

**MINUTES OF THE FEBRUARY 2018 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, February 9, 2018, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative Dawn Pettengill, Chair, [by teleconference] and Senator Mark Chelgren, Vice Chair; Senators Jim Carlin, Mark Costello, Wally Horn, and Pam Jochum; Representatives David Heaton, Amy Nielsen, and Rick Olson were present. Representatives Megan Jones and Guy Vander Linden were not present. Representative Heaton substituted for Representative Jones.
- Also present: Jack Ewing and Amber Shanahan-Fricke, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Colin Smith, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.
- Convened Sen. Chelgren convened the meeting at 9 a.m.
- Motion Sen. Costello moved that Sen. Chelgren be elected chair of the committee and that Rep. Pettengill be elected vice chair of the committee.
- Motion carried Sen. Chelgren and Rep. Pettengill were elected chair and vice chair, respectively.
- Fiscal overview** Christin Mechler presented the LSA fiscal report. Also representing the LSA fiscal services division was fiscal analyst Alice Wisner.
- In response to a question from Sen. Chelgren regarding ARC 3592C, Ms. Wisner stated that she would check on the \$100,000 to \$500,000 estimated cost of the program, which may be a default range.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Carol Eaton represented the department.
- ARC 3573C No questions on proposed amendments to ch 81 and proposed ch 166 regarding civil money penalties and quality improvement initiative grants.
- ARC 3594C No questions on proposed amendments to 81.1 and 81.16 pertaining to training and competency evaluations for nurse aides.
- ARC 3595C No questions on proposed amendments to chs 95 and 99 concerning child support.
- ARC 3599C No action on amendments to 51.4(1), 51.7 and 52.1 pertaining to cost-of-living adjustments to state supplementary assistance.
- In response to a question from Rep. Heaton, Ms. Freudenberg stated that the cost-of-living adjustments went into effect on January 1, 2018.
- ARC 3597C Proposed ch 100 pertains to the child support promoting opportunities for parents program.
- In response to committee members' questions, Ms. Eaton and Ms. Freudenberg explained that the current program, which is intended to assist parents in overcoming the barriers that interfere with paying their child support, was developed by the department's child support recovery unit and is currently facilitated by the YMCAs in Des Moines and Muscatine as a pilot program at no cost to the state or to participants. Ms. Eaton stated that participation in the program has resulted in changes in parenting skills and a higher rate of child support payments. Ms. Freudenberg explained that the proposed rule making removes the program from the pilot and that, with incentives and a more structured process, the voluntary program will be taken statewide to involve additional providers that will assist more parents.
- ARC 3598C Proposed amendments to 79.1(2) and 79.3(2)"d" pertain to crisis response services.
- In response to an inquiry from Rep. Heaton, Ms. Freudenberg stated that coverage begins when an application for Medicaid is signed. Ms. Freudenberg will provide the committee with the dollar amount of the base reimbursement rate for crisis response and crisis stabilization services.
- ARC 3602C No questions on an amended notice to add public hearings about proposed amendments to 78.41, 79.1, and 83.67(4)"i," which pertain to a tiered-rate reimbursement methodology for supported community living (SCL), day habilitation, and adult day care services under the HCBS intellectual disability waiver.

Human Services Department (continued)

Sen. Jochum thanked the department for scheduling public hearings and stated that a January report from the General Accounting Office asserted that the assessors of the Supports Intensity Scale (SIS) and case management need to be independent of and free of conflict with managed care organizations.

ADMINISTRATIVE SERVICES DEPARTMENT Tami Wiencek and Janet Phipps represented the department.

ARC 3574C Proposed amendments to 100.1, 100.6(6) and 117.5(3) pertain to procurement of standard modular office systems.

In response to an inquiry from Sen. Chelgren, Ms. Phipps explained that in some cases, manufacturing might mean assembly of procured components. She will provide the committee with information about the training provided by Iowa prison industries.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

ARC 3567C No questions on proposed amendments to 50.8 pertaining to criteria for grandfathering of farmstands for WIC/FMNP/SFMNP.

ARC 3611C No action on amendments to ch 47 regarding organic certification.

VETERINARY MEDICINE BOARD Margaret Thomson and David Schmitt represented the board.

ARC 3563C Proposed amendments to 8.2 and 8.3 pertain to the frequency of and fees for the veterinary technician examination.

In response to questions from Reps. Heaton and Pettengill, Mr. Schmitt stated that the amendments do not raise the application fee for the examination and that this fee can, by rule, be raised by the board. Rep. Heaton stated the opinion that an increase in the application fee for the examination should involve public participation, and Rep. Pettengill expressed disagreement with an increase in this fee without review by the committee.

