

**MINUTES OF THE AUGUST 2010 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held on Monday, August 16, 2010, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative Marcella Frevert, Chair, and Senator Wally Horn, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives David Heaton, Tyler Olson, Nathan Reichert, and Linda Upmeyer were present.
- Also present: Joseph A. Royce, Legal Counsel; Stephanie A. Hoff, Acting Administrative Code Editor; James Larew, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.
- Convened Rep. Frevert convened the meeting at 9:35 a.m.
- Fiscal overview** Sue Lerdal presented the LSA fiscal report.

MEDICINE BOARD

- ARC 8918B Rule 13.9 pertains to interventional chronic pain management. The rule defines interventional chronic pain management, lists procedures, establishes standards, and identifies interventional chronic pain management as the practice of medicine.
- At the July meeting, a motion was made to object to the rule. Staff requested an opportunity to prepare and distribute a draft copy of an objection, which was considered later in the meeting. The objection failed on a five in favor to four opposed vote (an objection requires six votes). At the time of the vote, an absent member was unsuccessfully attempting to join the meeting by telephone. At the request of Rep. Heaton and with the agreement of the committee, the rule making was held over for continued review at the August meeting.
- At the August meeting, discussion centered on whether the vote on the failed motion could be reconsidered. After lengthy discussion, it was determined that past committee practice required that only a member who voted on the prevailing side (in this situation, a “no” vote) could make a motion to reconsider the July vote. No further action was taken.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Jennifer Vermeer represented the department. Other interested parties included Cal Hultman on behalf of the Pharmaceutical Research and Manufacturers of America.

- ARC 8975B The amendment to 78.2(4)“a” pertains to Medicaid coverage of mental health prescription drugs that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class. Drugs are placed on the preferred drug list based on clinical appropriateness and cost-effectiveness; non-preferred drugs require prior authorization. Discussion focused on the issue of prior authorization, timely access to drugs by established users, supplemental rebates, the operation of and collaboration between the pharmaceutical and therapeutics committee and the drug utilization review commission, generic drugs, provisions for an emergency supply of drugs, and the effect of the federal health reform law on Medicaid. Rep. Heaton expressed appreciation for the grandfathering of established users but expressed concern about prior authorization. Sen. Kibbie requested that the department provide a summary of public comment to the committee.
- Mr. Hultman asked that the department’s policy about prior authorization be more specific and pointed out that supplemental rebates are discretionary.

- ARC 8977B The amendments to ch 92 pertain to IowaCare premium policies and to the provider network and service. The amendments include the addition of federally qualified health centers (FQHCs) as local providers of primary care services and the implementation of the “medical home” model. Discussion focused on whether changes may be made in IowaCare prior to 2014, the rationale for the use of FQHCs, the schedule for FQHC roll-out, access, and the sufficiency and distribution of the appropriation.

NATURAL RESOURCES DEPARTMENT

ARC 8950B No representative appeared regarding 9.2(1), groundwater hazard statement.

ENVIRONMENTAL PROTECTION COMMISSION Christine Paulson and Jim McGraw represented the commission. Other interested parties included Bob Haug of the Iowa Association of Municipal Utilities and Greg Fritz of the North Iowa Municipal Electric Cooperative Association.

Special Review At the July meeting, Sen. Bartz requested that ARC 8845B regarding state air quality rules be placed on the August agenda for review of the public comment, and the committee voted to request an informal regulatory analysis. Ms. Paulson reported that no one attended the public hearing, but one set of written comments that favored the rules was received.

Mr. McGraw and Ms. Paulson noted that DNR's accepting delegation of the rules from EPA allows for discretion by DNR in the implementation and enforcement of the rules.

Rep. Heaton asked that DNR advocate for communities affected financially by the rules, particularly in regard to stationary utility engines. Sen. Kibbie reported that representatives of EPA Region 7 would be willing to meet with appropriate legislative committees regarding any air or water quality issue. Sen. Bartz noted legislators' responsibility in generating public comment from the affected communities. Rep. Upmeyer explored the role of DNR with respect to EPA and to the regulated communities and asserted the need for informing those communities about the rules. Rep. Reichert encouraged legislators to hold informational forums for dialogue with constituents regarding the rules.

Mr. Haug and Mr. Fritz noted the cost of implementing the rules but expressed support for the administration of the rules by DNR. In addition, Mr. Fritz expressed appreciation for the effort by DNR in aiding the utility's members.

COMMUNITY ACTION AGENCIES DIVISION Bill Brand represented the division.

ARC 8955B No questions on ch 15, family development and self-sufficiency program.

CULTURAL AFFAIRS DEPARTMENT Mary Sundet Jones represented the department.

ARC 8956B No questions on 13.5, which pertains to cultural trust sustainability challenge grants. Ms. Sundet Jones stated that the language questioned by Sen. Bartz at the June meeting had been clarified in the adopted rule.

EDUCATIONAL EXAMINERS BOARD George Mauer represented the board.

