



MINUTES

SEPTEMBER 2021 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

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

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

BULLETINS NEEDED FOR THIS MEETING: 8/11/21, 8/25/21

Procedural Business

Representative Jones convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9 a.m. on Tuesday, September 14, 2021, in Room 103, State Capitol, Des Moines, Iowa. The minutes of the August 17, 2021, meeting were approved. The next meeting was scheduled for October 12, 2021. The meeting was subsequently rescheduled for October 4, 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 10:50 a.m.

Fiscal Overview

Mr. Eric Richardson, Fiscal Legislative Analyst, presented the LSA fiscal report.

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

ARC 5832C (NOIA), Child Care Homes; Child Development Homes; Child Care Centers, Chs. 109, 110, 120
No discussion on ARC 5832C.

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).

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Representing the agency: Colin Tadlock

ARC 5830C (AF), Veterinarian Certification—Removal of Reference to Pseudorabies Advisory Committee, Rule 64.162

No discussion on ARC 5830C.

ARC 5839C (AF), Federal Wholesome Meat Act Regulations—Adoption by Reference, Ch. 76

Committee members thanked the department for their work on the rulemaking.

No action taken on ARC 5839C.

VETERINARY MEDICINE BOARD

Representing the agency: Colin Tadlock, Dr. Dewayne Rahe

ARC 5848C (NOIA), Veterinarian/Client/Patient Relationships (VCPR)—Physical Examination, Rule 12.1(1)“b”

Committee members asked if a veterinarian that prescribed an antibiotic can be identified via the lot number on the antibiotic container. Dr. Rahe responded that the problem is that the veterinarian may be located in another state and signing blanket prescriptions despite the fact that the veterinarian has not been on the farm where the animals are located to inspect the premises and conduct a physical examination of the animals. Members asked if veterinarians located outside the state interpret the current rule as allowing them to write blanket prescriptions. He stated that the current rule is interpreted to allow both examination of patients and visits to the premises to be conducted remotely and that the rule needs more clarity. He asserted such remote visits and examinations are not sufficiently thorough. Members asked how the board determined that a physical examination and visit to a farm every 12 months is the appropriate frequency when a litter of pigs will not remain on a farm for 12 months. Dr. Rahe responded that the board engaged in detailed discussions regarding the frequency of examinations and visits. In addition, the board polled veterinary practices throughout the state and determined that 12 months was the standard. He explained that the rule is applicable to all species of farm animals and some species may remain on a farm for a year or more. Members asked if there is a licensure issue for out-of-state veterinarians who write prescriptions for farm animals located in Iowa. Dr. Rahe responded that there is not an issue, as the veterinarians are licensed in Iowa. He noted that under the new rule, the board will be able to review medical records to see if a veterinarian/client/patient relationship exists in circumstances where an out-of-state veterinarian writes a prescription for farm animals located in Iowa. Under the current rule, a veterinarian could argue that being physically present for an examination was not medically appropriate.

No action taken on ARC 5848C.

ARC 5864C (AF), Waivers, Ch. 14

No discussion on ARC 5864C.

INSURANCE DIVISION

Representing the agency: Tracy Swalwell

ARC 5874C (NOIA), Surplus Lines Insurers, Risk Retention Groups—Penalty for Failure to Timely File, Rules 21.5, 21.6

No discussion on ARC 5874C.

ARC 5875C (NOIA), Viatical and Life Settlements—Annual Report, Late Fee, Rule 48.7

No discussion on ARC 5875C.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD

Representing the agency: Robert Lampe

ARC 5819C (NOIA), Waivers; Fees; Application and Renewal; Engineering Licensure by Examination, Rules 1.1(3), 1.4, 2.1, 3.1-3.5, 4.1, 7.5(6)
No discussion on ARC 5819C.

PROFESSIONAL LICENSURE DIVISION

Representing the agency: Steven Garrison

ARC 5821C (NOIA), Sign Language Interpreters and Transliterators—Licensure, Rules 361.1-361.3, 361.9
No discussion on ARC 5821C.

ARC 5862C (AF), Physician Assistants—Telemedicine, Rule 327.9
No discussion on ARC 5862C.

ARC 5863C (AF), Practice of Speech Pathologists and Audiologists, Ch. 301
No discussion on ARC 5863C.

PUBLIC SAFETY DEPARTMENT

Representing the agency: Sarah Jennings

ARC 5838C (NOIA), Electrical Installations, Rule 504.1
Committee members asked that the Governor's office provide guidance on licensure as the rulemaking makes it more difficult to function as an electrician in Iowa.
No action taken on ARC 5838C.

