

**MINUTES OF THE FEBRUARY 2005 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, February 4, 2005, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Jeff Angelo, Michael Connolly, John P. Kibbie and Mary Lundby; Representatives Danny Carroll, Marcella Frevert, David Heaton and Geri Huser.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Gary Dickey Jr., Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Chair Eichhorn convened the meeting at 9:05 a.m.

Committee business Kibbie suggested that bills affecting the rule-making process be brought before the committee for review and discussion and, if appropriate, endorsement. Royce agreed to forward copies of the bills to committee members.

The next meeting will be Friday, March 4, 2005.

The minutes of the January 2005 meeting were approved.

FISCAL IMPACT STATEMENTS Jennifer Vermeer presented an overview of the two DHS rule makings (SSI cost-of-living adjustment; ill and handicapped waiver) that have a fiscal impact over \$100,000 and rule makings by the insurance division (Medicare Part B), the administrative services department (purchase of airline tickets) and revenue department (streamlined sales tax) whose fiscal impact cannot be determined.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Mary Nelson represented the department. Kim Schmett represented the Coalition for Family and Children's Services in Iowa.

ARC 3936B No action on proposed amendments to ch 25. Discussion related to the rationale for the collection of the information about persons served under county management plans for mental health, mental retardation and developmental disabilities services; the intended use of the information; and coordination with the department of public health.

ARC 3908B No action on amendments to chs 51 and 52 to implement the annual adjustment to eligibility and payment levels for state supplementary assistance.

ARC 3909B No comments on amendments to ch 75 regarding Medicaid eligibility and financial participation of an institutionalized spouse.

ARC 3910B Amendments to ch 83 expand HCBS ill and handicapped waiver eligibility to include individuals through the age of 24. Heaton asked Freudenberg to check on whether the cost was included in the budget.

ARC 3924B Proposed amendments to ch 185, rehabilitative treatment services, limit eligibility and duration of services to children. Freudenberg noted that, in response to a request from Sen. Kibbie, in the future the department will attempt to schedule an additional hearing location in NW Iowa. Connolly asked that the director be advised of providers' concerns about disparity in the shelter care caps. Committee discussion related to declining utilization of emergency shelters, the need for access to safe and appropriate placements in emergency situations, responsibility for the transportation of children, nonduplication of services, and procedures for shifting funds from one line item to another or from one allocation paragraph to another.

Schmett expressed the view that although moving children from shelter care to group care is a good plan, the limits on shelter care are so severe that shelters may not be able to survive. Schmett stated that because emergencies may happen at any time, such as in the middle of the night, shelters provide a critical safety net.

Special review Freudenberg presented amendments to ch 182 which the department intends to adopt and file through emergency procedures to expand the purpose and permitted activities of family-centered supervision services.

BANKING DIVISION Tom Gronstal represented the division.

ARC 3919B No action on proposed amendments to bring the division's rules into conformance with legislation. Discussion pertained to provisions for confidentiality of lists of shareholders; and comments were made regarding ongoing supervision by the FDIC and the division, and the soundness of Iowa's banks.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Mike Fastenau and Melanie Johnson represented the department.

ARC 3927B Amendments to ch 23, the CDBG program, generated discussion about wage requirements. Concerns were raised about counties and regions that include a few major businesses that pay high wages which inflate the average wage in the county; whereas government jobs are excluded, thereby reducing average wages in those counties that include a state university. Members expressed concern that wage requirements are unfair to rural Iowa.

Motion Carroll moved a referral to the general assembly.

Motion carried The motion carried.

ARC 3928B No action on amendments to chs 24 and 29 to exempt domestic violence shelters from a HUD requirement to report personally identifiable information.

COLLEGE STUDENT AID COMMISSION Julie Leeper represented the commission. Paula Dierenfeld of Nyemaster Law Firm was also present.

ARC 3921B Leeper reported that the previous notice has been terminated and concerns presented at the November ARRC meeting regarding the role of the Iowa Coordinating Council and library requirements have been addressed in these proposed rules. Dierenfeld confirmed that concerns the University of Phoenix have been satisfactorily addressed.

PROFESSIONAL LICENSURE DIVISION Pierce Wilson and Lois Churchill represented the division.

ARC 3843B No action on proposed chs 360 and 364 regarding interpreters for the hearing impaired licensed to provide professional services as required by the ADA.

ATTORNEY GENERAL Marti Anderson represented the attorney general.

ARC 3939B No questions on the victim services grant program.

PHARMACY EXAMINERS BOARD Lloyd Jessen and Terry Witkowski represented the board.

ARC 3934B No action on amendments to ch 4 concerning intern training.

ARC 3932B No action on proposed amendments pertaining to transfer of prescriptions and centralized prescription filling and processing. Jessen clarified that, with centralized prescription filling, customer contact remains with the local pharmacy, which is able to reduce inventories and costs by contracting with a larger pharmacy for prescription filling.

ARC 3933B No questions on nonproduct pharmacy services provided by EMS programs.

ARC 3931B No questions on proposed 21.8(1) pertaining to confidentiality and secure transmission of prescriptions.

ARC 3930B Proposed ch 24, distributor pharmacy practice, would allow one pharmacy to repackage prescription drugs dispensed by another pharmacy for use in unit dose systems. Heaton asked that the board check with the VA regarding a pharmacy's repackaging of drugs dispensed by the VA for nursing home patients.

REVENUE DEPARTMENT David Casey represented the department.

ARC 3940B No action on the interest rate for calendar year 2005.

ARC 3920B No action on proposed amendments to ch 46 relating to electronic filing of withholding tax returns and payments.

ARC 3935B No questions on chs 211, 219, and 231 implementing the streamlined sales and use tax Act.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and Jim Kenkel represented the department.

ARC 3912B No action on 5.615 regarding minimum fire safety standards for facilities in which agencies provide foster care for fewer than six children.

ARC 3913B No action on ch 259, fire fighter training and equipment funds.

ARC 3914B No action on ch 291, volunteer emergency services provider death benefits. Generally, deaths from heart attack or stroke which occur while the service provider is on duty, or within 24 hours of being on duty, are line-of-duty deaths. There was discussion regarding medical evidence which might disqualify a volunteer's death from being considered a line-of-duty death.

LABOR SERVICES DIVISION Byron Orton and Kathleen Uehling represented the division. Other interested parties included Representative Dan Rasmussen.

Special review Eichhorn requested a special review of contractor registration requirements, how contractors are notified that they must register and the \$500 fine imposed for failure to register. Orton reported that the contractor registration program went into effect in 1988, and Uehling summarized efforts by the division to notify contractors that they must be registered in accordance with Iowa Code chapter 91C. Orton stated that the penalty is established at \$500, but that it may be waived or reduced when a contractor contests the penalty. In the past two years, penalties were reduced to \$100 or less for 222 of the 379 contractors who were cited, and 49 of the 222 had penalties waived. Rep. Rasmussen, addressing the committee as a contractor, questioned the purpose of contractor registration, the adequacy of the division's notification efforts, and the imposition of a penalty for failure to register even though a contractor may be in compliance with workers' compensation and unemployment insurance requirements.

Motion to refer Carroll moved a general referral.

Motion carried The motion carried. The contractor registration program was referred to the general assembly.

McKinley encouraged the commissioner to waive the fine in the case of a first violation, provided the contractor has workers' compensation and unemployment insurance.

Frevert congratulated Orton on his upcoming retirement and his work as commissioner of labor.

Adjourn The meeting was adjourned at 12:18 p.m.

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair Paul McKinley