



# MINUTES

## APRIL 2020 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

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### MEMBERS PRESENT

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

Representative Megan Jones, Vice Chair  
Representative Steven Holt  
Representative Amy Nielsen  
Representative Rick L. Olson

EX OFFICIO, NONVOTING MEMBER: Michael Boal, Deputy Legal Counsel, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Legal Counsel, 515.281.6329

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### BULLETINS NEEDED FOR THIS MEETING: 3/11/20, 3/25/20

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#### Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9:30 a. m. on Friday, April 3, 2020. All members present were in attendance via a telecommunications connection. Committee members and Mr. Ewing discussed procedures for conducting the meeting via Zoom. The minutes of the March 6, 2020, meeting were approved. The next meeting was scheduled for Friday, May 8, at 9:00 a.m. The meeting was adjourned at 10:30 a.m.

#### Fiscal Overview

Ms. Christin Mechler, Fiscal Legislative Analyst, presented the LSA fiscal report.

#### CIVIL RIGHTS COMMISSION

Representing the agency: Stephanie Adkisson

ARC 4970C (AF), Assistance Animal as Reasonable Accommodation in Housing—Form, Ch. 9, Appendix A  
No discussion on ARC 4970C.

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).

## **INSURANCE DIVISION**

Representing the agency: Doug Ommen

ARC 4998C (NOIA), Unfair Trade Practices—Standards for Annuity Agents and Securities Agents, Ch. 15, Rule 50.104

Committee members asked if more stakeholder input was going to be sought on the proposed rule. Commissioner Ommen explained that interested parties should view the insurance portion of the proposed rule favorably as it is based on a model regulation. Commissioner Ommen indicated that a public hearing will be held to obtain further input from interested parties on the securities portion of the proposed rule.

Committee members asked if the National Association of Insurance Commissioners' model regulation is the states' attempt at addressing the federal Department of Labor's (DOL) fiduciary rule that was struck down by the Fifth Circuit Court of Appeals, and if the proposed rule is referring to it as a "best interest standard" rather than a "fiduciary rule." Commissioner Ommen indicated that is correct and that because the federal Securities and Exchange Commission (SEC) and the Dodd-Frank Act recognize that commission transactions and fee arrangements are both permissible under Dodd-Frank, when the DOL defined the best interest exception it really created a fiduciary requirement. The Fifth Circuit vacated the DOL's rule, which sent the securities issue to the SEC and the insurance issue to the states.

Committee members expressed appreciation for Commissioner Ommen's presentation.  
No action taken on ARC 4998C.

## **HUMAN SERVICES DEPARTMENT**

Representing the agency: Nancy Freudenberg

ARC 4972C (AF), Appeals and Hearings, Ch. 7

No discussion on ARC 4972C.

## **SECRETARY OF STATE**

Representing the agency: Molly Widen, Eric Gookin

ARC 4965C (NOIA), Elections Technology Security, Rules 29.3(1), 29.4-29.6

No discussion on ARC 4965C.

ARC 4997C (NOIA), Notarial Acts, Ch. 43

No discussion on ARC 4997C.

## **MEDICINE BOARD**

Representing the agency: Joseph Fraioli

ARC 5001C (NOIA), Standards of Practice—Medical Cannabidiol, Rule 13.15(1)

Committee members asked why the vote by the Board of Medicine (Board) to add intellectual disability (ID) with aggression and/or self-injury to the list of debilitating medical conditions only passed by a vote of 4 to 3.

Mr. Fraioli explained that various petitions come from the Medical Cannabidiol Advisory Board (CBD Board) and the Board has had discussions about which conditions are appropriate to add to the list. Certain Board members want to make it clear that all conditions added to the list are refractory to other treatments. Mr. Fraioli explained that this means that CBD is used only after other tested and approved procedures have been tried to treat a condition. Some members of the Board felt that ID is not refractory to other treatments and thus should not be added to the list, while other members felt that there is not necessarily a specific method or treatment verified for treating ID and therefore those members were comfortable approving ID for inclusion on the list.

Mr. Fraioli indicated that he is working with Mr. Owen Parker at the CBD Board. Mr. Fraioli expects that rules will be proposed in the future to clarify that the list is meant for conditions that are not responsive to other forms of treatment and that this should alleviate the Board's concerns.  
No action taken on ARC 5001C.

#### **PHARMACY BOARD**

Representing the agency: Sue Mears

ARC 5007C (AF), Technician Product Verification Program; Nonresident Pharmacy Applicants; Records Requests; Pharmacy Closure; Prescription Drug Delivery, Rules 3.21(1), 3.23, 6.8, 6.16(2), 7.6(1)“b,” 7.13(4), 8.9, 8.15, 8.24, 8.35, 13.8(7), 21.2  
No discussion on ARC 5007C.

ARC 5008C (AF), Changes in Distributor Facility Managers, Rules 17.1, 17.2, 17.3(3)“d,” 42.3(8), 43.3(5)“d”  
No discussion on ARC 5008C.

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT**

Representing the agency: Maison Bleam, Robin Pruisner

ARC 4988C (NOIA), Hemp, Ch. 96, also Filed Emergency ARC 4989C.

Committee members asked why the department distinguishes between entities that must be notified in the event of different levels of negligent violations by growers. Ms. Pruisner explained that the notification requirements in the rulemaking were the result of combining the notification requirements in a federal interim rule by the United States Department of Agriculture with those in state law, the result of which is that a large number of entities must be notified, which vary depending on the level of the violation.

Committee members asked how many producers of hemp are expected once the program becomes available. Ms. Pruisner explained that the department has sent out about 150 fingerprint cards for the program, although a single permit may involve more than one card. She stated the department has received approximately three applications since the application period started on April 1.  
No action taken on ARC 4988C or ARC 4989C.