CREDIT UNION DIVISION Katie Averill represented the division.

ARC 3600C Proposed amendments to chs 12 and 17 concern board elections and charitable donation accounts.

In response to committee members' questions, Ms. Averill verified the stipulations for overdrafts to be afforded officers, board members and employees and clarified that members will have three additional days to vote for board members. Sen. Chelgren requested that before the amendments are adopted, the division review whether 17.14(12), which mirrors federal rules and national guidelines, is consistent with state law.

INSURANCE DIVISION Andrea Sipes represented the division.

ARC 3570C No questions on proposed amendments to 39.45 and 39.46 pertaining to the removal of the consumer filing fee related to long-term care insurance.

ARC 3571C No questions on proposed amendments to chs 4, 35, 37, 41, 71, 73 to 75 and 78 regarding the removal of references to organized delivery systems.

ARC 3586C No action on the rescission of ch 82, Iowa stopgap measure.

REAL ESTATE COMMISSION Jeff Evans represented the commission.

ARC 3564C No questions on proposed amendments to 13.1 and 14.1 regarding trust accounts and property condition disclosure.

RACING AND GAMING COMMISSION Brian Ohorilko represented the commission.

ARC 3608C No action on amendments to chs 3, 5, 6, 8, and 10 to 12 pertaining to confidential records, gambling structures, new hires, minimum payoff on wagers, horse racing, gambling games, and accounting and cash control.

ENVIRONMENTAL PROTECTION COMMISSION Jon Tack, Mark Moeller, Leslie Goldsmith, Joe Griffin, Matt Dvorak and Connie Dou represented the commission.

ARC 3568C No questions on proposed amendments to chs 40 to 44, 81 and 83 regarding water supply.

Environmental Protection Commission (continued)

- ARC 3569C Proposed amendments to 111.4 and 111.6 to 111.8 pertain to annual reports of solid waste environmental management systems.
In response to a question from Sen. Chelgren, Ms. Goldsmith stated that the definitions are being amended to be consistent with those in Iowa Code chapter 455J.
- ARC 3584C No action on amendments to 64.15 regarding the reissuance of NPDES General Permit Nos. 1, 2, and 3 for discharge from storm water.
In response to a question from Rep. Heaton, Mr. Griffin stated that the public comment at the hearing pertained to the specificity in the permit and led to a discussion of the information presented by department staff.
- ARC 3583C No action on amendments to 61.2(4), 61.3 and 62.8(2) pertaining to bacteria water quality criteria and the Iowa wasteload allocation (WLA) procedure.
In response to questions from Rep. Heaton, Mr. Dvorak and Ms. Dou addressed the estimates of cumulative cost savings and thermal limits.
- ARC 3585C No action on amendments to 64.15(4) regarding the reissuance of NPDES General Permit No. 4 for discharge from private sewage disposal systems.

MEDICINE BOARD Mark Bowden represented the board.

- ARC 3587C No action on amendments to ch 9 regarding permanent and administrative medicine physician licensure.
- ARC 3588C No action on 13.13 pertaining to standards of practice related to experimental treatments for patients with a terminal illness.
In response to a question from Sen. Chelgren, Mr. Bowden stated that there have been no complaints or inquiries about this treatment option and that in April and May, informational webinars for physicians about treatment options will be available.
- ARC 3589C No action on 13.14 concerning standards of practice related to tick-borne disease diagnosis and treatment.
In response to committee members' questions, Mr. Bowden addressed the treatment modality for Lyme disease, which is antibiotics, and the national debate about the dosage of antibiotics and duration of the treatment.

REVENUE DEPARTMENT Tim Reilly represented the department.

- ARC 3566C No questions on proposed amendments to chs 103 to 105 regarding hotel and motel tax imposed by a land use district.
- ARC 3579C Proposed amendments to 41.5(3) and 42.52 pertain to an adoption expense deduction and tax credit.
In response to a question from Sen. Chelgren, Mr. Reilly stated that the duration of the tax credit is one year but could span two years in some cases.

TRANSPORTATION DEPARTMENT Angel Robinson, Melissa Spiegel, Sara Siedsma and Tom Bruun represented the department.

