

**MINUTES OF THE MAY 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 Monday, May 10, 2010, 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 and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor, and Stephanie A. Hoff, Deputy Editor; James Larew, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.
- Convened** Rep. Frevert convened the meeting at 9:30 a.m.
- Fiscal overview** Sue Lerdal presented the LSA fiscal report.

COMMUNITY ACTION AGENCIES DIVISION Bill Brand represented the division.

- ARC 8637B No questions on proposed ch 15, family development and self-sufficiency program.

EDUCATION DEPARTMENT Carol Greta represented the department.

- ARC 8646B No questions on amendments to ch 21 concerning community colleges.
- ARC 8645B No questions on amendments to ch 23 regarding adult education.
- ARC 8644B No action on amendments to ch 24 regarding accreditation of community colleges.
- ARC 8641B In order to serve more vocational rehabilitation students, the department proposes limiting the amount of postsecondary tuition assistance to an eligible client in the first two years of college to the cost of tuition charged by the least expensive Iowa community college. Rep. Upmeyer and Rep. Frevert expressed concern that students entering their second year at a four-year college may not be aware of the change. Ms. Greta indicated that students may be able to access other sources of funding or request a waiver of the rule. Discussion related to the need for better articulation between community colleges and regent institutions so that there can be a more seamless transition for students.

ENVIRONMENTAL PROTECTION COMMISSION Wendy Rains, Chuck Corell, Theresa Stiner, Brian Tormey, and Lee Osborn represented the commission.

- ARC 8678B No action on ch 15, cross-media electronic reporting.
- ARC 8677B No questions on termination of the proposed amendment to ch 61, water quality standards. Mr. Corell indicated that the commission plans to initiate a new rule making to establish lake criteria.
- ARC 8679B Amendments to ch 122 pertain to cathode ray tube recycling. Discussion concerned not only recycling of cathode ray tubes, but also fluorescent tubes. Rep. Heaton asked that information regarding the recyclers and the cost of recycling be provided to the committee.
- ARC 8676B Proposed amendments to ch 135 revise the risk-based evaluation process for water lines; provide for “no action required” status when an institutional control is implemented and the stability of the contaminant plume at a low-risk LUST site is demonstrated; and allow for the department to require confirmation sampling. Discussion concerned confirmation sampling, the responsible party for underground tanks at closed gas stations, and use of the UST fund for removal of tanks.

NATURAL RESOURCE COMMISSION Willie Suchy, Tamara Mullen and Kevin Szcodronski represented the commission.

- ARC 8680B No action on proposed amendments to ch 23 concerning wildlife habitat funding.
- ARC 8681B Proposed rescission of 53.3 would eliminate the controlled hunting program at Lake Odessa. Rep. Reichert expressed concern about the elimination of the orderly process and urged the commission to include locals in decisions affecting hunting at Lake Odessa.
- ARC 8682B No questions on proposed amendments to ch 91, waterfowl and coot hunting seasons.

Natural Resource Commission (continued)

- ARC 8683B No action on proposed amendments to ch 94 regarding nonresident deer hunting. Sen. Bartz pointed out an inconsistency in Item 1 regarding use of the words "roadway" and "highway." Mr. Suchy agreed to follow up.
- ARC 8684B No action on proposed amendments to ch 106 pertaining to deer hunting by residents.
- ARC 8685B No action on proposed amendments to 108.7 to increase both the quotas and the areas open for the taking of bobcat.
- Special review Sen. Bartz requested a review of the definition of "immediate family" as proposed in ARC 8593B and ARC 8592B. Ms. Mullen explained that the basis for these changes was 2007 legislation regarding discrimination based on sexual orientation or gender identity. Discussion related to regulation of the number of campers per campsite rather than the relationships among the campers, waiver options for large families, availability of youth group campsites, and the two-tent-per-campsite limitation. Rep. Frevert acknowledged the success of the reservation system.

INSPECTIONS AND APPEALS DEPARTMENT Deborah Svec-Carstens represented the department.

- ARC 8696B Subrule 31.1(12) provides that a person who has successfully completed a three-hour wild morel mushroom identification course may sell wild morel mushrooms to food establishments. Ms. Svec-Carstens explained that the amendment removes a restriction because morel mushrooms could not be sold to food establishments prior to the adoption of this amendment and reported that, to date, 114 individuals have completed the course. Discussion pertained to morel mushrooms sold at farmers markets and liability of inspectors.
- ARC 8657B No questions on proposed 41.17 regarding physical restraint in PMICs.
- ARC 8656B No questions on ch 90, public assistance debt recovery unit.

LABOR SERVICES DIVISION Kathleen Uehling represented the division.

- ARC 8694B No questions on proposed amendments to chs 80 to 85 and 90 of the boiler and pressure vessel board.

PHARMACY BOARD Lloyd Jessen and Terry Witkowski represented the board. Gary Kendell represented the office of drug control policy.

- ARC 8673B No questions on amendments pertaining to pharmacy support persons.
- ARC 8672B No questions on amendment to 2.12, continuing education for pharmacists.
- ARC 8671B No action on 8.5(4), prohibition of animals within a licensed pharmacy.
- ARC 8667B No action on proposed amendments to 10.32(5) to 10.32(7) pertaining to dispensing of products containing ephedrine, pseudoephedrine, or phenylpropanolamine.
- ARC 8670B No action on ch 15 regarding pharmacies in correctional facilities. Discussion concerned substitution of generic or formulary drugs with the approval of the prescriber.
- ARC 8669B No questions on 17.16(2), which requires drug wholesalers to conduct an annual inventory of controlled substances and to maintain the record for two years.
- ARC 8666B No action on proposed ch 100, which implements the Iowa real-time electronic pseudoephedrine tracking system. Discussion pertained to K2 and Salvia divinorum. Mr. Kendell commented that the office has encouraged the legislature to make salvia and K2 controlled substances. Rep. Heaton asked Mr. Kendell to send the committee a message to that effect.

