

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

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Thursday, June 8, 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, Paul McKinley, and James Seymour; Representatives Danny Carroll, Marcella Frevert, and Geri Huser. Representative David Heaton was excused.
- Also present: Joseph A. Royce and Emily Gardyas, 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 9:20 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA report on two rule makings that may have a significant fiscal impact: ARC 5117B and ARC 5077B.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Eugene Gessow represented the department. Kate Walton of Orchard Place was also present.
- ARC 5096B No questions on amendments to ch 24 regarding accreditation of providers of services to persons with mental illness, mental retardation, and developmental disabilities. Ms. Freudenberg outlined additional revisions which were made in response to comments received.
- ARC 5077B In accordance with federal requirements, amendments to ch 75 require Medicaid applicants and recipients to provide documentation of citizenship or nationality. Ms. Freudenberg noted that commenters expressed concern about the burden on elderly and disabled persons to obtain necessary documents and indicated that the department will approve and continue eligibility for a reasonable period while the client is making a good-faith effort to obtain documentation. Ms. Walton indicated that this requirement will prove very difficult for children at Orchard Place who may not have access to their birth certificates or connections with parents. Discussion related to the department's procedures when false documents are provided. Mr. Gessow stated that while the department is not responsible for determining the authenticity of documents, obviously flawed documents would not be deemed sufficient proof and eligibility would not be approved. Mr. Gessow also indicated that the Medicaid fraud investigation unit would be notified.
- ARC 5080B No questions on 77.40, which adds the department of public health as a Medicaid provider for lead inspection services.
- ARC 5079B No questions on amendments to ch 78 eliminating the certification requirement for the nonfederal share of the cost of services for infant and toddler programs and local education agency providers.
- ARC 5081B No questions on amendments to ch 79 regarding distribution of payments to hospitals from the graduate medical education and disproportionate share fund.
- ARC 5078B No questions on amendments to ch 185 concerning deemed certification of providers of rehabilitative treatment services.
- Special reviews Ms. Freudenberg summarized emergency amendments implementing 2006 legislation.
- Medicaid coverage for young adults leaving foster care, 75.1(42).
 - Continued support for young adults leaving foster care, ch 187.
 - Increase in nursing facility personal needs allowance, 75.16(2).
 - Three percent increase in reimbursement rates for most Medicaid providers, 79.1.
 - Three percent increase for social service providers and shelter care reimbursement, 150.3(5)“p.”
 - Increase in foster family maintenance payments, 156.6(1).
 - Three percent increase for rehabilitative treatment service providers, 185.112.
- The department requested that the Medicaid state plan revisions be scheduled for the July ARRC meeting.
- Discussion related to the need to obtain CMS approval of amendments to the state plan prior to implementation. Members expressed concern that the legislature intended the increase in the personal needs allowance to be implemented July 1, 2006, and encouraged the department to implement the increase as soon as possible. Members requested a monthly update from the department.
- BANKING DIVISION** Rodney Reed and Shauna Shields represented the division.
- ARC 5112B No action on ch 18, which regulates mortgage bankers and mortgage brokers. Mr. Reed indicated that there are approximately 800 licensed mortgage companies in Iowa; the number of individuals is estimated to be between 3,000 and 8,000.

EDUCATIONAL EXAMINERS BOARD Susan Fischer and Beth Myers represented the board.

- ARC 5101B No questions on proposed ch 7 regarding proof of legal presence for applicants and licensees of the board of educational examiners.
- ARC 5097B No action on termination of the proposed amendment regarding letters of reprimand.
- ARC 5099B No action on 14.132 regarding requirements for a Class G license, which allows for conditional licensure of guidance counselors who have completed all coursework but have not completed the internship.
- ARC 5098B No questions on 14.143 pertaining to renewal of substitute authorizations.
- ARC 5100B Proposed 17.13 provides for audit of 10 percent of renewal applications.
Sen. Kibbie expressed concern about how educators are notified of rule changes. Ms. Fischer indicated that although information is posted on the board's Web site and the executive director attends regional superintendents' meetings, individual licensees may not always be aware of the rules.

LABOR SERVICES DIVISION Kathleen Uehling and Mitchell Mahan represented the division.

- ARC 5084B No action on proposed amendments to chs 1, 10, 26, and 28, which adopt by reference OSHA standards regarding hexavalent chromium exposure in general industry and construction and standards for roll-over protective structure for construction and agriculture.
- ARC 5083B No questions on adoption of federal construction health and safety standards, 26.1.
- ARC 5092B No questions on proposed ch 35 pertaining to wage collection payment.
- ARC 5102B No action on rules proposed by the elevator safety board.
- ARC 5082B No action on rules proposed by the boiler and pressure vessel board.
- ARC 5085B No questions on renumbering of chapters pertaining to wrestling and boxing and special inspectors.
Members encouraged the division to work with other agencies, such as the public safety department and the environmental protection commission, to ensure that the rules are coordinated and that the public and affected professionals are informed.

