



MINUTES

DECEMBER 2021 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Waylon Brown, Vice Chair	Representative Megan Jones, Chair
Senator Pam Jochum [by teleconference]	Representative Jon Jacobsen [by teleconference]
Senator Julian B. Garrett	Representative Amy Nielsen
Senator Jesse Green [by teleconference]	Representative Rick L. Olson [by teleconference]
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 Kate O'Connor, Legal Counsel, 515.281.6329, and Michael Duster, Legal Counsel, 515.281.4800

BULLETINS NEEDED FOR THIS MEETING: 10/6/21, 11/17/21, 12/1/21

Procedural Business

Representative Jones convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9:05 a.m. on Tuesday, December 14, 2021, in Room 103, State Capitol, Des Moines, Iowa. The minutes of the November 9, 2021, meeting were approved. The next meeting was scheduled for January 7, 2022. Representative Jones announced that beginning in January, committee members will be allowed to call in to participate in meetings, while agency representatives and members of the public who wish to comment on rulemaking must appear in person. She stated that the meetings will also be livestreamed. The meeting was adjourned at 10:15 a.m.

Fiscal Overview

Ms. Maria Wagenhofer, Fiscal Legislative Analyst, presented the LSA fiscal report.

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

Home- and Community-Based Services Habilitation Program — Eligibility Criteria, Staff Training, Scope of Services, Rules 77.25, 78.27 Special Review ARC 5889C

Committee members asked if this rulemaking was the rulemaking that included a bridge from an old system to a new system. Ms. Freudenberg responded that the crosswalk issue had been worked out with the provider agencies and the department would be doing additional training. She noted that the crosswalk was not the focus of the department's conversations with the Centers for Medicare and Medicaid Services.

Ms. Shelly Chandler, speaking on behalf of the Iowa Association of Community Providers (IACP), thanked the committee and the department for working with the IACP and stated that the IACP

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).

appreciated the delay while the details are worked out. She also stated that the IACP appreciated the rate increases that went into effect in July.

Ms. Flora Schmidt, speaking on behalf of the Iowa Behavioral Health Association (IBHA), agreed with Ms. Chandler's comments and stated that the IBHA would continue to advocate for its members to receive training sooner than later. She stated that the more time providers have to implement this big change, the more opportunity they have to ensure that they are in compliance. She expressed appreciation for the rates that went into effect in July. She stated that the IBHA is disappointed that the tool will be implemented by the managed care organizations rather than the providers; however, the IBHA understands the process. She further stated that the IBHA appreciated the department working with it to resolve issues with the rulemaking.

Committee members expressed appreciation for the department's work on the rulemaking.

LABOR SERVICES DIVISION

Representing the agency: Kathleen Uehling

ARC 6045C (NOIA), Federal Occupational Safety and Health Standards for Exposure to Beryllium — Adoption by Reference, Rule 10.20
No discussion on ARC 6045C.

IOWA FINANCE AUTHORITY

Representing the agency: Kristin Hanks-Bents

ARC 6067C (NOIA), Beginning Farmer Tax Credit Program, Rules 44.2, 44.6
Committee members asked how many beginning farmers take advantage of the program on an annual basis. Ms. Hanks-Bents stated that she would obtain that information and provide it to the committee.
No action taken on ARC 6067C.

ECONOMIC DEVELOPMENT AUTHORITY

Representing the agency: Lisa Connell

ARC 6042C (AF), Brownfield and Grayfield Redevelopment Tax Credit Program, Ch. 65
No discussion on ARC 6042C.

ARC 6046C (NOIA), High Quality Jobs Program, Rules 68.1-68.5, 173.1, 174.2 (1), 187.5 (4)“e,” 188.2, 188.4, 188.5
No discussion on ARC 6046C.

ARC 6047C (NOIA), Aggregate Tax Credit Limit for Certain Economic Development Programs, Rules 76.4(3), 76.5, 76.6, 76.8
No discussion on ARC 6047C.

PUBLIC SAFETY DEPARTMENT

Representing the agency: Rebekah Cochran

ARC 6052C (NOIA), Complaints Against Employees; Public Records and Fair Information Practices, Rules 35.1, 35.2, 35.4, 80.15
No discussion on ARC 6052C.

