

ADMINISTRATIVE RULES REVIEW COMMITTEE

June 12, 2018

Chairperson: Senator Mark Chelgren

Vice Chairperson: Representative Dawn Pettengill

DEPARTMENT OF CORRECTIONS, *Review and update of policies and procedures, 5/23/18* IAB, ARC 3806C, NOTICE.

Background. This rulemaking includes a variety of substantive and nonsubstantive changes to the department's rules as part of its five-year review of its rules under Code §17A.7(2). Subjects include records requests, terminology changes, risk assessment instruments, community-based corrections, pretrial services and presentence investigations, probation services, conditions of parole, and other matters.

Commentary. Discussion centered primarily on items 41 and 51 of the rulemaking. Regarding item 41, committee members questioned why the department replaced the term "interview" for purposes of pretrial services with "assessment." Department representatives Mr. Michael Savala and Ms. Michelle Dix stated that this change is an update to the language, there has been no change in practice in this area, that assessments have always been carried out, and that the two terms are synonymous.

Mr. Jerry Evans offered public comment on item 41 on behalf of the Fifth Judicial District of Iowa. He explained that the district conducts both interviews and risk assessments as part of its pretrial process and stated that an interview does not help with risk assessment. Mr. Matt McKinney offered public comment on behalf of Lederman Bail Bonds. He asserted that the change from "interview" to "assessment" is substantive and that the term "interview" shouldn't be stricken if interviews are being conducted. He handed out an interview form and an assessment form, both of which he stated are currently used in pretrial services. He asserted that this rule language should reflect current practice and noted that the term "assessment" is not defined in the rulemaking.

Committee members asked if the department was aware that "interview" and "assessment" may not be considered synonymous. Ms. Dix said the department was not aware of this issue. Committee members stated that interviews and assessments are different concepts and urged the department to revise its proposed language to reflect that both interviews and assessments are conducted.

Committee members, Mr. Evans, and Mr. McKinney also discussed the Polk County Public Safety Assessment (PSA). Discussion included whether the language of item 41 implicates the PSA and whether the PSA is an appropriate and accurate risk assessment tool in comparison to an interview process.

Regarding item 51, committee members questioned whether it is appropriate for the department to strike all specific conditions of parole from its rules, replacing them with general language regarding compliance with conditions of parole. Mr. Savala and Ms. Dix stated that the current language on specific conditions is old and that the Board of Parole has its own rules on the conditions of parole. They explained that the department has had to repeatedly update its rules on this topic to track with changes in the board's rules and that such updating will no longer be necessary with this change. Committee members urged the department to retain the current language on specific conditions, even if further updating will be necessary in the future, to promote ease of access to this information by the public. Committee members also requested a copy of the board's rules on this topic.

Committee members additionally discussed how incarceration fees are calculated, whether language on access to confidential records may be too broad, and how medical examinations are provided.

BRIEFINGS

INFORMATION REGARDING RECENT ACTIVITIES

Action. No action taken.

DEPARTMENT OF HUMAN SERVICES, *Quality Assurance Assessment Levels for Nursing Facilities, 5/9/18 IAB, ARC 3785C, NOTICE.*

Background. This rulemaking amends the assessment level for nursing facilities effective July 1, 2015. The assessment level was changed at the rebase of nursing facility costs on that date. Providers were notified of the assessment level with Information Letter 1610 dated February 3, 2016.

Commentary. Ms. Nancy Freudenberg, Department of Human Services, reviewed the rulemaking. Ms. Deb Johnson also represented the department. Committee members noted that the rulemaking, which originated from 2015 Iowa Acts, was untimely and expressed displeasure with the untimeliness of the rulemaking. Ms. Freudenberg stated that the department did not have an excuse for not completing the rulemaking in a timely manner but reiterated that providers had been informed of the statutory assessment levels by letter dated February 3, 2016. Some committee members suggested that the topic not be the subject of rulemaking while others encouraged it to remain in rulemaking.

Action Taken. No action taken.

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, *Purchasing — Iowa Communications Network Sole-source Agreements, 5/9/18 IAB, ARC 3781C, NOTICE.*

Background. This rulemaking relates to a sole-source procurement process.

Commentary. Mr. Mark Johnson, Iowa Telecommunications and Technology Commission, reviewed the rulemaking. Committee members inquired whether this rulemaking would have prevented an incident last year involving inappropriate spending in connection with the procurement of trailers. Mr. Johnson indicated that the procurement of two trailers last year by the executive director happened quickly and without his knowledge. Mr. Johnson was unsure whether the rulemaking would prevent a similar incident from occurring again but asserted that it was a step in the right direction. Committee members asked for additional detail regarding the sole-source justification form. Mr. Johnson indicated that the form sets forth the purpose of the sole-source agreement. Committee members encouraged the commission to expand its rules to prevent inappropriate spending. Additionally, committee members encouraged the commission to develop and share best practices with other agencies.

Action Taken. No action taken.

Next meeting. The next committee meeting will be held in Room 116, Statehouse, on Tuesday, July 10, 2018, beginning at 9:00 a.m.

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