PUBLIC HEALTH DEPARTMENT Barb Nervig, Melanie Rasmusson, Ken Sharp and Michael Magnant represented the department. Other interested parties included Nick Mauro on behalf of the Iowa Society of Anesthesiologists, Mary O'Brien on behalf of Iowa CRNAs, Linda Goeldner on behalf of the Iowa Nurses Association, Kathy Weinberg on behalf of the board of nursing, Laura Malone on behalf of the Iowa Hospital Association, Heidi Goodman on behalf of the Iowa Medical Society, and Jim Carney on behalf of the Iowa Association of Nurse Anesthetists.

- ARC 8658B No questions on amendments to ch 7 regarding immunizations.

Public Health Department (continued)

- ARC 8703B No action on proposed 25.1 to 25.5, concerning the state plumbing code. Mr. Magnant indicated that these rules are not in conflict with rules of the departments of natural resources and public safety. Sen. Bartz requested further information about applicability of the rules to discharges from sump pumps and to structures that do not have indoor plumbing.
- ARC 8659B Ms. Nervig reported that the state board of health adopted 41.1(5)“n,” supervision of fluoroscopy, and has issued a concise statement of reasons for and against adoption. Mr. Mauro asked the committee to object to the amendment on the grounds that it is overly broad, arbitrary and capricious. Ms. O’Brien, Ms. Goeldner, Ms. Malone, and Ms. Weinberg expressed support for the amendment. Ms. Goodman expressed the concerns of the Iowa Medical Society and asked the committee to object to the amendment. Ms. O’Brien explained that this amendment does not expand scope of practice because ARNPs have been authorized to supervise radiological procedures since 1998. Ms. Rasmusson reported that the board of health voted to approve the amendment on a vote of six to three, with one member abstaining. Discussion pertained to practices in other states, procedures that may involve use of fluoroscopy, hospital credentialing committees, and ethical practice of the various medical professions. Mr. Carney distributed copies of a Nebraska study regarding other states that have allowed CRNAs to perform fluoroscopic procedures and clarified that this amendment provides for supervision, not performance, of the procedure. The committee took no action.
- ARC 8660B No questions on amendments to ch 131 concerning EMS provider education, training, and certification.
- ARC 8661B No action on amendments to ch 132, EMS service program authorization. Discussion pertained to the importance of EMS, especially in rural Iowa.
- ARC 8662B No questions on ch 144 regarding air medical service program authorization.
- ARC 8663B No questions on ch 170, organization of the department.
- ARC 8664B No questions on the amendment to ch 171, petitions for rule making.
- ARC 8665B No questions on the amendments to ch 172, declaratory orders.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department. Linda Goeldner represented the Iowa Nurses Association.

- ARC 8640B No questions on the rescission of ch 58, division II, regarding family investment program emergency assistance.
- ARC 8705B No questions on the proposed amendment concerning medical assistance for employed persons with disabilities.
- ARC 8642B No questions on amendments to chs 75 and 76 concerning express lane eligibility for Medicaid.
- ARC 8643B No questions on amendments to implement mandated reductions in reimbursement for Medicaid services.
- ARC 8647B No questions on reimbursement rate for family planning clinics.
- ARC 8649B No questions on Medicaid reimbursement for psychiatric medical institutions for children.
- ARC 8650B No questions on amendments to ch 109 concerning record checks and licensing fees for child care centers.
- ARC 8651B No questions on the reduction in reimbursement rate for supervised apartment living.
- ARC 8652B No questions on the amendment to ch 152 to reduce the reimbursement rate for foster group care.
- ARC 8653B No questions on reductions to reimbursement rates for foster family care and adoption and guardianship subsidies.
- ARC 8654B No questions on ch 159, child care resource and referral services.
- ARC 8655B No questions on the proposed rescission of ch 165, family development and self-sufficiency program.

Human Services Department (continued)

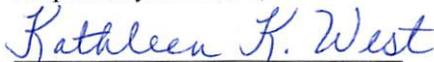
ARC 8690B Proposed 177.5(2) pertains to the health assessment for in-home health related care. Ms. Freudenberg noted that the department will clarify the amendment because ARNPs are not "under the supervision of a physician." Ms. Goeldner commented that, with the change in wording, the association will support the amendment. Discussion concerned the policy that the person certifying the provider of services cannot be employed by the provider.

ARC 8701B No questions on proposed amendments to ch 204 terminating the subsidized guardianship program.

Committee business The minutes of the April 2010 meeting were approved.
The next meeting was scheduled for Tuesday, June 8, 2010.

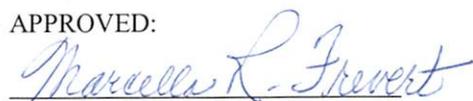
Adjourned The meeting was adjourned at 2:15 p.m.

Respectfully submitted,

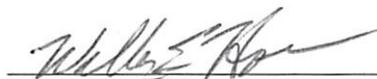


Kathleen K. West

APPROVED:



Chair Marcella Frevert



Vice Chair Wally Horn