RACING AND GAMING COMMISSION

Representing the agency: Brian Ohorilko

ARC 6056C (NOIA), Gambling Games Taxes and Fees; Problem Gambling; Risk Assessment; Vendor Licenses; Trainer and Assistant Trainer Licenses; Interstate Simulcasting; Advance Deposit Wagering; Sports Wagering; Fantasy Sports; Coupled Entries; Reserves; Account Operation Chs. 5, 6, 8, 10, 11, 13, 14

No discussion on ARC 6056C.

PUBLIC HEALTH DEPARTMENT

Representing the agency: Susan Dixon

ARC 6050C (NOIA), Iowa Care for Yourself (IA CFY) Program, Rules 8.1, 8.2(2), 8.3, 8.5(1)“f,” 8.7(1)“a”

No discussion on ARC 6050C.

ARC 6051C (NOIA), Radiation, Rules 38.8(1), 41.6, 41.7

No discussion on ARC 6051C.

ARC 6053C (NOIA), Prescription Drug Donation Repository Program, Rules 109.1, 109.5(3), 109.14(1)

No discussion on ARC 6053C.

PROFESSIONAL LICENSURE DIVISION

Representing the agency: Venus Vendoures-Walsh

ARC 6057C (NOIA), Speech Pathologists and Audiologists — Cognitive Screening, Rule 301.2

Committee members questioned whether the division has the authority to change the scope of practice for speech pathologists and audiologists through rulemaking. Ms. Vendouras-Walsh stated that as the cognitive screenings are being performed in the scope of practice, the board’s attorney recommended the rulemaking to provide guidance to standardize the way the screenings are performed. Committee members asked if audiologists and speech pathologists are already performing screenings. Ms. Vendouras-Walsh confirmed that screenings are being performed as they are recognized in the scope of practice by the American Speech-Language-Hearing Association.

No action taken on ARC 6057C.

NURSING BOARD

Representing the agency: Kathy Weinberg

ARC 6034C (NOIA), Administrative and Regulatory Authority, Ch. 1

No discussion on ARC 6034C.

ARC 6036C (AF), Licensed Practical Nurses — Provision of Care at Opioid Treatment Facilities and Medication Units, Rule 6.3(11)“f”

Committee members stated that the rulemaking is a step in helping with the shortage of nurses in the state and asked if the board is considering allowing licensed practical nurses (LPNs) to practice in other programs without a registered nurse (RN) in the proximate area. Ms. Weinberg stated that LPNs are already allowed to practice in long-term care facilities; however, the board would have to look at the specific setting before allowing LPNs to practice in additional settings without an RN in the proximate area.

No action taken on ARC 6036C.

ARC 6048C (NOIA), Licensure to Practice — Registered Nurse/Licensed Practical Nurse, Ch. 3

No discussion on ARC 6048C.

ARC 6049C (NOIA), Discipline, Ch. 4

No discussion on ARC 6049C.

REVENUE DEPARTMENT

Representing the agency: Clara Wulfsen

ARC 6032C (NOIA), Qualifying Income Limit — Child and Dependent Care Tax Credit, Early Childhood Development Tax Credit, Rules 42.15, 42.31
No discussion on ARC 6032C.

ARC 6033C (NOIA), Optional Designations of Funds by Taxpayer, Rule 43.4
No discussion on ARC 6033C.

TRANSPORTATION DEPARTMENT

Representing the agency: Sara Siedsma

ARC 6059C (AF), Driver's Licenses — Application, Examination, REAL ID Documentation, Rules 601.1, 601.5, 604.20, 604.30
No discussion on ARC 6059C.

ARC 6060C (AF), Driver Privacy Protection; Motor Vehicle Records, Chs. 4, 301, 415, 610, 611
Ms. Shelly Chandler, speaking on behalf of the Iowa Association of Community Providers (IACP), thanked the department for working with the IACP on the concerns it had with the rulemaking.
No action taken on ARC 6060C.

ARC 6061C (AF), Emergency Interstate Fleet Permit, Rules 511.1, 511.2, 511.4, 511.6-511.9, 511.12-511.20
No discussion on ARC 6061C.

