



# MINUTES

## AUGUST 2021 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

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### MEMBERS PRESENT

Senator Zach Whiting, Vice Chair	Representative Megan Jones, Chair
Senator Pam Jochum [by teleconference]	Representative Jon Jacobsen [by teleconference]
Senator Waylon Brown	Representative Amy Nielsen
Senator Jesse Green	Representative Rick L. Olson
Senator Robert Hogg [by teleconference]	Representative Mike Sexton

EX OFFICIO, NONVOTING MEMBER: Michael Boal, 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 Kate O'Connor, Legal Counsel, 515.281.6329

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### BULLETINS NEEDED FOR THIS MEETING: 7/14/21, 7/28/21

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#### Procedural Business

Representative Jones convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9 a.m. on Tuesday, August 17, 2021, in Room 103, State Capitol, Des Moines, Iowa. The minutes of the July 13, 2021, meeting were approved. The next meeting was scheduled for September 14, 2021. Mr. Ewing discussed procedures for participating in the meeting via Zoom. He briefly reviewed the LSA rules analysis report for bills enacted in the 2020 Legislative Session. The meeting was adjourned at 10:20 a.m.

#### Fiscal Overview

Mr. Chris Ubben, Fiscal Legislative Analyst, presented the LSA fiscal report.

#### HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

ARC 5779C (NOIA), Financial Provisions for Mental Health and Disability Services Regions, Rule 25.14(3)  
No discussion on ARC 5779C.

ARC 5808C (AF), Deaf and Hard-of-Hearing Persons—Terminology, Chs. 73, 78, 81, 82, 113  
No discussion on ARC 5808C.

ARC 5809C (AF), Home- and Community-Based Services—Individual Placement and Support Supported Employment, Rules 77.25, 78.27, 79.1(2)  
No discussion on ARC 5809C.

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).

ARC 5810C (AF), Food Assistance—Supplemental Nutrition Assistance Program (SNAP), Opportunity to Waive Right to Administrative Disqualification Hearing, Rules 7.1, 7.2, 7.4(3), 7.19  
No discussion on ARC 5810C.

Emergency Filing, Review; Medicaid Reimbursement Rates, Chs. 78, 79, 83

## **REVENUE DEPARTMENT**

Representing the agency: Clara Wulfsen

ARC 5781C (NOIA), Protests—Motions to Redact Certain Information, Rules 6.1(3)“b,” 6.2, 7.9, 7.17(5)“e”(4)  
No discussion on ARC 5781C.

ARC 5782C (NOIA), Vehicles Subject to Registration, Ch. 34  
No discussion on ARC 5782C.

ARC 5788C (NOIA), Tobacco Tax—Discounted Tobacco Products, Rule 83.3  
Committee members asked how long Iowa Code section 453A.42(18) has been in effect. Ms. Wulfsen stated she will find out and follow up with the committee. Members asked if there are other products, such as soda or alcohol, that are taxed on wholesale sales price. She responded that the department is under the impression that some tobacco product manufacturers currently calculate tobacco tax on wholesale price; however, the department thinks that practice may be inconsistent across manufacturers and wholesalers. She stated she will look into whether soda and alcohol are taxed on a wholesale basis and provide that information to the committee.  
No action taken on ARC 5788C.

ARC 5790C (NOIA), Sales Tax Administrative Procedures, Chs. 12-15  
No discussion on ARC 5790C.

ARC 5796C (NOIA), Filing Tax Returns, Payment of Tax—Penalties, Waivers, Rules 10.5-10.9, 10.76, 10.79  
No discussion on ARC 5796C.

ARC 5797C (NOIA), Appeals and Hearings Regarding the Director’s Intent to Remove a Member of the Board of Review, Rule 7.38  
No discussion on ARC 5797C.

ARC 5798C (AF), Sales Tax Exemption—Computer Peripherals; Citations, Chs. 18, 230  
No discussion on ARC 5798C.

ARC 5801C (AF), Relief From Joint and Several Liability for Substantial Understatement of Tax Attributable to Nonrequesting Spouse or Former Spouse, Rule 38.15  
No discussion on ARC 5801C.

## **AGING, DEPARTMENT ON**

Representing the agency: Dax Oberreuter

ARC 5791C (NOIA), Waivers, Chs. 1, 11  
No discussion on ARC 5791C.

## **UTILITIES DIVISION**

Representing the agency: Matthew Oetker

ARC 5813C (NOIA), Civil Penalty for Permit Violation; Tile Repairs; Assessments; Definition of “Competitive Local Exchange Service Provider,” Rules 8.1(5), 9.5(4)“d”(6), 17.2(9), 38.1(2)  
No discussion on ARC 5813C.

**ECONOMIC DEVELOPMENT AUTHORITY**

Representing the agency: Lisa Connell

ARC 5787C (NOIA), Apprenticeship Training Program, Rules 12.3, 12.4(1), 12.5-12.7  
No discussion on ARC 5787C.

ARC 5789C (NOIA), Empower Rural Iowa Program, Ch. 222  
No discussion on ARC 5789C.

