

**MINUTES OF THE DECEMBER 2000 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Time of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, December 12, 2000, in House Committee Room 118, State Capitol, Des Moines, Iowa.

Members present: Representative Clyde Bradley, chair, and Senator H. Kay Hedge, vice chair; Senators Merlin E. Bartz, Patricia M. Harper, John P. Kibbie, and Sheldon Rittmer; Representatives Danny Carroll, Minnette Doderer, and Janet Metcalf. Representative Geri Huser was absent.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, assistant; Brian Gentry, Administrative Rules Coordinator; caucus staff and other interested persons.

Convened Chair Bradley convened the meeting at 9:30 a.m. and introduced Senator JoAnn Johnson who will be serving on ARRC next year.

MEDICAL EXAMINERS BOARD Ann Mowery represented the board. Lloyd Jessen of the pharmacy examiners board was also present. The Iowa Pharmacy Association was represented by Jerry Karbelz.

ARC 0301B Rule 13.3, supervision of pharmacists who administer adult immunizations, has been adopted. Mowery confirmed that flu and pneumonia shots are the only immunizations covered by this rule. Bradley was informed that although there is not a continuing education requirement, the protocol is updated annually. Mowery informed Royce that while the board of medical examiners does not believe there is a need for a statutory change, some medical associations may request legislation.

PHARMACY EXAMINERS BOARD Lloyd Jessen represented the board.

ARC 0329B No questions on 8.33, which mirrors the rule of the board of medical examiners for administration of adult immunizations by pharmacists.

ARC 0298B Jessen reported that fee increases are proposed for controlled substance registration. The \$10 per year increase is the first increase since 1985.

DENTAL EXAMINERS BOARD Jennifer Hart represented the board.

ARC 0264B No questions on amendments pertaining to registration of dental assistants.

ARC 0255B Amendments pertaining to administration of nitrous oxide inhalation analgesia by dental hygienists are proposed. Issues of contention have been resolved and the professional associations support the amendments.

ARC 0261B Proposed waiver rules prohibit waiver of fees and rules pertaining to professional ethics. Metcalf asked Gentry if other agencies are exempting some rules from waiver and asked that all agencies advise the committee of the ways in which their waiver rules differ from the model rules.

ARC 0260B No questions on rules pertaining to applications for resident dental licenses and faculty permits. Hart reported that the amendments resulted from the agency's regulatory review.

ARC 0259B Proposed amendments to ch 16 pertain to prescribing, administering and dispensing controlled substances. Rittmer was advised that fluoride is dispensed in accordance with protocols of the department of public health. In response to Harper's inquiry, Hart explained that controlled substances may be necessary for pain management.

ARC 0262B No questions on the emergency adoption of 16.2(2).

ARC 0263B No action on ch 20 concerning registration of dental assistants. Dental assistants who are currently employed and who make application prior to July 1, 2001, will be grandfathered.

ARC 0258B The proposed amendment to 26.1, which results from regulatory review, eliminates the need for disclosure of the party paying for the advertisement. Royce responded to Bartz that advertising is regulated by each profession. Generally, health professions do not impose requirements limiting advertising.

ARC 0257B No questions on proposed amendments to ch 28 resulting from regulatory review.

ARC 0256B No questions on proposed amendments to ch 29 resulting from regulatory review.

ECONOMIC DEVELOPMENT DEPARTMENT Rose Wazny, Mary Lawyer, Michael Brown and Michael Fastenau represented the department. Andrew Anderson of the attorney general's office and Michael Gartner and Susan Judkins of the vision Iowa board were present.

ARC 0267B No questions on the amendments to ch 11, school to career program.

ARC 0269B No action on the amendments to the ACE program, ch 20. Lawyer identified changes to the tax credit component of the program.

Economic Development Department (continued)

ARC 0266B Proposed amendments to ch 24 pertain to the emergency shelter grants program. Wazny responded to Metcalf's inquiry about the rationale for capping the rehabilitation funds at \$10,000 and indicated that projects needing larger amounts can apply to other funding streams. Wazny addressed Carroll's inquiry about IDED's administration of the program which was established in 1988 through HUD.

ARC 0265B Amendments to ch 29 relate to the amendments to ch 24 in that the programs have a joint funding application.

ARC 0268B Fastenau outlined amendments to the brownfield redevelopment program. In response to Bartz's inquiry about redevelopment costs, Fastenau explained that redevelopments costs are related to activities on the site once it has been remediated. These costs can be counted toward the total in order to determine the 25 percent funding. Fastenau reported that awards amounting to \$2,965,000 have been made to five communities, all based on acquisition and remediation, rather than redevelopment. Bradley clarified that redevelopment activities could include the removal of existing structures or railroad ties in order to do the remediation. Bartz stated that he is concerned that insufficient funds were appropriated to fund 25 percent of the costs of remediation and acquisition and redevelopment. Carroll questioned inclusion of acquisition costs.

Motion to refer Rittmer moved a referral of 65.4(3) to the general assembly.

Motion carried The motion to refer carried.

ARC 0271B No action on the community attraction and tourism development program..

ARC 0270B Gartner identified changes from the proposed rules. Metcalf challenged 212.8(6), which specifies criteria, i.e., nonsmoking facilities and public art, which were not included in the statute. Further, the rule does not specify whether "any" or "all" criteria are required. Bartz, Hedge, Bradley and Harper agreed with Metcalf's reservations about awarding points for nonsmoking facilities. Rittmer suggested that the nonsmoking criteria could have been included in the category for enhancing wellness. Gartner responded that the criteria were intended to be flexible, not to require facilities to be nonsmoking. In addition, Gartner emphasized that grant awards will not be determined by points. The points serve as a threshold, but the 13-member board makes the final determination. Bradley, Gentry and Royce all voiced concern that the rules do not state that the points merely establish a threshold. Anderson pointed out that the statute states that the full board has the final authority, and Gartner offered assurance that all applicants are aware that the board will make the final determination. Royce concluded that although the current potential applicants have had input in the rules and fully understand that the points do not determine the final awards, an amendment would be in order so that future applicants will be aware of the significance of the points. Bartz expressed concern about requirements that might be waived and requested further information from the department about whether threshold requirements might be subject to waiver.

