



# MINUTES

## JULY 2019 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

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### MEMBERS PRESENT

Senator Waylon Brown, Vice Chair  
Senator Pam Jochum  
Senator Mark Costello  
Senator Robert Hogg  
Senator Zach Whiting

Representative Megan Jones, Chair  
Representative Steven Holt  
Representative Joe Mitchell  
Representative Amy Nielsen  
Representative Rick L. Olson [by teleconference]

EX OFFICIO, NONVOTING MEMBER: Sam Langholz, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Amber Shanahan-Fricke, Legal Counsel, 515.725.7354

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### BULLETINS NEEDED FOR THIS MEETING: 5/8/19, 6/5/19, 6/19/19, 7/3/19

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#### Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9:05 a.m. on Tuesday, July 9, 2019, in Room 116, State Capitol, Des Moines, Iowa. The minutes of the June 11, 2019, meeting were approved. The next meeting was scheduled for August 12, 2019, at 9:00 a.m. at the State Capitol in Des Moines, Iowa. The meeting was adjourned at 1:14 p.m.

#### Fiscal Overview

Ms. Christin Mechler, Fiscal Legislative Analyst, presented the LSA fiscal report. Committee members posed a question regarding the Department of Revenue's Amended Notice of Intended Action ARC 4535C. Specifically, committee members asked why there was such a large projected increase from \$27.6 million in FY 2018-2019 to \$66 million in FY 2019-2020 and then a slow increase in the years thereafter. Ms. Mechler stated she did not want to speak for the department, but by the time the law was enacted in FY 2018-2019 collected revenue would have only been for a partial year, whereas revenue in FY 2019-2020 would be for a full year.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

## HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg, Julie Lovelady

### ARC 4470C (FEAN), Child Care Assistance—Fee Schedule, Change Reporting, Amendment to Rules 170.2(4) and 170.4

Committee members expressed appreciation for the department trying to remove the chart with the fee schedule from the rules because it is burdensome to copy federal regulations into state rules, but understood that there are legal requirements for maintaining the charts in the rules. Ms. Freudenberg stated that Mr. Ewing has been very helpful in assisting the department in understanding the circumstances under which the department needs to keep fee charts in administrative rules.

No action taken on ARC 4470C.

### ARC 4485C (AF), Aftercare Services Program, Amendment to Chapter 187

Committee members thanked the department for taking into account comments and integrating them into the adopted and filed rulemaking.

No action taken on ARC 4485C.

### ARC 4430C (AF), Home and Community-Based Services Waiver Services—Consumer Choices Option, Amendments to Chapters 78 and 79

The committee conducted a special review of the rulemaking following a session delay that was imposed at the June ARRC meeting. Ms. Freudenberg described the reason for the session delay as the department having system changes that were not in place and Veridian, which is processing the payments, having concerns about the rulemaking. Ms. Freudenberg referenced a June 20, 2019, letter the department provided to the committee regarding the status of the system change. Ms. Freudenberg requested an additional review in September to provide an update regarding system changes. Ms. Lovelady thanked the department's Veridian partners for a good conversation the previous day, during which Veridian expressed its concerns and the department was able to address them. She stated that the Iowa Medicaid Enterprise is committed to having the programming changes completed by September 1, 2019, but recognized that the department would be having a conversation later that week with Veridian regarding the programming and noted that the department may need to move that implementation date past September 1 by one to two months to ensure that everyone has the programming in place and provide adequate time for testing.

Ms. Lovelady stated the department is going to develop an informational letter that will be sent to providers, managed care organizations (MCOs), and fee-for-service case managers regarding the changes in the savings plan and to provide the guidance and direction needed to transition existing service plans to coincide with the member service plan year. Ms. Lovelady stated that the member is not going to lose any established savings during the transition and that member education will be needed since the informational letters will be sent to providers, MCOs, and the case managers. To assist in the education of members, the informational letters will be shared with the independent support brokers and case managers. Ms. Lovelady continued by stating that the department will have sessions with case managers to have them ask questions, so that when they are assisting their members they will have all of the information that they need and that the department is consistently relaying the same information whether it is a fee-for-service member or it is an MCO member.

Another concern Veridian expressed was eligibility. Ms. Lovelady reported that the department has a process in place for exception to policy to ensure that Veridian is made whole in those cases where eligibility information is shared and that later changes. That process is in place now and will continue going forward. Ms. Lovelady addressed a documentation requirement that she stated was codified in the rulemaking and implemented based on well-established Iowa Code. Ms. Lovelady stated that the informational letter will include information about the documentation requirement and include training components, and she will review any missing documentation with Consumer Choice Options providers.

