

**MINUTES OF THE JANUARY 2018 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 5, 2018, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative Dawn Pettengill, Chair, and Senator Mark Chelgren, Vice Chair; Senators Jim Carlin, Mark Costello, and Pam Jochum; Representatives Megan Jones, Amy Nielsen, Rick Olson, and Guy Vander Linden were present. Senator Wally Horn was not present.
- Also present: Jack Ewing and Amber Shanahan-Fricke, 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. Rep. Pettengill welcomed Sen. Jim Carlin to the committee.
- Fiscal overview** Christin Mechler presented the LSA fiscal report. Also representing the LSA fiscal services division were fiscal analysts Jess Benson, Ron Robinson and Jennifer Acton.  
 Regarding ARC 3549C: Mr. Benson presented an updated final savings estimate related to retroactive eligibility for Medicaid applicants, which estimate does not include pregnant women, infants under the age of one or postpartum women up to 60 days but does include long-term care facility residents. Rep. Pettengill stated that additional questions would be asked during review of the rule making.  
 Regarding ARC 3529C: In response to a question from Rep. Pettengill, Mr. Robinson stated that the Department deposits assessments in the penalty and interest fund and that the deposited funds are discretionary.  
 Regarding ARC 3537C: In response to a question from Sen. Chelgren, Ms. Acton offered to provide the percentage of the total dollar amount that is attributed to fraud.
- NATURAL RESOURCE COMMISSION** Dale Garner and Tamara McIntosh represented the commission.
- Special Review Sen. Chelgren stated that he requested a special review of ch 94, nonresident deer hunting, because constituents had expressed concern related to the rules for party hunting, specifically whether tags are being commingled by parties that consist of resident and nonresident hunters. Sen. Chelgren asked whether the department has the same concern and whether the law needs to be clarified to mirror realistic practices in the field.  
 Mr. Garner, while stating that the law is sufficient if hunters obey it, explained that pursuant to ch 94 and to ch 106, resident deer hunting, it is illegal for a hunter to have in the hunter’s possession another person’s deer tag and that, pursuant to ch 94, party tagging is illegal during nonresident deer season. Mr. Garner stated that violations require enforcement by an officer who is physically present and explained that, because of the reduction in the number of officers in the field, enforcement is more difficult. Mr. Garner also addressed illegal distribution of tags by outfitters and the requirement that officers annually receive department approval of any outside employment, e.g., hunting-related work.  
 Sen. Chelgren requested that as the legislative session progresses, the department keep him apprised of any modifications to the law that might be warranted.
- ENVIRONMENTAL PROTECTION COMMISSION** Christine Paulson represented the commission.
- ARC 3520C No questions on proposed amendments to chs 20, 22, 23, 25, 30, 33 and 34 regarding air quality.  
 Rep. Pettengill commended the thorough jobs impact statement.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Wendy Rickman and Deb Johnson represented the department. Other interested parties included Shelly Chandler on behalf of the Iowa Association of Community Providers.
- Committee review of emergency rule making** Ms. Freudenberg presented to the committee a rule making that is permitted to be filed emergency after committee review pursuant to 2017 Iowa Acts, House File 653, section 32.

Human Services Department (continued)

