependent adult abuse in facilities and programs.

Mr. Werning stated that as a result of public comment, the department will, when the amendments are Adopted and Filed, include in the definition of “personal degradation” what is not deemed to be personal degradation.

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT** John Benson represented the department.

ARC 3090C No questions on proposed amendments to ch 10 pertaining to 911 telephone systems.

## Homeland Security and Emergency Management Department (continued)

Mr. Benson explained that in paragraph “1” in the definition of “voice over internet protocol,” the conjunction “and” mirrors the statute but that the conjunction should be changed to “or” in the statute and the rule. He stated that the correction will be made in statute during the next legislative session and subsequently in the definition in 10.2.

ARC 3129C No questions on the proposed rescission of ch 13, community disaster grants.

**PUBLIC HEALTH DEPARTMENT** Susan Dixon, Kane Young and Ken Sharp represented the department.

ARC 3103C No action on amendments to 41.1 pertaining to handheld x-ray equipment for intraoral radiography.

ARC 3104C No action on amendments to 70.2 to 70.7 and 70.10(1) regarding lead-based paint activities. In response to questions from Rep. Pettengill, Mr. Young stated that for clarification of existing practice, “paint testing,” i.e., of existing paint, was added to the definition of “lead professional” and, for consistency with this definition, “renovation” was added to 70.3.

ARC 3105C No action on an amendment to 107.7(1) regarding the length of a contract related to the board-certified behavior analyst and board-certified assistant behavior analyst (BCBA/BCaBA) grants program.

ARC 3106C Amendments to ch 136 concern the trauma registry. Ms. Dixon summarized the amendments and the department’s response to committee members’ concerns regarding the Notice, including changes from the Notice.

Following Ms. Dixon’s summary, Rep. Jones expressed appreciation to the members of the department who had met with committee members regarding the amendments. However, Rep. Jones questioned the completeness of the rules and inquired about the following: the department’s maintenance of its exemption and the exemption of its programs from the provisions of the federal Health Insurance Portability and Accountability Act (HIPAA); in the definition of “trauma patient,” the removal of the existing code reference without the addition of an ICD-10 code reference; a specified format for the form referred to in 136.2(2); in 136.2(2)“b” and “c,” clarification of the internal reference to 136.2(1); clarification of “providers” in 136.2(3); in 136.2(6), clarification of whether “a patient medical record” or “the patient medical record” is intended and clarification of the identity of the department’s “authorized representative”; the rationale for the number of interested parties involved in an update of rules that pertain to compliance with already-established ICD-10 codes; and the nonparallel rule-making process related to the removal of EMS-specific administrative rules and their adoption elsewhere.

While acknowledging the changes that the department had made and stating that she would be comfortable moving forward with the Iowa Trauma Data Dictionary (data dictionary), Rep. Jones expressed concern about the incorrect references and the issues enumerated above, in particular, those related to data collection. Rep. Jones explained that during the 2017 session, a bill prohibiting the department from collecting names related to health data passed the House but not the Senate and that a session delay on this rule making would allow the issue to be addressed legislatively in 2018. She asserted that there is no reason to collect names within the data system and that a system that uses patient identification numbers rather than patient names should be advanced. Rep. Pettengill expressed concern that the public assumes protection of personal health data through HIPAA while unaware of the collection of data pursuant to this rule. In that light, she suggested that “authorized representative” be further defined as it pertains to quality assurance and to the protection of the public.

Motion to delay Rep. Jones moved a session delay on the rule making.

In response, Mr. Sharp addressed the issues cited as the basis for a session delay. Regarding the internal reference to 136.2(1) in 136.2(2)“b” and “c,” he stated that the citation is correct but the text could be revised in subsequent rule making to refer specifically to the data elements found in the data dictionary. Mr. Sharp explained that the term “authorized representative” refers to department staff, not to third-party individuals. He added that the EMS-specific rules would be promulgated within the next six months.

Public Health Department (continued)

Regarding a session delay, Mr. Sharp expressed concern about the unintended consequences for trauma center staff who daily refer to the data dictionary and for patient care and patient outcomes. He assured the committee that patient confidentiality is of the utmost importance to the department and that the department has an obligation to ensure the overall health and well-being of the public and improvement of public health through sound data. He explained that the department has had many conversations with the health care industry about the potential for eliminating the collection of names. Such a system, he continued, would necessitate the creation of a unique patient identifier to be carried and tracked, with difficulty and at a high cost, across various health systems, state lines, and international boundaries.