She concluded by stating that the department's main focus during the previous day's meeting was for the department's leadership team to meet with Veridian's team to talk, understand issues, and determine a way to work together and move forward. The committee set this rulemaking for further review at the regular September meeting.

No action taken on ARC 4430C.

## **VOLUNTEER SERVICE, IOWA COMMISSION ON**

Representing the agency: Adam Lounsbury

ARC 4508C (NOIA), Future Ready Iowa Volunteer Mentor Program, Proposed Adoption of Chapter 13  
No discussion on ARC 4508C.

## **LABOR SERVICES DIVISION**

Representing the agency: Mitchell Mahan

ARC 4497C (NOIA), Organization of and Procedures Before the Division; Civil Penalties for Child Labor Violations; Asbestos Abatement; Technical and Statutory Changes; IOSH Enforcement, Research, Statistics, Consultation and Education, Proposed Amendments to Chapters 1, 4, 8, 32, 35, 38, 155, and 156; Proposed Rescission of Chapter 2  
No discussion on ARC 4497C.

ARC 4520C (NOIA), OSHA Standards—Civil Penalties, Adoption by Reference; Child Labor—Definition of “Willfully Volunteering”; Construction Contractor Registration, Proposed Amendments to Chapters 1, 3, 4, 10, 26, 32, and 150  
No discussion on ARC 4520C.

## **CHIEF INFORMATION OFFICER, OFFICE OF THE**

Representing the agency: Matt Behrens, Jeff Franklin

ARC 4505C (NOIA), Broadband — Infrastructure, Targeted Service Areas, Project Certification, Grants Program, Proposed Amendments to Chapters 20 – 22  
Committee members inquired as to what information broadband maps provide. Mr. Franklin stated that the Federal Communications Commission (FCC) provides broadband maps showing upload and download speeds across Iowa and the rest of the nation. These maps go through a validation process to determine what those speeds are. If Iowa has an unserved or underserved area, the Office of the Chief Information Officer (OCIO) uses that map in their grant process to evaluate applications. Committee members inquired whether a provider uses the map. Mr. Franklin responded that the telecom providers provide the information about unserved or underserved areas to the FCC. Mr. Franklin added that the applicable legislation provides a validation process which allows a comment period for a person not receiving a service to let OCIO know the person is not receiving service.  
No action taken on ARC 4505C.

## **INSURANCE DIVISION**

Representing the agency: Craig Goettsch, Andria Seip

ARC 4482C (NOIA), Pharmacy Benefits Manager Annual Report, Proposed Amendments to Chapter 59  
Ms. Paula Dierenfeld spoke on behalf of the Federation of Iowa Insurers and stated that the rules are consistent with the applicable legislation, so the Federation supports the rules.  
No action taken on ARC 4482C.

ARC 4496C (NOIA), Residential and Motor Vehicle Services Contracts, Proposed Amendments to Chapter 103; Proposed Rescission of Chapter 104, also Filed Emergency ARC 4495C.  
Committee members expressed appreciation for the rulemaking, noted the rules were correctly drafted, and stated that they understood why emergency rulemaking was needed. Mr. Goettsch concurred that it was important to do emergency rulemaking and stated the division also thought it made sense to double-barrel the rulemaking. Committee members noted that a lot of work was done on the rulemaking on the front end to make sure the rulemaking was well drafted before the rulemaking came before the committee.  
No action taken on ARC 4496C or 4495C.

## ACCOUNTANCY EXAMINING BOARD

Representing the agency: Robert Lampe

ARC 4507C (NOIA), CPA Examinations, Proposed Amendment to Rule 3.6(1)

No discussion on ARC 4507C.

## UTILITIES DIVISION

Representing the agency: Matthew Oetker, Cecil Wright

ARC 4469C (NOT), Rate Cases, Tariffs, and Rate Regulation Election Practice and Procedure, Proposed Termination of Amendments to Chapter 26

No discussion on ARC 4469C.

ARC 4506C (NOIA), Intrastate Gas Pipelines and Underground Gas Storage, Proposed Amendments to Chapter 10

Committee members noted that the definition of county inspector lacked clarity and asked that the board revisit the definition. Mr. Wright stated that he reached out to the county inspectors who worked on the Dakota Access Pipeline to review this definition and these were the suggested changes. The goal was to have county inspectors who were qualified do the inspections and who understood what their statutory requirements were.