- Ms. Freudenberg explained that the rule making, which amends chs 51 and 52, will implement cost-of-living adjustment (COLA) increases to the income limits and benefit amounts for several state supplementary assistance (SSA) categories. In addition, she stated that the rule making will implement the changed personal needs allowance for residential care facility (RCF) assistance and family-life home (FLH) assistance. There were no questions concerning the rule making.
- ARC 3493C No action on 75.21 concerning the health insurance premium payment (HIPP) program.  
In response to questions from Sen. Chelgren, Ms. Freudenberg stated that the health insurance premium rate would remain the same and that the department will provide the committee with information regarding the HIPP program test for cost-effectiveness prior to and after January 2018 and the aggregate cost.
- ARC 3494C No action on amendments to chs 77 to 80 regarding qualified Medicare beneficiary (QMB) providers and HIPP providers under Medicaid.
- ARC 3495C No action on amendments to ch 155, child abuse prevention program.
- ARC 3514C No questions on proposed amendments to 73.12(2) regarding revised federal standards for the resolution of appeals to managed care organizations.
- ARC 3515C A proposed amendment to 119.1 requires background checks on any employee with access to federal tax information used for department purposes.  
In response to a question from Sen. Chelgren, Ms. Freudenberg stated that current employees will also be subject to background checks and that the department will defer to the employee handbook to address the results of background checks.
- ARC 3546C No questions on proposed amendments to ch 167 concerning procedures to be followed by juvenile detention facilities that seek annual cost reimbursement.
- ARC 3547C This rule making pertains to the termination of proposed amendments to 109.10(17), 110.8(1)“t,” and 120.8(1)“q,” regarding weapons present in child care settings. Ms. Freudenberg explained that the department is terminating Notice ARC 3437C (IAB 11/8/17) and will work with the Governor’s office and stakeholders to discuss revisions to the rules or possible legislation.  
Rep. Olson asked whether a question about the presence of weapons might be added to the application completed by child development homes and licensed child care centers. Ms. Rickman stated that disclosure of the presence of weapons will be part of the department’s discussion with stakeholders and that she will verify for the committee the legality of the presence of a loaded weapon in any person’s home. Mr. Smith added that according to the criminal code, a person cannot have ammunition or weapons in a place where they can reasonably be accessed by minors.
- ARC 3548C No action on amendments to 74.1 concerning the Iowa health and wellness plan.
- ARC 3550C No action on amendments to chs 75 and 76 pertaining to family planning services.
- ARC 3552C No action on amendments to ch 78 regarding home-delivered meals under the HCBS waiver.
- ARC 3553C No action on an amendment to 78.36(4)“b”(1) pertaining to a Medicare election of hospice benefits.
- ARC 3554C No action on amendments to 79.3(2) regarding alternative means for providing documentation of services by Medicaid providers.
- ARC 3555C No action on amendments to 109.1 pertaining to allowable exemptions from licensing requirements for child care centers.
- ARC 3556C No action on amendments to chs 109, 110 and 120 regarding child care settings, specifically, sleep practices, professional development training, and the definition of “relative.”
- ARC 3551C No action on amendments to chs 77 to 79 regarding crisis response services and subacute mental health services.
- ARC 3549C No action on amendments to chs 74 to 76 concerning the elimination of the three-month retroactive Medicaid coverage benefit provisions for initial applications and applications to add new household members.  
Ms. Freudenberg reviewed the history of the rule making, stating that the waiver requested by the department originally applied to all coverage groups and was approved by the Centers for Medicaid and Medicare Services with the exception of pregnant women, infants up to age one, and postpartum women up to 60 days.

## Human Services Department (continued)

Ms. Freudenberg explained that the amendments and the cost estimates had been revised to reflect the exceptions to the waiver and that comments reflected concerns about the consequences for members during the retroactive period and whether the estimate of the costs is correct.

Reps. Nielsen and Jones requested that the department initiate a meeting with representatives of the Iowa Health Care Association, as had been assumed to be agreed to at the November meeting, to discuss the differences in the cost estimates. Rep. Nielsen requested to be included in the invitation to a meeting with the Association and the department.

Sen. Chelgren affirmed the department's required adherence to the legislation as explained by Ms. Freudenberg in response to his hypothetical end-of-month emergency room scenario and its negative outcome for a member and provider, but he concluded that the legislation needs to be changed to address such consequences. In addition, at Sen. Chelgren's request, Ms. Rickman agreed to provide information about the cost savings if coverage were made available for children from 1 to 18 years of age.

ARC 3481C

No action on amendments to 78.41, 79.1, and 83.67(4)“i” pertaining to a tiered-rate reimbursement methodology for supported community living (SCL), day habilitation, and adult day care services under the HCBS intellectual disability waiver.

Ms. Freudenberg explained the tiered-rate methodology for SCL and for day habilitation and adult day care services and the associated reimbursement, which is based on the identified acuity level derived from the results of the Supports Intensity Scale (SIS) core standardized assessment. She stated that the tiered-rate methodology will be cost-neutral to the department and will assign a standardized service rate based on member need rather than the current methodology of services reimbursement based on provider costs, noting that some providers will experience increased revenues while other providers will experience decreased revenues.

Ms. Chandler expressed concern regarding the phased-in approach, which includes SCL but not day habilitation and adult day care services; the inclusion of transportation services; the implementation of the SIS assessment, including issues related to its accuracy, timely reporting of results and requests for reconsideration; and the underfunding of the waiver.

