

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

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, March 13, 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, Mary Lundby and Paul McKinley, Representatives Danny Carroll, Marcella Frevert, and David Heaton. Senator Thomas Courtney attended via telephone. Representative Geri Huser was not present.
- 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 8:05 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA report on rule makings that have a significant fiscal impact: ARC 4897B and ARC 4895B (water quality standards); ARC 4900B (delinquent child support collection); ARC 4924B (nonresident deer licenses); and ARC 4888B (tax credits). Members questioned the disparity in the various estimates of costs to communities as a result of the EPC rules. In addition, Sen. McKinley requested information about the department of economic development's criteria for awarding tax credit certificates. Ms. Mellick agreed to provide information to Mr. Royce.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Jeanne Nesbit and Eugene Gessow represented the department. Marvin Tooman of the Iowa Association of Community Providers was also present.
- ARC 4934B No questions on amendments to chs 51 and 52 implementing the annual adjustment to eligibility and payment levels for the state supplementary assistance program.
- ARC 4988B No questions on termination of the notice to amend ch 65.
- ARC 4935B No questions on amendments to ch 75 regarding eligibility and financial participation of a married person residing in a medical institution.
- ARC 4889B No action on proposed 77.40 to designate the department of public health and agencies certified by the department of public health as Medicaid providers for lead inspection services.
- ARC 4902B No questions on proposed amendments to ch 78 to eliminate a requirement for certification that unrestricted public funds, not federal funds, were used to pay the nonfederal share of the cost of services under the infant and toddler program and for local education agencies participating in the Medicaid program.
- ARC 4901B No action on proposed amendments to ch 79 regarding distribution of payments to hospitals from the graduate medical education and disproportionate share fund.
- ARC 4890B Proposed 79.3 pertains to maintenance of records by providers of services. Rep. Carroll requested a side-by-side comparison of the current rule and the proposed rule so that changes can be identified. There was discussion about documentation required by the federal government for Medicaid records and the various audits that take place on a number of different levels. Mr. Gessow stated that nonmedical services provided due to a clinical need must be documented in the same manner as medical services. In response to committee concerns that providers may be unaware of documentation requirements, Mr. Gessow indicated that the department has contracted for Web-based training materials so that providers will be able to train their staff. Sen. Connolly asked about the status of the Creston School District appeal; Mr. Gessow agreed to provide an update.
- Mr. Tooman expressed support for improved accountability and appropriate documentation for medical services, but questioned the applicability of these requirements in the case of community-based nonmedical services. Mr. Tooman also questioned the requirement that records be maintained for five years, rather than for a minimum of three years as required by CMS.
- ARC 4900B No action on proposed amendments to ch 98 to reduce the amount withheld and to extend the time to repay delinquent child support obligations for persons who become disabled.
- ARC 4936B No questions on proposed amendments to ch 185 regarding deemed certification status for rehabilitative treatment service providers.
- EDUCATIONAL EXAMINERS BOARD** George Maurer represented the board. Mary Gannon represented the Iowa Association of School Boards and Matt Carver represented School Administrators of Iowa.
- ARC 4937B No questions on amendments to ch 14 pertaining to testing of applicants from recognized non-Iowa institutions.
- ARC 4940B No action on proposed 14.132, requirements for a Class G license.

Educational Examiners Board (continued)

- ARC 4939B No action on proposed amendments to 14.143 to increase the fee and continuing education requirements and extend the term for substitute authorization renewals.
- ARC 4938B No questions on the teacher librarian endorsement, 14.140(8) to 14.140(10).
- ARC 4812B A proposed amendment to ch 11 would allow a teacher to petition the board to remove a letter of reprimand from the public information access system. Both Mr. Carver and Ms. Gannon voiced opposition to the amendment. Following discussion, committee consensus was that information regarding all sanctions should be accessible to the public.
- Motion to refer Rep. Carroll moved a referral of ARC 4812B to the general assembly.
- Motion carried The motion carried; proposed rules 11.38 and 11.39 were referred to the general assembly.

LATINO AFFAIRS DIVISION Rosanny Brugger and Armando Villareal represented the division. John Goerdts of the state court administrator's office was also present.

- ARC 4930B No action on proposed ch 2, qualification of language interpreters. Mr. Goerdts stated that he would submit comments to the division and noted that these rules apply only to persons identified as "qualified interpreters" and are not applicable to persons who provide informal assistance with interpretation. Rep. Eichhorn suggested that the definition of "interpreter" be clarified to make that distinction.

