

**MINUTES OF THE FEBRUARY 2012 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, February 10, 2012, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators John P. Kibbie, and James Seymour; Representatives Jo Oldson, Rick Olson, and Guy Vander Linden were present. Senators Merlin Bartz and Thomas Courtney and Representative David Heaton were not present.

Also present: Joseph A. Royce and Jack Ewing, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Brenna Findley, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.

Convened Sen. Horn convened the meeting at 9:05 a.m.

Fiscal overview Aaron Todd presented the LSA fiscal report.

LABOR SERVICES DIVISION Michael Mauro and Kathleen Uehling represented the division.

ARC 9963B Amendments to 32.8(2)“a” create an exemption that allows employed youth aged 16 and 17, as part of their employment, to drive golf carts on or across a golf course or a private or public roadway that crosses a golf course. Ms. Uehling stated that no public comment was received.

Discussion pertained to the effect of the exemption on youth employed at rural golf courses and private golf courses and to driver licensing and training of youth employed at golf courses.

In response to an inquiry from Ms. Findley, Mr. Mauro stated that an existing exemption allows employed youth to drive golf carts on rural golf courses that do not cross public roadways. In response to an inquiry from Rep. Pettengill, Mr. Mauro noted that the existing exemption sets forth driver licensing and training requirements. Ms. Uehling clarified for Rep. Pettengill that there are two independent exemptions and that the new exemption removes a restriction on where employed youth may drive golf carts. In response to an inquiry from Rep. Vander Linden, Ms. Uehling stated that OSHA requires general training on the use of equipment and that for the benefit of the employer, the exemptions specify training requirements. Sen. Kibbie suggested that, if the division seeks to change the training required for operation of a motor vehicle, legislation would be needed.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

ARC 9978B No action on amendments to 62.2 creating an Iowa thoroughbred horse breeders’ promotion fund for payments for second, third, and fourth place Iowa-bred thoroughbred winners at Prairie Meadows racetrack.

INSURANCE DIVISION Tom Alger and Gary Marquett represented the division.

ARC 9979B No action on ch 76, external review.

PROFESSIONAL LICENSURE DIVISION Pam Griebel, assistant attorney general, Judy Manning and Tony Alden represented the division. Other interested parties included Jenny Tyler on behalf of the Iowa Athletic Trainers Society (IATS).

ARC 9972B Proposed amendments to chs 200 and 202 pertain to licensure and discipline of physical therapists and physical therapist assistants. In response to an inquiry from Rep. Pettengill, Ms. Griebel acknowledged the existence of a House bill sponsored by Rep. Olson and Rep. Pettengill that addresses deferred judgments related to discipline of licensees and the definition of crime (vs. felony). Mr. Royce confirmed for Rep. Pettengill that this rule would not become effective before the conclusion of the legislative session.

Professional Licensure Division (continued)

ARC 9967B Amendments to chs 351 and 353 relate to licensure and discipline of athletic trainers. Mr. Alden stated that one comment in opposition to the rule had been received. Ms. Tyler expressed opposition to (1) the inclusion of deferred judgments as criminal convictions for the purpose of imposing disciplinary sanctions against licensees, and (2) the substitution of "conviction of a crime" for "conviction of a felony" because the term "crime" is not defined in the Iowa Code. Ms. Tyler requested that a 70-day delay be placed on this rule making in light of pending legislation to address these issues.

Motion to delay Sen. Kibbie moved a 70-day delay on Item 2 (353.12(2), effective date 2/15/12).

Motion carried On a voice vote of 8 to 0, the motion carried. (Sen. Courtney was available for the vote by conference call.)

REVENUE DEPARTMENT Jim McNulty represented the department.

ARC 9966B No action on amendments to chs 10, 42, 52, and 58 regarding the rate of interest on interest-bearing taxes for calendar year 2012 and investment tax credit for individual, corporation, and franchise tax.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Jennifer Vermeer and Wendy Rickman represented the department. Other interested parties included Kate Walton on behalf of the Iowa Medical Society.

ARC 9965B No action on amendments to chs 51 and 52 regarding annual adjustments to eligibility and payment levels for the state supplementary assistance program.

ARC 9956B No action on amendments to 75.1(41) pertaining to medical assistance eligibility under the Iowa family planning network (IFPN).

ARC 9957B No action on amendments to 75.12 concerning Medicaid eligibility for inmates of public institutions. Ms. Freudenberg stated that based on comment from the Centers for Medicare and Medicaid Services (CMS), the department changed the rule so that Medicaid eligibility is no longer limited to disabled and elderly inmates. She also stated that the department has initiated legislation in Senate Study Bill 3084 to align the statute with CMS regulations regarding Medicaid-eligible coverage.

ARC 9958B No action on amendments to 79.1 pertaining to an increase in HCBS reimbursement rates retroactive to July 1, 2011.

ARC 9959B Amendments to 79.1(7)"b" relate to payment adjustment for physician services rendered in facility settings. Ms. Vermeer stated that the amendments follow Medicare methodology in applying the differential between the cost of providing services in facility settings and in office settings.

Discussion pertained to the effect of the payment adjustment. In response to an inquiry from Rep. Olson, Ms. Vermeer clarified that, though the reimbursement for a majority of services rendered in a facility setting is reduced, the reimbursement for some procedures is adjusted and that services rendered in an office setting are generally more cost-effective. Rep. Pettengill expressed concern about a greater reduction in reimbursement than that voted on by the legislature and about the potential decrease in participation by physicians if Medicaid reimbursement for services continues to be reduced. Ms. Vermeer clarified for Rep. Vander Linden that the reimbursement methodology provides an incentive for physicians to provide services in an office setting.

Ms. Walton expressed opposition to the amendments. She stated that the department is not applying current Medicare rates but instead is applying the Medicare differential; that is, the Medicaid rates used are not aligned with current Medicare rates. She also stated that some Medicaid procedure codes for facility settings are already lower than procedure codes for office settings.

After discussion about possible committee actions, Sen. Kibbie stated that the issue should be directed to the appropriate committee of the legislature. Sen. Seymour concurred with Sen. Kibbie.

Motion to refer Sen. Kibbie moved a general referral of ARC 9959B to the appropriate committee.

Motion carried On a voice vote of 7 to 0, the motion carried.

Human Services Department (continued)

- ARC 9960B No action on amendments to ch 79 relating to copayment for emergency room visits and payment reduction for nonemergency services delivered in the emergency room.
- ARC 9961B No action on amendments to 202.12(2) regarding conditions that are required for the department to decline release of a foster child’s location to the child’s parents. In response to an inquiry from Rep. Pettengill, Ms. Rickman stated that the department considers the information provided by the therapist involved in a case to be the credible third-party information of a threat of harm to the foster child or the foster family referred to in the rule. Ms. Rickman added that the rule requires documentation of the decision in the case permanency plan to provide greater transparency.
- Committee business** The minutes of the January 4, 2012, meeting were approved.
 The next meeting was scheduled for Monday, March 12, 2012, at 8 a.m.
 Sen. Kibbie presented Sen. Horn with a congratulatory commendation for 40 years of service in the legislature.
- Adjourned The meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Wally Horn

Vice Chair Dawn Pettengill