In response to an inquiry from Rep. Pettengill, Ms. Johnson explained that the department analyzed the providers' revenue and is phasing in the tiered rates to balance providers' revenues until full implementation of the phase-in. Ms. Johnson added that because fewer members were receiving day habilitation and adult day care services, SCL is being phased in but that if, upon reconsideration, phase-in for day habilitation and adult day care services is warranted, individual situations can be revisited. In response to questions from Sen. Costello regarding transportation, Ms. Johnson stated that there are two types of transportation services groups: stand-alone service and service that is allowable in SCL. She explained that since 50 percent of providers had some role in transportation provided, the department placed all of the funding in SCL. Ms. Chandler concurred with that percentage but explained differences in the purposes for transportation that should be considered and stated that 75 of 110 providers are affected by the change.

**PUBLIC HEALTH DEPARTMENT** Susan Dixon and Dennis Klein represented the department.

ARC 3519C

Proposed amendments to ch 3 pertain to newborn testing for cytomegalovirus.

In response to questions from Rep. Jones, Ms. Dixon agreed to provide the committee with the following information: data regarding identification of children tested for congenital cytomegalovirus (CMV), parents who refused testing, and with whom the data is shared; a copy of the form for parental refusal of testing; and the policy for the duration of the storage of forms. Rep. Pettengill suggested that the provider present a recommendation to parents regarding the testing instead of involvement by the department.

ARC 3499C

No action on an amendment to 126.3(1) regarding an increase in the autopsy fee by the state medical examiner.

Public Health Department (continued)

Ms. Dixon stated that the amendment changes the autopsy fee from \$1400 to \$1900, effective July 1, 2018, to cover the increased cost of medical supplies, personnel, information management, and maintaining accreditation with the National Association of Medical Examiners. She explained that the base autopsy fee is retained by the office of the state medical examiner and is applied toward provision of forensic pathology and investigation services.

Discussion pertained to the fee increase and issues related to autopsies.

Mr. Klein explained that the fee increase will enable the office to sustain its funding and services in the wake of an increased caseload and of a decrease in staff as a result of the April 2016 retirement of one of four pathologists. He noted that last year his office performed 860 autopsies, each at a total cost of \$2,800, and he outlined the annual operating budget of \$3 million as follows: \$822,000 from the general fund; \$3 per death certificate or \$400,000; and the remainder based on fees for service charged back to counties that request autopsies. Mr. Klein stated that only a state medical examiner, a county medical examiner, or a county attorney has the legal authority to order an autopsy and that county law enforcement may call the state medical examiner, who may order an autopsy, depending on the circumstances of the case. He also explained that his office may only perform state-authorized forensic autopsies and that the authority to perform private autopsies would require legislation.

Rep. Jones expressed appreciation for the change in the effective date of the amendment. However, she and Rep. Pettengill suggested that to meet expenses, efficiencies should be found and that the department should seek an increased appropriation rather than an increase in fees. In reference to a question from Rep. Nielsen regarding the jobs impact statement, Mr. Klein stated that the hiring of a fourth pathologist will fill a vacant position, not create a new job. In response to questions from Rep. Olson, Mr. Klein stated that the budget of the Polk County medical examiner is \$1.5 million and that last year, 160 autopsies were performed by that office. Rep. Olson suggested that given the respective budgets and caseloads of the offices of the state medical examiner and the Polk County medical examiner, a statewide formula for raising pay and meeting expenses could be considered.

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

- ARC 3478C No questions on proposed amendments to 2.5 regarding department organization.
- ARC 3479C No questions on the proposed rescission of 8.6(10)“c” regarding restrictions on visits by a certified volunteer long-term care ombudsman in compliance with federal law.
- ARC 3485C No action on 23.7(5) and 23.7(6) pertaining to training requirements for options counselors.  
In response to an inquiry from Rep. Pettengill, Mr. Majeski explained that options counselors should be knowledgeable about financial and related matters in order to identify a client’s needs and to bring in appropriate experts to address those needs. He added that the department is working to enable the options counselors in all area agencies on aging to serve their respective counties in a standardized manner.
- ARC 3484C No action on an amendment to 22.5 concerning the staffing ratio for substitute decision makers.

**INSURANCE DIVISION** Bob Koppin represented the division.

- ARC 3496C No action on ch 112, term and universal life insurance reserve financing.

**WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION** David Steen and Ben Humphrey represented the division.

- ARC 3480C No questions on proposed amendments to chs 1 and 6 pertaining to the workforce development board and regional advisory boards.

**WORKFORCE DEVELOPMENT DEPARTMENT** David Steen and Ben Humphrey represented the department.

- ARC 3521C No questions on proposed 24.2(1)“e” pertaining to an update of the reporting requirements for claimants during a continued claim.
- ARC 3530C No action on 26.13, subpoenas for witnesses and documents.

Workforce Development Department (continued)

- Rep. Jones stated that she will forward to the department questions recently received by the committee from Mr. Steven Bowman, and Mr. Steen stated that the department will respond to the questions.
- ARC 3529C Amendments to chs 22 and 23 pertain to employer records, reports, contribution and charges, specifically, to fees and the collection of covered unemployment compensation. Mr. Steen stated that the department had determined the requirement set forth in 22.9(3) in Item 1 regarding penalties for employers related to registration for unemployment insurance would best be pursued through legislation. He stated that 22.9(3) should not have been adopted and requested that an action be taken to delay its effectiveness. Rep. Pettengill stated that a motion for a session delay on Item 1 would be needed.
- Motion to delay Sen. Chelgren moved a session delay on Item 1.  
 Motion carried On a voice vote of eight to zero, the motion carried. [Note: Because the committee voted to impose the session delay prior to the beginning of the 2018 General Assembly, the delay extends to the end of the 2018 session.]
- ARC 3522C Proposed amendments to chs 23 to 25 pertain to taxable wages, employer penalties, claims, and federal payment offset.  
 Mr. Steen stated that 23.60(8) and 23.60(9) in Items 2 and 3 will not be adopted because the department has determined that these requirements would best be pursued through legislation.  
 In response to a question from Rep. Pettengill regarding 24.3, Mr. Steen stated that the presentation of multiple social security numbers by a claimant will trigger an investigation of that person’s identity. In response to a question from Sen. Chelgren, Mr. Steen stated that procedures are in place for cross checking addresses and that payment of out-of-state claims will be delayed in order to first investigate claimants’ identities. In response to questions from Rep. Nielsen regarding 23.6(2)“a,” Mr. Steen explained that once the employer provides documentation of exact wages, benefits will be paid to the claimant based on that information. He added that the department will address in legislation how best to address the hardship on employers that are unable to provide documentation to the department electronically.  
 Mr. Steen stated that the goal is to protect the trust fund first and, after proper verification of documentation, to make timely payments.
- ARC 3562C No action on amendments to chs 23 and 24 pertaining to employer contribution and charges and to claims and benefits.

**IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM** Donna Mueller represented IPERS.

- ARC 3537C Proposed amendments to chs 1 to 5, 11 and 31 pertain to the organization, investment board, benefits advisory committee, protection occupations, employers, and benefits.  
 In response to a question from Sen. Chelgren regarding 11.7(5)“b” in Item 17, Ms. Mueller explained that, upon the advice from the tax counsel, the interest charged on an overpayment should be tied to the investment return assumption, which is now 7.0 percent. In response to a question from Sen. Costello, Ms. Mueller summarized the process by which the investment return assumption is determined by the actuary based on the information from experience studies and stated that, based on the advice of the actuary and investment consultants, the investment board adopted the 7.0 percent investment return assumption. In response to questions from Rep. Pettengill, Ms. Mueller stated that in 2.1 in Item 2, the statement that the board may take up matters not included on the agenda is being removed because IPERS believes the provision is not in compliance with the open meetings law. In addition, in regard to 5.3 in Item 14, Ms. Mueller stated that “any” is being changed to “the same” to clarify that dual coverage is not allowed for the same position for the same employer.

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

- ARC 3531C No questions on the proposed rescission of chs 100 and 101 or on proposed amendments to chs 102 and 103 pertaining to the transfer of duties from the Iowa emergency response commission to the department.

**UTILITIES DIVISION** Matt Oetker represented the division.

- ARC 3502C No questions on proposed amendments to ch 3 regarding rule making.
- ARC 3538C No questions on proposed amendments to 15.1 and 15.10 pertaining to cogeneration and small power production.