ARC 5792C (NOIA), Manufacturing 4.0 Technology Investment Program, Ch. 119  
Committee members stated that they had recently toured a manufacturing facility and the manufacturer is very excited about the rulemaking.  
No action taken on ARC 5792C.

**IOWA FINANCE AUTHORITY**

Representing the agency: Kristin Hanks-Bents

ARC 5793C (NOIA), Local Housing Trust Funds—Allocation Plan, Local Match; Website Address, Ch. 19  
No discussion on ARC 5793C.

**EDUCATIONAL EXAMINERS BOARD**

Representing the agency: Joanne Tubbs

ARC 5802C (AF), Deaf and Hard-of-Hearing Persons—Terminology, Rules 13.28(25)“b,” 14.2, 16.2(1), 27.3  
No discussion on ARC 5802C.

ARC 5803C (AF), Licensure, Chs. 13, 15, 16, 18, 20, 22, 24, 27  
No discussion on ARC 5803C.

ARC 5807C (FEAN), Statements of Professional Recognition — Behavior Analysts, Mental Health Professionals, Rules 16.1(1), 16.9, 16.10  
No discussion on ARC 5807C.

**SCHOOL BUDGET REVIEW COMMITTEE**

Representing the agency: Thomas Mayes

ARC 5772C (NOIA), Waivers, Ch. 8  
No discussion on ARC 5772C.

**LOTTERY AUTHORITY, IOWA**

Representing the agency: Megan Tooker

ARC 5816C (NOIA), Waivers; “Easy Pick” Tickets, Chs. 4, 20  
No discussion on ARC 5816C.

**ENVIRONMENTAL PROTECTION COMMISSION**

Representing the agency: Noah Poppelreiter

ARC 5814C (NOIA), Disciplinary Action Against a Certified Operator—Criminal Convictions, Rule 87.17(1)“h”  
No discussion on ARC 5814C.

## **NURSING BOARD**

Representing the agency: Kathy Weinberg

ARC 5778C (NOIA), Licensed Practical Nurses—Provision of Care at Opioid Treatment Facilities and Medication Units, Rule 6.3(11)“F”  
No discussion on ARC 5778C.

## **PUBLIC SAFETY DEPARTMENT**

Representing the agency: Sarah Jennings

ARC 5780C (NOIA), Human Trafficking Prevention Training—Lodging Providers, Ch. 29  
No discussion on ARC 5780C.

## **TRANSPORTATION DEPARTMENT**

Representing the agency: Sara Siedsma, Tim McClung

ARC 5804C (NOIA), Driver’s Licenses—Minors, Chauffeurs, Commercial Drivers, Rules 602.12, 602.26, 604.21, 605.7, 605.25, 607.16

Committee members asked if the department has heard that home-schooled children are not able to qualify to drive for farm-related purposes because they do not attend a school and therefore do not qualify for a minor’s school license. Ms. Siedsma stated that she is aware of one such instance. Members asked for confirmation that if a minor does not qualify for a school license they cannot qualify to drive for farm-related purposes. She noted that Iowa Code section 321.194 limits issuance of a minor’s school license to an individual who attends either an accredited private school or a public school. She stated that the statute allows driving for farm work as a permitted operation of a minor’s school license; therefore, a minor must qualify for a school license to be eligible for that permitted operation. Members asked Ms. Siedsma to confirm that a minor who lives less than a mile from school does not qualify for a school license. She confirmed that is correct, unless the minor resides on a farm and needs a school license for farm work. Members stated that a child who is home-schooled who resides on a farm would still be ineligible to drive for farm-related purposes as they do not qualify for a school license. Members agreed that the issue needs to be addressed in the upcoming session. Members stated that the department’s interpretation of the Iowa Code is a direct violation of the fourteenth amendment of the United States Constitution, would not survive a federal lawsuit, and should be rectified immediately.

No action taken on ARC 5804C.

ARC 5805C (NOIA), Registration—Airports, Aircraft, Rules 720.4(1), 720.5, 720.10, 720.15, 750.1-750.3, 750.30, 750.31

No discussion on ARC 5805C.

## **PROFESSIONAL LICENSURE DIVISION**

Representing the agency: Steven Garrison

ARC 5794C (NOIA), Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, Assistant Behavior Analysts, and Social Workers—Supervision, Rules 31.5, 31.7, 280.6

No discussion on ARC 5794C.

## **DENTAL BOARD**

Representing the agency: Tiffany Allison

ARC 5748C (AF), Expanded Functions—Placement of Sealants by Dental Assistants, Rule 23.6

No discussion on ARC 5748C.

**LABOR SERVICES DIVISION**

Representing the agency: Kathleen Uehling

ARC 5806C (NOIA), Boilers and Pressure Vessels, Chs. 80-85, 90, 91, 94  
No discussion on ARC 5806C.

**REAL ESTATE APPRAISER EXAMINING BOARD**

Representing the agency: Brandy March

ARC 5785C (AF), Five-Year Review of Rules, Chs. 1, 3-12  
No discussion on ARC 5785C.

ARC 5786C (NOIA), Real Property Appraisers; Background Checks; Reciprocity, Rules 5.7, 6.7, 6.8, 10.2  
No discussion on ARC 5786C.