

**MINUTES OF THE JANUARY 2009 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, January 9, 2009, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa.
- Members present: Representative Philip Wise, Vice Chair; Senators Jeff Angelo, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives Marcella Frevert, David Heaton, David Jacoby, and Linda Upmeyer were present. Senator Michael Connolly was not present.
- Also present: Senators Merlin Bartz and Wally Horn; Representative Nathan Reichert; Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; fiscal staff; caucus staff; and other interested parties.
- Convened Rep. Wise convened the meeting at 9:02 a.m. and welcomed newly appointed members Senators Merlin Bartz and Wally Horn and Representative Nathan Reichert.
- Fiscal overview** Sue Lerdal presented the LSA fiscal report.

TRANSPORTATION DEPARTMENT Tammy Nicholson represented the department.

- ARC 7452B Ms. Nicholson reported that the Notice of Intended Action to adopt ch 813 regarding close-clearance warning signs along railroad tracks has been terminated. The department is scheduled to meet with representatives from the United Transportation Union to address concerns that were raised during the comment period. A new Notice of Intended Action will be forthcoming.

ELDER AFFAIRS DEPARTMENT Lisa Burk represented the department.

- ARC 7456B No action on proposed ch 14, Iowa family caregiver support program.
- ARC 7444B Amendments to ch 16 reduce the number of senior living coordinating unit meetings per year from six to four and provide for ad hoc work groups.
- ARC 7445B No action on ch 22, office of substitute decision maker.

UTILITIES DIVISION Cecil Wright, Gary Stump, and Mary Whitman represented the board.

- ARC 7420B No action on proposed amendments to chs 19 and 20 concerning the cost to consumers for extension of natural gas and electric lines.
- ARC 7409B No action on proposed amendments to ch 20, which pertain to electric load service limiters as an alternative to service disconnection. Mr. Stump noted that many comments have been received and advised Rep. Frevert that the service limiter option will be included in the statement of consumer's rights and remedies; however, this option cannot be elected in lieu of a first payment agreement. Mr. Stump indicated that service limiting devices are not available for gas meters.
- ARC 7430B No action on amendments to ch 44 regarding certificates of franchise authority for cable and video service.

PROFESSIONAL LICENSURE DIVISION Ella Mae Baird, Judy Manning, and Pierce Wilson represented the division. Martin Unga, chair, represented the board of physical and occupational therapy. Other interested parties included Eric Nemmers on behalf of the Iowa Medical Society, Craig Mahoney and Kevin Ward on behalf of the Iowa Orthopaedic Society, Chad Carlson on behalf of the American Medical Society for Sports Medicine, Sarah Stilwill of Peters Law Firm, Janet Huston of the Dickinson Law Firm, Craig Kelinson of The Iowa Clinic, and Kevin Rippey of the Iowa Physical Therapy Association.

- ARC 7451B No questions on amendments to the organizational rules of the board of cosmetology arts and sciences.
- ARC 7440B No questions on amendments to the organizational rules of the board of physical and occupational therapy.

Professional Licensure Division (continued)

ARC 7442B Proposed rules 201.3, 206.1, and 208.3 generated many comments. Mr. Nemmers asserted that the rules are beyond the authority of the board in that they regulate physicians, not just physical therapists, and that the proposed rules are inconsistent with existing laws and rules, which allow a physician to refer patients to persons in the employ of the physician. Discussion related to the concept of medical home, integrated care, quality of care, cost efficiencies, patient choice, and scope of practice.

Mr. Ungs indicated that the proposed rules are intended to preserve patient choice and protect the public. Dr. Mahoney commented that mechanisms are already in place to prevent inappropriate referrals. Mr. Ward expressed support for integrated care. Dr. Carlson stated that therapy provided in the office is an integral part of patient care and that some patients want their physician to oversee the therapy. Ms. Stilwill concurred with comments offered by the Iowa Medical Society in opposition to the proposed rules. Mr. Kelinson expressed The Iowa Clinic's opposition to the rules. Ms. Huston and Mr. Rippey asserted that more services are prescribed and the cost of care is higher when a physician makes a referral to a therapist in the physician's employ.