**DENTAL BOARD** Jill Stuecker and Christel Braness represented the board.

- ARC 3477C No questions on proposed amendments to 11.8 and 20.18 regarding review of applications for license, permit, registration or qualification.
- ARC 3487C No action on 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 3488C No action on amendments to chs 11, 12 and 15 regarding an alternative examination for licensure of dentists and dental hygienists.
- In response to questions from Sen. Chelgren, Ms. Stuecker stated that the 2014 California portfolio examination, an alternative examination for students at the University of Iowa, is used in California, Colorado and now in Iowa at no cost to the state of Iowa. In response to a question from Rep. Pettengill, Ms. Braness stated that the service charge for paying fees online is 3 percent of the fee amount. Ms. Stuecker added that to avoid payment of a service charge, licensees may submit applications online and send a check or money order to pay the fee.
- ARC 3489C No action on amendments to chs 14 and 20 and the adoption of ch 25 pertaining to licensure and registration, specifically, renewal, reinstatement, dental assisting and continuing education.
- In response to questions from Sen. Carlin, Ms. Stuecker stated that dental assistants are required to complete 20 continuing education hours for registration renewal every two years and that dentists and hygienists are required to complete 30 hours of continuing education for license renewal every two years. Ms. Stuecker stated that a license may remain inactive indefinitely, and Ms. Braness explained that dental assistants must complete 30 hours for reactivation or reinstatement of a registration (a reduction from 50 hours) and dentists and hygienists must complete 75 hours for reactivation or reinstatement of a license.
- ARC 3490C No action on amendments to ch 15 pertaining to fees. Ms. Stuecker noted that based on comments from Rep. Pettengill when the Notice was reviewed, the definition of “fee” was revised to state that overpayment of any fee will result in the return of the original request and payment with a clarification of the total amount due.
- ARC 3491C No action on amendments to 29.1 and 29.3 to 29.5 regarding sedation and nitrous oxide inhalation analgesia.

**PHARMACY BOARD** Sue Mears and Andrew Funk represented the board.

- ARC 3505C No questions on proposed 10.38(3) and amendments to 37.3(3) and 37.4(9) regarding cannabidiol investigational products and the Iowa prescription monitoring program. Rep. Pettengill thanked the board for the change in 37.3(3) from “at least weekly” to “next business day” regarding records of each reportable prescription dispensed.
- ARC 3506C No questions on proposed amendments to chs 1, 3 to 5, 10, 17, 19 and 41 pertaining to imitation controlled substances.
- ARC 3507C No questions on proposed amendments to 11.3(1) to remove the requirement that service programs obtain Drug Enforcement Administration registration.
- ARC 3508C A proposed amendment to 13.8(7) pertains to the functions of a pharmacy support person.
- In response to a question from Sen. Chelgren, Mr. Funk explained that the change in policy allows a registered pharmacy support person from a managing telepharmacy to engage in delivery activities outside a telepharmacy site.
- ARC 3509C Proposed amendments to chs 4, 8, 13, 18 and 19 and proposed ch 39 pertain to expanded practice standards.
- In response to questions from Rep. Pettengill, Mr. Funk stated that in Item 11, the stricken language in 8.11 is replaced by the stipulations of the federal laws cited in 8.11(2)“a”(3). Mr. Funk concurred with Rep. Pettengill that the definition of “confidential information” in 8.16(1) in Item 17 should be retained, and Ms. Mears stated that confidential information is shared only with the provider, the pharmacy and the insurance company.
- ARC 3510C No questions on proposed 22.6, repackaging of VA medications.

## Pharmacy Board (continued)

- ARC 3511C No questions on proposed amendments to chs 10 and 23 pertaining to care facility pharmacy practice.
- ARC 3512C No questions on proposed amendments to ch 18 regarding centralized prescription filling and processing.  
In response to a question from Sen. Costello, Mr. Funk explained that in Item 3, 18.10(1)“c” is being removed because the requirement for verification of licenses and registrations is found elsewhere in the board’s rules.
- ARC 3525C No action on amendments to 16.1 to 16.4, 16.6 and 16.8 concerning nuclear pharmacy practice.

