



Iowa General Assembly

2013 Committee Briefings

Legislative Services Agency – Legal Services Division

<https://www.legis.iowa.gov/committees/committee?endYear=2013&groupID=705>

ADMINISTRATIVE RULES REVIEW COMMITTEE

Meeting Dates: [December 10, 2013](#) | [November 8, 2013](#) | [October 7-8, 2013](#) | [September 10-11, 2013](#)
[August 6, 2013](#) | [July 9, 2013](#) | [June 11, 2013](#)

Purpose. This compilation of briefings on legislative interim committee meetings and other meetings and topics of interest to the Iowa General Assembly, written by the Legal Services Division staff of the nonpartisan Legislative Services Agency, describes committee activities or topics. The briefings were originally distributed in the Iowa Legislative Interim Calendar and Briefing. Official minutes, reports, and other detailed information concerning the committee or topic addressed by a briefing can be obtained from the committee's Internet page listed above, from the Iowa General Assembly's Internet page at <https://www.legis.iowa.gov/index.aspx>, or from the agency connected with the meeting or topic described.

ADMINISTRATIVE RULES REVIEW COMMITTEE

December 10, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EMERGENCY RULEMAKING REQUEST, 2013 Iowa Acts, HF 586, provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee (ARRC). Under this new procedure, the committee reviews requests by agencies to adopt rules without notice at its monthly meeting or at special meetings if necessary.

House File 586 requires that all rules filed emergency without notice must be approved by the committee. The committee gave preapproval for two emergency filings for the Department of Human Services:

- Eligibility and Payments for State Supplementary Assistance, amendments to Ch. 51 and 52.
- Iowa Medicaid "lock-in", Ch. 76.

BOARD OF EDUCATIONAL EXAMINERS, *Prohibited Conduct Between Licensees and Former Students*, 11/27/13 IAB, ARC 1170C, ADOPTED.

Background. This filing prohibits romantic or sexual relationships between licensees and former students for 90 days following the student's last date of enrollment, if the licensee and the student previously had a direct and supervisory relationship. The proposed amendment adds an additional ethics violation specifically for students no longer enrolled in a school district. In response to feedback from the committee on a prior proposal on this subject, published April 3, 2013, the board has reduced the number of days in the proposed amendment from 180 to 90.

Commentary. Committee members noted that the board has significantly reduced the prohibition's time period from the initial proposal, from 180 to 90 days. However, members remained concerned that the rule restricted the conduct of adults who no longer had a direct connection to the educational system. A board representative noted that the conduct in question occurring within 30 days following a student's last date of enrollment is already a criminal offense set out in Iowa Code §709.15(3)"b". Committee members also noted that the 90-day limitation exceeds those criminal provisions.

Action. Session Delay and referral to the General Assembly.

INSPECTIONS AND APPEALS DEPARTMENT, *Food Safety*, 11/27/13 IAB, ARC 1190C and 1191C, ADOPTED.

Background. These filings update two licensing and regulatory programs relating to the licensing of food establishments: food establishment and plant inspections and food and consumer safety.

ARC 1190C sets out general regulatory requirements, with much of the necessary detail already set out in statute. Fees are set out in these rules; the fee structure is based on gross sales, and is specifically detailed in the statute, Iowa Code §§137F.6 and 137D.2.

Inspections are determined upon risk assessment. Food establishments have routine inspections at least once every 24

months and no more than once every 3 months. Food processing plants are inspected at least once every 24 months and no more than once every 6 months. Hotels are inspected biennially. Home food establishments and vending machines are inspected at least once every 24 months.

The actual food services rules appear in ARC 1191C, containing detailed requirements. As authorized in Iowa Code chapter 137F, the department adopts by reference federal standards; this proposal adopts the 2009 Food Code with Supplement requirement that establishments have a certified food protection manager. This U.S. Food and Drug Administration provision would require that at least one employee take a food safety educational course and pass an examination.

Commentary. A department representative summarized the rulemakings and noted the department worked with the affected industries to resolve their concerns. Committee members asked why the department pursued these proposals. The representative explained that while the department was not required to pursue them, it is worthwhile to promote food safety and establish a uniform set of standards for these food establishments, particularly for situations where the most effective safety protocols may not always seem to be common sense. He noted the affected industries had been supportive of the proposals because they favored a consistent, uniform approach to food safety regulation. In response to questions from committee members, the representative clarified that while the new requirements generally apply to restaurants and processed food, they do not apply to fresh produce or farmers' markets. The point at which food becomes processed is when these rules begin to apply. In response to another question, the representative explained there are many resources for the required training, including online courses and course offerings from industry groups.

Action. No action taken.

PROFESSIONAL LICENSURE DIVISION, *Podiatrist, Orthotist, Prosthetist, and Pedorthist Regulations, 11/27/13 IAB, ARC 1192C, ADOPTED.*

Background. This filing increases the licensing fees for podiatrists, orthotists, prosthetists, and pedorthists. The filing increases the licensure fee for podiatrists to \$400 for a new license, \$200 for a temporary license, \$460 for a reactivation, and \$400 for a license renewal. The licensure fee for orthotists, prosthetists, and pedorthists is initially \$600, which will revert to a lower self-sustaining fee of \$400.

Commentary. Board representatives stated these fee increases are required to make the Board of Podiatry self-sustaining, as required by law. Committee members did not dispute this statement, but were concerned over the very high fees being imposed. Board representatives stated that the relative small number of licensees meant that cost per licensee are higher than the larger licensing boards. Some members opined that these professions could be incorporated into one of the larger boards and regulated at a lower cost.

Action. General referral of the rule to the General Assembly. This action does not delay the implementation of the rule.

PUBLIC HEALTH DEPARTMENT, *Vital Records Fee Increases, ARC 1074C, 10/02/13 IAB, 70-DAY DELAY (from January 1, 2014).*

Background. The department adopted a fee increase for specific vital records. At the committee's October meeting, members expressed concern over the refund policy set out in the fee structure. The policy provides that any overpayment of less than \$20 received for the copying of or search for vital records, or for the preparation or amending of a certificate, will not be refunded. Committee members felt this policy is excessive and unfair.

