



## Citizens' Initiative Review Commission Commission Meeting



9:30 am, June 13, 2012  
Conference Room 445, 800 NE Oregon Street  
Portland, OR 97212

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### MINUTES

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#### **MEMBERS PRESENT**

Jerry Hudson, Chair  
James Huffman, Vice-Chair  
Marion Sharp  
Ann Bakkensen

#### **MEMBERS ABSENT:**

None

#### **STAFF PRESENT**

Randy Everitt, Director  
Randy Harnisch, Policy Analyst  
Sinnamon Harris, Commission Specialist  
Callie Zink, Executive Assistant & Human Resources  
Coordinator  
Kraig Bohot, Public Information Officer

#### **GUESTS PRESENT:**

Molly Keating  
Michelle Gaines  
Tony Iaccarino

(Guests Present Continued)

Elliot Shuford                      Jonathan Cooper  
Tyrone Reitman  
Mike Greenfield

This was the first meeting of the Citizens' Initiative Review Commission (CIRC).

#### **Call to Order**

Jerry Hudson, Acting Chair, called the meeting of the Citizens' Initiative Review Commission to order at 9:36 am, Wednesday, June 13, 2012, at the Portland State Offices Bldg. Room 445, 800 NE Oregon Street, Portland, OR 97212. Roll was called.

#### **Introductions**

Randy Everitt, Director, Oregon Health Licensing Agency, introduced the staff members who would be working closely with the CIRC and Oregon Healthy Democracy, in concert, in order to provide the new commission administrative support, write administrative rules, set-up the human resources piece, create the CIRC website, outreach, and communication. Staff members are: Randy Harnisch - Policy Analyst, Sinnamon Harris - Commission Specialist, Callie Zink - Executive Assistant & Human Resources Coordinator, and Kraig Bohot - Public Information Officer.

#### **Election of Chair/Vice-Chair for the CIRC**

Nominations for Chair were opened and James Huffman nominated Jerry Hudson for Chair. There were no further nominations so nominations were closed. Jerry Hudson was elected 2012 Chair by a unanimous vote.

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Nominations for Vice-Chair were opened and Jerry Hudson nominated James Huffman for Vice-Chair. There were no further nominations so nominations were closed. James Huffman was elected 2012 Vice-Chair by a unanimous vote.

### **Appointment of Commissioners (Moderators)**

Randy Harnisch, Policy Analyst, lead the discussion of appointing the next two commissioners, who, by statute, must be former moderators. There was an issue in appointing any of the former moderators who served on past panels because of the need to contract with those same moderators for the upcoming panels that will begin August 6, 2012. Harnisch noted that currently there is a very small pool of moderators with the necessary experience from which to draw appointments. The commission wished to avoid any conflicts of interest or suggestion of impropriety and will wait to appoint any moderators until after the panels in August 2012.

### **MOTION:**

Ann Bakkensen made a motion with a second by Marion Sharp to move the Citizens' Initiative Review Commission forward with the existing four commissioners until it is possible to appoint moderators and meet the statutory requirement. The motion passed unanimously.

It was suggested by Commissioner Marion Sharp to follow-up with the moderators to see if any of the current moderators were not intending to serve on the panels again this year and would be interested in serving on the commission.

### **Overview of the Citizens' Initiative Review**

Elliot Shuford and Tyrone Reitman, of the Healthy Democracy Oregon, presented a PowerPoint to the CIRC regarding the "background and History of The Citizens' Initiative Review". {Note: This PowerPoint is part of the meeting materials that are posted to the CIRC website for viewing}.

### **Appointment of Rule Coordinator**

Harnisch stated that the Secretary of State Office requires under ORS 183.330(2) "Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State." Harnisch presented the commission with an appointment form for filing so Harnisch may move forward with the administrative rules and file the necessary paperwork. Harnisch explained that the Secretary of State Office will contact him if there are any questions about any rule filings or paperwork. He asked Jerry Hudson, as Chair, to sign the appointment and Commissioner Hudson complied.