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

- ARC 3526C No action on amendments to ch 205 related to the adoption by reference of the 2012 life safety code.
- ARC 3545C Proposed ch 211 pertains to carbon monoxide alarms.  
In response to questions from Sens. Chelgren and Costello and Rep. Pettengill, Ms. Edmondson stated that because the statute provides for both civil and criminal penalties for noncompliance, the rules do not duplicate the statutory provisions. Ms. Edmondson explained in general the installation and placement of carbon monoxide alarms based on the type of heat source and noted that 211.11 explains in which buildings the installation of carbon monoxide alarms is required. Ms. Edmondson stated that the public will be informed of the requirements on the department’s website and by fire services.

**REVENUE DEPARTMENT** Tim Reilly represented the department.

- ARC 3527C No action on amendments to 43.4 regarding optional designations of funds by taxpayers.
- ARC 3542C Proposed amendments to 40.53, 41.5(18) and 53.21 pertain to deductions for contributions to the Iowa education savings plan trust.  
In response to a request from Rep. Pettengill, Mr. Reilly stated that a link to the treasurer of state’s rule regarding definitions and other information about establishing college savings Iowa accounts can be added to the introductory paragraph of 40.53.

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

- ARC 3518C No questions on a proposed amendment to 2.3 pertaining to the addition of a sunset provision related to the fee increase to fund the technology modernization fund.  
Rep. Pettengill expressed thanks for the clarification related to payment of services provided by the secretary of state.

**TRANSPORTATION DEPARTMENT** Robert Younie, Andy Lewis, Melissa Spiegel, Kristin Haar and Dave Lorenzen represented the department.

- ARC 3561C No action on amendments to chs 105 and 106 and the rescission of ch 123 pertaining to holiday rest stops and rest areas and to the rest area sponsorship program.
- ARC 3501C No action on amendments to ch 150 regarding improvements and maintenance on primary road extensions.
- ARC 3513C Proposed amendments to ch 425 pertain to motor vehicle and travel trailer dealers, manufacturers, distributors and wholesalers.  
In response to questions from Sen. Chelgren, Mr. Lewis explained the definition of “community” as it applies to display-only permits and to full (offer for sale) permits and the differences between these two types of permits; that display-only permits do not allow for the sale of vehicles; and that the amendments do not extend beyond the provisions of the statute, which limits “community” to the dealer’s community for purposes of the full permit. Mr. Lewis suggested that whether the definition of “community” limits potential competition might be addressed by the Iowa Automobile Dealers Association.
- ARC 3532C No questions on proposed amendments to ch 607 regarding the period of validity for a commercial learner’s permit.
- ARC 3533C No questions on proposed amendments to ch 910 pertaining to coordination of public transit services.

Transportation Department (continued)

- ARC 3534C No questions on proposed amendments to ch 911 concerning school transportation services provided by regional transit systems.
- ARC 3536C No questions on proposed amendments to ch 922 regarding federal transit assistance.
- ARC 3535C No questions on proposed amendments to ch 923 pertaining to the capital match revolving loan fund.
- ARC 3483C No action on amendments to 520.8 concerning the planting and harvesting period. Ms. Spiegel stated that six parties from the trucking industry requested an oral presentation to express support for taking advantage of the existing federal hours-of-service exemption for agricultural hauling and commodities. In response to questions from Rep Pettengill, Mr. Lorenzen stated that the average cost per vehicle for an electronic logging device is estimated to be anywhere from \$700 or \$800 to several thousand dollars depending on the vendor and the system. In addition, he explained that the time frame for the implementation of the requirements is difficult to determine, noting that all information about the requirements has been removed from the Federal Motor Carrier Administration website. He explained that in the meantime, the department is recommending that no out-of-service enforcement action be taken until after April; that if an inspection shows that the required electronic logging device has not been installed, the violation will be noted but no penalty will be assessed against the carrier; and that the department will likely not write citations until July 1, 2018. In addition, Ms. Spiegel stated that the industrywide regulations became effective December 18, 2017, and that a 90-day delay for enforcement of regulations related to agricultural commodities was effective December 20, 2017.

**COLLEGE STUDENT AID COMMISSION** Julie Leeper, who announced her retirement, and Todd Brown represented the commission.