Commentary. Department representatives offered the following language as a compromise:

Rescind subrule 95.6(2) and adopt the following new subrule in lieu thereof:

95.6(2) Overpayments. Any overpayment of less than \$5 received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate, shall not be refunded and shall be retained by the department.

Reaction by committee members was mixed but no action was taken.

Action. No action taken.

Next Meeting. The next committee meeting will be held in Statehouse Room 116, on Friday, January 10, 2014, beginning at 9:30 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/committees/committee?endYear=2013&groupID=705>

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EMERGENCY RULEMAKING REQUEST, 2013 Iowa Acts, HF 586, provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee (ARRC). Under this new procedure, the committee reviews requests by agencies to adopt rules without notice at its monthly meeting or at special meetings if necessary. The Administrative Rules Review Committee gave pre-approval for two emergency filings for the Department of Human Services: Iowa Health And Wellness Plan, Ch. 74, and Conditions of Eligibility, Ch. 75.

ENVIRONMENTAL PROTECTION COMMISSION, *Unstaffed Underground Storage Tanks (USTs)*, ARC 1100C, 10/16/13 IAB, ADOPTED.

Background. These provisions were initially reviewed by the committee in August 2013. Under the rules, leak detection methods in USTs must provide either a leak detector capable of shutting off the submersible pump or a device that immediately alerts the operator when a leak is detected.

Commentary. This proposal allows existing in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The proposal allows for immediate shutdown of the submersible pump when a release is detected. It also allows for flow restriction or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility's operator. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the operator or designee when a potential release is indicated.

Action. The committee took no action.

EDUCATION DEPARTMENT, *Supplementary Weighting Plan for Operational Services*, ARC 1119C, 10/16/13 IAB, ADOPTED.

Background. This rulemaking is intended to comply with recent legislative changes that reauthorized and modified the current statute providing for supplementary weighting used for school district funding. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program.

At the committee's September 2013 meeting, significant public comment was heard relating to a dispute over whether the underlying legislation, 2013 Iowa Acts, HF 472, allows school districts to add new staff for these shared positions. The department contends that it does not and that a contrary interpretation would significantly increase the cost of the legislation beyond what was projected during the 2013 Legislative Session. Public commenters, including several school superintendents, contended the framework proposed by the department is unworkable for school districts, as it requires them to make staffing decisions presently in order to possibly receive the additional funding for the following school year, for which they will not be eligible if they hire additional staff.

Commentary. A department representative reviewed the dispute over its interpretation of the intent of the underlying legislation. The department has had discussions with stakeholders and has not been able to resolve the matter. The department remains concerned about significant cost increases that would result if school districts are allowed to add new staff for these shared positions. The department is uncertain regarding legislative intent on this point. The department suggested that the committee impose a session delay on this rulemaking in order to allow the General Assembly to resolve the matter in its upcoming session. Public comment was heard from a stakeholder who supported imposing such a delay. The committee voted to impose a session delay.

Action. The committee imposed a session delay.

PUBLIC HEALTH DEPARTMENT, *Vital Records—Time-limited Fee Increases*, ARC 1074C, 10/02/13 IAB, HELD OVER FROM OCTOBER.

Background. The department implements a time-limited fee increase for specific vital records. This increase will finance the development and implementation of the Iowa vital events system, including the electronic registration and issuance of vital records and new events and the conversion of historical records. The fee increase is estimated to generate \$6.35 million through July 1, 2019, to be used for the software for the system and for the incorporation of the historical records into a single system.

At the committee's October 2013 meeting, members expressed concern over the refund policy set out in the fee structure. The policy provides that any overpayment of less than \$20 received for the copying of or search for vital records, or for the preparation or amending of a certificate, will not be refunded. Several committee members stated they felt this policy is excessive and unfair. Department representatives stated that the limitation has been in the rules since 1991, and noted the expense of ordering and issuing a refund check. Members felt the limitation should be reduced to a few dollars. The committee imposed a 70-day delay on the provision relating to refunds.

Commentary. The director of the department explained that the overpayment language at issue has been in place for a long time and that the cost to the department to process a refund is about \$40. She provided a detailed breakdown of

how the department determined that figure. She stated the department has received 88 overpayments this year so far, in an average amount of less than \$5. If the overpayment amount would cover the cost of an additional certificate, the department will assume the customer intended to purchase multiple certificates. The director also stated that the Board of Public Health will rescind the delayed provision at its next meeting, and sought input from the committee on how the current overpayment language could be changed to resolve this issue.

Committee members were skeptical of the \$40 figure and suggested the department look at how other state agencies provide refunds to see if the process could be made more efficient. A committee member asked how the department resolves an underpayment, and the director stated the department returns the submission to the payer and requests payment in the correct amount. Committee members then urged the department to follow the same approach for overpayments. The issue was raised that sometimes a person's need for a certificate may be time sensitive. Committee members urged the department, when it provides notice of an overpayment, to include information on how a certificate can be obtained quickly.

Action. The committee took no action; additional review in December.

VETERANS AFFAIRS DEPARTMENT, *Iowa Veterans Home*, ARC 1157C, 10/30/13 IAB, ADOPTED.

Background. These amendments reflect changes to comply with the enactment of 2013 Iowa Acts, HF 544, which made various changes relating to the Iowa Veterans Home, and to reflect the operational changes the Iowa Veterans Home has undertaken since the last revision of these rules.

Commentary. The review of this rulemaking has been moved to the committee's December meeting. The committee voted to impose a 70-day delay on the rulemaking in order to maintain its full review powers until that meeting.

Action. The committee imposed a 70-day delay.

Next Meeting. The next regular committee meeting will be held in Committee Room 116, on Tuesday, December 10, 2013, beginning at 9:30 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=85&CID=53>

ADMINISTRATIVE RULES REVIEW COMMITTEE

October 7-8, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EMERGENCY RULEMAKING REQUEST, 2013 Iowa Acts, HF 586, provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee (ARRC). Under this new procedure, the committee reviews requests by agencies to adopt rules without notice at its monthly meeting or at special meetings if necessary.

