



ADMINISTRATIVE RULES COMMITTEE

Thursday, December 5, 2024
Roughrider 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, Donna Henderson, Scott Louser*, Andrew Marschall, Carrie McLeod, Dan Ruby, Matthew Ruby, Vicky Steiner, Nathan Toman, Bill Tveit*, Steve Vetter; Senators Sean Cleary, Jerry Klein, Diane Larson, Janne Myrdal, Bob Paulson

Members absent: Representatives Mike Schatz, Robin Weisz

Others present: Jonathan Alm, Tina Bay, and LeAnn Thiel, Department of Health and Human Services
See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Senator Klein, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the September 4, 2024, meeting be approved as distributed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. Joyal Meyer, Newborn Screening Program Director, Special Health Services, Department of Health and Human Services, provided testimony ([Appendix B](#)) regarding the proposed rules to be adopted for publication in January 2025.

In response to a question from a committee member, she noted:

- The dried blood spots will be destroyed after 30 days, compared to the prior requirement to maintain the materials for 18 years.
- The amended rule provides more security and less opportunity for misuse of the materials.

Mr. Tim Wiedrich, Section Chief, Health Response and Licensure, Department of Health and Human Services, provided testimony ([Appendix C](#)) regarding the proposed rules to be adopted for publication in January 2025. He noted:

- The amendment allows trauma patients to be transported to an Indian Health Services facility, if the facility has entered into a memorandum of understanding.
- There are two Indian Health Services facilities in the state, located in Belcourt and Fort Yates.
- The rule change reflects the practice for the past 10 years and the sovereignty of the tribal nations.

NORTH DAKOTA BOARD OF MEDICINE

Ms. Sandra DePountis, Executive Director, North Dakota Board of Medicine, provided testimony ([Appendix D](#)) regarding the proposed rules to be adopted for publication in January 2025. She noted the rule changes include licensure exceptions for telemedicine.

RETIREMENT BOARD

Ms. Rebecca Fricke, Executive Director, Public Employees Retirement System, provided testimony ([Appendix E](#)) regarding the proposed rules to be adopted for publication in January 2025. She noted legislation may address the funding of the incentive payment and the actuarially determined employer contribution due to ambiguity in House Bill No. 1040 (2023).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Jonathan Alm, Attorney, Department of Health and Human Services, provided testimony regarding the proposed rules to be adopted for publication in January 2025 relating to North Dakota Administrative Code Chapter 75-02-02.1, Eligibility for Medicaid ([Appendix F](#)) and Chapter 75-02-09, Ratesetting for Psychiatric Residential Treatment Facilities ([Appendix G](#)).

In response to a question from a committee member, Mr. Alm noted the department is interested in meeting with stakeholders regarding concerns related to administrative rules.

Ms. LeAnn Thiel, Reimbursement Director, Medical Services, Department of Health and Human Services, provided testimony regarding the ratesetting rules. She noted she intends to research the stakeholders' concerns and meet with stakeholders to consider the best way to proceed.

Chairman Pyle indicated she wishes to receive an update in August 2025 from the department regarding progress made to address issues with ratesetting.

In response to a question from a committee member, Ms. Thiel noted:

- The time frame for reimbursement depends on the Centers for Medicare and Medicaid Services.
- The rate establishment typically occurs 6 months after cost report payment.
- Following the rate establishment, the department is able to issue the payment quickly.

Mr. Tim Gienger, Senior Director, Residential Partnerships, Dakota Boys and Girls Ranch, provided testimony. He noted:

- The ratesetting rules adopted 30 years ago do not address many of the expenses a psychiatric residential treatment facility incurs today, including costs associated with administration, electronic health records, cybersecurity, parent travel, hospital visits, and home visits.
- The rule providing the administrative costs cap was not included in the rulemaking process and, as a result, his public comments regarding administrative costs could be considered, but not addressed.
- Without addressing the urgency of the issues raised, psychiatric residential treatment facilities, including Dakota Boys and Girls Ranch, will be forced to close.
- August 2025 is too late to begin amending the ratesetting rules in order to keep facilities operational.
- Some of the issues may require legislative action.

Mr. Alm provided testimony regarding the proposed rules to be adopted for publication in January 2025 relating to:

- Chapter 75-03-23, Provision of Home and Community-Based Services Under the Service Payments for Elderly and Disabled Program and the Medicaid Waiver for the Aged and Disabled Program ([Appendix H](#)); and
- Chapter 75-04-01 Licensing of Programs and Services for Individuals with Intellectual Disabilities - Developmental Disabilities and Chapter 75-04-06 Eligibility for Intellectual Disabilities - Developmental Disabilities Program Management Services ([Appendix I](#)).

BOARD OF CLINICAL LABORATORY PRACTICE

Dr. Christie Massen, licensee and board member, Board of Clinical Laboratory Practice, provided testimony ([Appendix J](#)) regarding the proposed rules to be adopted for publication in January 2025. She noted the rule changes address substance abuse, unprofessional conduct, a licensee's scope of practice, the inclusion of "molecular biology" in specialty areas, and a code of ethics.

BOARD OF COUNSELING EXAMINERS

Mr. Matt Menge, Legal Counsel, Board of Counseling Examiners, requested the withdrawal of the proposed rules of the board related to Title 97.

It was moved by Representative Steiner, seconded by Representative Vetter, and carried on a voice vote to approve the board's request to withdraw its proposed rules.

No further business appearing, Chairman Pyle adjourned the meeting at 10:58 a.m.

Liz Fordahl
Counsel

ATTACH:10