- ARC 3516C Proposed amendments to 1.2(3) pertain to commission meetings and affirmative votes. In response to questions from Reps. Jones and Pettengill and Sen. Chelgren, Mr. Brown stated that the amendments reflect changes made to the commission's bylaws. He clarified that half of the commission's regular meetings are in person and that half of the regular meetings and any special meetings are telephonic. He added that regarding the tabulation of voice votes, silence indicates a yes vote, and an abstention may be changed to a no vote if the no vote is registered with the secretary in writing by the end of the meeting. In response to questions from Sen. Chelgren, Mr. Brown stated that, to his knowledge, no per diem is paid for telephonic meetings, and Ms. Leeper stated that per diem is authorized by the commission and paid from the operating fund for operating expenses. Mr. Brown will provide the committee with the per diem cost allowances for commission board meetings and the per diem and travel costs reimbursed per meeting. Sen. Chelgren expressed concern regarding an unlimited number of meetings and the rules for voting and suggested that the commission consider quarterly meetings with two quarterly floating dates for special meetings. Ms. Leeper agreed to take the suggestions to the commission board.
- ARC 3517C Proposed amendments to 37.4 and 37.5(1) pertain to student loan debt collection. In response to questions from Reps. Jones, Pettengill, Olson and Nielsen and Sen. Chelgren, Ms. Leeper explained that 20 years ago the commission purchased the loans for approximately 30 cents on the dollar from the entities that originally made the loans and that the current principal and interest to be collected total about \$15 million. She added that any amount collected is above the commission's original purchase price but that, because the commission does not have the authority to write off loans, it must continue to collect on the loans. Mr. Brown stated that no former third-party debt collectors rebid on the request for proposal but that the department of revenue agreed to collect the debt, keeping a portion of the loans collected, recouping its costs on the amounts collected, and reimbursing the commission for additional amounts. Mr. Brown also explained that the commission does not have reciprocity for debt collection with other states. Mr. Brown will provide the committee with the percentage of collections to be retained by the department of revenue.



## College Student Aid Commission (continued)

- Rep. Pettengill expressed the opinion that the department of revenue should not collect private loan debt and that perhaps the legislature should address the issue.
- ARC 3540C Proposed amendments to 21.15 pertain to criteria for participation in a commission-approved interstate reciprocity agreement.
- In response to questions from Rep. Jones, Mr. Brown explained that the same criteria are reviewed for a school seeking to participate or to renew participation in a commission-approved interstate reciprocity agreement; that all private schools must have recent, official financial responsibility composite scores; and that 21.15(3) to 21.15(5) make consistent the refund calculation for students who enroll in nonpublic applicant schools and in for-profit applicant schools.

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

- ARC 3503C No questions on proposed amendments to chs 71 to 73 regarding wind tower lifts, wind turbine tower elevators and updates of references to ASME codes.
- ARC 3504C No questions on proposed amendments to chs 81 to 85, 90, 91 and 93 pertaining to boilers and pressure vessels.
- ARC 3539C No questions on proposed amendments to ch 61 regarding amusement rides and devices, specifically, operator requirements and inspections and payments.
- ARC 3557C No action on amendments to ch 3 pertaining to the OSHA civil penalty structure.

**WORKERS' COMPENSATION DIVISION** Heather Palmer represented the division.

- ARC 3528C No action on amendments to chs 1 to 6, 8 and 12 pertaining to evaluation of permanent impairments, vocational training and education, suitable work, and commutations.
- Ms. Palmer summarized the rule making, emphasizing the evaluation of permanent impairments and vocational training and education addressed in 2017 Iowa Acts, House File 518.
- In response to questions from Sen. Carlin, Ms. Palmer explained that, if there is a dispute concerning whether an individual has sustained a permanent impairment, a deputy worker's compensation commissioner would make that determination during the appeal process, which is set forth in the rules, and review the appeal by the individual, the employer or the insurance carrier to ensure due process. She explained that the workforce development department staff, which offers programs and services, would make a determination about whether an individual would benefit from a training or education program. In response to questions from Rep. Olson, Ms. Palmer explained that the commissioner has determined that the fifth edition of the Guides to the Evaluation of Permanent Impairment should be used. In addition, she stated that the determination of disability with respect to scheduled injuries and to industrial or nonscheduled disabilities was changed by House File 518, section 9. She explained that formerly, the statute allowed deputy workers' compensation commissioners to use the Guides and the commissioners' expertise and discretion to evaluate the disability sustained by an individual but that House File 518 states that only the Guides can be used to determine the extent of disability related to scheduled injuries, whereas industrial or nonscheduled disabilities may continue to be evaluated based on the Guides and the commissioners' expertise and discretion. In response to a follow-up question from Sen. Carlin, Ms. Palmer stated that, for shoulder injuries, the status change from industrial to scheduled will likely change the benefits.
- Sen. Carlin expressed concern that the process might be so onerous that the individual cannot access funding for education and that the rate of compensation for shoulder injuries could be reduced.

