



MINUTES

AUGUST 2023 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Mike Klimesh, Vice Chair
Senator Nate Boulton
Senator Mike Bousselot
Senator Waylon Brown
Senator Cindy Winckler [by teleconference]

Representative Megan Jones, Chair
Representative Amy Nielsen [by teleconference]
Representative Rick L. Olson
Representative David E. Young

EX OFFICIO, NONVOTING MEMBER: Nate Ristow, 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: 7/12/23, 7/26/23

Procedural Business

Representative Jones convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 10:30 a.m. on Tuesday, August 15, 2023, in Room 116, State Capitol, Des Moines, Iowa. The minutes of the June 13, 2023, and July 11, 2023, meetings were approved. The next meeting was scheduled for Tuesday, September 5, 2023, at 10:30 a.m. Mr. Ewing explained that the committee's Twitter feed and listserv were currently malfunctioning. He discussed the ARRC objections included in the packet he provided to members. He noted that the most recent objection was from 2011, and the oldest objection was from 1979. He stated that members could discuss the objections with the applicable agencies to gain further information. Members asked if the information in the packet is public. He replied that the material in the packet is publicly available. Members requested that he provide a copy of the packet to each agency that has a rule on which there is an objection. The meeting was adjourned at 11:25 a.m.

Fiscal Overview

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

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT

Representing the agency: Blake DeRouchey

ARC 7045C (NOIA), Iowa Hazard Mitigation Plan, Rule 9.3

No discussion on ARC 7045C.

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).

PHARMACY BOARD

Representing the agency: Maddie Wilcox

ARC 7048C (NOIA), Controlled Substances, Rules 10.39(6), 12.1(1)
No discussion on ARC 7048C.

REVENUE DEPARTMENT

Representing the agency: Clara Wulfsen

ARC 7050C (NOIA), Capital Gain Deduction for Certain Types of Net Capital Gains; Net Income From a Farm Tenancy Agreement Covering Real Property, Rules 302.38, 302.87, 302.88
No discussion on ARC 7050C.

ARC 7051C (NOIA), Capital Gain Exclusion for Elected Employee-Owned Stock in a Qualified Corporation, Rule 301.41
No discussion on ARC 7051C.

TRANSPORTATION DEPARTMENT

Representing the agency: Kelli Huser

ARC 7046C (NOIA), Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight, Ch. 511
No discussion on ARC 7046C.

VETERANS AFFAIRS, IOWA DEPARTMENT OF

Representing the agency: Melissa Miller, Todd Jacobus

ARC 7047C (NOIA), Veterans Trust Fund Eligibility—Income, Rule 14.3(1)

Committee members stated that the changes to income eligibility included in the rulemaking are contrary to legislative action that occurred during the last legislative session as the concept to increase funding for the Veterans Trust Fund (fund) was introduced in the Senate, and the House voted 99-0 to increase funding. Members stated that those actions indicated that legislative intent was to increase the number of veterans who receive assistance. Members asked how many veterans will be affected by the proposed changes to income eligibility. Ms. Miller stated that eligibility will be reduced by approximately 30 percent. Members asked what percentage of the 30 percent of ineligible veterans are close to 200 percent of the federal poverty guideline (FPG). She responded that she did not have that information. Members stated that the state is going in the wrong direction with this rulemaking.

Committee members asked what Mr. Jacobus meant when he stated that changes to the income eligibility guidelines were necessary to enable the department to better manage the fund. Members explained that years ago a specific lottery ticket had been created to provide money for the fund and the fund had been fully funded. Members further explained that the lottery ticket funding mechanism had been statutorily changed and asked if the department was having trouble managing the fund because the fund is out of money. He replied that the commission had increased the threshold from 200 percent of the FPG to 300 percent of the FPG a year ago in order to support more veterans and the department overspent, creating a deficit. As a result, the commission met to decide how to better manage the fund so that the fund is available for emergencies. Members asked if the fund experienced a deficit eight or nine years ago. He replied that the principal increases every year and is currently at \$38 million, and it was last year when the financial guidelines were changed that financial challenges originally occurred. Members asked for clarification on whether the principal in the fund can be spent by the department. He responded that the principal cannot be spent. Members asked if recent increases in interest rates had resulted in a positive balance in the fund. Ms. Miller confirmed that the fund balance is currently positive. Members asked why the department wants to reduce the number of veterans who receive assistance if the monthly interest received by the fund is increasing. Ms. Miller responded that the

commission had begun the process to change the income guidelines before interest rates started to increase. Members asked if the commission could revert back to the prior income guidelines now that interest rates are increasing.

