

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

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, February 10, 2006, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senators Michael Connolly, Thomas Courtney, and Mary Lundby and Representatives Danny Carroll, Marcella Frevert, David Heaton, and Geri Huser. Senator Paul McKinley 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 Chair Eichhorn convened the meeting at 9:05 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA report on rule makings (departments of elder affairs, human services, and revenue and environmental protection commission) that have a significant fiscal impact.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Anita Smith represented the department.
- ARC 4802B No questions on amendments to chs 51 and 52 to implement the annual adjustment to eligibility and payment levels for the state supplementary assistance program.
- ARC 4822B Ms. Freudenberg stated that these proposed amendments to ch 65 are being terminated.
- ARC 4840B No questions on amendments to ch 75 to allow for self-declaration of pregnancy.
- ARC 4804B No questions on amendments to ch 75 concerning Medicaid eligibility and financial participation of a married person residing in a medical institution.
- ARC 4841B No action on amendments to temporarily increase the reimbursement for mileage for Medicaid and PROMISE JOBS participants.
- ARC 4799B Amendments to ch 85 and new chapter 92 pertain to services in psychiatric institutions and the IowaCare program. Ms. Freudenberg outlined changes from the Notice and agreements reached with the University of Iowa Hospitals and Clinics. There was discussion about a 28E agreement with Broadlawns regarding a property tax transfer to draw down federal funds. Rep. Frevert asked for a department response to a question she has forwarded regarding spenddown.
- ARC 4814B Amendments to ch 86 pertain to the HAWK-I program. Ms. Smith reported that at any given time there are approximately 43,000 uninsured children in the state and that DHS and the department of public health are working with schools, faith-based organizations, and the provider and business communities to identify children eligible for the program. Ms. Smith advised Rep. Heaton that approximately 40 percent of HAWK-I applicants are Medicaid-eligible.
- ARC 4800B No questions on proposed amendments to ch 153 to provide for decategorization of child welfare and juvenile justice funding.
- STATE PUBLIC DEFENDER** Mark Smith represented the state public defender.
- ARC 4856B No action on amendments to chs 7, 10, and 12 to 14 concerning claims for indigent defense services. Mr. Smith outlined the amendments and identified two changes from the Notice in response to comments received.
- ELDER AFFAIRS DEPARTMENT** Mark Haverland and Debi Meyers represented the department. Other interested parties included AAA executive committee member Cynthia Beaman.
- ARC 4805B Mr. Haverland offered introductory remarks about the “double-barrel” filing of ch 21, case management program for frail elders, stating that although the department’s intent was to have rules in place to be able to draw down federal funds in fiscal year ’07, CMS has not yet responded to the DHS request to include case management as a reimbursed service under the elderly waiver. Rep. Heaton expressed concerns about the emergency adoption of anticipatory rules during appropriations negotiations and asked that the department rescind the emergency rules. Mr. Haverland agreed to the request for rescission. Rep. Carroll noted that because DHS is the administrative entity for Medicaid, an AAA could be designated as a qualified provider of case management services without DEA rules. Ms. Beaman commented that because AAAs serve both waiver and nonwaiver clients, DEA rules would ensure that case management services operate in the same manner whether paid by Medicaid or under the Older Americans Act.
- EMPOWERMENT BOARD** Shanell Wagler represented the board.
- ARC 4836B Proposed amendments to ch 1 include definitions for “early care” and “family support.” Discussion related to carryforward of school ready children grant funding and the board’s Web page, which provides links to a variety of resources for parents.

**REVENUE DEPARTMENT** David Casey and Jim McNulty represented the department.

- ARC 4831B No questions on 10.2(25), which establishes the interest rate for calendar year 2006.
- ARC 4830B No questions on amendments to implement the wage-benefits tax credit.
- ARC 4832B No action on wind energy tax credit and renewable energy tax credit provisions. Mr. McNulty clarified the fiscal report and explained that sales tax revenue will likely increase in the first year, but tax credits issued will decrease revenues in subsequent years.
- ARC 4829B No action on amendments related to property tax. Rep. Huser was advised that there is no statutory provision for the appeal board to assess a fee.
- ARC 4833B No questions on proposed ch 235, which provides for rebate of sales tax paid at automobile racetrack facilities.

**ENVIRONMENTAL PROTECTION COMMISSION** Jim McGraw, Christine Paulson, Chad Daniel and Theresa Stiner represented the commission. Neila Seaman represented the Sierra Club.

- ARC 4823B No action on proposed ch 34, clean air interstate rule (CAIR). Ms. Paulson explained the two options the work group considered before recommending adoption of the federal cap and trade approach to reduce emissions of sulfur dioxide and nitrogen oxide. Discussion related to allocation of the costs of the program.
- ARC 4824B No action on proposed adoption of the clean air mercury rule (CAMR) to permanently cap and reduce mercury emissions from coal-fired power plants. Ms. Seaman commented that the Sierra Club opposes both CAIR and CAMR and that the trading provisions will not solve the pollution problem, especially in the case of mercury.
- ARC 4825B The proposed amendments to 144.3 add color cathode ray tubes to the list of household hazardous materials. Retailers selling products listed as household hazardous materials are required to purchase an annual permit for \$25. Ms. Stiner indicated that there are approximately 12,000 permitted retailers in Iowa; revenue from the permit fees is used for cleanup programs, educational materials and administrative costs. Rep. Eichhorn suggested that the department contact computer retailers to ensure that they are aware of the permit requirement.