**EDUCATIONAL EXAMINERS BOARD** Darcy Hathaway and Joanne Tubbs represented the board.

- ARC 3470C No questions on proposed amendments to 13.7 and 13.28 regarding the teacher leadership and compensation model for mentoring and the computer science endorsement.
- ARC 3471C No questions on proposed amendments to chs 13, 15, 16, 18, 22 and 27 and rescission of ch 21 pertaining to licensure, authorizations, endorsements and conversion information.

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

- ARC 3472C Proposed amendments to 57.1 and 57.6 pertain to residential care facilities for persons with an intellectual disability.  
In response to a question from Sen. Carlin, Mr. Werning stated that the amendments incorporate into ch 57 licensure requirements for residential care facilities but that the amendments will not affect the care of persons with an intellectual disability who reside in these facilities.
- ARC 3473C No questions on proposed amendments to 57.1 and 57.33(8) regarding the prohibition of mechanical restraints in residential care facilities.
- ARC 3474C No questions on proposed ch 62, residential care facilities for persons with mental illness.
- ARC 3475C No questions on proposed ch 63, residential care facility—three- to five-bed specialized license.  
Mr. Werning explained that as a result of comments from stakeholders, the department will review and revise the proposed rules.
- ARC 3523C No action on ch 9 and amendments to chs 10, 30, 50, 57, 58, 62 to 65, 67, 90, 100, 105 and 106 pertaining to contested cases and to rules of procedure and practice before the administrative hearings division.
- ARC 3524C No action on ch 15 and amendments to 10.1 and 10.29 pertaining to the Iowa code of administrative judicial conduct.

**PROFESSIONAL LICENSURE DIVISION** Tony Alden represented the division.

- ARC 3541C Proposed amendments to chs 131 and 132 pertain to licensure, education and curriculum related to massage therapy.  
In response to requests from Sen. Chelgren and Rep. Pettengill, Mr. Alden agreed to convey to the board their concerns that the increase from a 500-hour to a 600-hour education requirement, which had been proposed in the past but not adopted, might become a burden for students because of the expense incurred, including additional tuition and student loan debt.  
Rep. Pettengill expressed the opinion that massage therapy schools should reduce rather than increase the hours of education. According to Sen. Chelgren, the median hourly wage for massage therapists in Nebraska is \$14.60 and in Iowa is \$18.50 and, on that basis, he requested that the board reconsider the increase in required hours. He also suggested that the legislature examine the education requirements for a variety of professions. Mr. Alden explained that many Iowa massage therapy schools require completion of 1,000 or 1,100 hours to assist students to be licensed in Nebraska, which requires 1,100 hours.
- ARC 3558C No action on amendments to chs 60, 61 and 64 concerning the licensure of practitioners and establishments and to continuing education related to cosmetology arts and sciences.  
In response to questions from Rep. Nielsen, Mr. Alden stated that the required 2,100 hours for licensure are statutory and that there is a limit on the number of continuing education hours that may be earned through self-study and independent study. In response to a question from Rep. Pettengill, Mr. Alden explained the renewal reminder process and noted that the online renewal rate for 55,000 licensees is 95 percent.  
Sen. Chelgren and Rep. Nielsen expressed appreciation for the decision of the board to reduce continuing education hours.  
Sen. Chelgren requested information from the boards of massage therapy and cosmetology arts and sciences that might bear on the legislation he will propose to set a cap of 500 hours of education for students in each of those fields.
- ARC 3559C No action on amendments to chs 121 to 124 regarding licensure procedures for hearing aid specialists.
- ARC 3560C No action on amendments to ch 351 pertaining to the licensure of athletic trainers.

**Committee business** The minutes of the December 12, 2017, meeting were approved.  
The next meeting was scheduled for Friday, February 9, 2018, at 9 a.m.  
Mr. Ewing described the components of a restyled, more reader-friendly preamble for rule-making documents and provided an example to illustrate the new style, which will be initiated in the 1/17/18 IAB.  
Mr. Ewing presented an updated summary of rule making related to 2017 enacted bills.

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