Iowa Finance Authority. ARRC gave pre-approval to an emergency amendment to revise portions of the following Iowa Finance Authority rules filing: Military Service Member Home Ownership Assistance Program—Home Purchase Financing, 27.3(2) Filed, [ARC 0827C](#), 07/10/13 IAB.

EDUCATIONAL EXAMINERS BOARD, *Teaching Endorsements for Health, Music, and Physical Education*, ARC 0986C, 09/04/13 IAB, ADOPTED.

Background. These changes to the endorsements for teaching of health, music, and physical education were adopted following reviews of the current endorsement requirements by committees composed of practicing educators, presidents of the relevant professional organizations, and representatives of institutions of higher education.

A health endorsement will now require a current certificate of CPR and will include greater flexibility in obtaining a health endorsement or Class B license. A music endorsement will require a methods course in each of general, choral, and instrumental music. A physical education endorsement will require coursework in personal wellness and a current certificate of CPR. Various terminology changes are made as well.

Commentary. Discussion centered around a public comment asserting that the additional coursework required for the music endorsement would impose a significant burden on those seeking the endorsement and would make it more difficult for rural schools to find qualified music teachers. A board representative noted some disagreement in the music community over whether the new requirement is appropriate. In response to a question from a committee member, the representative clarified that this requirement would only apply to eligibility for the music endorsement; it would not affect program graduation requirements. A motion to delay the effective date of the rulemaking for 70 days did not carry.

Action. The committee took no action.

EDUCATIONAL EXAMINERS BOARD, *Prohibited Conduct Between Licensees and Former Students*, ARC 0992C, 09/04/13 IAB, NOTICE.

Background. The proposed amendment would prohibit romantic or sexual relationships between licensees and former students for 90 days following the student's last date of enrollment, if the licensee and the student previously had a direct and supervisory relationship. The proposed amendment adds an additional ethics violation specifically applicable to students no longer enrolled in a school district. In response to feedback from the committee on a prior proposal on this subject, the board has reduced the number of days in the proposed amendment from 180 to 90, provided a statutory cross reference defining "sexual conduct," and narrowed the scope of prohibited conduct.

Commentary. Some committee members questioned the board's rationale for regulating the conduct of consenting adults after a person is no longer a student, and whether the board had adequately responded to the committee's prior feedback. A board representative noted that an act of the conduct in question within 30 days following a student's last date of enrollment is already a criminal offense. The representative explained that the rulemaking is intended to respond to licensees engaging in grooming the prohibited behavior with students. A committee member noted that this rulemaking could apply to students who drop out of school at age 16.

Action. The committee took no action.

MEDICINE BOARD, *Standards of Practice—Physicians Who Prescribe or Administer Abortion-inducing Drugs*, ARC 1034C, 10/02/13 IAB, ADOPTED.

Background. This adopted amendment establishes the standards of practice for physicians who prescribe or administer abortion-inducing drugs. The amendment provides that a physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first performed a physical examination of the woman to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. A physician is now required to be physically present with a woman when providing an abortion-inducing drug to the woman. A physician who provides an abortion-inducing drug to a woman is now required to schedule a follow-up appointment with the woman at the same facility where the abortion-inducing drug was provided.

Commentary. Public comments in opposition to the rulemaking cited a lack of stakeholder involvement in the rulemaking process and potential negative impacts on patients and the practice of telemedicine in general. They also questioned whether the board had pursued this rulemaking with inappropriate haste and without sufficient study.

No public comments in support of the rulemaking were heard by the committee.

A motion to delay the effective date of the rulemaking until the adjournment of the next session of the General Assembly did not carry.

Action. The committee took no action.

IOWA FINANCE AUTHORITY (IFA), *Home Purchase Financing*, ARC 0827C, 07/10/13 IAB, ADOPTED-UNDER 70-DAY DELAY.

Background. The Military Service Member Home Ownership Assistance Program provides veterans with a \$5,000 grant that may be used toward entry cost assistance, such as a down payment and closing cost assistance on a qualifying home purchase. Amendments to subrule 27.3(2) relate to home purchase financing under the program. At the August meeting, the committee voted to impose a 70-day delay on this subrule.

Commentary. The subrule requires that the applicant utilize one of the authority's home buyer mortgage programs, eliminating a current option allowing alternative financing if it is of lower cost. At the August meeting, committee members stated that the applicant should be free to choose whatever financing provided the best cost, and imposed a 70-day delay on this subrule.

At the committee's October meeting, IFA representatives offered amendments to subrule 27.3(2), broadening the use of alternative financing. It was noted that some statutory limitations still apply and would require legislative action.

Action. Emergency rulemaking was approved.

INSPECTIONS AND APPEALS DEPARTMENT, *Informal Process: Citation Appeals*, ARC 0967C, 10/02/13 IAB, ADOPTED.

Background. Iowa Code §135C.42 provides a process for an informal conference on a contested citation issued to a care facility or assisted living program. 2013 Iowa Acts, SF 394, revises this process to require that an independent reviewer hold the informal conference rather than a representative of the department.

Commentary. At issue is the finality of the decision of the independent reviewer. Iowa Code §135C.42(1), as amended by SF 394, in part provides that the care facility may appeal an adverse decision by the independent reviewer, but is silent on whether the department has a similar right. The adopted rule does not provide for an appeal by the department. In response to questioning, department representatives noted these state hearings are held in conjunction with a federal Centers for Medicare and Medicaid Services (CMS) action, which could be appealed through the federal system.

Action. The committee took no action.

HUMAN SERVICES DEPARTMENT, *Care Facilities: Allowable Costs for Medicaid Reimbursement*, ARC 0994C, 09/04/13 IAB, ADOPTED.

Background. Care facilities file cost reports with the department; these reports are used to determine the reimbursement rate for Medicaid payments.

Commentary. In part this filing allows the cost of association memberships into the calculation for reimbursable costs. One speaker contended this cost should not be part of the cost calculation, stating that association dues in part are used for lobbying purposes on both the state and federal level, and for other purposes that do not benefit the facility residents. Agency representatives responded that the final rule provides that reasonable legal, accounting, consulting, and other professional fees, including association dues, are allowable costs if the fees are directly related to patient care.

Action. The committee took no action.

