

**MINUTES OF THE SEPTEMBER 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 Tuesday, September 12, 2017, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative Dawn Pettengill, Chair, and Senator Mark Chelgren, Vice Chair; Senators Mark Costello, Wally Horn, Pam Jochum, and Jack Whitver; Representatives Megan Jones, Bruce Hunter, Rick Olson, and Guy Vander Linden were present. Representative Art Staed was not present. Representative Hunter substituted for Representative Staed.
- 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 9:10 a.m.
- Fiscal overview** Christin Mechler presented the LSA fiscal report. In response to a question about ARC 3293C from Sen. Chelgren, Ms. Mechler clarified that the savings to the general fund are estimated to be \$10 million in both FY 2018 and FY 2019.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Wendy Rickman and Debbie Johnson represented the department.
- Committee review of emergency rule making** Pursuant to 2017 Iowa Acts, House File 653, the department presented notice of its intention to propose under Notice of Intended Action and simultaneously to adopt by Emergency the rule makings listed below related to Medicaid. In the interest of full disclosure and for review as a courtesy to the committee, the department presented the first two rule makings for review and presented the third rule making for mandatory review. (Note: Rule reference numbers shown were assigned by the department for purposes of review and discussion.)
- 18-033 Pursuant to division XX, section 93, of the Act, amendments to ch 79 allow Medicaid providers, in addition to providing narrative documentation, to provide documentation of service in a checkbox form format.
- 18-031 Pursuant to division XIX, sections 90 and 91, of the Act, amendments to chs 75 and 76 implement the removal of references to the Iowa family planning network waiver from the rules.
- In response to questions from Rep. Hunter, Ms. Freudenberg stated that the October 1, 2017, effective date is found in the legislation, that all providers must reapply to participate in the family planning network and that providers of abortions cannot apply. Ms. Rickman added that the structure of the program is the same as that under the waiver but that providers must attest that they do not provide abortions. Ms. Rickman also explained the department's plan for tracking access to services for the purpose of comparing access under the waiver with that under the new state program. Ms. Freudenberg stated that public comment will be solicited through the Notice of Intended Action.
- In response to questions from Sen. Jochum, who commended the data tracking, Ms. Rickman explained the anticipated information to be contributed by the participant entities, including the department, the department of public health, the Family Planning Council task force and Right to Life, and the entities' agreement on and review of common data on an ongoing basis.
- Sen. Jochum requested that the department add to the data tracking the number of providers in relationship to overall capacity. Ms. Rickman confirmed for Sen. Chelgren that the category of ultrasounds will continue to be tracked.
- 18-029 Pursuant to division V, section 12(15)(a)(7), of the Act, amendments to chs 74 to 76 implement the elimination of the three-month retroactive benefit provisions for initial applications and for applications to add new household members.

Human Services Department (continued)

- Discussion pertained to the promulgation of rules prior to the approval of a waiver by CMS, the meaning of three-month retroactive eligibility and the projected fiscal impact of the removal of this eligibility on members and on providers, in particular, hospitals and nursing homes. Ms. Rickman explained that the rules need to be in place in anticipation of the approval of the waiver; that retroactive eligibility, that is, eligibility retroactive to the first of the month of application, would remain in place but that eligibility retroactive to three months prior to the month of application would be eliminated; that the department is confident that the savings to the state projected in the fiscal impact statement of House File 653 would materialize, though the impact is complicated by federal match; and that because providers could potentially need to absorb costs if the savings to the state materialize as projected, some providers could go out of business.
- ARC 3259C Proposed amendments to 52.1(3) and 54.3 pertain to annual cost reports and the cost reimbursement methodology related to residential care facilities (RCFs). In response to a question from Rep. Pettengill, Ms. Johnson explained that because the department has found the reimbursement rate for most facilities to be above \$30 for room and board and general supervision, there was no longer a need to require cost reports and that the result is greater efficiency for the Iowa Medicaid enterprise (IME) and for providers.
- ARC 3260C No questions on proposed amendments to 152.1, 156.12 and 202.9 regarding supervised apartment living (SAL) related to foster care.
- ARC 3292C No action on amendments to 79.1(2) and the adoption of 79.1(7)“d” regarding the Medicaid anesthesia conversion factor.
- ARC 3293C No action on an amendment to 79.1(5)“f”(3) pertaining to Medicaid diagnostic related group (DRG) costs.
- ARC 3294C No action on the adoption of 79.1(7)“b” concerning the Medicaid site of service differential for physician services in facilities.
- ARC 3295C No action on amendments to 79.1(7)“c” regarding Medicaid primary care physician rates.
- ARC 3296C No action on amendments to 79.1(22) and 80.2(2)“h” pertaining to Medicaid reimbursement for Medicare Part A and Part B crossover claims.