MEDICAL EXAMINERS BOARD Ann Mowery represented the board.

- ARC 5110B No questions on 2.14(4) concerning board-ordered dismissal of charges.
- ARC 5111B Rules 13.4 and 13.5 pertain to supervision of pharmacists engaged in collaborative drug therapy management.

ENVIRONMENTAL PROTECTION COMMISSION Catharine Fitzsimmons represented the commission.

- Special review Ms. Fitzsimmons reported that the Iowa-Nebraska Equipment Dealers Association requested a review of 22.1 regarding air permits for implement dealers and engine repairers. The commission has agreed to review the provisions and has invited interested parties to meet on June 15, 2006, regarding incorporation of an additional exemption.

Committee business

The minutes of the May 2006 meeting were approved.
The committee set the date of the next meeting for July 11, 2006.
Rep. Carroll suggested looking into the option of having the state pay the additional personal needs allowance and then be reimbursed when CMS approves the amendment to the state plan. After discussion, the committee agreed to send a letter to DHS, the governor, the legislative council, and to the committee chairs, ranking members and appropriations chairs requesting that the amendment implementing the personal needs allowance be separate from the rewrite of the state plan and that the department begin paying the increase in July and recoup the funds later.

SECRETARY OF STATE Sandy Steinbach and Charlie Krogmeier represented the secretary of state.

- ARC 5125B No questions on 21.4(3) and 21.5 regarding voter declaration of eligibility.
- ARC 5103B No questions on amendments to ch 22 concerning memory card security. Ms. Steinbach outlined changes from the notice.
- ARC 5109B No action on 22.434(2) pertaining to audio ballots. The amendment allows the voice used to present the office titles and candidate names to be different from the voice used for the prerecorded instructions to the voter.

VOTER REGISTRATION COMMISSION Charlie Krogmeier represented the commission.

- ARC 5094B No questions on rescission of ch 4.
- ARC 5095B No questions on rescission of ch 7.
- ARC 5093B No questions on ch 9 concerning the national change of address program.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Ron Rowland and Mike Bevins represented the department.

- ARC 5118B Proposed ch 52 implements the grape and wine development funding program. Mr. Bevins advised Sen. McKinley that the fund receives 5 percent of the wine gallonage tax, which amounts to approximately \$250,000 this year. Mr. Bevins further clarified that a viticultural technician and an oenologist have been hired to provide technical assistance to wineries. Mr. Bevins reported that in 1999 there were 11 wineries in Iowa; today there are 58.

UTILITIES DIVISION David Lynch and Cecil Wright represented the division.

ARC 5124B Proposed amendments to chs 9 and 12 pertain to interstate natural gas pipelines. A 2004 court ruling resulted in repeal in 2005 of provisions in Iowa Code chapter 479A which provided for board regulation of the construction of interstate natural gas pipelines. These amendments reflect the removal of that authority. Mr. Wright reported that the division is negotiating a mitigation agreement with Northern Natural Pipeline Company.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and Stuart Crine represented the department; Mark Adams, chair of the fire extinguishing system contractors advisory board, was also present.

ARC 5120B No questions on ch 275 regarding certification of automatic fire extinguishing system contractors.

REVENUE DEPARTMENT David Casey represented the department.

ARC 5119B No questions on amendments concerning hotel and motel tax, local option sales and service tax, streamlined sales and use tax agreements, and excise taxes not governed by streamlined sales and use tax agreements.

LATINO AFFAIRS DIVISION Armando Villareal and Rosanny Brugger represented the division.

ARC 5087B No action on ch 2, qualification of language interpreters. Changes from the notice include changing “certified interpreter” to “qualified interpreter”; defining “moral turpitude”; and clarifying requirements for continuing education and criminal background checks. Rep. Eichhorn commended the division’s work to establish a model for interpreters of other languages.

ELDER AFFAIRS DEPARTMENT Mary Ann Young represented the department.

ARC 5121B No action on ch 21, case management program for frail elders. Ms. Young outlined changes from the notice regarding eligibility criteria, procedures for addressing potential conflicts of interest, personnel qualifications, and criteria for determining the need for a comprehensive assessment. Ms. Young reported that CMS has approved the elderly waiver application.

Adjourned The meeting was adjourned at 2:15 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair John P. Kibbie