

**MINUTES OF THE MAY 2006 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, May 9, 2006, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senators Michael Connolly, Thomas Courtney, Paul McKinley, and James Seymour; Representatives Marcella Frevert, Geri Huser, and David Heaton. Representative Danny Carroll was excused.

Also present: Joseph A. Royce and Emily Gardyas, Legal Counsel; Kathleen K. West, Administrative Code Editor; Sonya Streit, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Vice Chair Kibbie convened the meeting at 9:02 a.m.

Fiscal report Mary Beth Mellick presented the LSA report on two rule makings that have a significant fiscal impact: ARC 5054B, which requires either a two-way communication system or cell phone on each school bus, and ARC 5030B, which pertains to increased fees for pharmacy licenses and registrations.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department.

ARC 5047B These proposed amendments provide certain aliens with limited Medicaid coverage for emergency medical services; a statement from the physician will be accepted in lieu of diagnostic codes. Sen. McKinley requested additional information on documentation requirements for providers and amounts spent per year on this coverage group.

ARC 5063B No action on proposed 79.14(11), which imposes an obligation for Medicaid providers to report current tax-reporting data to the department and imposes a penalty for their failure to do so.

Special review No action on adopted and filed emergency amendments to ch 75 pertaining to Medicaid eligibility for persons who receive long-term care services.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Ron Rowland and Mike Bevins represented the department.

ARC 5062B No questions on amendments to ch 50 concerning farmers' market nutrition programs.

EDUCATION DEPARTMENT Carol Greta represented the department.

ARC 5053B Amendments to ch 41 delete from the special education rules provisions that conflict with the reauthorized Individuals with Disabilities Education Act. Additional amendments will be made once the federal regulations are issued.

ARC 5054B Proposed amendments to ch 43 pertain to pupil transportation. These amendments delete the requirement for school bus drivers to have a tuberculosis test, require school bus drivers to perform both pretrip and posttrip inspections, and require that each school bus be equipped with communication equipment such as a two-way communication system or a cellular telephone. Members noted that the fiscal impact will likely be less than reported.

ARC 5055B Proposed amendments to ch 56 adjust the funding formula for vocational rehabilitation services and require that the vocational rehabilitation services division purchase sign language interpreter services only from licensed interpreters.

EMPOWERMENT BOARD Shanell Wagler represented the board.

ARC 5051B No action on amendments to ch 1, community empowerment. Sen. McKinley asked that "success in school" be determined by measurable, objective indicators and that a definition be developed to identify when a student succeeds in school. Ms. Wagler responded that data is already being collected on children enrolled in school systems statewide and that local empowerment boards are required to report where moneys are invested and how many children are served. Rep. Heaton suggested that the board work with the department of education to develop a legislative proposal for encouraging a remedial approach for students who fall behind once they enter a school system. Rep. Frevert encouraged continued collaboration with agencies such as WIC clinics.

ETHICS AND CAMPAIGN DISCLOSURE BOARD Charlie Smithson represented the board.

ARC 5058B No questions on the amendment to 4.6(2), which is intended to clarify requirements for filing a statement of organization when a candidate seeks a new office.

ARC 5057B No action on proposed 4.7(1) relating to the financial activity threshold for the filing of a committee's statement of organization and to disclosure report due dates.

ARC 5060B No questions on the proposed rescission of 4.48 concerning the use of corporate resources.

ARC 5059B No questions on proposed amendment to 4.52(2) regarding electronic transfer of PAC contributions.

ENVIRONMENTAL PROTECTION COMMISSION Christine Paulson, Gene Tinker, Angela Chen, and Dave Wornson represented the commission.

ARC 5041B No questions on proposed amendments to chs 22 and 23 which are intended to comply with federal air quality requirements.

ARC 5046B No action on amendments to ch 65 to adopt standards for open feedlots and confinement feeding operations.

ARC 5070B No questions on a corrective amendment to 65.101(8)"b."

ARC 5042B Ms. Chen outlined proposed amendments relating to commercial septic tank cleaners and reported that as a result of an environmental impact analysis completed in January, these rules require counties to perform additional inspections of land application sites and reviews of waste management plans. Discussion related to the increased fees for commercial septic tank cleaners and the additional costs to counties. Although members supported the intent of the rules, there was concern about the net effect on counties.

Motion Sen. McKinley moved the committee request a regulatory analysis to determine the cost that counties will incur and the procedure for allocation of the fees.

Motion carried The committee voted in favor of requesting a regulatory analysis.

ARC 5044B Mr. Wornson presented the amendments to chs 134 and 135 regarding certification of underground storage tank compliance inspectors and reviewed the concerns which have been addressed in these adopted amendments. Under these rules, a certified inspector employed by an owner-operator may inspect the tanks of the inspector's employer; the department retains oversight responsibility and will audit inspections. Mr. Wornson noted that the third-party inspection program will be reevaluated after three years. Mr. Nelson responded to Sen. Kibbie's inquiry by explaining that tanks converted to E-85 already have to document that the upgrade meets the compatibility standard, but these rules do not impose additional requirements. Sen. McKinley and Rep. Eichhorn commended EPC for working with the industry to resolve issues.