**ADMINISTRATIVE SERVICES DEPARTMENT** Tami Wiencek represented the department.

- ARC 3262C Amendments to ch 116 concern the Terrace Hill endowment for the musical arts (THEMA). Ms. Wiencek summarized the purpose for the amendments.
- Rep. Jones stated that the piano competition may be well-intended and serve a solid purpose. However, she questioned whether the statutory authority of and purpose for the Terrace Hill Commission, pursuant to Iowa Code section 8A.326, allows the Commission authority for THEMA.
- Motion to delay Rep. Jones moved a session delay on ARC 3262C.
- Motion carried On a unanimous roll call vote, the motion carried.
- Rep. Pettengill expressed the hope that the matter can be resolved during the 2018 legislative session.
- ARC 3287C No action on amendments to 100.1 and 100.2 regarding capitol complex operations.

**INSURANCE DIVISION** Doug Ommen represented the division.

- ARC 3281C No action on ch 82, Iowa stopgap measure.
- Mr. Ommen explained that the adoption of the rules in ch 82 is required by the Centers for Medicaid and Medicare Services (CMS) as a part of a waiver application by the state of Iowa under Section 1332 of the Patient Protection and Affordable Care Act (ACA). He stated that the division submitted the waiver application to the federal government on August 21, 2017. He summarized the effect on premiums for Iowans in the individual insurance market who are above 400 percent of the federal poverty level given the average 56.7 percent increase in Medica’s 2018 rates over its 2017 rates in response to the uncertainty at the federal level concerning cost-sharing reduction subsidies.

## Insurance Division (continued)

In response to an inquiry from Rep. Pettengill, Mr. Ommen stated that he is a lot less optimistic than he was three weeks ago that the waiver will be approved but that he is still hopeful that it will be approved and that the division is still working with CMS. He stated that until CMS denies the waiver, the division will move forward as if the waiver has been approved. In response to a question from Rep. Hunter about an alternative plan, Mr. Ommen explained the consequences of uncertainty at the federal level and its effects on the individual insurance market.

**Committee review of emergency rule making** Mr. Ommen presented to the committee for approval notice of the division's intention to propose under Notice of Intended Action and simultaneously to adopt by Emergency a rule making to add to ch 82 rules that address the administration and implementation of a stopgap measure intended to cover the implementation of the reinsurance program; a per-member, per-month premium credit mechanism through the Iowa Comprehensive Health Association; and the establishment of standardized health benefits to be sold under current law but to comply with the federal requirements for essential health benefits.

Motion to approve Rep. Vander Linden moved approval of the emergency rule making.

Motion carried On a unanimous roll call vote, the motion carried.

In response to a question from Rep. Pettengill, Mr. Ommen explained that Wellmark did submit rates in June 2017 to participate in non-ACA plans and has submitted rates under the stopgap measure along with Medica.

Sen. Chelgren commended the division for its work on the waiver application.

**PAROLE BOARD** Steven Clarke represented the board.

ARC 3297C No action on amendments to chs 2 to 8, 10, 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.