PHARMACY BOARD, *Drug Product Selection*, ARC 1041C, 10/02/13 IAB, NOTICE.

Background. The proposed amendments add to the information that must be communicated to a pharmacist receiving a prescription transfer from another pharmacy by adding any special directions, restrictions, or notations included by the prescriber on the original prescription including but not limited to restrictions relating to drug product selection or substitution. The amendments also add a new rule establishing requirements for drug product selection and “do not substitute” restrictions.

Commentary. A board representative explained that the proposed language on substitutions is intended to clarify state law that has been in effect for many years; it contains nonexclusive guidelines for how a prescriber may indicate that a substitution cannot be made. The representative noted that this rule would not apply to prescriptions covered under Medicaid, where substitution is mandatory. The representative also explained that while physicians have been supportive of the proposal, pharmacists have expressed concern because they are contractually obligated to absorb any cost differential between an original prescription and a substitution.

Supporters of the proposal cited the effect of substitute prescriptions on epilepsy. They stated that patients need to remain on their original prescriptions in order to remain free of seizures; it is difficult to find a medication that works, and substitutes are less effective and can cause seizures to return. They believe the proposal resolves their concerns.

Another stakeholder echoed the board’s comment on the financial impact on pharmacists of cost differentials between original prescriptions and substitutions; pharmacists are required by contract to absorb these costs, which can represent a significant burden. She stated that additional language is necessary to protect pharmacies from these costs, and that stakeholders would work on a compromise. A task force has developed a possible solution to the problem. The board representative explained that this issue is statutory in nature and will require legislation to resolve.

Action. The committee took no action.

PUBLIC HEALTH DEPARTMENT, *Vital Records: Temporary Fee Increase*, ARC 1074C, 10/02/13 IAB, ADOPTED.

Background. The department implements a time-limited fee increase for specific vital records. This increase will finance the development and implementation of the Iowa vital events system, including the electronic registration and issuance of vital records and new events and the conversion of historical records. The fee increase is estimated to generate \$6.35 million through July 1, 2019, to be used for the software and for the incorporation of the historical records into a single system.

Commentary. Committee members expressed concern over the refund policy set out in the fee structure. The policy provides that any overpayment of less than \$20 received for the copying of or search for vital records, or for the preparation or amending of a certificate, will not be refunded. Committee members felt this policy is excessive and unfair. Department representatives stated that the limitation was currently in the rules, since 1991, and noted the expense of ordering and issuing a refund check. Members felt the limitation should be reduced to a few dollars.

Action. The committee imposed a 70-day delay on item two only, relating to refunds.

TRANSPORTATION DEPARTMENT, *Traffic Cameras on Primary Road System*, ARC 1037C, 10/02/13 IAB, NOTICE.

Background. This proposed rulemaking sets the requirements, application procedures, and responsibilities in the use of automated traffic enforcement systems on the primary road system (Interstate, U.S., and state highways). These provisions apply only to local jurisdictions, which must obtain approval from the department prior to using an automated system on the primary road system. The department itself does not own, operate, or receive compensation for any automated traffic enforcement system.

Commentary. Automated traffic enforcement systems are high-resolution cameras used to detect speed or stop light violations. Civil citations are issued to the registered owner of the vehicle. These systems are largely owned and operated by a contractor working on behalf of the local jurisdiction. The issuance of a citation is under the control of local authorities.

The department considers the location of these systems a public safety issue; under the rules the systems may be used only in areas with a documented high-crash or high-risk location in an area or intersection with a significant history of

crashes attributed to red light running or speeding, or in a school zone.

Stakeholders contended that the standards for the approval and location of these are too vague, allowing the department too much discretion in the approval process. Some contended that the decision should be based on local control and local circumstances. Representatives from cities and counties also opposed portions of the rules, noting that the annual review requirements made it difficult to contract for these systems. One city representative stated the city had entered into a five-year contract with the provider providing all hardware.

The question was raised whether these systems provide adequate due process. Local representatives stated there is a multi-step process. The contractor does the initial review, looking at individual recorded clips. Possible violations are forwarded to local authorities who determine whether a violation has occurred. The local authority makes the final decision on whether to issue a ticket. Motorists can contact the local authorities directly to discuss the circumstances, and judicial review is available.

Committee members expressed some concern, with some members noting that these systems seem to function as revenue raising devices.

Action. The committee took no action; additional review likely in January.

Next Meeting. The next regular committee meeting will be held in Committee Room 116, on Friday, November 8, 2013, beginning at 9:30 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=85&CID=53>

ADMINISTRATIVE RULES REVIEW COMMITTEE

September 10-11, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EMERGENCY RULEMAKING REQUEST, 2013 Iowa Acts, HF 586, provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee (ARRC). Under this new procedure, the committee reviews requests by agencies to adopt rules without notice at its monthly meeting or at special meetings if necessary.

Iowa Public Information Board, the rules in the board's request for approval to adopt rules without notice relate to organization and administration, and editorial changes.

Action. The ARRC approved the board's request to adopt rules without notice.

EDUCATION DEPARTMENT, *Supplementary Weighting Plan for Operational Services*, ARC 0967C, 08/21/13 IAB, NOTICE.

Background. This rulemaking is intended to comply with recent legislative changes that reauthorized and modified the current statute for supplementary weighting used for school district funding. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program.

Commentary. A department representative explained that a dispute has arisen over the interpretation of the language of 2013 Iowa Acts, HF 472, which this rulemaking implements. The department contends that the legislation does not allow school districts to add new staff for these shared positions. The department will thus not authorize state funding when districts increase full-time equivalent positions (FTEs) for shared positions authorized by this rulemaking. The representative asserted that adding additional staff was likely not the intent of the legislature, and stated that such additions would significantly increase the cost of the legislation beyond what was projected during the 2013 Legislative Session and would be difficult for the department to administer. The representative requested guidance from the General Assembly on the intent behind this legislation and expressed openness to further work on the matter in the 2014 Legislative Session.

Public comment was heard from stakeholders, including several school superintendents, in opposition to this rulemaking. They asserted that the framework proposed by the department is unworkable for school districts, as it requires them to make staffing decisions now in order to possibly receive the additional funding for the following school year, for which they will not be eligible if they hire additional staff. A petition opposing the rulemaking signed by 230 school districts was submitted to the department.

