



MINUTES

JUNE 2022 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Waylon Brown, Chair
Senator Julian B. Garrett
Senator Jesse Green
Senator Robert Hogg
Senator Pam Jochum

Representative Megan Jones, Vice Chair
Representative Mike Boussetot
Representative Amy Nielsen [by teleconference]
Representative Rick L. Olson
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

BULLETINS NEEDED FOR THIS MEETING: 5/18/22, 6/1/22

Procedural Business

Senator Brown convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 9:15 a.m. on Tuesday, June 14, 2022, in Room 116, State Capitol, Des Moines, Iowa. Video of the meeting has been posted here: www.legis.iowa.gov/committees/meetings/meetingsListComm?groupID=705. Mr. Ewing discussed procedures for meeting participation. The minutes of the May 9, 2022, meeting were approved. The next meeting was scheduled for Tuesday, July 19, at 9:00 a.m. Committee members stated that there would be a special review at the July meeting of emergency rules on paraeducators by the Board of Educational Examiners, which were approved by the committee at its February 15 special meeting, if 2022 Iowa Acts, House File 2493, is not signed by the Governor. Members also stated that agencies should submit their summaries of their five-year reviews of rules pursuant to Iowa Code section 17A.7(2) to the committee prior to the committee's December meeting. The meeting was adjourned at 10:15 a.m.

Fiscal Overview

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

HUMAN SERVICES DEPARTMENT

Representing the agency: Nancy Freudenberg

ARC 6327C (NOIA), Food Assistance Program—Change of Name to Supplemental Nutrition Assistance Program (SNAP); Family Self-Sufficiency Grants Program, Ch. 47
No discussion on ARC 6327C.

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 6328C (NOIA), Declaratory Orders—Five-Year Review of Rules, Rules 5.1, 5.5, 5.6, 5.9(2), 5.10, 5.11
No discussion on ARC 6328C.

ARC 6329C (NOIA), Foster Home Insurance Fund—Auto Damage by Foster Children, Rule 158.3(1)“b”
No discussion on ARC 6329C.

ARC 6321C (AF), Community Mental Health Centers, Ch. 24
No discussion on ARC 6321C.

UTILITIES DIVISION

Representing the agency: Matthew Oetker

ARC 6339C (NOIA), Access to Affiliate Records, Requirements for Annual Filings, and Asset and Service Transfers—Review of Rules, Rules 31.1, 31.3, 31.5(2)
Committee members sought clarification on the meaning of affiliate transactions and how they are affected by the rulemaking. Mr. Oetker explained that the filing threshold for affiliate transactions was changed to align with requirements of the Federal Energy Regulatory Commission. He reviewed the definition of “affiliate” provided in the Iowa Code and noted as an example that MidAmerican Energy has many affiliates. He suggested that the intent of the statutory basis of the rulemaking is that affiliate relationships should not be funded by ratepayers.
No action taken on ARC 6339C.

ARC 6340C (NOIA), Nonutility Activities—Recordkeeping and Cost Allocations, Ch. 33
No discussion on ARC 6340C.

CORRECTIONS DEPARTMENT

Representing the agency: Michael Savala

ARC 6324C (NOIA), Organization, Procedures, Institutions Administration—Five-Year Review of Rules, Chs. 1, 20
Committee members asked for more information about the change in language from “moderate intensity family violence prevention program” to “participation in evidence-based programs.” Mr. Savala explained that the prior language referred to a therapeutic program for inmates convicted of certain crimes to ensure that they would not be violent toward visitors. Because the program continually evolves, the department felt the new language would be a more accurate description.
No action taken on ARC 6324C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes

ARC 6332C (AF), Open Enrollment—Criteria for Failure to Reasonably Respond to a Student’s Failure to Meet Academic Standards, Rule 17.5(3)
Committee members asked when the underlying legislation had become effective and if there had been any negative effects as a result of the delay in adopting this rule. Mr. Mayes explained that the legislation became effective July 1, 2021, the department had informally advised school districts to operate based on the language in the notice of intended action for the March 1 open enrollment deadline this year, and that only one or two parents had been affected.
No action taken on ARC 6332C.

PUBLIC HEALTH DEPARTMENT

Representing the agency: Susan Dixon

ARC 6322C (NOIA), Center for Congenital and Inherited Disorders, Rules 4.1(1), 4.2, 4.3, 4.7, 4.11-4.14
Committee members stated there were many problems with this rulemaking and thanked the department for starting over with a new rulemaking in the future.
No action taken on ARC 6322C.

ARC 6323C (NOIA), AIDS Drug Assistance Program (ADAP)—Eligibility Requirements, Rule 11.43
No discussion on ARC 6323C.

