

**MINUTES OF THE JANUARY 2010 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

**Date of meeting:** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday, January 5, 2010, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.

**Members present:** Representative Marcella Frevert, Chair, and Senator Wally Horn, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives David Heaton, Tyler Olson, Nathan Reichert, and Linda Upmeyer were present.

**Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; fiscal staff; caucus staff; and other interested parties.

**Convened** Rep. Frevert convened the meeting at 9:02 a.m.

**Fiscal overview** Sue Lerdal presented the LSA fiscal report.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Stuart Crine represented the department. Barb Mentzer, chair of the electrical examining board, was also present. Other interested parties included Chad Campion, an electrician from Cedar Rapids.

**ARC 8396B** Mr. Coveyou pointed out that the provision regarding inspections of electrical installations on farms is controversial and explained that the department interprets the statute as exempting a farmer performing electrical work on the farm from the licensure requirement, but not from the permit and inspection provisions. Mr. Crine spoke about the permitting process, and Ms. Mentzer explained what is involved in an inspection. Sen. Kibbie requested clarification of the exceptions set forth in rule 661—552.1(103). Discussion related to routine maintenance, emergency installations, industrial installations, costs of inspections, and the intent of the legislature in regard to farms. Mr. Campion reported that the NFPA indicates that 70 percent of fires on farms are electrically related. Mr. Campion stated that the statute pertains to licensure, permits and inspections, but that the exemption for farms is only for licensure.

**Motion to refer** Sen. Kibbie moved a general referral to the legislature of the three exceptions in rule 661—552.1(103).

**Motion carried** The motion for a general referral passed on a vote of 9 to 1.

**Motion to object** Sen. Bartz moved an objection to rule 661—552.1(103) on the grounds that it exceeds the authority of the department. Sen. Kibbie asked Mr. Royce to explain the effect of an objection in the event of litigation.

**Motion failed** The motion to object failed on a vote of 3 to 7.

**EDUCATIONAL EXAMINERS BOARD** George Maurer represented the department. Pam Griebel represented the attorney general, and Brad Hudson and Christy Hickman represented the Iowa State Education Association.

**ARC 8406B** The amendments to 11.4 pertain to the filing of complaints and service of complaint notices to respondents. Dr. Maurer explained that with these amendments the respondent will not receive a copy of the complaint until the board finds that there was probable cause for the complaint. Mr. Hudson and Ms. Hickman reiterated their request for a session delay on these amendments. Ms. Hickman pointed out that the statutory language for the board of educational examiners differs from the language applicable to other regulatory boards. The ISEA maintains that the intent of the legislative change in 2000 was for the complaint to be confidential to the public, not to the respondent. Ms. Griebel explained that the court has interpreted a similar statute for approximately three dozen other boards by finding that that the respondent is entitled to a copy of the complaint at the point of probable cause determination. Dr. Maurer advised the committee that complaints do not generally come to the board directly from a parent or a student; in most cases there is local action before the board receives a complaint.

**Motion to delay** Sen. Courtney moved a session delay on the amendments to rule 11.4.

**Motion carried** Amendments to 11.4 were delayed until the adjournment of the 2010 session of the general assembly.

**ARC 8400B** No questions on 13.26(2) regarding highly qualified teacher status.

**Educational Examiners Board (continued)**

- ARC 8401B No questions on 13.26(3) regarding highly qualified teacher status.
- ARC 8402B No questions on 13.26(4) regarding highly qualified teacher status.
- ARC 8408B No questions on proposed 13.26(5) concerning elementary core content areas.
- ARC 8403B No questions on 13.28(1), agriculture endorsement.
- ARC 8404B No questions on 17.1(1), agricultural sciences and agribusiness endorsement.
- ARC 8409B No action on the proposed amendment concerning behind-the-wheel driving instructor authorization.
- ARC 8405B No questions on 24.4(6) concerning speech-language pathology paraeducators.
- ARC 8410B No questions on proposed renewal requirements for the professional service license.

**EDUCATION DEPARTMENT** Carol Greta represented the department.

- ARC 8386B No questions on the rescission of ch 19.
- ARC 8390B No questions on proposed amendments to ch 21, community colleges.
- ARC 8389B No questions on proposed amendments concerning adult education.
- ARC 8388B No questions on proposed community college accreditation requirements.
- ARC 8387B No questions on amendments to ch 41, special education.
- ARC 8382B No questions on amendments to ch 59 regarding gifted and talented programs.
- ARC 8383B No questions on programs and funding for students with limited English proficiency.
- ARC 8384B No questions on 96.1 to 96.8, statewide local option sales and services tax for school infrastructure.
- ARC 8385B No questions on rescission of ch 100.