ARC 6062C (AF), Parent-Taught Driver Education; Distracted Driving, Ch. 634
No discussion on ARC 6062C.

ARC 6065C (NOIA), Commercial Driver's License Skills Test, Rules 607.2(1), 607.28, 607.30(2)"a"
No discussion on ARC 6065C.

ARC 6066C (NOIA), Salvage Titles; Damage Disclosure Statement, Rules 400.55, 405.2, 405.6(1), 405.8(5), 405.9(1), 405.10
Mr. Doug Struyk, speaking on behalf of Insurance Auto Auctions (IAA), stated that the IAA has concerns with the changes to the reporting threshold and whether it is allowed with the software disclosure packages. He stated that the IAA would be participating in a meeting with Copart and the department to attempt to resolve the issues.
No action taken on ARC 6066C.

ENVIRONMENTAL PROTECTION COMMISSION

Representing the agency: Tara Naber, Courtney Cswercko

ARC 6037C (NOIA), Public and Nonpublic Water Supply, Rules 9.4(3), 40.2, 43.3, 49.6(1)
No discussion on ARC 6037C.

ARC 6038C (NOIA), Land Application of Sewage Sludge, Rules 67.1(1), 67.2(2), 67.4-67.8, 67.10, 67.11(2)"h"
No discussion on ARC 6038C.

ARC 6039C (NOIA), Operator Certification — Public Water Supply Systems, Wastewater Treatment Systems, Rules 81.1, 81.3, 81.5(1), 81.7(1), 81.7(3)"b"(2), 81.16(1)
No discussion on ARC 6039C.

ARC 6041C (NOIA), Wastewater, Chs. 60-64
No discussion on ARC 6041C.

NATURAL RESOURCE COMMISSION

Representing the agency: Joe Larschied

ARC 6064C (AF), Lifetime Trout Fishing License, Rule 15.12(1)“gg”
No discussion on ARC 6064C.

UTILITIES DIVISION

Representing the agency: Matthew Oetker

ARC 6035C (AF), 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 6035C.

ARC 6044C (AF), Natural Gas Standards, Rules 10.1(3), 10.2, 10.12(1), 19.1(3), 19.2, 19.5(2), 19.11, 19.14(3)“a”
Committee members asked if the rulemaking applies to all pipelines, or just natural gas pipelines, as the rulemaking refers to pipeline company. Mr. Oetker responded that he believes the term is defined by statute and stated that he will find out and follow up with the committee.
No action taken on ARC 6044C.

VETERINARY MEDICINE BOARD

Representing the agency: Colin Tadlock

ARC 6058C (ANOIA), Principles of Veterinary Medical Ethics, Rule 10.6
Mr. Doug Struyk, speaking on behalf of the Iowa Veterinary Medical Association (IVMA), thanked the board for working with the IVMA and other stakeholders on the rulemaking.
No action taken on ARC 6058C.

LAW ENFORCEMENT ACADEMY

Representing the agency: Russell Rigdon

ARC 5962C (NOIA), Jailer Training, Chs. 1, 2, 4, 9-11, 13
Committee members asked if there is an option to hold the training at locations throughout the state. Mr. Rigdon stated that the academy currently holds training at locations other than the academy and would like to hold the training through online vendors so in-service training could be completed online. He explained that there are issues with ensuring that online training meets Iowa-specific standards and with how to certify the training. Because of those issues, the online training section has been removed while the academy works with online vendors to resolve the issues. Members stated that they were less concerned with online training than with training being offered in person outside of the Des Moines metro area as it is not always easy for people to travel to Des Moines. Members asked for confirmation that some cities and counties conduct their own training. Mr. Rigdon confirmed that is correct; however, he stated that the academy has oversight of that training to ensure that it meets the academy’s requirements. Members asked how many agencies outside of Polk County are conducting their own training. Mr. Rigdon responded that it depends on the type of training. Committee members stated they assume it is mostly the bigger counties that do their own training. Mr. Rigdon confirmed that is correct and noted that some of those counties allow other counties to access their training.
No action taken on ARC 5962C.