

**MINUTES OF THE MAY 2007 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 8, 2007, in Room 116, State Capitol, Des Moines, Iowa.
- Members present:** Representative Philip Wise, Chair, and Senator John P. Kibbie, Vice Chair; Senators Michael Connolly, Thomas Courtney, Paul McKinley, and James Seymour; Representatives Marcella Frevert, David Heaton, David Jacoby, and Linda Upmeyer.
- Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Deborah Svec-Carstens, associate counsel in the office of the Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened** Rep. Wise convened the meeting at 9:09 a.m.
- Committee business** The first order of business for the committee was to elect a chair from the senate and a vice chair from the house. Sen. Kibbie nominated Sen. Connolly for chair; there were no other nominations. Sen. Connolly was elected. Sen. Courtney nominated Rep. Wise for vice chair; there were no other nominations. Rep. Wise was elected. Sen. Seymour moved approval of the minutes of the April 2007 meeting; the motion carried.
The next meeting was scheduled for Monday, June 11, 2007. Rep. Heaton indicated that he will not be able to attend.
Mr. Royce suggested that the committee may wish to review the committee rules of procedure at a subsequent meeting.
- Fiscal report** Ron Robinson presented the LSA fiscal report on four rule makings from the department of human services: ARC 5819B, ARC 5816B, ARC 5813B, ARC 5817B.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Eugene Gessow, Eileen Creager, Don Gookin, and Mary Nelson represented the department. Shelly Chandler represented the Iowa Association of Community Providers.
- ARC 5819B** No action on amendments to chs 7, 114, 130, 152, 156, 181, 182, 185, and 202 to remove references to services that are no longer applicable.
- ARC 5816B** No questions on the annual adjustment to eligibility and payment levels for the SSA program.
- ARC 5813B** Amendments pertaining to home- and community-based habilitation services generated discussion about procedures followed in situations involving client violence; certification options for small, rural facilities; case management services; supported employment services; and the qualifications for providers. Sen. McKinley requested additional information about the number of clients using supported employment services, the duration of supportive services to maintain employment, and the total cost of these services.
Ms. Chandler commented on how persons with serious mental illness may use supported employment services very differently from the way these services are utilized by persons with mental retardation, and she clarified what expenses are included in the hourly rate. Ms. Chandler commented that Iowa is the first state in the nation to be approved by CMS for this program and expressed appreciation to the department for involving providers. Ms. Chandler noted that rates remain a concern and asked that, for the remainder of the fiscal year, providers receive reimbursement for their actual costs.
Committee members asked that Mr. Royce schedule continued review of this program at the August meeting.
- ARC 5817B** Amendments to chs 77 to 79 and 83 add case management as a covered service under the HCBS elderly waiver. Ms. Freudenberg outlined changes made at the request of the department of elder affairs. Ms. Creager explained how both new and existing clients will be afforded the opportunity to choose their provider of case management services and explained that case management services are available both through the elderly waiver program and through the department of elder affairs, from two different funding streams.
Rep. Wise requested a written summary from the department to clarify who is eligible for case management services and how such services can be accessed.
- ARC 5814B** No questions on reduction in face-to-face meeting requirements for the early ACCESS program, 78.49(2)"b" and "c."
- ARC 5815B** No questions on the annual update of IowaCare premiums, 92.7(1)"a."
- ARC 5818B** No action on 130.7(3) concerning completion of the child welfare case plan.
- ARC 5838B** No action on the citizenship requirement for child care assistance, 170.2(2)"d."
- ARC 5840B** No questions on 175.26(1)"h," which provides for an addendum to a child abuse assessment summary.

Human Services Department (continued)

ARC 5812B No action on termination of the notice regarding staff qualifications for providers of family-centered parental counseling. Rep. Heaton expressed concern that there may be instances in which requirements for private providers are higher than those for department personnel.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Melanie Johnson and Laura Stein represented the department.

ARC 5832B No questions on amendments to the entrepreneurial ventures assistance program.

ARC 5833B No questions on amendments to ch 168 concerning contract administration.

ARC 5831B No questions on amendments to provisions for the renewable fuel infrastructure program.

ARC 5834B No action on criteria for waiver of repayment requirements for the renewable fuel infrastructure program. Sen. Kibbie expressed the viewpoint that participants in this program need to commit to the advertising and sale of E-85. Several members concurred and commented that if the fuel is priced right, consumers will buy it. Sen. Connolly commented that the language regarding the waiver process is difficult to understand and should be simplified.

IOWA FINANCE AUTHORITY Mark Thompson represented the authority.

ARC 5849B No questions on amendments to update cross references.

ARC 5848B No action on amendments to ch 27 concerning the military service member home ownership assistance program.

INSPECTIONS AND APPEALS DEPARTMENT David Werning represented the department. Janet Metcalf represented Broadlawns Hospital.

Special review Mr. Werning stated that the sunset provision in 51.14(3) will be stricken to continue an allowance of 30 days from the patient's discharge from the hospital for a prescribing physician to authenticate written medication orders. If the department had not taken this action, the federal two-day requirement would apply to medication orders. The additional time is needed to allow visiting or consulting physicians to sign the written orders on their next visit to the hospital. Rep. Metcalf expressed appreciation to the department for continuing the provision which was slated to expire on June 30.

PUBLIC HEALTH DEPARTMENT Barb Nervig and Ben Woodworth represented the department.

ARC 5820B, ARC 5825B, ARC 5823B, ARC 5821B, ARC 5824B, and ARC 5822B were excused from review at this meeting.

Special review No action on ch 56 concerning the brain injury services program. Ms. Nervig reported that emergency implementation of the rules will allow individuals to apply for the cost-share component immediately.

PUBLIC SAFETY DEPARTMENT ARC 5847B and ARC 5837B were excused from review at this meeting.

RACING AND GAMING COMMISSION Jack Ketterer and assistant attorney general Jeff Peterzalek represented the commission. Rep. Rick Olson was also present.

Special review Mr. Ketterer distributed a proposed definition of "immediate danger" to be presented to the commission. In response to a question raised by the committee last month, Mr. Ketterer reported that since 2005 there have been 36 suspensions. Mr. Peterzalek stated that Iowa Code section 17A.18 sets out when a license may be summarily suspended prior to a hearing and that the pari-mutuel statutes also provide for summary suspension. Mr. Peterzalek asserted that that no property interest exists as the license is a privilege, not a right, of the license holder and noted that although he advised the commission that no change is necessary, the commission does plan to consider defining "immediate danger." Rep. Olson challenged the use of the word "could" in the proposed definition and commented that the definition does not address how conduct off the track affects the integrity of the industry.

Following committee discussion, no formal action was taken.

EDUCATION DEPARTMENT Carol Greta represented the department.

ARC 5767B No action on proposed amendments to ch 34 regarding funding for children residing in state institutions or mental health institutes. Ms. Greta advised the committee that these amendments have now been adopted.

Adjourned The meeting was adjourned at 12:30 p.m.

Respectfully submitted,

Kathleen K. West
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APPROVED:

Michael W. Connolly
Chair Michael Connolly

Philip Wise
Vice Chair Philip Wise