- ARC 3572C No questions on a proposed amendment to 540.4(3)"a" regarding insurance carriers for transportation network companies.
- ARC 3601C Proposed amendments to ch 615 pertain to sanctions.
Discussion pertained to the change from "may" to "shall" in reference to sanctions of driver's licenses.
Ms. Spiegel stated that by statute, the department has discretion to promulgate administrative rules that set forth a structure for the sanctioning of driver's licenses for specific violations and that the department is exercising that discretion by changing "may" to "shall" in the rules to reflect department practice. Ms. Spiegel stated that the change clarifies the sanction imposed when a violation occurs; provides predictability, consistency and transparency for persons who are facing a license sanction; ensures the consistent application of the sanctioning structure for like offenses; and avoids implying to persons subject to sanctions that department discretion is being exercised arbitrarily on a case-by-case basis. She also explained a person's options, including the appeal process, through which a person might not receive a conviction or might have an altered conviction, and the role of the driver improvement program.

Transportation Department (continued)

Committee members expressed disagreement with the change from “may” to “shall” on the basis that the change contradicts legislative intent, i.e., the department may impose sanctions, and, in turn, “may” should be reflected in the rules. In addition, Rep. Olson explained how the appeal process in rule is not borne out in practice at the court level. Committee members encouraged the department to reconsider its position in light of the committee’s concerns.

ARC 3609C No action on amendments to 520.8 concerning the planting and harvesting period. In response to questions from Reps. Heaton and Pettengill, Mr. Bruun explained that electronic logbooks are required by federal law but that an exemption in federal law gives the states the authority to set planting and harvesting dates and that those dates will enable local agriculture businesses to be exempt from the requirement to run electronic logbooks. Mr. Bruun stated that the regulations regarding electronic logbooks are going to be implemented as planned. He added that no violations would affect a company’s safety rating until April 1, 2018, and that the department will not write citations regarding the implementation of electronic logbooks until July 1, 2018.

LABOR SERVICES DIVISION Kathleen Uehling represented the division.

ARC 3565C No questions on proposed amendments to 150.2 and 150.4(11)“a” pertaining to contractor registration.

ARC 3593C No questions on proposed amendments to 10.20 and 26.2 pertaining to adoption by reference of federal occupational safety and health standards.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION David Steen represented the division.

ARC 3610C No action on amendments to chs 1 and 6 pertaining to the workforce development board and regional advisory boards.

PUBLIC SAFETY DEPARTMENT Barbara Edmondson represented the department.

ARC 3580C No questions on proposed amendments to 502.1(3), 551.2 and 552.1 regarding electricians and electrical contractors; and electrical inspections.

ARC 3592C No action on ch 265, consumer fireworks sales licensing and safety standards. In response to an inquiry from Sen. Chelgren, Ms. Edmondson highlighted changes in the rules, including those regarding the site plan review process and more uniform implementation of standards for inspections.

PUBLIC HEALTH DEPARTMENT Susan Dixon and Sarah Reisetter represented the department.

ARC 3575C No questions on proposed ch 146, stroke care reporting.

ARC 3577C No questions on proposed amendments to ch 80 regarding funding of local public health services.

ARC 3578C No questions on proposed amendments to chs 37 to 41 and 45 pertaining to radiation.

ARC 3603C No action on the rescission of ch 75, statewide obstetrical and newborn indigent patient care program.

ARC 3604C No action on the rescission of ch 82, office of minority and multicultural health.

ARC 3605C No action on the rescission of ch 85, local substitute medical decision-making boards.

ARC 3607C No action on the rescission of ch 206, Iowa health information network.

ARC 3606C Amendments to ch 154 pertain to the medical cannabidiol program. In response to inquiries from Rep. Heaton and Sen. Jochum, Ms. Reisetter explained that some changes were made in response to feedback from the manufacturer; that the manufacturer and the department worked collaboratively; and that \$300,000, which would have been allocated to local public health departments for local public health services, was reallocated to the medical cannabidiol program for this fiscal year but that going forward, the program is expected to be fully fee-funded.

Sen. Chelgren requested that the department determine and report to the committee whether introduced 2018 Iowa Acts, Senate File 2116, which relates to the production or manufacture of certain goods within the state of Iowa that are not subject to interstate commerce and therefore not subject to federal law, might apply to the medical cannabidiol program.

Committee business The minutes of the January 5, 2018, meeting were approved.
The next meeting was scheduled for Friday, March 9, 2018, at 9 a.m.
Mr. Ewing presented an updated summary of rule making related to bills enacted in 2017. No concerns were expressed by committee members regarding the revised format of preambles.

Adjourned The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Mark Chelgren

Vice Chair Dawn Pettengill

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