

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

**ADMINISTRATIVE RULES COMMITTEE**

Thursday, March 9, 2017  
Prairie Room, State Capitol  
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 8:00 a.m.

**Members present:** Representatives Bill Devlin, Randy Boehning, Joshua A. Boschee, Kim Koppelman, Scott Louser, Mike Schatz, Mary Schneider, Nathan Toman, Robin Weisz; Senators Kelly M. Armstrong, Kyle Davison, Joan Heckaman, Jerry Klein

**Members absent:** Representative Gary R. Sukut

**Others present:** See [Appendix A](#)

**It was moved by Senator Armstrong, seconded by Senator Klein, and carried on a voice vote that the minutes of the December 5, 2016, meeting be approved as distributed.**

**BOARD OF CHIROPRACTIC EXAMINERS**

Chairman Devlin called on Dr. Michael Remmick, President, Board of Chiropractic Examiners, for testimony ([Appendix B](#)) regarding a rule of the board carried over for consideration from the December 5, 2016, meeting.

In response to a question from Senator Heckaman, Dr. Remmick said the rule carried over from the December 5, 2016, meeting prohibits a chiropractor from offering free items for services to induce patients to receive care. He said there is a \$500 fee for a violation of the rule as well as a directive to cease the practice and a requirement to attend a seminar.

In response to a question from Representative Boehning, Dr. Remmick said offering coffee and cookies in a waiting room would not be a violation of the rule. He said the free item must be advertised and must be an inducement to patients to receive care.

**STATE ELECTRICAL BOARD**

Chairman Devlin called on Mr. James Schmidt, Executive Director, State Electrical Board, for testimony ([Appendix C](#)) regarding rules adopted by the State Electrical Board.

In response to a question from Senator Heckaman, Mr. Schmidt said a rule requiring heat detectors in residential garages was adopted.

In response to a question from Representative Boehning, Mr. Schmidt said the garage heat detector rule was adopted because smoke detectors are required in new residences. He said in the interest of safety, the heat detector requirement was added for garages.

In response to a question from Representative Koppelman, Mr. Schmidt said the new North Dakota Administrative Code Title 24.1 was created to restructure and reorganize the board's existing rules. He said the only significant difference between the two sets of rules is the garage heat detector requirement. He said the board's fees have not changed since 2005. He said the board membership always has been in the rules. He said the cost to install a garage heat detector is about \$250.

In response to a request from Representative Koppelman, Mr. Schmidt reviewed the other changes to Title 24.1 which were not included in Title 24. He said those minor changes dealt primarily with continuing education requirements.

Senator Klein said a fellow legislator who is an electrician supported the electrician rule revisions.

In response to a question from Representative Koppelman, Mr. Schmidt said radon detection is addressed in the building code not the electrical code.

### **INSURANCE COMMISSIONER**

Chairman Devlin called on Mr. Jeff Ubben, Deputy Commissioner, Insurance Department, for testimony ([Appendix D](#)) regarding rules adopted by the Insurance Commissioner.

In response to a question from Representative Koppelman, Mr. Ubben said according to an Attorney General's opinion, the Insurance Commissioner has the authority to regulate multiple employer welfare arrangements, which is the primary subject addressed in the rules.

In response to a question from Representative Schneider, Mr. Ubben said the original proposed amendments to the fraud reporting rules reduced the time allowed to report insurance fraud to the Insurance Commissioner from 60 days to 7 days. He said in response to the comments, the reporting period was changed back to 60 days and a compromise was reached to address concerns with the reasonable relief definition.

### **STATE BOARD OF PHARMACY**

Chairman Devlin called on Mr. Mark Hardy, Executive Director, State Board of Pharmacy, for testimony ([Appendix E](#)) regarding rules adopted by the State Board of Pharmacy.

In response to a question from Representative Koppelman, Mr. Hardy said due to objections from several medical groups regarding the inclusion in the rules of those groups' office compounding practice, the provision was removed. He said separate rules covering that compounding practice may be adopted at a later time.

### **DEPARTMENT OF HUMAN SERVICES**

Chairman Devlin called on Ms. Maggie D. Anderson, Director, Medical Service Division, Department of Human Services, for testimony regarding rules of the department carried over from the December 5, 2016, meeting.

Ms. Anderson said the rules carried over from the December 5, 2016, meeting related to developmental disability services reimbursement. She said because the rules are not yet in compliance with the requirements of the Centers for Medicaid and Medicare, the department requests the rules be withdrawn.

**It was moved by Senator Armstrong, seconded by Representative Koppelman, and carried on a roll call vote that the rules of the Department of Human Services on pages 129-194 of Supplement 364 be voided.** Representatives Devlin, Boehning, Boschee, Schneider, Koppelman, Toman, and Weisz and Senators Armstrong, Davison, Heckaman, and Klein voted "aye." No negative votes were cast.

No further business appearing, Chairman Devlin adjourned the meeting at 9:30 a.m.

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Vonette J. Richter  
Code Revisor

ATTACH:5