NATURAL RESOURCE COMMISSION Daryl Howell represented the commission.

ARC 5043B No questions on 61.2 pertaining to the list of state preserves.

CORRECTIONS DEPARTMENT Michael Savala represented the department.

ARC 5026B No action on proposed 38.4 to remove the requirement that a polygraph examination be administered as part of the psycho-sexual assessment and to update references to the Iowa board for the treatment of sexual abusers (IBTSA) standards.

REVENUE DEPARTMENT David Casey represented the department.

ARC 5048B No questions on 73.34 regarding property tax credit or rent reimbursement claims in the case of unreasonable hardship.

LOTTERY AUTHORITY Marci Tooman represented the authority.

ARC 5069B No questions on amendments to change the address of the authority offices and to clarify requirements for retail licenses and payment of winning prizes.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM Donna Mueller and Gregg Schochenmaier represented IPERS.

ARC 5066B No questions on amendments pertaining to the benefit advisory committee and contribution rates for special service members.

Committee business The minutes of the April 2006 meeting were approved.

The next meeting was scheduled for Thursday, June 8, 2006, at 9 a.m.

Subsequent meetings were tentatively scheduled for July 11 and August 8.

Chair Eichhorn welcomed new committee member Sen. Seymour.

TRANSPORTATION DEPARTMENT Stuart Anderson represented the department.

ARC 5050B No action on ch 102 which requires the secondary road fund distribution committee to determine the methodology to be used to distribute to counties the moneys in the secondary road fund and the farm-to-market road fund.

SECRETARY OF STATE Charles Krogmeier represented the office.

ARC 5056B Proposed ch 28 pertains to voter registration file (I-VOTERS) management. Mr. Krogmeier noted that proposed subrule 28.3(2) will be revised to clarify that because the system generates the list of multiple registrations and county auditors can access it at any time, the state registrar will not be required to send the list to the county auditors. Although HAVA does not require cross-state checking of registrations, subrule 28.3(3) allows the state registrar to engage in interstate checking of voter registration records. These rules also address cancellation of voter registration due to felony convictions as well as restoration of registration. Sen. Courtney expressed an interest in local training in small towns and rural areas in the operation of technical electronic systems. Discussion related to whether cross-state checking should be required.

PHARMACY EXAMINERS BOARD Lloyd Jessen represented the board.

- ARC 5030B No questions on proposed amendments relating to licensure, registration and permit fees.
- ARC 5032B No questions on the amendment to 3.3(2) to shorten from 90 to 30 days the time period in which to register as a pharmacy technician.
- ARC 5034B No questions on 6.2 regarding duties of the pharmacist in charge.
- ARC 5033B The amendment to 6.14(1) clarifies that the requirement for patient counseling for new prescriptions is not satisfied by an offer to counsel. Rep. Heaton noted a lack of patient counseling in the case of mail order prescriptions; Mr. Jessen shared the concern and stated that this rule gives the board more enforcement authority. Sen. McKinley requested a copy of the guidance on counseling which the board provides to pharmacists.
- ARC 5035B No questions on amendments to ch 8 clarifying the definition of "kickbacks" and making the fee for pharmacy license changes correspond to the current pharmacy license fees.
- ARC 5037B No action on requirements relating to documentation of the destruction of waste controlled substances.
- ARC 5036B An amendment to ch 10 requires that records of sales of pseudoephedrine be legible and include the total number of milligrams in the product sold.

PROFESSIONAL LICENSURE DIVISION Pierce Wilson represented the division.

- ARC 5029B No action on proposed 99.1, overpayments to the board of mortuary science examiners.
- ARC 5032B No action on proposed amendments to chs 101 and 102 concerning a course in Iowa law and rules for mortuary science.
- ARC 5067B No action on amendments to chs 140 and 144 regarding overpayments and competency examinations for nursing home administrators. In response to committee concerns about probable cause, Mr. Wilson explained that an investigation to determine whether a complaint is credible follows an allegation.
- ARC 5068B No questions on amendments to chs 219 and 224 regarding overpayments and competency examinations for podiatrists.
- ARC 5025B No questions on proposed 299.1, overpayments to the board of speech pathology and audiology examiners.
- ARC 5024B No questions on 304.5, competency examinations for speech pathologists and audiologists.
- ARC 5028B No questions on proposed 350.1, overpayments to the board of athletic training examiners.
- ARC 5052B No questions on termination of the notice to adopt a rule on overpayments; the board had already adopted such a rule.

REAL ESTATE APPRAISER EXAMINING BOARD Pam Griebel represented the board.

- ARC 5061B No action on amendments to ch 4, associate real property appraiser. These amendments allow a person to register as an associate residential or general real property appraiser without having to pass the appropriate examination. Ms. Griebel explained that the requirement was duplicative since an associate appraiser who upgrades to a certified residential or general real property appraiser would be required to successfully complete the same examination. There was discussion about lack of consistency in appraisals statewide and advocacy in appraisals.

Adjourned The meeting was adjourned at 2:02 p.m.

Respectfully submitted,

Kathleen K. West
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APPROVED:

George A. Eichhorn
Chair George Eichhorn

John P. Kibbie
Vice Chair John P. Kibbie