REVENUE DEPARTMENT

Representing the agency: Clara Wulfsen

ARC 5818C (NOIA), Income Tax—COVID-19 Grant Exclusion, Qualifying Programs, Rules 40.86, 53.30, 59.32, also Filed Emergency ARC 5817C.
No discussion on ARC 5818C or ARC 5817C.

ARC 5822C (NOIA), Tax Credit Rate; School Tuition Organization Tax Credit; Definition of "Eligible Student," Rules 42.32, 52.38
No discussion on ARC 5822C.

ARC 5840C (AF), Data Center Businesses—Refund Requests, Rule 230.13(7)"d"
No discussion on ARC 5840C.

ARC 5841C (AF), Voluntary Disclosure Program—Excise Taxes, Fees, Rule 3.1(3)
No discussion on ARC 5841C.

ARC 5842C (AF), Motor Fuel and Undyed Special Fuel, Rules 68.2-68.5, 68.7(1), 68.8, 68.9, 68.13, 69.2
No discussion on ARC 5842C.

ARC 5849C (NOIA), Appeals, Taxpayer Presentation, and Other Administrative Procedures; GovConnectIowa, Chs. 7, 8, 38, 51, 57
No discussion on ARC 5849C.

LABOR SERVICES DIVISION

Representing the agency: Kathleen Uehling

ARC 5846C (NOIA), Federal Occupational Safety and Health Standards—COVID-19 Emergency Temporary Standard Adopted by Reference, Rule 10.20, also Filed Emergency ARC 5847C.
No discussion on ARC 5846C or ARC 5847C.

CREDIT UNION DIVISION

Representing the agency: Jessica Pollmeier

ARC 5879C (NOIA), Funding Secondary Capital Agreements, Rule 7.7
No discussion on ARC 5879C.

ARC 5880C (NOIA), Board of Directors—Education Requirements, Rule 2.9
No discussion on ARC 5880C.

ARC 5881C (NOIA), Foreign Credit Unions—Annual Fees, Rule 15.6(1)
No discussion on ARC 5881C.

ARC 5882C (NOIA), Votes of the Membership, Ch. 12
No discussion on ARC 5882C.

ECONOMIC DEVELOPMENT AUTHORITY

Representing the agency: Lisa Connell

ARC 5850C (NOIA), Brownfield and Grayfield Redevelopment Tax Credit Program, Ch. 65
No discussion on ARC 5850C.

ARC 5851C (NOIA), Butchery Innovation and Revitalization Program; Self-Employment Loan Program, Ch. 51
Committee members asked if the requirement that an applicant demonstrate the ability to provide matching financial support in order to be eligible for the program is authorized in 2021 Iowa Acts, House File 857. Ms. Connell responded that she will look into it and follow up with the committee. Members expressed concern that the requirement may discourage potential applicants.
No action taken on ARC 5851C.

ARC 5878C (NOIA), Iowa Energy Center; Alternate Energy Revolving Loan Program; Energy Infrastructure Revolving Loan Program, Chs. 403, 405, 406
No discussion on ARC 5878C.

COLLEGE STUDENT AID COMMISSION

Representing the agency: Todd Brown

ARC 5852C (NOIA), Postsecondary Schools—Assistance in the Event of a School Closure, Authorization Duties for Exempt Schools, Rules 21.1, 21.2, 21.16
No discussion on ARC 5852C.

ARC 5853C (NOIA), Rural Iowa Primary Care Loan Repayment Program—Obstetrics and Gynecology, Practice Areas for Psychiatrists, Service Agreement, Rules 24.2, 24.3(5), 24.5(2)
No discussion on ARC 5853C.

ARC 5854C (NOIA), All Iowa Opportunity Scholarship Program, Rules 8.2, 8.3(4)
No discussion on ARC 5854C.

ARC 5855C (NOIA), Health Care Professional Recruitment Program, Ch. 14
No discussion on ARC 5855C.

ARC 5856C (NOIA), Iowa National Guard Master's Degree Scholarship Program, Ch. 29
No discussion on ARC 5856C.

ARC 5857C (NOIA), Iowa National Guard Student Loan Repayment Program, Ch. 30
No discussion on ARC 5857C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes

ARC 5866C (AF), Independent Private Instruction—Restriction From Certain Forms of Online Learning, Rules 15.6, 15.8(4), 15.10
No discussion on ARC 5866C.