Mr. Sharp also addressed expectations for confidentiality for the department as a state agency. While he acknowledged the potential harm that can be perpetrated on data systems, he assured the committee of the extent of the department's data system protection. He explained that a patient's name and personal identifiers, including the patient's date of birth, ensure the best quality data, including the most accurate count and representation of traumatic injuries. Mr. Sharp stated that the department is willing to discuss other means for ensuring confidentiality in lieu of the name and date of birth, recognizing the cost and difficulty involved in the coordination of data systems.

Rep. Staed expressed opposition to a session delay. He stated that the rules should be moved forward and that additional restrictions on or responsibilities for the department should be addressed by the legislature.

Motion failed On a roll call vote of 5 yes and 4 no, the motion failed.

**NURSING BOARD** Kathy Weinberg and Jimmy Reyes represented the board.

ARC 3127C No questions on proposed amendments to ch 2 regarding nursing education programs.

**PHARMACY BOARD** Terry Witkowski and Jennifer Tiffany represented the board.

ARC 3099C No action on amendments to 2.6 regarding the reexamination waiting period for pharmacist licensure.

ARC 3100C No action on amendments to chs 10 and 100 pertaining to controlled substances and to the Iowa real-time electronic pseudoephedrine tracking system.

ARC 3101C No action on amendments to ch 11 concerning drugs in emergency medical service programs.

ARC 3102C No action on amendments to ch 37 regarding the Iowa prescription monitoring program (PMP).

In response to a question from Rep. Pettengill, Ms. Tiffany explained that a rule related to long-term care specifically allows pharmacies to dispense partial fills of Schedule II controlled substances. In response to an inquiry from Rep. Staed, Ms. Tiffany stated that only pharmacies are required to report to the PMP the dispensing of Schedule II to Schedule IV controlled substances and that the dispensing of controlled substances by practitioners from their office practices is not required to be reported to the PMP.

ARC 3133C No questions on the proposed rescission of ch 24, pharmacy Internet sites, and proposed amendments to chs 25 to 27, 29 and 31 pertaining to updates of name and contact information for the board and citations.

ARC 3134C No questions on proposed amendments to ch 34 concerning waivers and variances.

ARC 3135C No questions on proposed ch 35, contested cases, and ch 36, discipline.

Rep. Jones expressed appreciation regarding the use of "may" rather than "shall" in 35.27(1), failure to appear.

ARC 3136C No questions on proposed amendments to chs 7, 8, 21, 23 and 100 and adoption of ch 10 pertaining to controlled substances.

**LANDSCAPE ARCHITECTURAL EXAMINING BOARD** Jill Simbro and Vice Chair Jonathan Martin represented the board.

ARC 3097C No action on amendments to chs 1, 2 and 4, description of organization, examinations and licensing, and rules of professional conduct.



## Landscape Architectural Examining Board (continued)

Rep. Pettengill questioned the removal of a vote by a quorum from and the addition of a majority of board members to 1.2 in Item 2; in Item 9, the addition to 2.3 of a review of applications by the chairperson during the interval between board meetings; and the removal of consequences for “conduct involving fraud and the wanton disregard for the rights of others” from 4.1(6)“d” in Item 17. In response, Ms. Simbro stated that a majority of the seven-member board is a quorum. Mr. Martin stated that because the board meets four times each year, the board chairperson would approve applications during the interval between board meetings as long as there are no issues with the applications that require full board review. Ms. Simbro and Mr. Martin indicated that the consequences for unprofessional conduct would be handled by the board through the complaint process.

Rep. Pettengill, expressing concern for the protection of the public, requested that before the August meeting, the board explain whether the consequences of a licensee’s “conduct involving fraud and the wanton disregard for the rights of others” is addressed elsewhere in the rules; otherwise, the rule making will be subject to review at that meeting.