ARC 8971B, ARC 8969B, ARC 8961B, ARC 8968B, ARC 8965B, ARC 8966B, ARC 8967B, ARC 8960B, and ARC 8970B were excused from review at this meeting.

ARC 8957B No questions on 13.10(5) regarding Class A license requirements.

ARC 8958B No questions on 18.4, administrator licenses for applicants with standard and professional service licenses.

ARC 8959B No action on 27.6, specific requirements for a Class B license.

NURSING BOARD Lorinda Inman and Kathy Weinberg represented the board, and Cynthia Arterburn and Jodi Stoker represented the board's IV therapy committee. Other interested parties included Judith Collins on behalf of the Iowa Nurses Association, Teri Murphy, RN, and Teresa Meyer, RN.

ARC 8930B Amendments to 6.1, 6.3 and 6.5 pertain to intravenous therapy scope of practice for LPNs. Rep. Heaton asked that expansion of scope of practice for LPNs in long-term care facilities be explored. Sen. Seymour asked about the meaning of supervision, the issue of liability, and patient safety. Rep. Upmeyer inquired about the definition of supervision and the required number of hours of practice and requested that the board provide to the committee by E-mail a side-by-side comparison of the existing rules and the proposed rules. Sen. Kibbie encouraged the board to hold public hearings at every community college via the Iowa communications network (ICN). Rep. Frevert encouraged public participation and requested that the board provide the committee with a summary of public comment.

Nursing Board (continued)

Ms. Collins encouraged the committee to support the rules. Ms. Arterburn stated that the rules update the standard of practice and maintain patient safety. Ms. Stoker asserted that, to ensure quality care, training must change as standards of practice change. Ms. Murphy expressed opposition to the rules with particular concern about the definition of supervision and the issue of patient safety. Ms. Meyer expressed concern about LPN training, the issue of supervision, and patient safety.

PUBLIC HEALTH DEPARTMENT Barb Nervig and Ken Sharp represented the department.

- ARC 8973B No questions on proposed amendments to ch 90, Iowa child death review team.
- ARC 8974B No questions on proposed amendments to ch 91, Iowa domestic abuse death review team.
- ARC 8860B This rule making, held over from the July meeting, pertains to 25.1 to 25.5, state plumbing code. Mr. Sharp explained that the rule making identifies the uniform plumbing code with amendments as the state of Iowa plumbing code and affirms the authority of local jurisdictions to adopt regulations pursuant to Iowa Code section 364.3(3). He reported that an inspection study to be completed at the end of 2010 may lead to future legislation for the development of a statewide inspection authority and the adoption of a consistent, uniform plumbing code. Sen. Bartz inquired about the difference between the international plumbing code and the uniform plumbing code, the definition of new construction, and waivers.

AGING, DEPARTMENT ON Lisa Burk represented the department. Ro Foege, director of the department, and Jeanne Yordi, the state long-term care ombudsman, were also present. Other interested parties included Bill Nutty on behalf of the Iowa Association of Homes and Services for the Aging and Kelly Meyers on behalf of the Iowa Health Care Association.

- ARC 8939B No action on 8.1 to 8.7, long-term care resident's advocate/ombudsman. Rep. Upmeyer expressed concern about the issue of privacy. Rep. Heaton noted the discrepancy between the amount of the penalty stated in the rule and that in the statute.
- Mr. Nutty requested that access to medical and personal records be restricted rather than broadened and suggested that, before accessing personal or medical records, the volunteer receive authorization from the tenant or resident, family member or legal representative. Ms. Meyers asked that the penalty stated in the rule be identical to that cited in statute.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

- ARC 8976B No questions on proposed amendments to ch 64 pertaining to reportable infectious and contagious animal diseases.
- ARC 8951B No action on 65.9(2), monitoring of chronic wasting disease.

UTILITIES DIVISION Gary Stump represented the division.

- ARC 8949B No action on 15.19 and 15.22, small wind innovation zones.
- ARC 8931B No questions on proposed 35.15(3) and 36.8(3), exterior flood lighting efficiency standards for LED and solid-state lighting.

PUBLIC SAFETY DEPARTMENT Mike Coveyou, David Jones, Stuart Crine, and Ross Loder represented the department.

- ARC 8936B No questions on ch 82, criminal history and fingerprint records.
- ARC 8937B No action on 16.610, state building code related to factory-built structures.
- ARC 8942B No action on ch 88, notification of law enforcement agency by hospital prior to discharge of a person with serious mental illness.
- ARC 8935B No questions on amendments to chs 400 to 402 or on the rescission of ch 404 relating to the peace officers' retirement, accident, and disability system.

Committee business The minutes of the July 13, 2010, meeting were approved.
The next meeting was scheduled for Tuesday, September 14, 2010.
Rep. Frevert requested that the committee consider making a recommendation to the legislature in regard to tightening committee rules of procedure.

Adjourned The meeting was adjourned at 3:05 p.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Marcella Frevert

Vice Chair Wally Horn