

**MINUTES OF THE NOVEMBER 2005 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, November 8, 2005, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senators Jeff Angelo, Michael Connolly, Mary Lundby, and Paul McKinley and Representatives Danny Carroll, Marcella Frevert, David Heaton and Geri Huser.
- 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 9:05 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA fiscal report on ARC 4602B, ARC 4603B, ARC 4562B, ARC 4576B, and ARC 4575B.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Lin Christensen represented the department. Kate Walton of Orchard Place was also present.
- ARC 4569B Amendments to ch 24 implement the case management provisions for the children's mental health waiver, which allows children with severe emotional disturbance to be served in their home communities rather than in institutions. Freudenberg noted that the case management ratio is specified as 1 to 15. Heaton expressed concerns about funding adequacy to support PMICs and provide community mental health services to children in rural areas. Christensen expressed confidence that the needs of institutionalized and noninstitutionalized children can be met.
- ARC 4562B No questions on amendments specifying services included in the HCBS children's mental health waiver.
- COLLEGE STUDENT AID COMMISSION** Julie Leeper represented the commission. Linda Goeldner represented the Iowa Nurses Association.
- ARC 4597B The commission proposes to rescind rules of the Iowa work-study program and rewrite ch 18. Carroll expressed concern that when an agency rewrites a chapter, the specific changes in the rules are not apparent. In response to Carroll's inquiries about changes in eligibility requirements, Leeper offered to return later in the day to provide the current provisions and any substantive changes proposed. There was discussion about the minimum number of hours a student must be enrolled to participate in this program; Frevert expressed appreciation that the program helps people get back into the educational system.
- ARC 4596B Proposed ch 34 implements the registered nurse recruitment program. Goeldner expressed appreciation for the program and asked that it be expanded since the program funds only 12 of the 84 teaching vacancies. Later in the day Leeper returned and distributed materials to clarify the changes in the rules and stated that the references to "institutions eligible for the Iowa tuition grant program" would not be included in the adopted rules.
- LAW ENFORCEMENT ACADEMY** Penny Westfall represented the academy.
- ARC 4591B A proposed amendment to the hearing standards for Iowa law enforcement officers expands the current range, allows for additional testing, and allows for the use of a hearing aid in limited circumstances.
- ARC 4592B No questions on proposed amendments regarding training requirements for law enforcement officers and jailers.
- IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM** Donna Mueller and Kelly Lovell represented IPERS.
- ARC 4601B No questions on proposed corrective amendments.
- REVENUE DEPARTMENT** Ed Henderson, Jerri DeVries, and Jim McNulty represented the department.
- ARC 4576B No action on proposed amendments regarding electronic transmission of returns and tax on motor fuel and tobacco. Henderson indicated that the legislature set the initial tax rate for E-85 fuel at 17 cents per gallon.
- ARC 4574B No questions on amendments to individual and corporate income tax.
- ARC 4575B No action on amendments relating to the soy-based cutting tool oil tax credit.
- ARC 4573B No action on proposed implementation of the streamlined sales and use tax.
- Special review Eichhorn requested a special review of 34.5(9) regarding vehicles exempt from use tax. Eichhorn expressed concern that the rule is more restrictive than the statute in that the department requires that a vehicle transfer from a sole proprietorship or partnership to a corporation take place within 12 months, whereas the statute does not specify a time. Although the committee took no action, members suggested legislative input would be appropriate.

CAPITAL INVESTMENT BOARD Jim McNulty represented the board.

ARC 4602B No action on amendments to continue investment tax credits which were extended by the legislature.

IOWA FINANCE AUTHORITY Dennis Dietz and Carla Pope represented the authority. David Miller of vocational rehabilitation services was also present.

ARC 4603B No action on ch 25, the entrepreneurs with disabilities program. Pope reported that, in response to committee comments, IFA has initiated a review of the past ten years of participation through vocational rehabilitation services. Miller commented that a survey of program participants is being conducted and data is being collected to evaluate the success of the program.

INSPECTIONS AND APPEALS DEPARTMENT David Werning represented the department. Other interested parties included Karla Fultz McHenry of the Iowa Medical Society and Linda Goeldner of the Iowa Nurses Association.

ARC 4579B The proposed amendments to 51.8(2) pertain to determination of death for the purpose of organ and tissue procurement. The proposed amendment to strike "physician" and insert "practitioner" allows physician assistants, licensed registered nurses and licensed practical nurses to make a pronouncement of death. McHenry requested that the statutory language be included in the rule; Goeldner expressed support for the amendments.