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

- ARC 4892B No action on proposed amendments to ch 50 concerning the farmers' market nutrition programs.
- Rep. Eichhorn asked the department to respond to Rep. Olson's concerns about 62.37(1) in regard to embryo transfer and Iowa-foaled status of quarter horses.

UTILITIES DIVISION David Lynch represented the division.

- ARC 4878B No action on 15.18 and 15.19 relating to certification of eligibility for wind energy and renewable energy tax credits. Mr. Lynch explained how these rules, which replace the emergency rule on which the committee imposed an objection, address the committee's concerns.

MEDICAL EXAMINERS BOARD Kent Nebel represented the board.

- ARC 4861B No questions on proposed 2.14(4), which clarifies that a board-ordered dismissal of charges in a contested case is a public record.
- ARC 4871B No questions on proposed chs 22 to 26, which pertain to mandatory reporting, grounds for discipline, complaints and investigations, contested cases, and reinstatement after disciplinary action, and which are intended to replace ch 12.
- ARC 4872B No questions on proposed 13.4 and 13.5 regarding supervision of pharmacists engaged in collaborative drug therapy management.

COLLEGE STUDENT AID COMMISSION Julie Leeper represented the commission. Linda Goeldner represented the Iowa Nurses Association.

- ARC 4870B No action on amendments to ch 14 pertaining to the osteopathic physician recruitment program.
- ARC 4869B No action on ch 18, Iowa work-study program.
- ARC 4868B Ms. Leeper reported that a definition for full-time enrollment was added to ch 34, registered nurse recruitment program, to match requirements for the Iowa tuition grant program. Rep. Frevert asked that part-time students be included as future funding may allow. Ms. Goeldner expressed appreciation for the program and echoed Rep. Frevert's request.

ENVIRONMENTAL PROTECTION COMMISSION Wayne Gieselman, Adam Schnieders, Gene Tinker, Alex Moon, Mark Warren, and Theresa Stiner represented the commission. Other interested parties included Karen Flourney of the EPA, Julie Smith of the Iowa League of Cities, David Fox of Fox Engineering, Richard Leopold of the Iowa Environmental Council, Ted Payseur of the Iowa Water Pollution Control Association.

- ARC 4898B Proposed amendments to ch 65 would allow the director to condition or deny construction permit applications, modify or disapprove manure management plans, or prohibit construction of a confinement feeding operation at a specific location if the director determined there would be an adverse impact on natural resources or the environment. Rep. Carroll cautioned that too much discretion may result in unintended consequences, and that rules should establish specific standards that are uniformly applied.
- ARC 4921B No questions on ch 65 revisions to the list of major water sources.
- ARC 4896B No questions on amendments to ch 101 concerning solid waste comprehensive planning.
- ARC 4893B No questions on proposed amendments to ch 105 regarding composting of dead livestock.

Environmental Protection Commission (continued)

ARC 4894B No action on chs 123 and 211, regional collection centers and mobile unit collection and consolidation centers; financial assistance for the collection of household hazardous materials and waste from small quantity generators.

ARC 4897B and ARC 4895B Reviewed jointly, these two rule-making documents amend ch 61, water quality standards. Mr. Gieselman reported that Iowa is one of the last states to initiate measures to comply with EPA's mandate for fishable and swimmable waters, and that the department's \$1 billion cost estimate for these measures was based on a worst-case scenario. Mr. Gieselman indicated that although these rules do not address pollution from nonpoint sources, they will improve the quality of Iowa's waters.

Ms. Smith expressed concern that communities will have difficulty with the costs of compliance. Mr. Fox asserted that the department's cost estimate is valid, and he proposed that the department conduct the use attainability analyses (UAAs) before changing designations. Ms. Flourney reported that EPA supports these rules and noted that EPC is following the mandated process. Mr. Leopold urged the committee to allow the process to proceed and indicated that there are less costly options for communities, such as retrofitting existing facilities and using alternative technologies. Mr. Payseur emphasized the need for a grant program to assist disadvantaged communities. Rep. Frevert expressed appreciation to Mr. Schnieders for his responsiveness and suggested that the department designate a contact person for communities interested in accessing the state revolving fund. Sen. Kibbie commented that the watershed approach is a step in the right direction.

Following discussion about the cost of and need for additional measures to address nonpoint source pollution, no formal committee action was taken.

Committee business The minutes of the February 2006 meeting were approved.

The next meeting was scheduled for Monday, April 10, 2006, at 8 a.m.

Adjourned The meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair John P. Kibbie