Mr. Brandon Geib spoke on behalf of Black Hills Energy regarding 199 IAC 10.2(5), identifying three different definitional requirements for notices for pipeline projects: landlords and tenants, all persons with legal rights or interests in property, and all persons with property interests in each corridor within which the pipeline company proposes to construct a pipeline. Mr. Geib recommended a singular definition that limited the class to provide notice to landlords and tenants. He stated that the current process for creating a pipeline requires the company to go through public records to find landlords and tenants on the initial planned route, identify and notify landowners and tenants on that route, hold a public information meeting, narrow down the parcels, and adjust the route. He provided the example of narrowing the parcels down from 596 to 70. He stated the rulemaking would require the company to provide notice prematurely which results in the company providing notice to more people than who ultimately need to receive notice of the construction of a pipeline because pipeline routes change during planning. He stated this would be costly and inefficient. For example, the revised rulemaking would require the parcel search to be done initially for all 596 parcels at a cost of \$300 per search.

Mr. Wright responded by stating that the change is being made in order to ensure that all of the affected persons with a legal interest are notified that a pipeline may traverse their property, a change the board is making because the board has learned it is necessary through experience. Mr. Wright stated that he understood the rulemaking was broader than statutory requirements, which refer to persons on taxpayer rolls and persons in possession. He stated he hoped that Black Hills would file its comments, so that the board could better understand Black Hills' position and so that it could reach a balance between providing notice to affected persons with legal interests and limiting the amount that companies have to pay. Mr. Wright also stated the board was establishing stricter standards for eminent domain because companies have not always shown due diligence in finding individuals who have legal interests in property. He provided an example of a company serving deceased individuals in lieu of providing actual notice.

Committee members expressed concern that Mr. Wright stated that the rulemaking was broader than statutory requirements because the board does not have requisite statutory authority and needs to approach the General Assembly for that authority. Furthermore, committee members, referencing Mr. Geib's example, expressed concern about the rulemaking requiring companies to spend money for parcel searches for over 500 parcels, when only 70 are affected.

No action taken on ARC 4506C.

**INSPECTIONS AND APPEALS DEPARTMENT**

Representing the agency: Ashleigh Hackel

ARC 4467C (NOIA), Residential Care—Specialized Licenses for Three- to Five-Bed Facilities, Proposed Amendments to Chapter 63  
No discussion on ARC 4467C.

**ENVIRONMENTAL PROTECTION COMMISSION**

Representing the agency: Matthew Dvorak

ARC 4514C (AF), Surface Water Classification, Amendment to Rule 61.3(5)  
No discussion on ARC 4514C.

**NATURAL RESOURCE COMMISSION**

Representing the agency: Chris Ensminger

ARC 4530C (AF), Increased Bag Limits for Bobcats, Amendment to Rule 108.7(3)  
No discussion on ARC 4530C.

ARC 4531C (AF), Antlerless Deer Hunting—January Licenses, County License Quotas, Amendments to Rule 106.6  
No discussion on ARC 4531C.

**PROFESSIONAL LICENSURE DIVISION**

Representing the agency: Tony Alden

ARC 4515C (AF), Polysomnographic Technologists and Respiratory Care and Polysomnography Practitioners—Continuing Education, Amendments to Chapter 262  
No discussion on ARC 4515C.

**DENTAL BOARD**

Representing the agency: Jill Stuecker

ARC 4525C (NOIA), Military Service and Veteran Reciprocity for Licensing, Proposed Amendments to Rules 52.1 and 52.3  
See additional committee discussion on SF 304 and HF 288.  
No action taken on ARC 4525C.

ARC 4526C (NOIA), Prohibited Grounds for Discipline—Default or Delinquency on Student Loan Debt or Service Obligation, Proposed Amendment to Chapter 30; Proposed Rescission of Chapter 34  
Committee members noted that the committee will follow the same practice as described in additional committee discussion of SF 304 and HF 288.  
No action taken on ARC 4526C.

ARC 4534C (ANOIA), Teledentistry, Proposed Amendments to Rules 27.12 and 27.13

Ms. Gianna Hartwig spoke on behalf of the American Association of Orthodontists (AAO) to reiterate the importance of the draft rules. She wanted to make sure submitted comments by stakeholders were considered. She stated that originally the board had proposed a second option that was not voted for which would have narrowed down the rules to include only an American Teledentistry Association request that a static entrance survey be allowed to evaluate patients. Ms. Hartwig emphasized that the AAO believes the role of teledentistry should be limited to diagnostic and treatment planning services. She indicated that rules as they are drafted do not address the main concerns of patient health and safety. The AAO urged the board and ARRC to consider what statutes already exist and how this language can best protect health and safety of Iowa patients.