ARC 6325C (NOIA), Limited Radiologic Technologist Examination; Permit Holder Continuing Education, Rules 42.9(2)“e”(3), 42.18(2)
No discussion on ARC 6325C.

ARC 6326C (NOIA), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Online Ordering Project, Rule 73.26
No discussion on ARC 6326C.

PUBLIC SAFETY DEPARTMENT

Representing the agency: Sarah Jennings, Jean Guttenfelder, John Kraemer

ARC 6335C (NOIA), Local Fire Protection and Emergency Medical Services Grant Program, Rule 265.51
Committee members asked for clarification on the permitted uses of funds under the program. Mr. Kraemer explained that funds from fireworks permit fees are dispersed to local fire departments to be used to educate the public on fireworks safety and also to purchase equipment relating to responses to incidents relating to fireworks. The rulemaking will allow the State Fire Marshal to distribute equipment as well as funds to fire departments. Members asked what the advantage is of the State Fire Marshal distributing equipment compared to distributing funds to purchase equipment. Ms. Guttenfelder explained that smaller or volunteer fire departments have no budget for equipment, and the rulemaking allows the State Fire Marshal to use the state purchasing process to purchase equipment on behalf of such departments on a financially advantageous basis. She further explained that the rulemaking also allows the State Fire Marshal to make such purchases while avoiding unnecessarily putting the purchased equipment into the state inventory process before it is disbursed.
No action taken on ARC 6335C.

TRANSPORTATION DEPARTMENT

Representing the agency: Sara Siedsma

ARC 6337C (AF), Driver Education—Time Allowance for Laboratory Instruction, Rules 634.4(2)“b,” 634.11(1)
No discussion on ARC 6337C.

ARC 6342C (NOIA), Motor Vehicle Leasing Licenses—Contact Information, Definition of “Engage in the Business,” Rule 430.1
No discussion on ARC 6342C.

SECRETARY OF STATE

Representing the agency: Molly Widen

ARC 6341C (NOIA), Proposed Constitutional Amendment—Right to Keep and Bear Arms, Rule 21.200(4)

Committee members asked how this amendment would be identified on the ballot. Ms. Widen explained that it would be identified as Public Measure 1, while local public measures would be identified with letters. She stated the amendment would look similar to the question on holding a constitutional convention that appeared on the 2020 general election ballot.

No action taken on ARC 6341C.

PHARMACY BOARD

Representing the agency: Andrew Funk

ARC 6331C (AF), Veterinary Compounded Preparations for Office Use—Dispensing to Owner of Veterinary Patient to Treat Immediate Medical Need, Rules 20.2, 20.15

No discussion on ARC 6331C.

ARC 6330C (AF), Security; Delegation of Dispensing; Controlled Substances, Rules 6.7(5), 8.3(3)“e,” 10.14(2), 10.18(4), 10.19, 10.20, 10.21(5)

No discussion on ARC 6330C.

ARC 6333C (NOIA), Compounding Practices—Records, Rule 20.23

Committee members asked how many pharmacies still practice compounding. Mr. Funk explained that most hospitals engage in compounding, particularly when mixing products into solutions in IV bags. He further explained that requiring lot numbers and expiration dates to be reported will facilitate product recalls. He noted that compounding is less common in pharmacies in a community setting. Members asked if compounding that consists of grinding pills still occurs. He offered to provide statistics on how common such compounding is, and members requested this information only if it is readily available.

No action taken on ARC 6333C.

ARC 6334C (NOIA), Temporary Designation of Controlled Substances, Rule 10.39

No discussion on ARC 6334C.

VETERINARY MEDICINE BOARD

Representing the agency: Dr. Thomas Burkgren

Emergency Filing, Approval Required: Veterinarian/Client/Patient Relationship (VCPR), Rules 1.4, 12.1

Committee members asked if the language of the rulemaking would eventually lead to producers and veterinarians signing contracts or other legal documents that would govern their relationships. Dr. Burkgren responded that he was unsure about contracts, but relevant information about such relationships should be recorded in medical records. Members asked if interested stakeholders were satisfied with the rulemaking and therefore no further work on these rules would be necessary. Dr. Burkgren stated his understanding was that the stakeholders were in agreement on the rulemaking. Mr. Ben Nuelle, speaking on behalf of the Iowa Pork Producers Association (IPPA), stated that IPPA was in agreement and has worked with the board and the Iowa Veterinary Medical Association on the rulemaking. Mr. Eldon McAfee, speaking on behalf of the IPPA, the Iowa Cattlemen’s Association, the Iowa Poultry Association, and the Iowa Turkey Federation stated those organizations were all in agreement.

Emergency Rulemaking Authorized

A motion to authorize emergency rulemaking carried by a 10-0 short form vote.