Action. No action taken.

HUMAN SERVICES DEPARTMENT, *Iowa Health and Wellness Plan*, ARC 0972C, 08/21/13 IAB, NOTICE.

Background. These proposed rules establish the Iowa Health and Wellness Plan, which will provide special Medical Assistance (Medicaid) Program coverage to low-income Iowans, aged 19 to 64, whose countable income does not exceed 133 percent of the federal poverty level for their family size, who are not eligible for full benefits under the Medicaid State Plan or Medicare coverage, who are not pregnant, and who are not eligible for affordable employer-sponsored health care coverage. Beginning on October 1, 2013, low-income adults will be able to enroll in the new Medicaid coverage group for benefits that will begin January 1, 2014. The proposed rules include eligibility factors, benefits and service delivery provisions, and claims and reimbursement methodologies. The proposed rules do not include matters still awaiting approval by the federal Centers for Medicare and Medicaid Services, including required contributions or premiums, or the specific delivery provisions for dental services, medical homes, or accountable care organizations.

Commentary. A department representative explained that additional parts of the plan will be added by rule as they are approved by the federal government and as additional provisions of federal law become effective in 2015. This rulemaking will also be filed emergency as required by 2013 Iowa Acts, SF 446. Committee members raised concerns about how the eligibility of families with separate living arrangements would be determined. The department representative explained that the eligibility framework set out by state and federal law would already account for such situations. Stakeholders expressed concern that these rules do not address presumptive eligibility or retroactive enrollment when hospitals provide care to persons of uncertain eligibility. The department representative explained that the department is currently working with the federal government on the presumptive eligibility issue, and that while state law does not provide for retroactive enrollment, the department may be able to work with the federal government to address that issue as well.

Action. No action taken.

INSPECTIONS AND APPEALS, *Health Care Facilities—Informal Conference Process*, ARC 0922C, 08/07/13 IAB, NOTICE.

Background. Iowa Code §135C.42 provides a process for the informal conference on a contested citation issued to a care facility or assisted living program. 2013 Iowa Acts, SF 394, revises this process to require that an independent reviewer hold the informal conference rather than a representative of the department. The reviewer must be an Iowa-licensed attorney that has not been employed by the department or appeared in front of the department on behalf of a health care facility in the last eight years. At the completion of the informal conference, the independent reviewer may affirm, modify, or dismiss the regulatory insufficiency.

Commentary. A stakeholder opposed both the rules and the legislation, contending that the required qualifications for the independent reviewer would make it difficult to find a skilled reviewer. The stakeholder also contended that the department is precluded from appealing an adverse decision. Proponents contended that the legislation corrected a procedural problem where the administrative law judge was employed by the same agency that inspected the facility and pursued the complaint.

Action. No action taken.

INSURANCE DIVISION, *Regulation of Navigators*, ARC 0981C, 08/21/13 IAB, ADOPTED.

Background. The federal “Affordable Care Act” (ACA) requires state health insurance marketplaces to establish a “navigator” program that will help individuals who are eligible to purchase coverage through a health insurance marketplace to learn about their new coverage options and enroll. This rulemaking provides the licensing, training, application, and other minimum practice standards for entities and individuals acting as navigators.

No person may act as a navigator until issued a three-year Iowa navigator license by the division. Applicants must:

- Be at least 18 years of age.
- Comply with the initial training and certification requirements. Individual navigators shall complete a minimum of 32 credits of initial training in courses approved by the commissioner. Initial training must include a minimum of 2 credits of Iowa-specific training on Medicaid and healthy and well kids in Iowa (hawk-i) program training, as well as a minimum of credit in the subject of ethics.
- Have not committed any act that is grounds for license denial, suspension, or revocation.
- Submit a completed uniform application.
- Pass an examination with a score of 70 percent or higher.
- Pay the nonrefundable navigator license fee of \$20.
- Pass a background check or security screening.

Licensees must demonstrate financial responsibility and maintain evidence of financial responsibility in the form of a surety bond or other alternative financial responsibility instrument that protects individuals and entities against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law. The minimum coverage for financial responsibility is \$50,000.

Prior to license renewal individual navigators must complete a minimum of 36 continuing education credits for each

continuing education term in courses approved by the commissioner on subjects relevant to navigators, including health insurance, tax credits, tax penalties, Medicaid, the hawk-i program, health care-related public assistance programs, or ACA-related topics.

In response to public comments, the division has eliminated references to “nonnavigators” and provided for a waiver provision regarding initial training hours due to concerns regarding access to no-cost training from the U.S. Department of Health and Human Services.

Commentary. A division representative explained the rulemaking, noting that the removed language on nonnavigators was not needed because Iowa will not have nonnavigators, and that previous uncertainty regarding access to federal training for navigators that led to the inclusion of a waiver process had been resolved. Committee members asked about another position available under the ACA, a certified application counselor. The division representative explained that a certified application counselor is a new position created through federal regulations that was not included in state legislation. Certified application counselors will have many of the same duties as navigators, but will not receive federal funding and will be subject to fewer federal requirements. The application process to become a certified application counselor will be controlled on the federal level.

Action. No action taken.

PUBLIC HEALTH DEPARTMENT, *Vital Records: Fee Increase*, ARC 0926C, 08/07/13 IAB, NOTICE.

Background. Iowa Code §144.46A creates a vital records fund under the control of the department, to be used for the purchase and maintenance of an electronic system for vital records scanning, data capture, data reporting, storage, and retrieval, and for all registration and issuance activities. Moneys in the fund do not revert to the treasury. All fees retained by the state registrar are added to the vital records fund.

Commentary. The revenue generated by this time-limited fee increase will support the development and implementation of the Iowa Vital Events System. This \$5 increase is automatically rescinded in 2019.

Action. No action taken.

REAL ESTATE COMMISSION, *Seller Disclosure Statement*, ARC 0970C, 08/21/13 IAB, NOTICE.