### **Administrative Rules**

Harnisch explained the administrative rules process to the commissioners and how the statutes allow state agencies to take further steps to clarify and define language that exists in statute. He also explained the necessity of adopting two procedural administrative rules before moving on to the substantive rules.

### **710-000-0010 Notice of Proposed Rulemaking**

### **710-000-0020 Model Rules of Procedure**

Harnisch explained that these two administrative rules are the Oregon State Department of Justice models that insure the commission complies with all statutory rulemaking requirements. Under 'Model Rules of Procedure' the CIRC "adopts, in their entirety, the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act dated January 2012." Harnisch noted the

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law allows the commission to adopt the above two procedural rules without formal notice.

**MOTION:**

James Huffman made a motion with a second by Marion Sharp to approve procedural administrative rules 710-000-0010 and 710-000-0020. The motion passed unanimously.

**710-010-0010 Moderator Qualifications**

Harnisch explained that the above administrative rule must go through the normal rulemaking process of formal notices and read the statute admonishing the commission to create an administrative rule. ORS 250.139(8) "the commission shall, by rule, establish qualifications for moderators for each citizen panel. A moderator must have experience in mediation and shall complete a training course established by the commission."

Harnisch noted the language for this administrative rule had been developed with help from Healthy Democracy and vetted by legal counsel from the Department of Justice (DOJ) office.

Harnisch noted if the commission decided to take action on 710-010-0010 today it would be in the form of a "temporary" rule. He explained that as a temporary rule it would be in effect for no more than 180 days from the filing date with the Secretary of State's Office (SOS). On the 181<sup>st</sup> day the rule would cease to exist. By that time the commission should have been able to go through the full formal process of creating a permanent rule.

During the discussion the commission asked if there were a mediator licensing process in Oregon. The commission called up public attendee, Molly Keating, who had been a mediator for the past Citizen Initiative Review panels, to respond. Keating stated that, although, Oregon does not have a formal mediation certification process, in order to qualify to perform any mediation in a court setting, the DOJ had set forth rules for qualification. The standards include: 40 hours of training, (which includes mediation ethics and confidentiality), and a history of successfully mediation. The past mediators for the Citizens' Initiative Review panels met those qualifications. Keating stated that most professional mediators would meet the state standards.

Harnisch stated that the language in the statute does not stipulate that the moderator be state certified.

The commission discussed adding under (2)(a) the language, "meeting the minimum qualifications for court-connected mediators in the state or Oregon." The full text under (2)(a) now would read, "Meet the minimum qualifications for court connected mediations in the State of Oregon and at least 3 years experience in Oregon as a paid moderator or mediator with full responsibility for moderating or mediating processes;"

**MOTION:**

James made a motion with a second by Ann Bakkensen to adopt 710-010-0010 Moderator Qualifications as a temporary rule. The motion passed unanimously.

**710-010-0020 Initiative Selection Criteria**

Harnisch stated he just wish to bring process of the Initiative Selection Criteria under the statute 250.139 to the attention of the commission for further consideration. At a subsequent telephonic meeting the commission may further discuss criteria and adopt temporary rules under 710-010-0020 and also select

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which initiatives for the panels.

**Reimbursement Policies**

Harnisch informed the commission that the state of Oregon's model for reimbursement policies would be used. Commissioners will receive a \$30 per diem (unless they have state PERS account) and mileage/other expenses per the Department of Administrative Services guidelines.

**CIRC Website**

Kraig Bohot, Public Communications Officer, presented the CIRC website and showed the commission its features. Bohot stated last Tuesday, June 12, 2012, he sent out press releases regarding the CIRC and its function.

The meeting adjourned at approximately 11:15 am.

Prepared by: Sinnamon Harris, Commission Specialist

[Note: An audio recording is available by public records request. Please contact the agency for additional information.]