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

ARC 3256C No questions on proposed ch 45, community catalyst building remediation program.

ARC 3268C Proposed amendments to ch 7 pertain to the Iowa jobs training program.

In response to questions from Rep. Pettengill, Ms. Hanks-Bents will consult the program manager regarding the basis for the changes in 7.9(1)"a" and 7.9(5).

**IOWA FINANCE AUTHORITY** Mark Thompson and Amber Lewis represented the authority.

ARC 3272C No questions on proposed amendments to ch 24 pertaining to the home and community-based services rent subsidy program.

ARC 3273C No questions on proposed amendments to ch 27 regarding the military service member home ownership assistance program.

ARC 3274C No questions on proposed amendments to ch 39 concerning the HOME investment partnerships program.

ARC 3275C Proposed amendments to ch 41 pertain to the shelter assistance fund.

In response to questions from Rep. Pettengill, Ms. Lewis stated that 16 shelters are applicants for funds this year and that all shelters must have written operating policies, including those related to providing security for participants.

Rep. Pettengill requested that safety be emphasized to prospective shelter applicants during the application process.

ARC 3276C No questions on proposed amendments to ch 42 regarding the emergency solutions grant program.

**EDUCATION DEPARTMENT** Phil Wise, Tom Cooley, Marietta Rives, Nicole Proesch, Jeremy Varner, Sandy Johnson and Dave Tilley represented the department.

ARC 3270C Proposed amendments to ch 98 pertain to financial management of categorical funding.

In response to a question from Rep. Pettengill, Mr. Cooley stated that in Item 13, the language of 98.45(1)"g" is intended to specify that consistent with the legislation, early literacy program funding can be used to pay for the early warning assessment.

ARC 3271C No questions on proposed amendments to ch 83 regarding the teacher quality program.

Education Department (continued)

- ARC 3288C No action on amendments to ch 21 regarding community colleges.
- ARC 3289C No action on amendments to ch 33 pertaining to educating homeless youth and children.  
In response to a question from Sen. Jochum, Ms. Johnson stated that statewide there are approximately 7,000 known homeless students from prekindergarten through grade 12, that the number of homeless students is underreported, and that larger numbers of homeless students reside in urban areas.
- ARC 3290C No action on amendments to 61.3 concerning the voluntary implementation of the intensive summer literacy program.
- ARC 3291C No action on amendments to ch 62 regarding state standards for progression in reading.  
In response to questions from Sen. Jochum, Mr. Tilley stated that no students were enrolled in the program because it was repealed before it was implemented and that the department projected 20 percent of third graders, that is, thousands of students, might have been enrolled in the program.  
Mr. Wise explained that the legislation stated that even though districts are not required to provide an intensive summer reading program and even though students who are not proficient are not required to be retained in third grade, school districts are required to provide programming for all students who are not proficient in reading until they are proficient. In response to a question from Sen. Jochum, Mr. Wise stated that because there was no categorical appropriation for this purpose, funding would need to come from the general fund.

**ENVIRONMENTAL PROTECTION COMMISSION** Christine Paulson, Jim McGraw and Kelli Book represented the commission.

- ARC 3251C This Amended Notice of Intended Action extended the public comment period to and added a public hearing on September 5, 2017, about proposed amendments to 22.1(3) and 22.105(1) pertaining to air quality, specifically, the permit application process. In a summary of the amendments, Ms. Paulson explained the disapproval, based on signature authentication issues, by the U.S. Environmental Protection Agency (EPA) of the portions of the amendments allowing for submittal by e-mail of a construction permit application or a Title V Operating Permit application. Ms. Paulson stated that the department is working on an electronic system that would allow for submission of the two types of permit applications and would be compliant with the federal Cross-Media Electronic Reporting Rule (CROMERR).  
Sen. Chelgren suggested that the department consult with the secretary of state or the department of transportation regarding a signature verification process. Following Ms. Paulson's explanation of the positive jobs impact of the amendments, Rep. Pettengill stated that departments overall need to implement the 2017 legislation regarding the requirements for a jobs impact analysis.