Ms. Charlotte Eby spoke on behalf of Smile Direct Club and stated that she would share lengthy written comments in the near future.

No action taken on ARC 4534C.

**MEDICINE BOARD**

Representing the agency: Kent Nebel

ARC 4477C (NOIA), Licensure of Genetic Counselors, Proposed Amendments to Chapter 20, also Filed Emergency ARC 4468C.

Committee members expressed an appreciation for expediting the rulemaking.

No action taken on ARC 4477C or 4468C.

**PHARMACY BOARD**

Representing the agency: Sue Mears

ARC 4483C (NOIA), Military Service and Veteran Reciprocity for Licensing, Proposed Amendments to Rules 33.1, 33.3, and 33.4

No discussion on ARC 4483C.

ARC 4484C (NOIA), Licensing Sanctions— Student Loan Debt or Related Service Obligations, Proposed Rescission of Chapter 31; Proposed Amendments to Chapter 36

No discussion on ARC 4484C.

**PUBLIC SAFETY DEPARTMENT**

Representing the agency: Chandlor Collins

ARC 4475C (NOIA), Military Service and Veteran Reciprocity for Fire Extinguishing and Alarm Systems Contractors and Installers, Proposed Adoption of Chapter 278

No discussion on ARC 4475C.

ARC 4521C (NOIA), Safety Standards—Liquefied Petroleum Gas, Proposed Amendments to Rules 226.1, 226.4, 226.5, and 226.8

No discussion on ARC 4521C.

ARC 4522C (NOIA), Fire Service Training Bureau; Fire Fighter Training, Certification, and Funds, Amendments to Chapter 53, 251, and 259

Committee members expressed appreciation for the note in the rulemaking that certification is not required to be a volunteer fire fighter.

No action taken on ARC 4522C.

## **REGENTS BOARD**

Representing the agency: Aimee Claeys

ARC 4533C (NOT), Parking and Vehicle Registration at Universities, Proposed Termination of Rule 4.71  
Committee members expressed appreciation for the rulemaking.  
No action taken on ARC 4533C.

## **REVENUE DEPARTMENT**

Representing the agency: Tim Reilly

ARC 4500C (NOIA), Determination of Net Income—Like-Kind Exchanges of Personal Property, Proposed Adoption of Rules 40.82, 53.27, and 59.25  
No discussion on ARC 4500C.

ARC 4516C (AF), Iowa Educational Savings Plan Trust; Iowa ABLE Savings Plan Trust, Amendments to Rules 40.53 and 40.81  
Committee members stated that many people are encouraged based on this rulemaking and expressed appreciation for the department's work, noting that the rulemaking was behind schedule for a while.  
No action taken on ARC 4516C.

ARC 4517C (AF), Section 179 Expensing, Amendments to Rules 40.65, 53.23, and 59.24  
No discussion on ARC 4517C.

ARC 4523C (NOIA), Sourcing of Taxable Services, Proposed Amendments to Rules 26.17(3) and 223.2  
No discussion on ARC 4523C.

ARC 4535C (ANOIA), Remote Sales and Marketplace Sales, Proposed Adoption of Chapter 215  
Committee members asked why the fiscal estimate for the rulemaking increases significantly in FY 2020-2021. Mr. Reilly explained that the underlying legislation became effective in the middle of FY 2019-2020, so FY 2020-2021 is the first full fiscal year in which the legislation is effective.  
No action taken on ARC 4535C.

## **WORKERS' COMPENSATION DIVISION**

Representing the agency: James Elliott

ARC 4472C (NOIA), Electronic Filing, Proposed Amendments to Chapters 2 – 5, 10, and 11  
No discussion on ARC 4472C.

## **TRANSPORTATION DEPARTMENT**

Representing the agency: Tracy George, Steve Gent, Sara Siedsma, Annette Dunn

ARC 4471C (NOIA), Confidential Records, Proposed Amendments to Rules 4.4(3) and 4.9  
Committee members asked why it had taken so long to implement legislation from 2017, and Ms. Dunn explained that an employee who had worked on the rulemaking previously had retired.  
No action taken on ARC 4471C.

ARC 4476C (NOIA), Driver Licensing, Proposed Amendments to Chapters 600, 602, 604, 605, and 607  
No discussion on ARC 4476C.

ARC 4492C (AF), Petition Submission Methods; Oral Presentation Information; Office Name and Address Updates, Amendments to Chapters 10 – 12  
No discussion on ARC 4492C.

ARC 4532C (AF), Traffic Safety Improvement Program, Amendments to Chapter 164  
No discussion on ARC 4532C.

