

**MINUTES OF THE APRIL 2006 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, April 10, 2006, in Room 22, State Capitol, Des Moines, Iowa.

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

Also present: Joseph A. Royce and Emily Gardyasz, Legal Counsel; Kathleen K. West, Administrative Code Editor; Sonya Streit, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Vice Chair Kibbie convened the meeting at 8:03 a.m.

**Fiscal report** Mary Beth Mellick presented the LSA report on rule makings that have a significant fiscal impact: ARC 4652B, ARC 5000B, ARC 5012B, and ARC 4978B. There were no questions.

**EDUCATION DEPARTMENT** Carol Greta represented the department.

ARC 4986B Ms. Greta provided the committee with a side-by-side comparison of revisions made to subrule 36.15(2) in response to public input and explained that the rules now require grade checks only at the end of a grading period, as defined by the local district; that provisions regarding ineligibility for baseball or softball have been revised; and that a recheck of grades at the end of the period of ineligibility is not required. The remaining point of contention pertains to the requirement that a student completing a period of ineligibility be a bona fide contestant in the sport; this provision was intended to prevent a student from going out for a sport just to wait out a period of ineligibility. Ms. Greta explained that the board's authority extends only to athletics, but that the associations overseeing other extracurricular activities may opt to abide by the same standards. Rep. Heaton suggested that, when a student fails, the focus should be on remediation rather than punishment; and Sen. Courtney suggested that eligibility be restored if a student attends summer school and passes the course. Rep. Frevert questioned the application of sportsmanship standards to spectators. Rep. Huser asked that the department look into the possibility of coordinating activities with community colleges. Sen. Connolly and Sen. McKinley commended the board and expressed support for the message conveyed by these high standards. No action was taken.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Brian Wines represented the department.

ARC 4980B Proposed amendments to chs 77 to 79 and 83 pertain to the consumer choices option for Medicaid HCBS waiver. These amendments set out the services and components of the program, provider qualifications and rates, and consumer eligibility provisions. Ms. Freudenberg expects that the program will be available statewide by March 2007, and that approximately 10 to 15 percent of the consumers will enroll in this option. Rep. Heaton expressed appreciation to the department and cautioned that if the program is to succeed, services must be available. Discussion related to the role of the support broker.

ARC 5007B No questions on the HCBS children's mental health waiver.

ARC 4979B No questions on exclusion from Medicaid coverage of drugs used for the treatment of sexual dysfunction.

ARC 5008B No action on decategorization of child welfare and juvenile justice funding, which has been expanded to 99 counties.

ARC 5009B No action on a corrective amendment to 182.2(4) concerning nonrehabilitative family-centered services.

**ELDER AFFAIRS DEPARTMENT** Joel Wulf and Linda Hildreth represented the department.

ARC 4947B No questions on ch 1; the definition of "exploitation" was clarified.

ARC 4949B No questions on ch 2, which includes complaint procedures inadvertently omitted from the Notice.

ARC 4950B No questions on ch 4, department planning responsibilities.

ARC 4951B No questions on ch 5, department fiscal policy.

ARC 4952B No action on ch 6, area agency on aging planning and administration.

ARC 4948B No action on ch 7, area agency on aging service delivery.

ARC 4953B No action on amendments to ch 10 concerning the senior internship program.

ARC 4954B No action on ch 12, elder abuse, neglect or exploitation prevention and awareness and mandatory reporter training.

Elder Affairs Department (continued)

- ARC 4955B No action on ch 15, elder abuse initiative, emergency shelter and support services projects. Sen. McKinley commented that he will be working with the department and the department of inspections and appeals on a situation involving an unfair listing of a nursing home worker on the abuse registry. Ms. Hildreth responded that the dependent adult protection advisory council is addressing this issue.
- ARC 4956B No questions on ch 16, senior living coordinating unit.
- ARC 4994B No questions on rescission of the emergency-adopted rules for the case management program for frail elders.
- ARC 4957B No questions on ch 28, Iowa senior living program—home- and community-based services for seniors.  
On an unrelated matter, Rep. Huser inquired about audit procedures for AAAs and organizations with whom AAAs enter into contract. Sen. McKinley asked that the information include procedures for auditing services as well as finances. Rep. Heaton asked that boards of directors and owners of nonprofit entities be made public. Mr. Wulf agreed to provide a response.

**SECRETARY OF STATE** Charlie Krogmeier, Sandy Steinbach, and Steve Mandernach represented the office of secretary of state.

- ARC 5004B Amendments to ch 21 provide for voters to sign the voter’s declaration of eligibility directly in the elections registry.
- ARC 4974B Proposed amendments to ch 22 prescribe security procedures for the use of memory cards in voting equipment. The memory card could be vulnerable if it were removed from a voting device after the memory card was programmed for an election. Mr. Mandernach demonstrated how a memory card programmed by the county auditor is inserted into a tested ballot counting device and locked into the machine with a numbered seal. Mr. Krogmeier distributed a map that shows the type of voting equipment used in each county. Discussion related to the importance of training election workers in the use of the machines. Sen. Courtney requested a list of counties in which the auditor is programming the memory cards and counties that have contracted with a vendor to do the programming.

**VOTER REGISTRATION COMMISSION** Charlie Krogmeier and Sara Throener represented the commission.

- ARC 4970B No action on the proposed rescission of ch 4, which pertains to certain county systems that are no longer applicable since HAVA requires a statewide system.
- ARC 4969B No action on the proposed rescission of ch 6.
- ARC 4968B No questions on the proposed rescission of ch 7.
- ARC 4966B No questions on ch 9, national change of address program.