- ARC 3257C Proposed amendments to 65.16(3)"b" pertain to electronic submittal of manure management plan updates and associated fees.  
In response to a request from Rep. Pettengill, Ms. Book will provide the committee with the complete jobs impact statement.

**NATURAL RESOURCE COMMISSION** Joe Larscheid represented the commission.

- ARC 3279C Proposed amendments to 44.2, 44.4 and 81.2 pertain to paddlefish fishing and to bass fishing tournaments.  
In response to questions from Sen. Chelgren regarding the definition of "fishing tournament," Mr. Larscheid explained that the change from "and" to "or" takes into account the variety of fishing tournaments for which a permit is not required. Sen. Chelgren questioned the change, noting that the definition could be clarified by removing the option of charging an entry fee.

**RACING AND GAMING COMMISSION** Brian Ohorilko represented the commission.

- ARC 3255C No questions on proposed amendments to 5.4(12) and 10.7(1)"k" regarding problem gambling policies and procedures and racehorse medications.

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE**

James Gastineau represented the board.

ARC 3267C No questions on the proposed rescissions of chs 5, 6, 10, 12 and 14 pertaining to the environmental protection charge (EPC), the insurance fund and the aboveground petroleum storage tank fund.

**PROFESSIONAL LICENSURE DIVISION** Judy Manning represented the division.

ARC 3221C No questions on proposed amendments to chs 200 and 206 regarding licensure of physical therapists and physical therapist assistants and occupational therapists and occupational therapy assistants.

ARC 3223C No questions on proposed amendments to 180.2(1) and 182.3 pertaining to optometrists, specifically, application for licensure and contact lens and spectacle lens prescriptions.

**DENTAL BOARD** Jill Stuecker and Phil McCollum represented the board.

ARC 3252C No questions on proposed amendments to chs 11, 12 and 15 regarding an alternative examination for licensure of dentists and dental hygienists.

ARC 3253C No questions on proposed amendments to 10.3 and 10.4 pertaining to the provision of educational services by a dental hygienist without the supervision of a licensed dentist.

ARC 3261C Proposed amendments to 29.1 and 29.3 to 29.5 pertain to sedation and nitrous oxide inhalation analgesia.

In response to a question from Rep. Hunter, Mr. McCollum explained that in the definition of "hospitalization," the word "clinic" refers to a medical clinic into which a person is admitted and hospitalized.

**REVENUE DEPARTMENT** Alana Stamas and Jessica Norris represented the department.

ARC 3284C Proposed amendments to 46.3(3) concern an extension of the deadline for the electronic filing of W-2 and 1099 forms by businesses.

In response to a question from Sen. Jochum, Ms. Stamas explained that the extension of the phase-in for electronic filing will allow more than 21,000 employers to have more time to set up their systems and will allow the department more time to provide new technology for small employers that do not use payroll management companies.

ARC 3285C Proposed amendments to ch 126 pertain to the property assessment appeal board.

In response to an inquiry from Rep. Pettengill, Ms. Norris stated that after the September 19, 2017, comment period closes, the board will address comments received in a letter from county assessors along with all other public comment.

**TRANSPORTATION DEPARTMENT** Mike Harvey, Craig Markley and Stuart Anderson represented the department.

ARC 3269C No questions on proposed amendments to ch 180 pertaining to the public improvement quotation process for governmental entities.

ARC 3298C No action on amendments to ch 132, Iowa scenic byway program.

ARC 3299C No action on amendments to ch 163, RISE program.

In response to an inquiry from Sen. Costello, Mr. Markley explained the focus on the tourism component of the program for statewide impact on job creation. In response to a question from Rep. Pettengill, Mr. Markley stated, in reference to the jobs impact statement, that the amendments to the rules themselves do not have an impact on jobs.