## **VOTER REGISTRATION COMMISSION**

Representing the agency: Molly Widen

ARC 4493C (AF), Petitions for Rule Making; County Registration Date for Applicants Aged 17 to 18, Amendments to Chapters 1, 2, and 11

Committee members asked when 17-year-olds will first be able to register and vote in primary elections. Ms. Widen explained that 17-year-olds can register on their birthday starting January 1, 2019, and their first opportunity to vote will be in city primary elections, which have a shorter primary season, in 2019. She expected participation to increase in the next statewide elections.

No action taken on ARC 4493C.

ARC 4518C (NOIA), Voter Registration Forms Produced by Electronic Poll Books, Proposed Adoption of Rule 2.17, also Filed Emergency ARC 4519C.

No discussion on ARC 4518C or 4519C.

## **PUBLIC HEALTH DEPARTMENT**

Representing the agency: Susan Dixon, Owen Parker

ARC 4487C (AF), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Amendments to Chapter 73

Committee members asked if the department has been enforcing 2018 legislation relating to the stocking of conventional eggs prior to this rulemaking becoming effective. Ms. Dixon explained that the federal WIC program already required grocers governed by the rulemaking to stock conventional eggs, so this rulemaking was unnecessary to enforce the legislation, although the department decided having rules on the subject would be worthwhile.

No action taken on ARC 4487C.

ARC 4488C (AF), Local Public Health Services, Amendments to Rules 80.2 and 80.3

No discussion on ARC 4488C.

ARC 4490C (AF), Oral and Health Delivery System Bureau; Office of Minority and Multicultural Health, Amendment to Rule 170.7(6)

No discussion on ARC 4490C.

ARC 4489C (AF), Medical Cannabidiol Program, Amendments to Chapter 154

Mr. Lucas Nelson made a public comment on behalf of MedPharm. He explained that MedPharm had discussed the noticed rulemaking with the department, and the discussion had resulted in positive changes that are fair to licensees. He stated that there were still some matters he would like to see addressed.

Mr. Nelson expressed concern that the rulemaking removes standards for laboratory testing from rule and instead provides that the standards will be placed in another document with licensees given an opportunity to comment on changes. He explained that laboratory testing is expensive and changes in this area could affect the supply chain and price of the product. As an example, he noted the possibility that the department could change its standards for vaporization devices after MedPharm had already ordered such devices. He stated the uncertainty regarding the document could affect other laboratories as well. Mr. Nelson also expressed concern regarding the language on product recalls, stating that newly added language providing for consultation with the department's medical director prior to issuing a recall did not provide certainty for manufacturers regarding recall procedures. He suggested that the department establish a single process for recalls that would be used by all manufacturers, rather than having each manufacturer and the department have its own process. Mr. Nelson additionally expressed concern that the rulemaking requires manufacturers to seek department approval of their crop inputs. He explained that the rulemaking is unclear what happens if an input is neither approved nor denied or if an approved input is used and later the approval is rescinded and that it is also unclear why solvents are distinguished from other crop inputs. He stated that MedPharm is reluctant to hand over its crop inputs to the department. Mr. Nelson further expressed concern that the rulemaking's limitations on health care practitioners certifying family members and advertising could impede new patients from participating in the program and thus harm the program's growth. He noted that Iowa's



medical cannabidiol program is the smallest in the country. Mr. Nelson expressed concern regarding the rulemaking's requirement that manufacturers enter various data on their operations into the department's tracking system, noting that the rulemaking does not include a process, safeguards, or timelines for doing so. He stated that MedPharm is ultimately looking for regulatory processes to be laid out ahead of time so that there would be no pressure on a manufacturer if something goes wrong, such as an employee getting sick.

Committee members asked what would trigger a product recall. Ms. Dixon explained that the department would use the same factors their medical director would use for any situation, such as a recall of salad or peanut butter. The factors would be health and safety, with consideration of whether people are becoming ill, whether the numbers are statistically significant, and whether hospitalizations have occurred. She stated that the department would not require a recall on a whim.

Committee members asked why the department needs to authorize a manufacturer's crop inputs and questioned where that information would go once it is out of the manufacturer's control. Members explained that it would be significant if the Department of Agriculture and Land Stewardship did something similar for all crop inputs of corn growers, and stated that such information should be considered a trade secret. Mr. Parker explained that there are nefarious manufacturers who do not disclose the use of chemicals in their products that may be harmful to the public. He stated that the department is asking for disclosure of such chemicals and is moving toward quarterly testing instead of more regular testing. He explained that the increased disclosures should reduce the need for product testing, which should reduce costs for manufacturers and patients.

