



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: October 9, 2017, Pavilion Building, 5th floor conference room, 109 State Street, Montpelier, VT 05609

Members Present: Chair Brad Ferland, Dirk Anderson, Ashley Berliner, Diane Bothfeld, Clare O'Shaughnessy, John Kessler, and Steve Knudson

Members Absent: Jen Duggan and Karen Songhurst

Minutes By: Melissa Mazza-Paquette

- 2:03 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the September 11, 2017 meeting.
 - Motion made to accept the minutes by John Kessler, seconded by Dirk Anderson, and passed unanimously except for Diane Bothfeld who abstained.
- No additions/deletions to agenda.
 - Motion made to accept agenda as is by Diane Bothfeld, seconded by Steve Knudson, and passed unanimously.
- No public comments made.
- Notice that the Administrative Rules for Alcohol & Drug Counselors, from the Office of Professional Regulation submitted an Emergency Rule, which was granted by the Deputy Secretary of Administration on October 5, 2017.
- Presentation of Proposed Rules on pages 2-13 to follow.
 1. VOSHA Rule: Subpart D; Walking working Surfaces, General Industry, Department of Labor, page 2
 2. Acupuncture, Agency of Human Services (Repeal), page 3
 3. Fertility Services, Agency of Human Services (Repeal), page 4
 4. Massage Therapy, Agency of Human Services (Repeal), page 5
 5. Surgery, Agency of Human Services (Repeal), page 6
 6. Medicaid Non-Covered Services, Agency of Human Services (New), page 7
 7. Abortion, Agency of Human Services (Amended), page 8
 8. Supervised Billing, Agency of Human Services (New), page 9
 9. Fire Safety and Prevention, Agency of Human Services, Department of Corrections, page 10
 10. Resident Publications, Agency of Human Services, Department of Corrections, page 11
 11. Licensing and Operating Rules for Nursing Homes, Agency of Human Services, Department of Disabilities, Aging and Independent Living, page 12
 12. Privacy of Consumer Financial and Health Information Regulation, Department of Financial Regulation, page 13
- Next scheduled meeting is November 13, 2017 at 2:00 p.m.
- Motion made to adjourn by John Kessler, seconded by Diane Bothfeld, and passed unanimously.
- 3:15 p.m. meeting adjourned.

**Proposed Rule: VOSHA Rule: Subpart D; Walking working Surfaces, General Industry,
Department of Labor**

- **Presented by Dan Whipple, Department of Labor**

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Dirk Anderson who abstained, with the following recommendations.

1. Confirm whether ‘working’ should be capitalized in the Rule Title, used subsequently throughout the Proposed Rule filing.
2. Proposed Coversheet, page 4, #14 ‘Keywords’: include ‘OSHA’.
3. Proposed Coversheet, pages 3 and 4, #10 ‘Brief Summary of Economic Impact’: incorporate the dollar amount, injuries, and fatalities, in the Economic Impact Statement.
4. Economic Impact Statement, page 3, #6 ‘Flexibility Statement’: clarify ‘slight burden’.

Proposed Rule: Acupuncture, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule by Dirk Anderson, seconded by Diane Bothfeld, and passed unanimously except for Ashley Berliner who abstained, with the following recommendation.

1. Adopting Page, #5 Last Adopted: assuming 2001 is the year, if it's not part of the formal title of the rule, then put inside parentheses (2001) to distinguish that it's a date.

Proposed Rule: Fertility Services, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule by Steve Knudson, seconded by Dirk Anderson, and passed unanimously except for Ashley Berliner who abstained, with the following recommendation.

1. Adopting Page, #5 Last Adopted: add the missing last date of adoption for the existing rule.

Proposed Rule: Massage Therapy, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously except for Ashley Berliner who abstained, with the following recommendation.

1. Adopting Page, #5 Last Adopted: add the missing last date of adoption for the existing rule.

Proposed Rule: Surgery, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule by Steve Knudson, seconded by Dirk Anderson, and passed unanimously except for Ashley Berliner who abstained, with the following recommendation.

1. Adopting Page, #5 Last Adopted: add the missing last date of adoption for the existing rule.

Proposed Rule: Medicaid Non-Covered Services, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule as presented by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Ashley Berliner who abstained.

Proposed Rule: Abortion, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule as presented by John Kessler, seconded by Steve Knudson, and passed unanimously except for Ashley Berliner who abstained.

Proposed Rule: Supervised Billing, Agency of Human Services

- **Presented by Ashley Berliner and Susan Coburn, Agency of Human Services**

Motion made to accept the rule by Diane Bothfeld, seconded by Dirk Anderson, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations.

1. Proposed Coversheet, page 3, #9 List of People, Enterprises and Government Entities Affected by this Rule: remove 'The Vermont Department of Corrections' if they aren't affected.
2. Health Care Administrative Rules 9.103, page 1, 9.103.2 Qualified providers (b): clarify whether 'master-level' means you need a master's degree.

Proposed Rule: Fire Safety and Prevention, Agency of Human Services, Department of Corrections
○ **Presented by Kurt Kuehl, Matt Nault, and Christine Cowart, Department of Corrections**

Motion made to table the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations for when the rule is presented again.

1. Add 'Printed Name and Title' to all signature pages.
2. Provide concrete clarity and detail to the form of the rule.
3. Fire Safety and Prevention, page 1 of 1, #9, line 26: clarify whether it's 'a record' or 'records'.

Proposed Rule: Resident Publications, Agency of Human Services, Department of Corrections
○ **Presented by Kurt Kuehl, Matt Nault, and Christine Cowart, Department of Corrections**

Motion made to table the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations for when the rule is presented again.

1. Add 'Printed Name and Title' to all signature pages.
2. Verify form and content of rule.
3. Clarify in the rule the role of approval as stated in #8, page 3, of the Proposed Coversheet.
4. Proposed Coversheet, #14 Keywords, pages 4 and 5: include 'prisoner'.

Proposed Rule: Licensing and Operating Rules for Nursing Homes, Agency of Human Services, Department of Disabilities, Aging and Independent Living

- **Presented by Alice Kennedy, Department of Disabilities, Aging and Independent Living**

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations.

1. Clarify, and be consistent, throughout the proposed rule the differences between ‘nursing home’, ‘facility’, and ‘institution’. Perhaps explain in the narrative.
2. Proposed Rule Coversheet, page 3, #10 Brief Summary of Economic Impact: elaborate on the reasoning for ‘no economic impact’. This is inconsistent with #6 Flexibility Statement on the Economic Impact Statement, stating ‘minimal burden’. Clarify and be consistent.
3. Proposed Rule Coversheet, page 4, #14 Keywords: spell out the acronyms for ‘DNR’ and ‘COLST’.
4. Annotated text, page 2, d: remove ‘s’ from ‘orders’ after ‘COLST’ in the 3rd line.

Proposed Rule: Privacy of Consumer Financial and Health Information Regulation, Department of Financial Regulation

- **Presented by Steve Knudson, Department of Financial Regulation**

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Steve Knudson who abstained, with the following recommendations.

1. Proposed Coversheet, #7 Concise Summary, page 3: last line of 2nd paragraph, change ‘it’ to ‘its’ after ‘institution posts’ and before ‘privacy policy’.
2. Public Input Statement, #3, page 1: include ‘Attorney General’s Consumer Protection Division’.