ARC 3300C No action on amendments to ch 165, recreational trails program.

ARC 3301C No action on amendments to chs 720 and 750 pertaining to registration of Iowa airports and aircraft.

**WORKFORCE DEVELOPMENT DEPARTMENT** David Steen and Nick Olivencia represented the department. Other interested parties included Jason Shanks on behalf of the Plumbers and Steamfitters Local 33, Patrick Wells on behalf of the International Brotherhood of Electrical Workers (IBEW) Local 347, Sandra Conlon on behalf of the Associated Builders and Contractors of Iowa (ABC), Kevin Hilton on behalf of the Carpenters Local 106, Brian Johnson on behalf of the Iowa chapter of the National Electrical Contractors Association (NECA) and the Mechanical Contractors Association of Iowa, and Lynn Pickard on behalf of the Iowa Laborers Education and Training Fund.

ARC 3250C Proposed amendments to chs 22 to 24 pertain to employer records, reports, contribution and charges; claims; and benefits.

In response to a question from Rep. Pettengill, Mr. Steen explained that because the term “report” suggests a paper document or form to be completed and returned by an employer, the department has substituted as a term of art “contribution and payroll” to clarify for employers the information to be filed in the electronic system.

ARC 3254C No questions on proposed amendments to chs 23 and 25 regarding employer contribution and charges and cash value of room and board.

ARC 3265C No action on amendments to chs 1, 22 and 24 pertaining to procedures for department interaction with employers and claimants.

ARC 3266C No action on amendments to ch 26 regarding unemployment appeal hearings and updates related to technology.

ARC 3280C Proposed amendments to chs 23 and 24 pertain to employer contribution and charges and to claims and benefits.

Discussion among committee members pertained to 24.39, department-approved training. Mr. Olivencia explained that department-approved training is intended to allow for unemployed individuals to return to the labor market after vocational training while being paid unemployment insurance benefits. He stated that proposed 24.39 makes more specific the requirements in the existing rule regarding department-approved training to ensure compliance with the Iowa Code and explained that the payout of unemployment benefits for individuals in department-approved training without charge to the employer has not changed.

Mr. Olivencia explained that during the recession, existing rule 24.39 was implemented with greater flexibility for individuals who were laid off and needed to return to school and that the flexibility was extended to other training programs, including apprenticeships. In a review of seven years of payouts from the unemployment trust fund, Mr. Olivencia explained, the department found that tens of millions of dollars had been paid out without premiums being paid by employers on behalf of those accounts and that unemployment dollars had been paid out to apprentices who were not unemployed. Mr. Olivencia explained that in August 2017, the department sent a decision letter to partner contractors stating that effective October 1, 2017, apprenticeship programs will no longer be under department-approved training, noting that apprentices are eligible for regular unemployment.

Mr. Olivencia explained that the publication of proposed 24.39 and the issuance of the decision letter had overlapped and lead to public comment from stakeholders about proposed 24.39, though the decision letter sets forth the change in policy.

Mr. Shanks expressed concern that the proposed rule may adversely affect partnerships with contractors, the Governor’s plan to attract and train more skilled workers, and recruitment of potential trainees. He also expressed the hope that all department-approved training programs will include all apprenticeship training programs in which the state invests annually under Iowa Code chapter 15B unless the rule should apply only to training not defined in chapter 15B. Mr. Shanks expressed a willingness to work with the department to attract more skilled workers to the labor force consistent with chapter 15B. Mr. Wells, in expressing opposition to the proposed rule, stated that the rule will make recruitment of skilled electricians more difficult, is inconsistent with the Governor’s goal to build a skilled workforce, and will negatively affect the state by reducing the workforce. He expressed a willingness to work with the department to address these concerns.