Committee members asked if MedPharm would be better off with or without the rulemaking in place. Mr. Nelson stated that there are some matters in the rulemaking MedPharm has no issues with and some it does have issues with, but agreed with the department that the rules on this subject need updating. He said there is another manufacturer coming to Iowa that may have an opinion on the rulemaking, and it may make sense for all of the parties to engage in further discussion. Ms. Dixon stated that the department will continue discussing the rulemaking with Mr. Nelson and that the rulemaking could be revisited later if it moves forward.

Committee members confirmed with Ms. Dixon and Mr. Nelson that the department went through a two-year process to select MedPharm as a manufacturer and that products derived from cannabis plants are tested at the state hygienic laboratory. Committee members asked what need there is to regulate crop inputs in the manner the rulemaking does. Mr. Parker explained that the state hygienic lab does not test for everything and that while he respects MedPharm and the other selected manufacturer, the quality of manufacturers may vary. He also noted that in the event of a recall, it might not be known what caused the issue.

Committee members asked if the plants are grown in a greenhouse with pesticides and Mr. Nelson explained that the plants are grown in a greenhouse and MedPharm has looked at biological pesticides, but would never use chemical pesticides. Committee members suggested the department could prepare a list of prohibited crop inputs. Ms. Dixon explained that the regulation of crop inputs in the rulemaking is not punitive, as it only requires that a manufacturer notify the department about crop inputs to be used and permits manufacturers to use the inputs if they do not hear back from the department within 48 hours. Mr. Nelson explained that the definition of crop inputs is quite broad and includes not just pesticides but also the nutrient mix used. He expressed interest in having a list of prohibited substances from the department. Ms. Dixon noted the department can grant waivers from the crop input requirements if a situation becomes untenable.

Committee members asked if there has ever been a recall of a cannabidiol product anywhere. Mr. Nelson said he had in a prior capacity participated in drills for such a scenario. He explained that the rulemaking is not clear on how a manufacturer would carry out a recall, how the department would determine whether a recall is necessary, and how much input a manufacturer would have on the department's processes. He stated that a high level of detail of recall procedures should be included in the rulemaking. He noted that a recall would be damaging to a manufacturer and the program as a whole. He also noted that similar regulations by the federal Food and Drug Administration provide for mandatory recalls if a manufacturer does not do one of its own volition, but lay out more specific procedures. Ms. Dixon stated that she does not envision the department taking over a recall process, which would be similar to how the department would not control a recall of a product from grocery

stores. In response to another question, Mr. Owen explained that he previously worked in compliance in the cannabidiol industry in the private sector.

Committee members asked if the department similarly requires that inputs for products such as peanut butter be reported to the department. Mr. Owen stated he could not speak to that, but explained that the language in the rulemaking on recalls is based on similar regulations from Colorado and California.

### **Session Delay**

Mr. Ewing confirmed that the committee can delay specific items of a rulemaking and discussed the history of the committee's delay powers. After additional discussion of committee procedures relating to delays, a motion for a session delay on items 1, 4, 7, 10, 11, 12, 13, 15, 21, 22, and 24 of the rulemaking passed on a voice vote with two recorded no votes, with nine members present and one member participating by phone. Additional review is scheduled for the October meeting.

## **COLLEGE STUDENT AID COMMISSION**

Representing the agency: Todd Brown

ARC 4473C (NOIA), Future Ready Iowa Skilled Workforce Grant Program, Proposed Adoption of Chapter 16

No discussion on ARC 4473C.

ARC 4474C (NOIA), Future Ready Iowa Skilled Workforce Last-Dollar Scholarship Program, Proposed Adoption of Chapter 15

Committee members asked Mr. Brown to clarify the distinction between the two eligible populations for the program. He explained that the populations are high school graduates who enter an eligible program the fall after graduation and adults who have earned a high school diploma or general education diploma (GED) by their 21st birthday. He explained that if a high school graduate does not enter an eligible program in the fall after graduation, then they must wait until they fall within the second population. He stated that the commission has discussed the matter at length with stakeholders and explained that the underlying legislation sets out this distinction explicitly and does not leave the commission any flexibility to combine the populations. Committee members asked why the legislation would make such a distinction, and he speculated that the criteria for recent graduates was intended to get them into the workforce quickly, while the criteria for adults was intended to account for their possible need to enroll part-time due to life events. Committee members suggested that the legislation may need further revision in the future. Committee members asked whether programs on subjects such as child care and welding were no longer eligible for scholarships under the legislation, and Mr. Brown was unsure. Committee members asked if recent high school graduates who do not start programs in the fall could be treated similarly to the other eligible population so that they would qualify for the program before age 21. Mr. Brown stated that would exceed language of the legislation.