ARC 5867C (AF), Interscholastic Athletic Contest Eligibility, Rule 36.15
Committee members agreed with the department that to allow the board of directors of the district of residence and of the receiving district of nonpublic schools to waive a transfer student's period of ineligibility would require legislative action.
No action taken on ARC 5867C.

ARC 5868C (AF), Private Instruction, Ch. 31
No discussion on ARC 5868C.

ARC 5869C (AF), Voluntary Diversity Plans; Open Enrollment, Rules 17.2-17.9, 17.11(4), 17.13, 17.14
No discussion on ARC 5869C.

ARC 5870C (AF), Terminology—Deaf and Hard-of-Hearing Persons, Individuals Who are Blind or Visually Impaired, Chs. 31, 41, 56, 120
Committee members thanked the General Assembly and the department for their work on behalf of the deaf, hard-of-hearing, blind, and visually impaired communities, and for the progress being made toward inclusivity.
No action taken on ARC 5870C.

ARC 5871C (AF), Senior Year Plus Program—Student Eligibility, Internet-Based Coursework, Review of Proposals, Rules 22.2(2)“b,” 22.28, 22.33(3)“c”
No discussion on ARC 5871C.

ARC 5872C (AF), Regional Planning Partnerships—Funding, Governance, Rules 46.9(1)“a,” 46.10
No discussion on ARC 5872C.

ARC 5873C (AF), Definition of Dyslexia, Rule 62.6(3)“a”
No discussion on ARC 5873C.

ARC 5876C (NOIA), Supplementary Weighting—English Language Learners, Rules 60.2, 60.6(1)“a”
No discussion on ARC 5876C.

ARC 5877C (NOIA), Supplementary Weighting Plan for Operational Function Sharing; Teacher Leader Supplement; Flexible Student Support Program, Rules 97.7, 98.25(3), 98.27
No discussion on ARC 5877C.

PHARMACY BOARD

Representing the agency: Sue Mears

ARC 5831C (NOIA), Administration of Vaccines by Pharmacy Technicians, Rule 3.17, also Filed Emergency ARC 5820C.

No discussion on ARC 5831C or ARC 5820C.

ARC 5833C (NOIA), Practice of Pharmacy, Rules 3.5, 3.9, 8.23, 20.2, 20.24, 39.6, 39.8-39.11, 39.16

No discussion on ARC 5833C.

ARC 5834C (NOIA), Security; Delegation of Dispensing; Controlled Substances, Rules 6.7, 8.3(3)“e,” 10.14(2)“d,” 10.18, 10.19(1)

No discussion on ARC 5834C.

ARC 5835C (NOIA), Interim Pharmacist in Charge, Rule 8.35(6)“d”(4)

No discussion on ARC 5835C.

ARC 5836C (NOIA), Electronic Data and Automated Systems—Five-Year Review of Rules, Petitions, Rules 21.6-21.9

No discussion on ARC 5836C.

ARC 5837C (NOIA), Controlled Substances; Precursor Substances, Rules 10.39, 12.1(1)

No discussion on ARC 5837C.

TRANSPORTATION DEPARTMENT

Representing the agency: Brooks Glasnapp, Kelli Huser, Kathleen Meredith Evers

ARC 5829C (AF), Odometer Disclosure Statements, Rule 400.52(3)

No discussion on ARC 5829C.

ARC 5858C (NOIA), Ignition Interlock Devices, Chs. 615, 620

No discussion on ARC 5858C.

ARC 5859C (NOIA), Outdoor Advertising Devices; Private Directional Signing, Chs. 117, 120

No discussion on ARC 5859C.

UTILITIES DIVISION

Representing the agency: Cecil Wright

ARC 5865C (AF), Regulation of Municipal Electric Utilities and Electric Cooperatives Under Iowa Code Chapter 476, Ch. 27

Committee members thanked the division for providing extra time for public comment and for stakeholders to resolve issues with the rulemaking. Mr. Alex Cutchey, speaking on behalf of the Iowa Association of Municipal Utilities (IAMU), stated that the IAMU is generally in favor of the rulemaking as it provides more clarity on which regulations apply to municipally owned utilities and those that apply to investor-owned utilities. He stated that the IAMU will continue to work with the division on issues related to the rules on municipal electric utilities service and notice of rate increases. He thanked the board for their work on the rulemaking.

No action taken on ARC 5865C.