**NATURAL RESOURCE COMMISSION** Gregory Jones and Lowell Joslin represented the commission.

- ARC 4826B No questions on ch 17, barge fleeting operations.
- ARC 4794B Proposed amendments to ch 40 establish a no-wake speed zone at Mud Lake on the Mississippi River and a 25-mile-per-hour nighttime speed limit on lakes in Dickinson County. Mr. Joslin reported that the majority of commenters support a nighttime speed limit and would like it to be effective prior to the start of boating season.

**INSPECTIONS AND APPEALS DEPARTMENT** David Werning represented the department.

- ARC 4838B No questions on 51.8(2) regarding determination of death for purposes of organ and tissue procurement.

**PHARMACY EXAMINERS BOARD** Terry Witkowski represented the board.

- ARC 4820B No questions on proposed Internet-based test of English as a foreign language for foreign pharmacy graduates.
- ARC 4819B No questions on proposed reduction in time period for registration as pharmacy technician.
- ARC 4818B No questions on proposed amendment of duties of pharmacist in charge.
- ARC 4817B No action on proposed amendments to ch 8 to define “kickbacks” and amend the fee for a change in pharmacy license.
- ARC 4816B No questions on proposed amendments to 10.31(7) to require that the pharmacy’s record of pseudoephedrine products dispensed be legible and include total milligrams of pseudoephedrine contained in the product dispensed.
- ARC 4815B No action on the proposed amendment to 20.3(4) regarding resale of compounded drugs.
- ARC 4759B No action on proposed 6.14(1) to require patient counseling for new prescriptions.

**PUBLIC HEALTH DEPARTMENT** Barb Nervig represented the department.

- ARC 4839B No questions on 7.4(1) regarding the immunization requirement for children enrolled in elementary or secondary school.
- ARC 4845B No action on proposed amendments to ch 12 concerning laboratory testing of samples for the detection of alcohol or other drugs.
- ARC 4843B Ch 24, private well sampling, reconstruction, and plugging—grants to counties, reflects transfer of responsibility from EPC to the department of public health.
- ARC 4842B No questions on annual update of radiation rules, chs 38 to 42, 45 and 46.
- ARC 4844B No questions on amendments to ch 88, volunteer health care provider program.
- ARC 4847B No action on proposed amendments to ch 127 pertaining to deaths for which an autopsy is required. Rep. Huser was advised that counties bear the expense for these required autopsies.
- ARC 4846B No questions on transfer of substance abuse commission rules to the department.

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland represented the department.

ARC 4837B No questions on termination of rule making on women, infants, and children farmers' market and senior farmers' market nutrition programs.

ARC 4857B No questions on proposed amendments to ch 64 concerning animal exhibitions.

**SCHOOL BUDGET REVIEW COMMITTEE** Su McCurdy and Leland Tack represented the committee. Other interested parties included Larry Sigel of the Iowa Association of School Boards.

ARC 4858B The amendments to ch 6 require school districts to implement generally accepted accounting principles for budgeting purposes. Mr. Sigel expressed support for the amendments.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Stuart Crine represented the department; Glenn Siders represented the Building Code Advisory Committee. Among the other interested parties were Bill Schweitzer of the International Association of Plumbing Officials, Dennis Hogan of Sheet Metal Contractors of Iowa, Chuck Thomas of the Iowa Association of Building Officials, Bonnie Eggers on behalf of Laborers' Local 177, Bob Guenther and Rita Swearingen of the International Code Council, and Tom Gillespie of Plumbers and Steamfitters Local 33.

ARC 4772B Rep. Eichhorn announced that review of this rule, which adopts the international mechanical code, was added to the agenda at the request of parties seeking an opportunity to further discuss the uniform mechanical code. Mr. Coveyou pointed out that many of the comments received pertained to plumbing codes, which are under the authority of the department of public health, not the department of public safety. In response to other comments received, Mr. Crine indicated that both the uniform and the international mechanical codes offer the same level of public safety and distributed a comparison of the numbers of documents referenced in each.

Mr. Schweitzer asked that the department reconsider the decision to adopt the 2003 IMC, which includes references to the international electrical code, international plumbing code, international fuel gas code, and international fire code. After hearing from commenters who expressed support for the process and the department's adoption of the IMC and those who expressed opposition to the adoption, the committee took no action.

**Committee business** The minutes of the January 2006 meeting were approved.

The next meeting was scheduled for Monday, March 13, 2006, at 8 a.m.

Drafts of proposed bills were distributed for committee review. There was no consensus regarding proposed bills dealing with requests for a regulatory analysis. The committee supported the bill to allow for electronic filing of rule-making documents. There was discussion about bills to restrict emergency filings. Mr. Royce agreed to provide a revised draft of the bill that would require gubernatorial approval to except emergency filings authorized by statute. Mr. Royce distributed a draft for a bill that would require DHS to protect information collected via the Internet. Members generally favored deleting the words "by the best technology within the funding available."

Adjourned The meeting was adjourned at 12:40 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