Ms. Laurie Wolf made a public comment on behalf of the Iowa Association of Community College Trustees. She thanked the General Assembly for funding the program and acknowledged that commission staff had worked closely with community college financial aid directors to see what the legislation allows. She stated that the program will be implemented in the fall of 2019, but there will be some administrative burden in the process. She explained that the way the program is structured, every time a student changes their enrollment, the change will have to be manually entered into a community college's computer system. She stated that the rulemaking is fine, but there are three statutory issues with the program that should be addressed next year. She would like to see language requiring the completion of prerequisite courses prior to entering the program revised, as some students will not be able to complete their prerequisites until they have aged out of the recent high school graduate population and then would not be eligible for the program unless they enter the adult population. She would like to see the language defining full-time student for a summer term as 12 hours revised to six hours, which would be a more typical definition for a summer term. She would also like a deadline annually in January for the Workforce Development Board to approve high-demand programs for scholarships, as they were only approved this year in mid-June, which did not leave students much time to determine if they wished to participate. She stated other issues might come up as well.

No action taken on ARC 4474C.

## **EDUCATIONAL EXAMINERS BOARD**

Representing the agency: Darcy Hathaway

ARC 4502C (NOIA), Teaching Licensure—Nonrenewable Temporary Initial License, Proposed Amendment to Rule 13.6

No discussion on ARC 4502C.

ARC 4503C (NOIA), Teaching License Suspension or Revocation Due to Student Loan Default — Elimination, Proposed Rescission of Chapter 9 and Amendments to Chapters 11 and 25

No discussion on ARC 4503C.

ARC 4504C (NOIA), Child Abuse and Dependent Adult Abuse Identification and Reporting Training, Proposed Amendments to Chapters 15, 19, 20, and 22 – 24

No discussion on ARC 4504C.

ARC 4501C (NOIA), Preservice Substitute Authorization, Proposed Adoption of Rule 22.2(4)

No discussion on ARC 4501C.

## **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT**

Representing the agency: John Benson

ARC 4498C (NOIA), Flood Recovery Fund, Proposed Adoption of Rule 14.12, also Filed Emergency ARC 4499C.

No discussion on ARC 4498 or 4499C.

## **EDUCATION DEPARTMENT**

Representing the agency: Nicole Proesch, Tom Cooley, Max Christensen

ARC 4480C (NOIA), Standards for Teacher Intern Preparation Programs, Proposed Amendment to Rule 77.11(2)“c”

No discussion on ARC 4480C.

ARC 4481C (NOIA), Standards for Preparation Examinations, Proposed Amendments to Rules 79.2, 79.10(4), 79.15(6), and 79.17(1)

No discussion on ARC 4481C.

ARC 4524C (NOIA), Gap Tuition Assistance Program—Eligibility Criteria, Assessment, Redistribution of Funds, Proposed Amendments to Chapter 25

No discussion on ARC 4524C.

ARC 4527C (AF), General Accreditation Standards, Amendments to Rules 12.5 and 12.8

No discussion on ARC 4527C.

ARC 4528C (AF), Medium of Instruction for Students of Limited English Proficiency, Amendment to Rule 60.3(4)

No discussion on ARC 4528C.

ARC 4529C (AF), Operational Function Sharing Eligibility — Master Social Workers, Independent Social Workers, Removal of Supplemental Weighting Limit, Amendment of Rule 98.15

No discussion on ARC 4529C.

ARC 4478C (NOIA), Pupil Transportation, Proposed Amendments to Chapter 43

Committee members asked if the department could collect data on school bus ride times across the state, as such information is currently only collected locally. Ms. Proesch explained that the department generally does not ask for information without statutory authority, and that the matter could be addressed legislatively.

Committee members asked about a situation where a bus stopping at a day care center only picks up those children present who live more than two miles away from the school, the threshold for free bus service. Other children must be transported by the day care center. Committee members wondered why a bus could not pick them all up, as it was making the trip anyway. Ms. Proesch explained that parents whose children were not being picked up may have declined to pay for bus service. She stated that a statutory change may be necessary to resolve the situation. Mr. Christensen explained that a local school district would have the option to provide transportation in such a situation or not. State law would not prohibit a school district from doing so.

No action taken on ARC 4478C.

