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## **ADMINISTRATIVE RULES COMMITTEE**

Tuesday, June 8, 2021  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Bill Devlin, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Representatives Bill Devlin, Joshua A. Boschee, Kim Koppelman, Andrew Marschall, Brandy Pyle, Dan Ruby\*, Bernie Satrom, Vicky Steiner, Nathan Toman, Robin Weisz; Senators Joan Heckaman, Jerry Klein, Randy D. Lemm, Nicole Poolman\*, David S. Rust\*

**Members absent:** Representative Rick Becker

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

*\*Attended remotely*

**It was moved by Representative Boschee, seconded by Representative Weisz, and carried on a voice vote that the minutes of the March 5, 2021, meeting be approved as distributed.**

### **ATTORNEY GENERAL (LOTTERY)**

Mr. Randy Miller, Director, North Dakota Lottery, presented testimony ([Appendix B](#)) regarding the July 2021 rules of the Attorney General (Lottery).

### **DEPARTMENT OF ENVIRONMENTAL QUALITY**

Mr. David Stradinger, Radiation Control Program Manager, Division of Waste Management, Department of Environmental Quality, presented testimony ([Appendix C](#)) regarding the July 2021 rules of the department relating to North Dakota Administrative Code Article 33.1-10, Radiological Health Rules.

Mr. Karl Rockeman, Director, Division of Water Quality, Department of Environmental Quality, presented testimony ([Appendix D](#)) regarding the July 2021 rules of the department relating to Article 33.1-16, Control, Prevention, and Abatement of Pollution of Surface Water.

Mr. Derek Kannenberg, Hazardous Waste Program Manager, Department of Environmental Quality, presented testimony ([Appendix E](#)) regarding the July 2021 rules of the department relating to Article 33.1-24, Hazardous Waste Management.

A committee member asked if state employees travel around the state to confirm entities are in compliance with hazardous waste management rules. Mr. Kannenberg noted there are approximately 800 generators of hazardous waste management registered in the state, and the department conducts approximately 40 inspections each year. He noted the department has focused on inspecting larger entities that were registered as large quantity generators, but the department now is trying to inspect smaller entities as well.

### **BOARD OF TRUSTEES OF THE TEACHERS' FUND FOR RETIREMENT**

Ms. Janilyn Murtha, Deputy Executive Director and Chief Retirement Officer, Retirement and Investment Office, presented testimony ([Appendix F](#)) regarding the July 2021 rules of the board.

### **NORTH DAKOTA BOARD OF SOCIAL WORK EXAMINERS**

Ms. Bianca Bell, Chair, North Dakota Board of Social Work Examiners, presented testimony ([Appendix G](#)) regarding an April 2021 rule carried over from the March 5, 2021, meeting. Ms. Bell noted the board held a special meeting on March 24, 2021, to discuss changes recommended by the committee to Section 75.5-02-06.1-01 to

replace the phrase "It is also a violation of the code of ethics" with "In addition to the ethical responsibilities under the national association of social workers 2017 code of ethics, it is an ethical violation ...."

A committee member noted concerns the proposed rule may prohibit individuals from speaking to licensed social workers regarding therapy the individual is interested in receiving. Ms. Bell noted the rule change is not intended to limit services available to individuals seeking counseling or therapy.

A committee member noted concerns the proposed rule is outside the scope of rulemaking, and the topic should be addressed by the Legislative Assembly.

Some committee members noted the Administrative Rules Committee has not taken a position in the past on what the ethical standards should be for certain boards, and it is within the scope of the board's authority to determine a code of ethics for its licensees.

Mr. David Schaibley, Attorney General's office, noted, contrary to a concern of one of the committee members, the proposed rule only would apply to licensed social workers, not to religious counselors. Mr. Schaibley noted an individual would be violating the ethical standards only if the individual employed conversion therapy while acting under the individual's license as a social worker.

A committee member noted concerns the board was adding an additional ethical violation on a controversial issue and was unsure such an addition was appropriate.

**It was moved by Representative Koppelman, seconded by Representative Satrom, and failed on a roll call vote to void the proposed changes to Section 75.5-02-06.1-01 relating to conversion therapy due to the rule going beyond legislative intent and being arbitrary and capricious.** Representatives Koppelman, Marshall, Ruby, Satrom, Steiner, and Toman and Senator Rust voted "aye." Representatives Devlin, Boschee, Pyle, and Weisz and Senators Heckaman, Klein, Lemm, and Poolman voted "nay."

**It was moved by Representative Boschee, seconded by Representative Weisz, and carried on a roll call vote to approve the proposed changes to Section 75.5-02-06.1-01 relating to conversion therapy.** Representatives Devlin, Boschee, Pyle, and Weisz and Senators Heckaman, Klein, Lemm, and Poolman voted "aye." Representatives Koppelman, Marshall, Ruby, Satrom, Steiner, and Toman and Senator Rust voted "nay."

### STATE BOARD OF DENTAL EXAMINERS

The State Board of Dental Examiners sent a letter ([Appendix H](#)) to the committee noting the board had voted unanimously to withdraw the board's pending administrative rules from consideration and intended to restart the process and work collaboratively with interested stakeholders.

**It was moved by Representative Koppelman, seconded by Senator Rust, and carried on a roll call vote to approve the board's request to withdraw the proposed administrative rules from consideration.** Representatives Devlin, Boschee, Koppelman, Marschall, Pyle, Ruby, Satrom, Steiner, Toman, and Weisz and Senators Heckaman, Klein, Lemm, Poolman, and Rust voted "aye." No negative votes were cast.

Mr. William R. Sherwin, Executive Director, North Dakota Dental Association, thanked the committee for its work. He noted an oral surgeon is a newly appointed member of the State Board of Dental Examiners and will help assist the board in drafting anesthesia and sedation rules. He also noted the North Dakota Dental Association is engaged in the process of producing the best rules for the dental community and the people of the state.

No further business appearing, Chairman Devlin adjourned the meeting at 11:03 a.m.

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Jill Grossman

ATTACH:8