## Workforce Development Department (continued)

Ms. Conlon stated that based on conversations with the department, ABC understands the change in policy and that the department's decision complies with existing statute and rule. She expressed the opinion that the program, as it has been implemented, violates federal law and suggested that the costs could be charged back to the employer or the employer could pay the hourly rate to the trainee to avoid an increase in tax rates. Mr. Hilton stated the belief that discussion with and involvement of stakeholders is important prior to any change which could be unduly harmful to persons involved in programs, and he discussed the benefits of apprenticeships, which contribute to economic and workforce development. Mr. Johnson commended day schools over weekend and night schools and the department's commitment to find solutions that include day schools and expressed a willingness to work with all parties to finding solutions. Mr. Pickard stated that unemployment dollars support recruitment and initial training and enable trainees to find new career pathways.

Discussion also included proposed solutions for contractors who participate in the apprenticeship program. Mr. Olivencia suggested that apprentices, instead of doing a one-week training, could work for three days and attend two days of training since most apprentices' pay for three days of work would yield more pay than they would receive in unemployment. Mr. Olivencia suggested that additional solutions could be explored and invited interested parties to suggest ways that training could be changed that would be positive for contractors. Sen. Chelgren suggested legislative solutions related to a separate fund for apprenticeship programs and other monetary changes.

Mr. Olivencia agreed to provide the following information at the request of Rep. Hunter and Sen. Chelgren: documentation of the millions of dollars paid out of the unemployment trust fund for the apprenticeship program and the number of programs currently supported by the department that are affected by the requirement that training be completed 104 weeks or less from the start date.

ARC 3303C

No action on amendments to chs 22 to 25 pertaining to procedures for department interaction with employers and claimants and to updates related to technology.

In response to a question from Rep. Jones, Mr. Steen confirmed that the purging of uncollectible overpayments as set forth in 25.8(3) is standard practice across state agencies.

**PUBLIC EMPLOYMENT RELATIONS BOARD** Diana Machir represented the board.

ARC 3278C

No action on amendments to chs 1, 2, 4, 6 to 8, 11 and 16 and the adoption of ch 5 pertaining to public sector collective bargaining. Ms. Machir stated that the board has received no new public comments since the adoption of the amendments.

**MEDICINE BOARD** Mark Bowden and Kent Nebel represented the board. Other interested parties included Sandi Conlin on behalf of the Iowa Medical Society, Tom Cope and James Earel on behalf of the Iowa Physician Assistant Society, and Adam Peer on behalf of the American Academy of Physician Assistants (AAPA).

ARC 3258C

No questions on proposed amendments to ch 8 pertaining to fees.

ARC 3264C

No action on amendments to ch 21 regarding physician supervision of a physician assistant, specifically, a new requirement that a physician is ineligible to supervise a physician assistant if the physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician. Mr. Nebel introduced the rule making, and Mr. Bowden distributed and reviewed a summary of the rules, frequently asked questions (FAQs), training schedule, and sample supervisory agreements to be released by the board on September 15, 2017.

Ms. Conlin expressed support for the amendments, noting changes from the Notice in the areas of chart review and face-to-face meetings, and explained the importance of the supervisory agreement in ensuring, in writing, that the supervising physician accepts the responsibility for delegation of services to a physician assistant.

Medicine Board (continued)

Mr. Cope expressed appreciation for the changes from the Notice that resulted from public comment. However, he expressed concern about the effect of the supervisory agreement on the willingness of physicians to supervise physician assistants as time goes on because, in his opinion, a technical violation of the supervisory agreement could lead to disciplinary action against a supervising physician, and related to that idea, he expressed concern about the apparent inconsistency between the second sentence of Iowa Code section 148.13(1) and rule 21.4. Mr. Earel stated that physician assistants do not disagree on principle with supervisory agreements but expressed concern that the requirements of the supervisory agreement will make the decision to hire physician assistants more difficult for physicians, especially in rural areas. He added that physicians may instead hire advanced registered nurse practitioners (ARNPs) because they have independent practice. Mr. Earel also questioned the consistency between Iowa Code sections 148.13(2) and 148.13(3) and the rules.