**REVENUE DEPARTMENT** Jane (JJ) Severson, Julie Roisen and Matt Bishop represented the department.

ARC 3107C No action on an amendment to 71.5 pertaining to valuation of commercial real estate. In response to inquiries from Reps. Pettengill and Vander Linden, Ms. Severson explained that the amendment to 71.5, which was noticed before the enactment of a 2017 amendment to Iowa Code section 441.21, is supported by the amended statute, in that, as Ms. Roisen further explained, owner-occupied sales, income, expenses and revenues and other financial data cannot be used to value real property at the local level.

ARC 3146C No action on amendments to 68.2(1) concerning the excise tax rate on motor fuels. In response to a question from Rep. Pettengill regarding the fiscal impact to the road use fund, Mr. Bishop stated that the revised fiscal impact presented at the May meeting had not changed.

**TRANSPORTATION DEPARTMENT** Christopher Little, Tim McClung and Craig Markley represented the department.

ARC 3108C No action on amendments to chs 405 and 450 related to salvage and to motor vehicle equipment.

ARC 3128C No questions on proposed amendments to ch 720 and 750 pertaining to registration of Iowa airports and aircraft.

ARC 3130C No questions on proposed amendments to ch 132, Iowa scenic byway program.

ARC 3131C No questions on proposed amendments to ch 163, RISE program.

ARC 3132C No questions on proposed amendments to ch 165, recreational trails program.

**NATURAL RESOURCE COMMISSION** Chris Ensminger represented the commission.

ARC 3098C No action on amendments to chs 91, 97 and 102 regarding waterfowl, coot and dove hunting, and falconry. This rule making was reviewed at the June meeting; however, further committee review was requested regarding the content of public comment.

In response to an inquiry from Rep. Pettengill, Mr. Ensminger summarized the content of the 43 public comments: 25 comments indicated opposition to and 7 comments indicated support for the addition of straight wall cartridge rifles as legal firearms; 5 comments indicated support if conditions were placed on the use of this type of rifle, such as limiting the round capacity (3 comments), eliminating semiautomatic rifles (1 comment), and allowing for additional calibers (1 comment). He noted that the 5 remaining comments varied from banning party hunting to reducing deer harvest quotas. In conclusion, Mr. Ensminger stated that pursuant to statute, there is no option to remove the straight wall cartridge rifle from the list of legal firearms.

**WORKFORCE DEVELOPMENT DEPARTMENT** David Steen and Emily Chafa represented the department.

ARC 3114C No questions on proposed amendments to chs 22, 24 and 25 regarding employer reports, claims, benefits, and benefit payment control.

ARC 3116C No action on amendments to chs 22 and 24 pertaining to employer records and reports, claims, and benefits.

Workforce Development Department (continued)

ARC 3137C No questions on proposed amendments to chs 26 regarding unemployment appeal hearings and updates related to technology.

ARC 3138C No questions on proposed amendments to chs 1, 22 and 24 pertaining to procedures for department interaction with employers and claimants.

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

ARC 3124C No action on ch 265, consumer fireworks sales licensing and safety standards. Ms. Edmondson distributed a pictorial summary of the fireworks licensing program and provided an overview of the development and execution of the licensing and safety standards. She also discussed the department’s goals for streamlining and further refining the process and noted that suggestions from public comments received in writing and at the September 9, 2017, public hearing in response to the Notice of Intended Action (ARC 3123C) will be considered and perhaps incorporated in the Adopted and Filed follow-up to the Emergency rule making.

Sen. Jochum commended the department for its hard work in quickly and efficiently implementing the licensing and related tasks.

**Committee business** The minutes of the June 13, 2017, meeting were approved.

The next meeting was scheduled for Friday, August 4, 2017, at 9 a.m.

Rep. Jones updated the committee regarding the status of rule making by four agencies to implement bills enacted during the 2016 General Assembly.

Rep. Pettengill requested that at the August meeting, Mr. Ewing and Mr. Reilly provide the committee with guidance, which would be shared with the committee members’ colleagues in the legislature, regarding the drafting of legislation to ensure that the intention for its implementation is clearly stated.

Adjourned The meeting was adjourned at 1:25 p.m.

Respectfully submitted,

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Stephanie A. Hoff

APPROVED:

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Chair Dawn Pettengill

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Vice Chair Mark Chelgren