**ENVIRONMENTAL PROTECTION COMMISSION** Chuck Corell and Randy Clark represented the commission.

- ARC 8397B Proposed new subrule 61.3(4) establishes criteria for transparency and chlorophyll-a to protect recreational uses in all lakes that have a mean depth of three meters or more. The subrule provides that nine samples are to be taken, at least three of which are to be from the deepest part of the lake, during the months of May through September.
- ARC 8398B No action on proposed amendments to ch 65 concerning animal feeding operations. Mr. Clark offered to provide the committee a summary of the public comments received.

**REVENUE DEPARTMENT** Jim McNulty and Dale Hyman represented the department.

- ARC 8430B No action on proposed amendments to implement 2009 legislation.
- ARC 8428B No action on proposed 71.3 regarding determination of the agricultural factor for assessments.

**PHARMACY BOARD** Lloyd Jessen and Terry Witkowski represented the board.

- ARC 8380B No questions on amendments pertaining to pharmacy support persons.
- ARC 8429B Mr. Jessen reported that if vacancies are filled, these proposed reductions in fees may change.
- ARC 8412B No questions on the proposed amendment to 2.12, continuing education for pharmacists.
- ARC 8413B No action on proposed amendments to ch 7 regarding hospital pharmacy practice, outpatient services and drugs in emergency departments.
- ARC 8414B No action on proposed prohibition of animals within a licensed pharmacy.
- ARC 8411B No action on the amendment to include fospropofol as a Schedule IV controlled substance.
- ARC 8416B No action on proposed ch 15 concerning correctional pharmacy practice.
- ARC 8415B No questions on proposed 17.16(2), annual inventory and record of controlled substances.

**PROFESSIONAL LICENSURE DIVISION** Roxanne Sparks and Pierce Wilson represented the division. Heather Adams represented the attorney general, David Stout represented the board of social work. Other interested parties included Kelli Soyer of the National Association of Social Workers, Jim Clark and Emily Donovan of Heartland AEA, and Michael Wagner.

- ARC 8371B No questions on amendments to chs 279 to 281 and 283.

Professional Licensure Division (continued)

ARC 8368B

No questions on proposed rescission of duplicative rules.

ARC 8374B

Proposed amendments to 280.6 clarify the supervised professional practice requirements for LISW candidates. Ms. Adams explained that there are three levels of licensure; and that this amendments applies only to independent practitioners, who must be qualified to diagnose mental and emotional conditions and disorders. Mr. Stout outlined the board's position that use of the DSM-IV must be one component of the supervised professional practice; however, other tools may also be used. Mr. Stout indicated that the DSM-IV plays a universal role in diagnosis and treatment of mental and emotional disorders and conditions and that the DSM-IV is widely used in the assessment of clients and for billing third-party payers.

Rep. Frevert encouraged the board and all interested parties to work together and with Sen. Schmitz and Rep. Smith to resolve differences. Sen. Kibbie asked that a summary of comments be provided to the committee prior to review of the adopted rules.

Mr. Wagner, an LMSW, voiced opposition to the requirement. Ms. Soyer commented that NASW was not involved in the decision to require the DSM-IV and the organization believes that the board needs to define "utilization." Mr. Clark concurred with Ms. Soyer and commented that the supervised professional practice should emphasize the process rather than the tool used. Ms. Donovan expressed the opinion that those who specialize in an aspect of social work, such as grief therapy or autism, should be able to practice their specialty independently and added that a social worker may be very familiar with the DSM-IV without "utilizing" the tool.

ARC 8373B

No questions on 363.2(11) concerning discipline for sign language interpreters and transliterators.

**Committee business**

The minutes of the December 2009 meeting were approved.

The next meeting was scheduled for 8 a.m. on Monday, February 8, 2010.

**Adjourned**

The meeting was adjourned at 1 p.m.

Respectfully submitted,

*Kathleen K. West*  
Kathleen K. West

**APPROVED:**

*Marcella R. Frevert*  
Chair Marcella Frevert

*Wally E. Horn*  
Vice Chair Wally Horn