Motion to refer Rep. Upmeyer moved a referral to the general assembly. This motion does not impede the rule-making process.

Motion carried On a vote of eight in favor and one "pass," the motion carried.

ARC 7407B No action on proposed amendments pertaining to temporary licensure for sign language interpreters and transliterators.

PUBLIC HEALTH DEPARTMENT Barb Nervig and Cindy Houlson represented the department.

ARC 7429B Proposed ch 30 provides for continuing education for plumbers and mechanical systems professionals. Sen. Bartz suggested that the department reconsider 30.4(5), which prevents a person from renewing a license while an audit is being conducted.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department.

ARC 7470B No action on amendments to chs 51 and 52 concerning annual adjustments to eligibility and payment levels for the SSA program.

ENVIRONMENTAL PROTECTION COMMISSION Wendy Rains, Jim McGraw, Jon Tack, and Alex Moon represented the commission. Other interested parties included Mark Landa and Larry McLellan of Sullivan and Ward Law Firm and Cindy Turkle of Turkle Consulting.

ARC 7473B No questions on 22.106. Ms. Rains reported that, in response to comments received, the maximum annual Title V operating permit fee is less than that which was proposed.

ARC 7474B Amendments to ch 113 are intended to address the grounds for the Objection that was imposed by the administrative rules review committee in December of 2007. Mr. Moon reported that these amendments will benefit 15 of the 19 landfills that were adversely affected by the rules that were the subject of the Objection. Mr. Tack identified the four landfills (South Dallas County Landfill, Page County Landfill, Des Moines County Landfill, and Waste Management's Central Disposal in Winnebago County) that are still affected. Mr. Landa and Mr. McLellan asked that affected landfills have the option of installing a drainage mechanism to divert leachate from the vertical expansion area into the lined portion of the landfill. Ms. Turkle clarified that the drainage layer would be composed of sand or tire chips. Committee members discussed options such as a Session Delay or an Objection. Mr. Landa commented that he did not want to delay the rules, as that would interfere with the ability of some landfills to go forward with the agreements they have reached with the department.

Motion to object Sen. Courtney moved an Objection to ARC 7474B.

Motion failed On a vote of five in favor and four opposed, the motion failed.

Members expressed appreciation to the department for working with concerned parties. Rep. Wise requested a special review at the February meeting.

ARC 7475B No action on amendments to ch 119 concerning used oil and used oil filters. Rep. Jacoby commended the department.

NATURAL RESOURCE COMMISSION Inga Foster, Kelley Myers, and Martin Konrad represented the commission.

ARC 7416B Proposed ch 13 pertains to permits and easements for construction and related activities on public lands and waters. Sen. Bartz asked for clarification of the waters to which the rules are applicable and suggested that maps would be helpful. At the request of Rep. Reichert, Ms. Foster clarified the scope of activities covered by these rules.

ARC 7411B No questions on the horsepower limitation on Lake Icaria in Adams County.

ARC 7413B No questions on the daily bag limit of 25 each for crappies and bluegills.

ARC 7414B No questions on 85.1 concerning removal of trotlines.

ARC 7415B No questions on 88.2, the permit fee for fishing tournaments.

ARC 7410B No action on the amendment to 106.11(4)“e,” depredation permit fees.

NATURAL RESOURCES DEPARTMENT Jon Tack represented the department.

ARC 7454B No action on the exemption for electronic tower and wind turbine leases from the septic tank time-of-transfer requirements.

PUBLIC SAFETY DEPARTMENT ARC 7421B and ARC 7346B were excused from review at this meeting.

SECRETARY OF STATE ARC 7450B and ARC 7449B were excused from review at this meeting.

Committee business The minutes of the December 2008 meeting were approved.
The next meeting was scheduled for Friday, February 6, 2009.
Rep. Frevert expressed appreciation to Rep. Wise, Rep. Jacoby, Sen. Connolly, and Sen. Angelo for their professionalism, dedication and integrity in their service on the administrative rules review committee.

Adjourned The meeting was adjourned at 1 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair

Vice Chair