Background. Iowa Code chapter 543B regulates and licenses the real estate profession. Iowa Code §543B.9 empowers the commission to adopt rules “necessary” to implement Iowa Code chapter 558A relating to the disclosure of information before the transfer of real estate. Iowa Code §558A.4 requires that the disclosure statement in information relating to the condition and important characteristics of the property and structures located on the property, including significant defects in the structural integrity of the structure. The required disclosure may include information relating to the property’s zoning classification; the condition of plumbing, heating, or electrical systems; or the presence of pests.

Commentary. The existing rules set out 19 required disclosures; the proposed addition requires the disclosure of any “significant structural modification or alteration.” Committee members expressed concern over the large number of required disclosures, ranging from roof and water issues, to pest infestations, to restrictive covenants. Committee members felt that prospective buyers have some obligation to inspect the property and determine its condition. Members felt the numerous requirements placed an undue burden on the homeowner to catalog each and every defect.

Action. No action taken, additional review on final adoption.

Next Meeting. The next regular committee meeting will be held in Committee Room 116, on Monday, October 7, and Tuesday, October 8, 2013, beginning at 9:30 a.m. both days.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=85&CID=53>

ADMINISTRATIVE RULES REVIEW COMMITTEE

August 6, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

ENVIRONMENTAL PROTECTION COMMISSION, *Leak Detection at Unstaffed Facilities*, ARC 0836C, 07/24/13 IAB, NOTICE.

Background. Leak detection in petroleum underground storage tanks (UST) has always been a major concern, especially when the facility has no on-site personnel. These systems must have either a leak detector capable of shutting off the submersible pump or a device that immediately alerts the operator when a leak is detected. Out of 2,700 facilities, 150 to 200 are unstaffed.

Commentary. This proposal allows existing in-line leak detection methods to be used when the UST facility is

unattended, with additional requirements to ensure that detected releases are addressed. The proposal allows for immediate shutdown of the submersible pump when a release is detected. It also allows for flow restriction or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility's operator. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the operator or designee when a potential release is indicated. Costs for these improvements range from \$5,000 to \$15,000; much of that cost is incurred digging through concrete.

Action. No action taken.

IOWA FINANCE AUTHORITY, *Military Service Member Home Ownership Assistance Program*, ARC 0827C, 07/10/13 IAB, ADOPTED.

Background. The Military Service Member Home Ownership Assistance Program provides veterans with a \$5,000 grant that may be used toward entry cost assistance, such as down payment and closing cost assistance on a qualifying home purchase.

Commentary. The new rules require the applicant to utilize one of the authority's home buyer mortgage programs if the applicant qualifies; the revision eliminates a current provision allowing alternative financing if it is of lower cost. Iowa Finance Authority (IFA) representatives noted that as a practical matter, an IFA program would provide better terms; the representative stated that lower cost means more than just the interest rate, and includes all the other terms and conditions of the loan. Committee members questioned this conclusion; members felt that the applicant should be free to choose whatever financing provided the best cost.

Action. A 70-day delay was imposed, additional review is expected in September.

HUMAN SERVICES DEPARTMENT, *Reimbursement Method for Case Management Services*, ARC 0839C, 07/24/13 IAB, NOTICE, also filed EMERGENCY, ARC 0840C.

Background. These amendments change the reimbursement method for case management services under the Medicaid state plan, habilitation, home- and community-based services for individuals with a brain injury and for the elderly.

Case management currently uses a cost-based reimbursement methodology. Due to the requirement in legislation for cost containment strategies, the department is limiting the administrative costs to 23 percent of direct service costs for FY 2013-2014. During FY 2013-2014, the department will work with stakeholders to determine the rate methodology for FY 2014-2015.

Commentary. The department is continuing to work with stakeholders on this rulemaking. These new proposals for FY 2013-2014 and FY 2014-2015 are an effort to respond to concerns raised about the department's prior draft. Public comment was received from the Iowa State Association of Counties and Polk County Health Services expressing concern about the effect of the new reimbursement method on their ability to continue to provide adequate services. They cited negative impacts from changing billable units to 15-minute increments in recent years and from shifting more costs into the indirect/administrative cost category.

Action. No action taken.

MEDICINE BOARD, *Standards of Practice—Physicians Who Prescribe or Administer Abortion-inducing Drugs*, ARC 0891C, 07/24/13 IAB, NOTICE.

Background. This proposed amendment establishes the standards of practice for physicians who prescribe or administer abortion-inducing drugs. The amendment provides that a physician shall not induce an abortion by providing an abortion-inducing drug unless the physician has first performed a physical examination of the woman to determine, and document in the woman's medical record, the gestational age and intrauterine location of the pregnancy. A physician would be required to be physically present with a woman when providing an abortion-inducing drug to the woman. A physician who provides an abortion-inducing drug to a woman would be required to schedule a follow-up appointment with the woman at the same facility where the abortion-inducing drug was provided. The board will hold a public hearing on this rulemaking on August 28 at the Wallace Building auditorium at 1 p.m.

Commentary. Stakeholders in opposition to this rulemaking cited low levels of complication and high satisfaction rates for this procedure, and noted that no complaints have been made by patients who have received it. They discussed the history of telemedicine in Iowa, both for abortion and for various other medical uses, and noted that the board has not chosen to prohibit other forms of telemedicine. They cited an investigation of this procedure conducted by the board in 2010, which was closed without incident. They also suggested that arguments against the procedure made by supporters of this rulemaking were not evidence-based. In response to a request by a committee member, a physician who conducts medical abortions gave a detailed description of the procedure and stated that the only difference in care between an in-person medical abortion and a telemedicine medical abortion is whether a doctor physically hands a woman the pill. Stakeholders also questioned whether the board had pursued this rulemaking with inappropriate haste, and noted that the Legislature has repeatedly rejected legislation prohibiting telemedicine abortion in the past.

Stakeholders in support of the rulemaking cited potentially severe side effects from the procedure, and described receiving phone calls from women suffering from such side effects about which they were not adequately informed, and

also required referral for assistance. Stakeholders expressed concern that nonmedical personnel might be involved in the procedure, resulting in women suffering complications without medical personnel available to assist them. Additional stakeholders questioned the claims that medical abortions cause few complications, and stated that other studies have shown the opposite.

