

**MINUTES OF THE FEBRUARY 2013 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 8, 2013, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Mark Chelgren, Thomas Courtney, Pam Jochum, and Roby Smith; Representatives Dave Jacoby, Rick Olson, Jeff Smith and Guy Vander Linden were present.
- Also present: Joseph A. Royce and Jack Ewing, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Larry Johnson, Deputy Counsel, Office of the Governor; fiscal staff; caucus staff; and other interested parties.
- Convened Sen. Horn convened the meeting at 8:35 a.m.
- Motions Rep. Vander Linden moved that Rep. Pettengill be elected chair of the committee, and Sen. Courtney moved that Sen. Horn be elected vice chair of the committee.
- Motions carried Rep. Pettengill and Sen. Horn were elected chair and vice chair, respectively.
- Fiscal overview** Adam Broich presented the LSA fiscal report. Other agency representatives included Kim Piper of the department of public health and Beth Lenstra of LSA fiscal services division.
- In response to an inquiry from Sen. Jochum, Ms. Piper stated that the newborn screening fee was last increased three years ago. Mr. Broich will provide Sen. Jochum information regarding the allotment of time and payment rates for child care assistance.
- Discussion pertained to the determination of fiscal impact for each rule making. Committee members requested that all dollar amounts related to the fiscal impact be reported, which would include amounts under the statutory \$100,000 in one year and \$500,000 over five years. In response, Ms. Lenstra explained the process of fiscal analysis and stated that the fiscal services division would adapt its procedures.

EDUCATIONAL EXAMINERS BOARD Duane Magee and Susan Fischer represented the board.

- ARC 0563C No action on amendments to ch 13 pertaining to assessment requirements for Iowa licensure.
- ARC 0564C Amendments to 18.7 concern administrator licensure. In response to an inquiry from Sen. Horn, Ms. Fischer stated that the exchange license allows an administrator from out of state to meet legislatively mandated requirements during the first year of employment in Iowa.
- ARC 0562C No action on 22.5 relating to the preliminary native language teaching authorization. Mr. Magee clarified for Sen. Chelgren that the time period for fulfillment of the requirements for permanent licensure depends upon the type of license.

AGING, DEPARTMENT ON Kim Murphy represented the department.

- ARC 0551C Proposed amendments to 1.5 pertain to definitions applicable to all of the department’s rules. Ms. Murphy clarified for Rep. Pettengill that the proposed rescission of the term “rural” reflects its inapplicability to the formula for the new funding process. Ms. Murphy agreed to clarify for Sen. Jochum the meaning of “indirect costs” found in the definition of “administration costs.”
- ARC 0550C Proposed ch 5 pertains to department fiscal operations. Ms. Murphy confirmed for Sen. Jochum that pursuant to the Older Americans Act, there is a cap on administration costs. Ms. Murphy also listed several types of local funding sources and will secure for Sen. Jochum information from the department’s fiscal director regarding the match requirements for state funds and for Older Americans Act funds.
- ARC 0549C No questions on proposed ch 6, area agency on aging planning and administration. Ms. Murphy stated that the department’s state plan, which is due every two to four years to the federal Administration on Aging, has already been drafted. Because proposed ch 6 would impact the state plan, the Notice of Intended Action to adopt new ch 6 will be terminated.

PUBLIC HEALTH DEPARTMENT Barb Nervig and Kim Piper represented the department. Other interested parties included Stacy Frelund of the American Heart Association.

ARC 0572C

Proposed amendments to ch 4 pertain to the center for congenital and inherited disorders. Ms. Nervig summarized the amendments, noting the renaming of the program to reflect the broader scope of available screening and a fee increase to include the screening panel for severe combined immunodeficiency (SCID).

Discussion pertained to newborn screening for hereditary and congenital disorders and included the confidentiality of results, the screening fee increase, the notification process, and the role of the advisory committee. Ms. Piper explained that the confidentiality of screening results is assured; that the newborn screening, a dried blood spot (DBS) specimen, is not a DNA test; and that the screening information is used only to follow up on any abnormal results. Ms. Piper stated that the \$10 fee increase to include the screen for SCID will be added to the global fee that covers screening for more than 50 hereditary and congenital disorders and that the fee is paid for by insurance/parents. She explained that the notification process is carried out through the primary care physician and that the rules require the physician to follow up on all screening results. Ms. Piper also explained the membership and purpose of the advisory committee.

Ms. Frelund requested that the pulse oximetry test, an inexpensive screen to detect heart abnormalities affecting 1 in 100 newborns, be added to the newborn screening panel. Ms. Frelund also suggested that, if necessary, legislation may be introduced to require the test. Committee members inquired about post-pulse oximetry procedures, survival rates, costs, the availability of equipment specifically for newborns, and rule making to add this test to the newborn screening. Ms. Piper stated that the advisory board has approved the addition of this test, which is not a blood test, to the newborn screening panel; however, the director has declined to take the issue to the state board of health because the director believes that performing the pulse oximetry test, similar to checking vital signs, is the responsibility of the provider. Ms. Piper reported that 75 percent of birthing hospitals are performing the test voluntarily.