**ENVIRONMENTAL PROTECTION COMMISSION** Dave Wornson, Jim McGraw, Diane Moles, Courtney Cswercko, Patti Cale-Finnegan and Angela Chen represented the commission.

- ARC 4983B Proposed new ch 13 and amendments to chs 135 and 137 pertain to environmental covenants which which may be used to restrict land use activities and manage the risk of future exposure to existing contaminant conditions.
- ARC 4984B No questions on amendments to ch 22 to exempt certain equipment and processes from the requirement to obtain a construction permit.
- ARC 4982B No action on proposed amendments to the water use/water allocation program. Ms. Moles identified a change in 51.2 that will be made when the amendments are adopted.
- ARC 4652B Ms. Cswercko summarized the Regulatory Analysis regarding the proposed fee structure for wastewater permits. Ms. Cswercko stated that the increased fees are intended to provide additional office and field staff to speed up the permitting process and decrease the backlog of permit applications. Rep. Huser noted that the increase in the number of field staff should also result in fewer instances of noncompliance.
- ARC 4981B No action on amendments pertaining to water quality revolving funds and set-aside programs. Responsibility for financial analysis and loan processing is transferred to the Iowa finance authority. Ms. Cale-Finnegan explained the changes from the proposed requirements; there were no questions regarding these changes.

**NATURAL RESOURCE COMMISSION** Rod Slings and Terry Little represented the commission.

- ARC 5014B No action on amendments to implement a no-wake speed zone at the Mudd Lake backwater on the Mississippi River and a 25 mph nighttime speed limit on lakes in Dickinson County.
- ARC 5019B No questions on removal of the Iowa River Corridor Area from the list of wildlife refuges.
- ARC 5018B No action on proposed waterfowl and coot hunting season dates.
- ARC 5020B Proposed ch 95 pertains to game harvest reporting and landowner-tenant preregistration for free licenses.

Natural Resource Commission (continued)

- ARC 5021B No questions on proposed amendments to ch 98 regarding wild turkey spring hunting.
- ARC 5015B No action on proposed amendments to ch 106, deer hunting by residents. Mr. Little explained the rationale for the restriction during the deer season on use of shotguns shooting slugs from road ditches north of highway 30.
- ARC 5016B No action on the proposed reduction in bag limit for jackrabbit hunting.
- ARC 5017B No action on the proposed trapping season for river otters. Mr. Little clarified rights of property owners when river otters invade ponds on their property.

**PUBLIC HEALTH DEPARTMENT** Barb Nervig and John Kraemer represented the department.

- ARC 4998B No questions on amendments to ch 12, laboratory testing of samples for the detection of alcohol or drugs, to add saliva to the definition of sample.
- ARC 5000B No questions on ch 24 private well testing, reconstruction and plugging—grants to counties. As a result of comments from counties, the fee has been increased and the rule regarding collection of water samples has been clarified.
- ARC 5002B No questions on amendments to radiation rules.
- ARC 5001B Proposed amendments to ch 42 add a permit for radiologist assistants. There were no questions.
- ARC 4979B County medical examiner rules, ch 127, are amended to specify deaths for which an autopsy is required. Mr. Kraemer explained that suspicious suicides are included to determine any apparent suicides that may have been homicides.
- ARC 4999B No action on chs 155 to 158 to implement transfer of duties of the substance abuse commission to the state board of health. Ms. Nervig pointed out that a change from the notice in regard to the nonsmoking policy was necessitated to avoid a conflict with existing contracts with substance abuse agencies.

**REVENUE DEPARTMENT** David Casey represented the department.

- ARC 5013B No questions on proposed amendments to implement the streamlined sales tax in regard to hotel and motel tax, local option sales and service tax, and medical equipment and drugs and proposed new ch 241 regarding excise taxes not governed by streamlined sales and use tax agreement.
- ARC 5012B Proposed amendments to ch 42 pertain to the child and dependent care tax credit and early childhood development tax credit. Rep. Frevert commented on the complexity of the application for the tax credits.
- ARC 4978B No action on ch 235 which implements a pilot program for rebates of sales tax paid at automobile racetrack facilities.

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland, Mary Jane Olney and Morris Boswell represented the department. Other interested parties included Rep. Rick Olson and Butch Hammer of the Iowa Quarter Horse Association.

- Special review Rep. Olson requested review of the requirement that, for Iowa-foaled status in the case of embryo transplant, a donor mare remain with the recipient mare until after foaling and inspection. Mr. Rowland stated that the rule is consistent with, or even more lenient than, rules in other states. Although the Iowa Quarter Horse Association was in favor of the requirement at the time the rule was adopted, Mr. Hammer reported that the association has reversed its position. Since neither the mare nor the stallion must be an Iowa horse, members questioned the purpose of the rule. Mr. Rowland responded that the rule was intended to advance the industry; if the industry has changed its position, the association should petition the department for a rule change.

**Committee business** The minutes of the March 2006 meeting were approved.  
 The next meeting was scheduled for Tuesday, May 9, 2006, at 8 a.m.  
 There was discussion about a Prairie Meadows proposal that off-duty highway patrol officers hired to provide security at the casino wear the highway patrol uniform and about whether the department of public safety should be asked to adopt rules to address use of the uniform for off-duty employment. Members discussed public perception, applicability of the proposal to all casinos, and potential liability issues.

Adjourned The meeting was adjourned at 12:05 p.m.

Respectfully submitted,

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 Kathleen K. West

APPROVED:

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 Chair George Eichhorn

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 Vice Chair John P. Kibbie