Committee members asked if the board would pursue emergency rulemaking for this proposal, and a representative of the Governor's Office said it would not be authorized for this proposal. A motion to suspend the Notice of Intended Action for this proposal did not carry. A board representative urged interested parties to attend the board's public hearing on this proposal on August 28.

Action. No action taken.

Next Meeting. The next regular committee meeting will be held in Room 116, on Tuesday, September 10, 2013, beginning at 9:30 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

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ADMINISTRATIVE RULES REVIEW COMMITTEE

July 9, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EMERGENCY RULEMAKING APPROVAL, 2013 Iowa Acts, House File 586.

Background. House File 586 requires that all rules filed emergency without notice must be approved by the committee.

Commentary. House File 586 became effective July 1, 2013. Two agencies have emergency adopted rules subject to this provision. At their request these filings were placed on the committee's July agenda, with agency representatives present to answer questions.

Each document cited the grounds for the emergency filing and set out the reasons in support of those grounds. The members discussed both the substance of the rules and the need for an emergency filing. Both requests were unanimously approved by the committee (at least six votes were required). An electronic mail message was later sent to confirm the committee action.

To the extent practicable, these emergency reviews will be held at the committee's monthly meeting. However, if a filing must be in effect prior to a regular meeting, the committee will hold a special telephonic conference to review the filing.

Action. No action taken.

INSURANCE DIVISION, *Regulation of Navigators*, ARC 0816C, 06/26/13 IAB, NOTICE.

Background. The federal Affordable Care Act (ACA) requires state health insurance marketplaces to establish a navigator program that will help individuals who are eligible to purchase coverage through a health insurance marketplace to learn about their new coverage options and enroll. States can award grants to entities that will provide these services. No person may act as a navigator until issued a 3-year Iowa navigator license. Applicants must satisfy various criteria set out in the rule.

Licensees must demonstrate financial responsibility and maintain evidence of financial responsibility in the form of a surety bond or other alternative financial responsibility instrument that protects individuals and entities against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator, or other violation of insurance law.

Prior to license renewal, individual navigators must complete a minimum of 36 continuing education credits for each continuing education term in courses approved by the Insurance Commissioner on subjects relevant to navigators.

Commentary. Committee members posed many questions as to who can become a navigator, how navigators are selected, and what navigators will do. A representative from the division explained that navigators are selected by the federal government through an application process, and are then subject to state approval. Any individual or entity that applies could potentially be a navigator. The federal government will announce its selections on August 15. Navigators are funded through federal grants. Navigators must be impartial; they can provide the public with guidance on obtaining qualified insurance under the ACA, but cannot encourage the selection of one plan over another. Public comment was received from various advocacy groups seeking guidance on how they might provide assistance regarding the ACA without serving as navigators or violating these rules and seeking more clarity regarding the role of navigators. The division representative explained that such groups could still provide assistance regarding the ACA under these rules without serving as navigators.

Action. No action taken.

PHARMACY BOARD, *Temporary Listing of Substances Subject to Schedule I*, APPROVAL OF EMERGENCY RULEMAKING.

Background. The amendment temporarily classifies as Schedule I controlled substances three synthetic cannabinoids in conformance with recent control of these same substances by the federal Drug Enforcement Administration. The substances have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use under medical supervision. If the General Assembly does not enact this classification by statute in the 2014 regular session, this classification will be nullified 60 days after the session convenes.

Commentary. This was the committee's first approval of an emergency rule in accordance with newly enacted 2013 Iowa Acts, HF 586. A representative from the board explained the process by which the board made these classifications in conformity with federal law, and how they are subject to legislative approval within 60 days of the beginning of the next regular session of the General Assembly. The director of the Governor's Office of Drug Control Policy and a parent who lost her child to these substances both expressed support for this rulemaking. The committee approved the emergency filing and moved to refer this rule to the General Assembly to ensure that action is taken within the 60-day deadline.

Action. Emergency rulemaking was approved. General referral to the General Assembly was made.

HUMAN SERVICES DEPARTMENT, *Exemption of Counties from Joining into Regions to Administer Mental Health and Disability Services*, ARC 0735C, 05/15/13 IAB, SPECIAL REVIEW.

Background. This rulemaking established criteria for exempting counties from joining into regions to administer mental health and disability services. The department is charged with implementing redesign of the mental health and disability services system into a regionally administered, locally delivered service system. The authority to accept applications for an exemption was repealed effective July 1, 2013. Counties had to voluntarily form regions by April 1, 2013, or submit a letter of intent by May 1, 2013, to apply for an exemption from forming into a region of at least three contiguous counties. The department received public comments from county representatives asserting the criteria are unworkable, too restrictive, and beyond the scope of the underlying legislation, 2012 Iowa Acts, Chapter 1120 (SF 2315). The department contended these comments are based on confusion regarding SF 2315, and that it is acting within its statutory authority.

Commentary. Discussion centered on the department's recent denial of Jefferson County's application for an exemption. Carroll County was also denied, while Polk County was approved. Jefferson County is currently appealing its denial. No other counties applied for an exemption. Public comment was heard from a member of the Jefferson County Board of Supervisors, who argued that the timeline and criteria for counties seeking an exemption was unfair. He noted that Jefferson County had only been given 48 hours to revise its application in response to feedback from the department, and the department found that it would be unworkable for Jefferson County to join a region, yet denied it an exemption, which will force it to join a region. He argued it would be more fair to allow counties a year to demonstrate that they could meet the exemption criteria, as regions are given one year to meet those same criteria to demonstrate their effectiveness in providing required services. Additional public comment was received asserting the department's criteria exceeded what was provided in statute. A department representative explained the denial of Jefferson County's application and asserted that the department had complied with all statutory requirements. The department's finding that it would be unworkable for Jefferson County to join a region was applied to all counties because SF 2315 did not set out any objective criteria for determining unworkability. The representative noted that Jefferson County will still be able to pursue a remedy through the appeal process.

Action. No action taken.

HUMAN SERVICES DEPARTMENT, *Nursing Facilities—Reimbursement, Cost Reports*, ARC 0789C, 06/12/13 IAB, NOTICE.