Committee members asked for confirmation that the department had operated at 300 percent of FPG for one year, and prior to that had operated at 200 percent of FPG. Ms. Miller confirmed that was the case and added that while operating at 300 percent of FPG the threshold regarding maximum liquid assets had been eliminated. She stated that during that time veterans who had over \$20,000 in liquid assets applied to the program, and that is not the intent of the program. She explained that in response the department introduced the \$20,000 asset threshold and 300 percent of FPG guidelines. Members asked what type of applications are received by the department. She stated that the most frequent are for housing repair, vehicle repair, and dental work, and that the dental work requests range from \$8,500 to \$10,000. Members asked if, when considering applications, the department is restricted by the litmus test contained in the rulemaking and if that is the only criteria considered. She confirmed that is correct. Members stated that seemed too simplistic and more metrics should be considered. Mr. Jacobus replied that the commissioners' main consideration when reviewing applications every month is whether an application is for an emergency. If an application is for an emergency and the veteran meets the litmus test contained in the rulemaking, the application is generally approved. Members reiterated that having more guidelines in rules would aid in the review of applications. He stated that the rulemaking establishes the criteria to allow the department to instruct county commissioners of veterans affairs to review each application to ensure it meets the litmus test prior to sending it to the department.

Committee members asked why the liquid asset threshold was changed in 2021 and whether, with the rulemaking, the department was reverting to what the threshold was prior to the 2021 change. Ms. Miller replied that the threshold had been changed because quite a few small businesses and farms had liquid assets exceeding the threshold; however, the assets were earmarked for other things. In addition, the department had heard from several legislators that the department was not helping enough veterans, and the change also allowed more veterans to receive assistance for home repairs caused by storm damage. As a result, the department had been inundated with applications. Ms. Miller stated that was not the intent of the program so the commission changed the asset threshold and the FPG. Members asked for confirmation that the proposed rulemaking reverts back to the litmus test used prior to 2021. Ms. Miller confirmed that was the case.

Committee members asked if the goal of the rulemaking was to maximize the number of veterans who receive assistance. Ms. Miller confirmed that was the goal. Members stated that Iowa Code section 35A.13 contains the legislative intent in its four corners and the statute allows the department, along with the commission, to manage the interest from the fund and does not impose any requirements related to FPG or liquid assets.

Committee members asked how the department defined "liquid assets." Ms. Miller responded that liquid assets include money in a savings or checking account, or in a retirement account if the money can be accessed without the individual incurring a penalty. Members suggested that the asset test penalized veterans who were able to save money. Members stated that the school voucher program that passed last session does not require any asset testing. Members suggested reevaluating the use of bright line testing to determine veterans' eligibility for assistance. Members questioned whether a veteran with an emergency situation can wait for the commission's monthly meeting and the disbursement of any approved funds. Members asked that the department take into consideration the feedback it had been given on the rulemaking. Members asked if the department applies for federal grants for deposit in the fund, and if so, whether the grants require the department to impose certain FPGs or a liquid assets test. Mr. Jacobus stated that the department does not apply for federal grants for deposit in the fund. Members suggested that the department develop a rubric that would allow the department flexibility when evaluating applications, including during preclearance at the county level.

No action taken on ARC 7047C.

**WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION**

Representing the agency: Brooke Axiotis

ARC 7052C (NOIA), Iowa Office of Apprenticeship, Ch. 29

Committee members stated that correct definitions need to be included in the rulemaking to ensure that apprenticeships are available, and to allow proper supervision by individuals who have the knowledge and skills necessary to transfer skills to apprentices. Ms. Axiotis responded that the division had been working with several entities, including the United States Department of Labor (DOL), regarding the definition of “supervision.” The department had also received public comments on that definition. She explained that the DOL must approve both Iowa’s law and the state’s apprenticeship agency. She further explained that the DOL had already approved the rulemaking and any change to the rulemaking needs to be approved by the DOL. Members stated that “supervision” is defined in the statute and differs from how the term is defined in the rulemaking. Members also stated that “safety regulations” is not defined in the rulemaking; however, the meaning of the term can be determined by reading the statute and that this may cause confusion. Members stated that taking definitions verbatim from 2023 Iowa Acts, Senate File 318, may be a better approach. Members also remarked that clarification of the definition of “in-person” supervision is critical for trades such as plumbers and electricians, and for the safety of all individuals involved in apprenticeships.

No action taken on ARC 7052C.

ALCOHOLIC BEVERAGES DIVISION

Representing the agency: Madelyn Cutler

ARC 7049C (NOIA), Retail Alcohol Licenses, Chs. 1, 4, 5, 8, 17, 18

No discussion on ARC 7049C.