



ADMINISTRATIVE RULES COMMITTEE

Monday, December 5, 2022
Pioneer Room, State Capitol
Bismarck, North Dakota

Representative Brandy Pyle, Chairman, called the meeting to order at 9:01 a.m.

Members present: Representatives Brandy Pyle, Karen Karls, Andrew Marschall, Mike Nathe, Bernie Satrom, Nathan Toman, Robin Weisz; Senators Jerry Klein, Randy D. Lemm

Member absent: Senator Shawn Vedaa

Others present: See [Appendix A](#)

It was moved by Representative Toman, seconded by Representative Satrom, and carried on a voice vote that the minutes of the September 12, 2022, meeting be approved as distributed.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Mr. Karl Rockeman, Director, Division of Water Quality, Department of Environmental Quality, presented testimony ([Appendix B](#)) regarding the January 2023 rules of the department.

Mr. David Stradinger, Manager, Radiation and Indoor Air Quality Control Program, Division of Waste Management, Department of Environmental Quality, presented testimony ([Appendix C](#)) regarding the January 2023 rules of the department.

STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

Ms. Peggy Krikava, Executive Director, State Board of Examiners for Nursing Home Administrators, presented testimony ([Appendix D](#)) and proposed rules ([Appendix E](#)) regarding the January 2023 rules of the board. Ms. Krikava noted the board voted to retract the proposed change to North Dakota Administrative Code (NDAC) Section 55-02-01-07(3) to require an individual to complete a 1,000-hour training program and requested the change be retracted.

It was moved by Representative Weisz, seconded by Senator Klein, and carried on a roll call vote to approve the board's request to withdraw the proposed change in NDAC Section 55-02-01-07(3) from consideration. Representatives Pyle, Karls, Marschall, Nathe, Satrom, Toman, and Weisz and Senators Klein and Lemm voted "aye." No negative votes were cast.

SUPERINTENDENT OF PUBLIC INSTRUCTION

Mr. Jim Upgren, Assistant Director, Office of School Approval and Opportunity, Department of Public Instruction, presented testimony ([Appendix F](#)) regarding the January 2023 rules of the Superintendent of Public Instruction.

PUBLIC SERVICE COMMISSION

Ms. Sheri Haugen-Hoffart, Commissioner, Public Service Commission, presented testimony ([Appendix G](#)) regarding the January 2023 rules of the Public Service Commission.

DEPARTMENT OF HUMAN SERVICES

Mr. Jonathan Alm, Director, Legal Advisory Unit, Department of Health and Human Services, presented testimony regarding the January 2023 rules of the department relating to NDAC Chapter 75-02-02.1, Eligibility for Medicaid ([Appendix H](#)); Chapter 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1, regarding Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child

Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services ([Appendix I](#)); and Chapter 75-08-01, Vocational Rehabilitation ([Appendix J](#)).

WATER COMMISSION

Ms. Andrea Travnicek, Director, Department of Water Resources, presented testimony ([Appendix K](#)) regarding the January 2023 rules of the Water Commission.

STATE GAMING COMMISSION

Ms. Deborah McDaniel, Director, Gaming Division, Attorney General's office, presented testimony ([Appendix L](#)) regarding January 2023 rules of the State Gaming Commission.

In response to questions from committee members, Ms. McDaniel noted it would be prudent for the committee to allow the administrative rules to go into effect until the Legislative Assembly convenes and determines whether to limit or expand where electronic pull-tab devices may be located. She noted her office's belief is the Legislative Assembly's original intent was to allow gaming to be conducted in traditional "bars," but she would appreciate more direction from the Legislative Assembly on where charitable gaming may be conducted.

Mr. Scott Meske, Lobbyist, North Dakota Gaming Alliance, noted:

- His organization and its members are concerned with some provisions in the proposed rules, including the proposed definition of "bar" in NDAC Section 99-01.3-02-01.
- The Legislative Assembly, not the regulating body, should be creating the definition of "bar."
- The proposed definition of "bar" exceeds the State Gaming Commission's authority, and the committee should void the proposed definition.
- Some of the proposed rules relating to distributors and manufacturers are vague and too restrictive, and the committee should void those provisions.

Mr. Rudie Martinson, Executive Director, North Dakota Hospitality Association, noted the proposed definition of "bar" could create confusion or conflict with local licensing regulations.

A committee member expressed concern the State Gaming Commission exceeded its statutory authority to adopt the rules, particularly regarding the proposed definition of "bar," and the Legislative Assembly, not the regulating entity, should create definitions.

EXTENSION REQUESTS

State Department of Health

Pursuant to North Dakota Century Code (NDCC) Section 28-32-07, Ms. Bridget Weidner, Director, Health Facilities Unit, Department of Health and Human Services, requested an extension ([Appendix M](#)) to March 2023 to adopt rules to implement Senate Bill No. 2226 (2021), relating to regulation of residential end-of-life facilities.

Pursuant to NDCC Section 28-32-07, Ms. Weidner requested an extension ([Appendix N](#)) to June 2023 to adopt rules to implement Senate Bill No. 2334 (2021), relating to extended stay center registration.

In response to questions from committee members, Ms. Weidner noted the department has been working with a group of stakeholders during the rulemaking process. She noted a public comment hearing has been scheduled in December 2022 for one set of the rules, the other set of rules are likely going to be similar to those rules, and the department does not anticipate any further delays.

It was moved by Senator Klein, seconded by Representative Nathe, and carried on a voice vote that the Department of Health be granted an extension to March 2023 to adopt rules to implement Senate Bill No. 2226.

It was moved by Representative Weisz, seconded by Senator Klein, and carried on a voice vote that the Department of Health be granted an extension to June 2023 to adopt rules to implement Senate Bill No. 2334.

Public Service Commission

Pursuant to NDCC Section 28-32-07, Mr. John Schuh, General Counsel, Public Service Commission, requested an extension ([Appendix O](#)) to December 2023 to adopt rules to implement Senate Bill No. 2317 (2021), relating to the Public Service Commission's administration of the United States Department of the Interior's Office of Surface Mining's regulatory program.

In response to a question from a committee member, Mr. Schuh noted the delay in the rulemaking process is not creating negative impacts.

It was moved by Senator Klein, seconded by Representative Nathe, and carried on a voice vote that the Public Service Commission be granted an extension to December 2023 to adopt rules to implement Senate Bill No. 2317.

No further business appearing, Chairman Pyle adjourned the meeting at 11:15 a.m.

Jill Grossman
Counsel

ATTACH:15