Background. These amendments detail the department's treatment of nursing facility legal, accounting, consulting, and other professional fees, including association dues, management fees, penalties and fines, and therapy expenses. These amendments change what is required to be submitted to the department with the cost report.

Commentary. Stakeholders urged that the rules should require greater detail explaining trade association dues and on legal fees associated with patient care lawsuits and state fines. Currently, those costs are combined along with unrelated consulting fees and accounting fees, and reported to the state as one sum. Stakeholders contended that since these items are used to determine Medicaid reimbursement rates the fees should be subject to greater public scrutiny. They also stated that the single sum report makes it impossible to determine whether the individual fees meet the legal standard of being "reasonable."

Facility representatives responded that the item is a small part of the overall expense report. Department representatives noted that legal fees are included only when the facility prevails in the hearing.

Action. No action taken. Additional review is expected after final adoption.

VOTER REGISTRATION COMMISSION, *Voter registration forms*, ARC 0807C, 06/26/13 IAB, EMERGENCY.

Background. This emergency filing specifies the official Iowa voter registration application form.

Commentary. Discussion revealed that the filing did not comply with the specific requirements of Iowa Code §48.11 and

was unclear. Stakeholders opposed the emergency filing of these changes and contended that the form could confuse applicants and discourage registration. Commission representatives noted the form could be improved and agreed to rewrite the text.

Action. No action taken.

Next Meeting. The next regular committee meeting will be held in Room 116, on Tuesday, August 6, 2013, beginning at 9:30 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

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ADMINISTRATIVE RULES REVIEW COMMITTEE

June 11, 2013

Chairperson: Representative Dawn Pettengill

Vice Chairperson: Senator Wally Horn

EDUCATION DEPARTMENT, *Bus Inspection Fee, 05/29/13 IAB, ARC 0762C, ADOPTED.*

Background. Two department inspectors inspect every school bus in the state, twice a year. The current fee is \$28.

Commentary. This filing increases the fee for a bus inspection from \$28 to \$42. The increase is to pay for a third bus inspector. The fee is paid by the school districts. Members expressed concern about this amendment, questioning the necessity of the fee increase, and whether bus inspections could be conducted in a more efficient and cost-effective manner by local personnel. Members commented that with more than 6,000 buses, it seemed infeasible that a detailed inspection could be made twice a year. Supporters responded that working year round and with the help of school personnel, a detailed, “wheels off” inspection does occur.

Action. No action taken.

HUMAN SERVICES DEPARTMENT, *“Emergency” Rulemaking, SPECIAL REVIEW.*

Background. The department has drafted 13 proposed emergency rule amendments for ARRC review at the June meeting. This is an annual standard practice, allowing the department broad “emergency” rulemaking authority, subject to prior review by the committee; it is specifically authorized by 2013 Iowa Acts, SF 446, §30. The filings implement various provider rate increases pursuant to SF 446, §29, and Medicaid cost containment strategies pursuant to §12. Senate File 446 has not been signed into law by the Governor; for that reason the rules will not be adopted by the Human Services Council until the Act is signed into law.

Commentary. An amendment to 441 IAC Chapter 79, relating to the establishment of a new reimbursement method for targeted case management services, was controversial. The filing changes the reimbursement method for case management services under the Medicaid state plan, habilitation, home and community-based services waiver for individuals with a brain injury and elderly persons. The method applies a static fee for service based on cost-settled rates for FY 2011-2012, plus an inflation factor of 4.7 percent for FY 2013-2014. Stakeholders contend that because of changes made to the way billing rates have been calculated in recent years, this will actually amount to a reduction in reimbursement. Stakeholders also questioned whether SF 446 provides authority for this reimbursement method. A representative of the department stated these concerns would be considered before final adoption of the rule.

Action. No action taken; additional review and public participation is anticipated in July or August.

RACING AND GAMING COMMISSION, *Licensing Appeals, 05/15/13 IAB, ARC 0734C, ADOPTED.*

Background. The commission revises its appeal procedure for administrative rulings by track officials to deny or suspend a license. Under the unique licensing provisions of the commission, track stewards have the authority to discipline, for violation of the rules, any person subject to their control and to impose fines or suspensions or both for infractions.

Commentary. In part this filing relates to the standard of review used in an appeal involving a steward’s disqualification decision; the standard is limited to “abuse of discretion.” The committee members felt this standard is too narrow to provide a fair opportunity for appeal. Commission officials noted this standard applied only to disqualification decisions made during a race, where decisions have to be made and enforced immediately. They noted these decisions do not affect the validity of a license or impact employment.

Action. Session delay.

REVENUE DEPARTMENT, *Agricultural Land Valuation, 05/29/13 IAB, ARC 0770C, ADOPTED.*

Background. The corn suitability rating is an important factor in the property tax evaluation of agricultural parcels. The

corn suitability rating (CSR) system was developed by Iowa State University; it measures potential soil productivity based on soil profile, slope characteristics, and weather conditions.

Commentary. This rulemaking utilized the negotiated rulemaking proceedings established in Executive Order No. 80. The department formed a stakeholder group to review this proposal. The group was made up of impacted stakeholders. The rule provides for a standardized adjustment method for non-cropland that has a high CSR so that non-cropland is not taxed the same as cropland. This amendment requires that the local assessor adjust non-cropland in distributing agricultural valuation to each parcel. The rule allows a taxpayer to apply to the county assessor for an interim adjustment to non-cropland beginning with the 2014 assessment and continuing until the county's full implementation of the rule.

County assessors expressed concern over the use of interim adjustments, contending that until a county can implement the adjustment in its entirety, granting of interim adjustments to some but not all taxpayers is unfair. Assessors stated that during the interim process, some assessors do not have the technical ability to adjust non-cropland and at the same time maintain uniformity throughout the county. Assessors also expressed concern about the potentially significant cost of acquiring the technology and data necessary to implement the interim process. Supporters of the change stated that the current system, in which only about half of the counties make adjustments for non-cropland, is unfair and that the rule will give all taxpayers access to a fair system.

Action. No action taken.

Next Meeting. The next regular committee meeting will be held in Committee Room 116, on **Tuesday, July 9, 2013**, beginning at 9:00 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

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