TRANSPORTATION DEPARTMENT Mark Lowe represented the department.

ARC 0571C

Amendments to chs 4, 600 and 605 concern fitness to drive determinations by qualified medical professionals. Mr. Lowe explained that the amendments expand the range of qualified medical professionals to include advanced registered nurse practitioners (ARNPs) and physician assistants (PAs). He reported that positive comments have been received from PAs and their affiliated society. He stated that the Iowa Medical Society expressed concern that the amendments expand the diagnostic roles of ARNPs and PAs. In response, the department noted that this concern is mitigated, in the definition of “qualified medical professional,” by the stipulation that the person practice within the scope of the person’s professional licensure.

Discussion pertained to the evaluations by ophthalmologists compared to those by optometrists, the medical advisory board, the impetus for the rule making, and the vision screening at driver’s license stations. Mr. Lowe explained that an evaluation by an ophthalmologist or an optometrist would be based on the condition in question, e.g., a vision condition or a loss of consciousness condition, and the scope of practice of the qualified medical professional. Mr. Lowe stated that in some situations, a review by the medical advisory board, comprised of volunteer members of the Iowa Medical Society, may be in order and that the department, not the medical advisory board, makes the final fitness to drive decision. Mr. Lowe noted that the impetus for the rule making was to include ARNPs and PAs, many of whom serve patients in rural areas, as qualified medical professionals who may make fitness to drive determinations. Mr. Lowe explained that the vision test performed at driver’s license stations is a nonmedical screen and that based on that screen, a follow-up examination by a qualified medical professional may be advised to prevent an unqualified driver from being licensed and to allow a qualified driver to be licensed.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Deb Johnson and Wendy Rickman represented the department.

- ARC 0544C No action on the amendment to 50.2(3) pertaining to an application for supplementary assistance.
- ARC 0545C No action on amendments to chs 77 to 79 concerning the addition of assisted living on-call service providers under HCBS waiver services.
- ARC 0567C No questions on proposed amendments to ch 78 regarding standardization of billing codes, units of service, and service definitions related to HCBS waiver services.
- ARC 0548C No action on amendments to chs 79 and 83 pertaining to reimbursement related to HCBS waiver services.
- ARC 0568C Proposed amendments to 79.1(2) pertain to the unit time and rate definition for a portion of the HCBS waiver services. Ms. Johnson confirmed for Sen. Chelgren that the change to 15-minute increments for billing purposes will affect the minimum charge for service.
- ARC 0570C No questions on the proposed amendment to 79.3 pertaining to maintenance of records by providers of service.
- ARC 0569C No questions on proposed amendments to 79.4 concerning reviews and audits related to the medical assistance program. Ms. Freudenberg reported that based on comment already received, the department will clarify the intent of the rule.
- ARC 0552C No action on amendments to ch 86 regarding filing date provisions and the definition of “client error” related to the HAWK-I program.
- ARC 0554C No questions on proposed amendments to 110.5(1)“a” pertaining to the use of a mobile telephone as a primary telephone in registered child development homes.
- ARC 0566C Proposed amendments to chs 110 and 170 relate to national criminal history checks for registered child development homes, child care homes, and providers receiving child care assistance payments. Ms. Freudenberg clarified for Rep. Pettengill that national criminal history checks are already required of licensed child care providers.
- ARC 0546C Amendments to 170.4(7)“a” concern an increase in child care assistance half-day rate ceilings. Ms. Rickman clarified for Rep. Olson the purpose for the emergency rule making.

ENVIRONMENTAL PROTECTION COMMISSION Elaine Douskey represented the commission. Other interested parties included Jeff Hove on behalf of the Petroleum Marketers and Convenience Stores of Iowa (PMCI).

- ARC 0559C No action on the rescission of 135.5(1)“e” and the adoption of new 135.5(1)“e” that extends by one year the compliance deadline for underground storage tank leak detection system upgrades at unstaffed facilities that use pressurized piping.
- Mr. Hove expressed appreciation for the extension of time for compliance and the opportunity to participate in a review of the rules regarding the risk of releases at unstaffed facilities.

Committee business Rep. Pettengill welcomed the new members of the committee. She stated that Mr. Royce will provide committee members copies of proposed changes to the committee’s rules of procedure prior to discussion of the changes at the March meeting.

Sen. Smith requested that the non-elected persons at the committee table be introduced.

In response to an inquiry from Rep. Pettengill, Mr. Royce explained the purpose of a double barrel, i.e., a Notice of Intended Action and an Adopted and Filed Emergency submitted simultaneously. Rep. Pettengill requested that the schedule for rule making be explained at a future meeting. Mr. Johnson explained the Governor’s staff review of rule-making documents.

The minutes of the January 8 and 9, 2013, meeting were approved.

The next meeting was scheduled for Friday, March 8, 2013, at 8:30 a.m.

February 8, 2013

Adjourned

The meeting was adjourned at 10:45 a.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Dawn Pettengill

Vice Chair Wally Horn