Mr. Peer concurred with concerns already stated by Mr. Cope and Mr. Earel. In addition, he stated that the rules contain outdated provisions that are burdensome for physician assistants and physicians and that require unnecessary paperwork and duplicative oversight, both of which take time away from patient care.

In response to a question from Rep. Hunter, Mr. Nebel stated that no particular supervisory agreement is assigned and that the agreement may be modified by the supervising physician and physician assistant. In response to a question from Sen. Jochum, Mr. Nebel requested additional time to address the inconsistency, noted by Mr. Cope, between the second sentence of Iowa Code section 148.13(1) and rule 21.4. In addition, Sen. Chelgren requested that the board review Iowa Code section 148.13(1) in its entirety regarding the eligibility of a physician to supervise a physician assistant.

**VOTER REGISTRATION COMMISSION** Carol Olson and Dawn Williams represented the commission.

ARC 3283C

Proposed amendments to chs 2, 3, 5 and 7 pertain to voter registration, status, lists of registered voters and election registers. Ms. Olson summarized the amendments and distributed a draft voter acknowledgment card to be sent to all voters with driver's licenses or nonoperator's identification cards and a draft voter identification card to be sent to persons without driver's licenses or nonoperator's identification cards.

In response to a question from Sen. Jochum, Ms. Olson stated that the provisions in in 2.8(3) in Item 1 refer only to voter registration forms that are used by state voter registration agencies and would not preclude a nonprofit like the League of Women Voters from downloading a voter registration form. In response to questions from Rep. Hunter, Ms. Olson explained that the voter registration form is used by state public assistance agencies to offer applicants for state services the opportunity to register to vote, that already-registered applicants may decline the opportunity to update registration information, that registering to vote through a state agency is only one of several ways to register and one way does not preclude another, and that there is no cost to the applicant/registrant.

**SECRETARY OF STATE** Carol Olson and Dawn Williams represented the secretary of state.

ARC 3282C

Proposed amendments to chs 21, 22, 26 and 28 pertain to election administration, voting, and voter identification and registration.

Ms. Olson introduced the amendments as part of the tiered implementation of 2017 Iowa Acts, House File 516, and Ms. Williams summarized the amendments.

In response to questions from Rep. Hunter, Ms. Williams agreed to check into the difference in the interpretation of 21.3(2)“a” caused by the use of “and” instead of “or” in the citation to Iowa Code section 48A.7A and House File 516, and she confirmed that 21.3(6) does not allow a poll worker to inquire about a voter's medical condition. Ms. Olson explained the process for checking the felon database in a county that does not have poll books and agreed to check with legal counsel about the statutory authority of the commissioner to dismiss complaints.



Secretary of State (continued)

In 21.306, related to verification of a voter’s identity, Rep. Hunter questioned the meaning and application of the phrase “at least” in the phrase “at least two of the following facts about the voter.” He stated that every voter statewide should be asked the same number of questions, no matter the required number, and that, in any case, “at least” should be removed so that there is no perceived, if not actual, discrimination against any voter. Sen. Costello interpreted the phrase to mean that a voter should be asked a sufficient number of questions until two questions are answered correctly. Ms. Williams agreed to review the issue.

**Committee business**

The minutes of the August 4, 2017, meeting were approved.

The next meeting was scheduled for Tuesday, October 10, 2017, at 9 a.m.

In response to a request by committee members at the August meeting, Mr. Ewing reached out to two state government organizations to inquire about whether other states define guidance and how they deal with guidance. He summarized the relevant options from seven or eight states that responded to the inquiry: written guidance is required to be filed in a public index, online or with the rules committee; the rules committee directs the adoption of guidance as a rule; limited public input about guidance is allowed; and the rules committee more closely scrutinizes agencies whose rules are based on guidance. Mr. Ewing stated that he will revisit the topic next month after receipt of additional responses.

Adjourned

The meeting was adjourned at 3:10 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