#### ARC 4479C (NOIA), School Bus Construction Standards, Amendments to Chapter 44

Committee members inquired whether 2019 Iowa Acts, House File 499, is implemented in this rulemaking. Ms. Proesch indicated that this rulemaking does not implement that Act because this rulemaking was drafted before that Act was passed. Ms. Proesch indicated that the law supersedes the rules, so the department can implement the law even if the rules predate the law. Committee members indicated that July 1, 2019, is an unrealistic effective date for the rules. Ms. Proesch indicated that the board can implement House File 499 in this rulemaking through the adoption phase and it will be effective in October.

Committee members indicated that the rulemaking states that school bus cameras can only extend down 1 inch, but there is a company that makes a camera that extends down 1 and 1/2 inches. Committee members inquired whether the rulemaking can extend the length to include this company's product. Mr. Christensen responded that the rule is written for the benefit of tall children, so that they do not hit their heads; but the board can extend the length that the camera extends down.

Committee members stated that they have gotten feedback on the rulemaking from bus drivers urging the committee members to vote against the rulemaking due to the seat belt requirement. Furthermore, committee members noted that legislators want input on the subject. Committee members expressed a preference to discuss seat belts on school buses as a legislative matter, not an administrative rule matter. Ms. Proesch confirmed that the rulemaking does not require that school buses be retrofitted with seat belts. Mr. Christensen stated that the cost for seat belts on a new bus is \$123 per seating position, which ends up being 4 to 4.5 cents per child per day over the life of the school bus, which is about 15 years.

Committee members inquired whether if a school district buys a school bus with seat belts, the students need to receive evacuation training regarding the seat belts. Mr. Christensen responded that schools do need such evacuation training. Committee members noted that the rulemaking specifies three-point harnesses. Committee members inquired how long a child needs to stay in a five-point harness. Mr. Christensen stated it depends on age and weight; it could be three or four years old. There are school buses with three- to four-year-old children riding the bus. School buses do not currently require five-point harnesses.

Ms. Emily Piper spoke on behalf of the Iowa Association of School Boards (IASB). She stated that the IASB is supportive of requiring buses to have seat belts and she agrees that this requirement would be limited to new school buses. However, Ms. Piper stated that the current rulemaking is not clear that the construction standards apply only to new buses. She noted that the fiscal note anticipates retrofitting. Ms. Proesch indicated that the board is currently rewriting the rulemaking to make it clear that the rulemaking does not require retrofitting buses for seat belts.

Committee members noted that the rulemaking as written does not require a fire extinguisher, but may allow it. Ms. Proesch noted that she is awaiting the report on the Riverside, Iowa, bus accident and will consider that report when it comes out.

Mr. Merrill Mueller, the transportation director for the Algona Community School District, spoke in support of the rulemaking and the requirement for seat belts. He stated that on April 21, 2018, a major school bus accident occurred on I-35 in Ankeny, and he determined there was a need for lap shoulder belts after reviewing what occurred. He also noted that he was supportive of five-point lap shoulder belts to transport three- to five-year-olds because safety is his number one priority. In response, committee members stated that they have received feedback from other bus drivers that it would be difficult for small children to free themselves from a school bus that is submerged in water or on fire if the children were wearing seat belts. Mr. Mueller responded by saying that it may take a second or two longer to get everyone off but adults grew up in seat belts, kids today grow up in seat belts, and kids know how to get out of seat belts. Furthermore, buses are equipped with seat belt cutters and drivers can use cutters if needed. Mr. Mueller indicated that evacuation drills are done with full seat belts. No action taken on ARC 4479C.

#### **Additional Committee Discussion on SF 304 and HF 288**

Committee members and Mr. Langholz discussed that there would be between dozens and over 100 licensure boards required to adopt rulemaking to implement 2019 Iowa Acts, Senate File 304, and 2019 Iowa Acts, House File 288. This would entail rulemaking on veterans' spouses (2019 Iowa Acts, House File 288) and student loans (2019 Iowa Acts, Senate File 304) by all licensure boards. Committee members expressed a preference that licensure rules go through floor managers then go on the "no representative required to appear" list because the committee does not have the capacity to review 200 similar rulemakings. Committee members also expressed a preference that Mr. Ewing keep a running list of which boards have and have not completed rules implementing the legislation. Other committee members expressed skepticism regarding the need for a floor manager to approve the rulemakings.

Mr. Ewing stated that there is a precedent whereby many agencies develop the same language in rules, and the committee reviews the language in a few agencies' rules and then places the next several agencies on the list. However, the floor manager approval requirement is new. Mr. Ewing explained that the practice has also been that if any member of the committee does not want an item to be on the list, it will be removed from the list.