ARC 4580B No questions on 61.12(9) regarding wireless calling systems for nursing facilities.

INSURANCE DIVISION Jerry Wickersham represented the division. Linda Goeldner represented the Iowa Nurses Association.

ARC 4570B Proposed amendments to ch 35 pertain to biologically based mental illness coverage. There was discussion about the statutory reference to "psychiatric illnesses as they are defined in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, as such definitions may be amended from time to time". Royce noted that such language may constitute an undue delegation of Iowa law to a nongovernmental entity.

Motion to refer McKinley moved a referral of the statutory language, which is included in the rule, to the general assembly.

Motion carried The motion carried.

ARC 4571B Proposed amendments to ch 38 adopt the NAIC model regulation on coordination of benefits. In response to committee questions regarding the effect on consumers and those with HAWK-I and Medicare coverage, Wickersham stated that the rules are intended to clarify how providers are paid by insurers and should not impose a burden on consumers.

Committee business The next meeting will be held Tuesday, December 13, 2005; if two days are needed, the meeting will begin on Monday, December 12. The committee's annual Christmas party is Tuesday evening.

The minutes of the October 2005 meeting were approved.

Eichhorn distributed copies of a letter from Kevin Concannon which outlines DHS implementation of legislation regarding youth shelter care beds.

Huser raised a concern about confidential information posted on the Internet by governmental entities and elected officials. Eichhorn directed Royce to review how provisions regarding confidential information are being implemented.

Royce distributed comments from the Linn County Auditor on the secretary of state's proposed rules implementing HAVA.

ETHICS AND CAMPAIGN DISCLOSURE BOARD Charlie Smithson represented the board.

ARC 4588B No questions on the proposed amendment regarding placement of campaign materials on corporate property.

ARC 4500B No action on proposed 4.36 to allow the use of credit cards and debit cards by campaign committees. Members asked that campaign reports identify how much money is spent, what is purchased, and from whom the purchase is made.

Special review Smithson sought committee input regarding a proposal to assess an administrative fee of \$1 for collection of penalties. No objections were raised.

ECONOMIC DEVELOPMENT DEPARTMENT Melanie Johnson represented the department.

ARC 4583B No action on proposed ch 104, Iowa wine and beer promotion grant program.

ENVIRONMENTAL PROTECTION COMMISSION Jim McGraw represented the commission.

ARC 4563B Proposed amendments to ch 22 are terminated due to federal court action which remanded back to EPA some of the provisions of the NSR Reform rules. McGraw stated that when EPA resolves the issues, EPC will again issue a notice to adopt the NSR Reform provisions.

NATURAL RESOURCE COMMISSION Steve Dermand represented the commission.

ARC 4585B Ch 115 regarding whitetail hunting preserves was simultaneously proposed and adopted under emergency procedures. In response to committee concern about the emergency adoption, Dermand indicated that this is a new Code chapter and rules needed to be in place before the commission could regulate the whitetail hunting preserves. Dermand added that stakeholders were involved in the first two drafts of the rules prior to the initiation of formal rule-making procedures. Dermand offered to have Dr. Garner respond to Heaton’s inquiry about retention of veterinarian records.

REAL ESTATE COMMISSION Roger Hansen represented the commission.

ARC 4584B No action on proposed 7.4(8) which prohibits licensees’ participation in certain arrangements with persons not licensed in Iowa.

ADMINISTRATIVE SERVICES DEPARTMENT Kathy Shannon and Marianne Mickelson represented the department.

ARC 4590B Proposed amendments to ch 105 implement Executive Order #41 regarding vehicle fueling, vehicle procurement and bulk diesel fuel procurement. Shannon distributed a map showing the location of E-85 fuel stations and commented that ethanol accounts for 75 percent of the fuel used in Iowa and that generally E-85 achieves about 20 percent fewer miles per gallon. Discussion related to whether it is necessary for an agency to adopt rules to implement an executive order and whether it is appropriate for the committee to review rules implementing an executive order. It was decided to reschedule the matter for the December meeting.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and Jim Kenkel represented the department.

ARC 4600B No questions on fire safety requirements for assembly occupancies and an allowance for alternate requirements in local jurisdictions that have adopted and enforce the international fire code.

ARC 4578B No action on ch 231 regarding the manufacturing, storage, handling and use of explosive materials.

ARC 4577B No questions regarding dispensing of motor vehicle fuel.

Adjourn The meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair John P. Kibbie