EMPOWERMENT BOARD Kris Bell represented the board.

ARC 0331B Amendments are proposed to empowerment board rules. Metcalf suggested that the word "annually" be added to item 7 to clarify the reporting requirement.

INFORMATION TECHNOLOGY DEPARTMENT The department was excused from review.

ENVIRONMENTAL PROTECTION COMMISSION Diana Hansen, Jon Tack, Wayne Gieselman represented the commission.

ARC 0277B No action on federal pretreatment and effluent standards adopted in the amendments to chs 60, 62 and 63.

ARC 0278B Input is being solicited for possible proposed amendments to ch 65, pertaining to animal feeding operations. Carroll inquired about the effect of the current requirements on the size of facilities, and expressed the view that additional requirements imposed on medium-sized facilities may result in an increase in the number of large facilities. Kibbie noted that most facilities are not required to have a permit and the state does need to address manure management. Gieselman informed Bartz that because the statute exempts only facilities of under 200,000 pounds, the commission would have authority to regulate medium-sized facilities. Bartz expressed a concern about the commission's ability to review manure managements plans in a timely manner. Bradley asked the commission to consider whether the review could be delegated to the county sanitarian. Hedge noted that rural areas would prefer more local control. Gentry encouraged the commission to hold hearings in the areas that have interest in the matter, particularly northwest Iowa. Discussion ensued about compliance and enforcement remedies available to the commission.

ARC 0279B No action on proposed ch 101.

NATURAL RESOURCE COMMISSION

Janet Ott, Richard Bishop, Marion Conover, and Steve Pennington represented the commission. Mike Smith of the attorney general's office was also present.

ARC 0337B

The amendments to ch 61 impose the first fee increase in eight years for camping in state parks. Rates are comparable to neighboring states. Pennington informed Bartz that the fees are expected to generate \$400,000 to \$600,000. Royce inquired about the commission's authority to designate state parks and recreation areas. Pennington responded that recreation areas are open 24 hours per day and allow hunting. Smith related the history of the administrative designation of state recreation areas by the conservation commission. Subsequent to their designation, recreation areas have been recognized in the Code and funded by appropriation.

ARC 0336B

No action on 81.2(11) relative to fishing.

ARC 0335B

No questions on wild turkey spring hunting.

INSURANCE DIVISION

The division was excused from review.

LABOR SERVICES DIVISION

Kathleen Uehling and Keri Kelsey represented the division.

ARC 0198B

Elevator safety standards are updated to the 1999 standards of the American Society of Mechanical Engineers. Kibbie inquired about the roles of the labor division and the department of public safety; Kelsey responded that the department of public safety has responsibility only for fire safety and handicapped accessibility, and if there is a conflict in the rules, rules of the labor division supercede. Bradley indicated that it would be preferable for the public to work with a single state agency.

REVENUE AND FINANCE DEPARTMENT

The department was excused from review.

Committee business

LSB director Diane Bolender presented a proposed budget for the next fiscal year.

Budget

Metcalf moved the budget be approved for submission to the department of management. The motion carried.

Minutes

Kibbie moved approval of the minutes of the November meeting. The motion carried.

Meeting

The next meeting will be Wednesday, January 3, 2001.

HUMAN SERVICES DEPARTMENT

Karla Fultz McHenry represented the department. Julie Ingersoll was also present.

ARC 0310B

Proposed amendments pertain to recoupment of child care assistance overpayments. McHenry indicated that no attempt would be made to recoup overpayments that result from agency error. In response to the inquiry from Royce, McHenry stated that the department has no authority to prohibit future provision of services by providers who intentionally overbill, but legislation addressing the issue will be proposed in the next session. Carroll suggested that provision be made for recoupment of large agency errors. Bradley and Royce concurred with Carroll and advised the department to proceed on a case-by-case basis rather than prohibit recoupment of agency errors in the rules.

ARC 0272B

No questions on rules pertaining to tobacco settlement risk pool funding.

ARC 0311B

No questions on termination of one-month rate adjustment for SSA.

ARC 0305B

No questions on SSA and RCF reimbursement rates.

ARC 0306B

No questions on amendments to ch 60 concerning refugee cash assistance.

ARC 0307B

No action on amendments to Medicaid rules pertaining to transfer of assets.

ARC 0308B

No questions regarding critical access hospitals.

ARC 0312B

No questions regarding proposed amendments to ch 83 concerning waiver services.

ARC 0273B

No questions of proposed amendments regarding rates for foster care and foster parent training.

ARC 0309B

No questions on amendments to ch 176 relating to dependent adult abuse.

Special review

Annual cost of living increases to SSI and personal needs allowance will be implemented through emergency provisions.

EDUCATIONAL EXAMINERS BOARD

Anne Kruse represented the board.

ARC 0291B

No questions on rules pertaining to waivers.

ARC 0298B

Proposed 14.6 would enable elementary teachers to add an endorsement at the secondary level.

ARC 0290B

Proposed 14.14 reduces the experience requirement for the professional administrator's license from five years to three years.

ARC 0292B

No questions on 14.15, the one-year conditional license.

ARC 0296B

No questions on 14.16, the two-year conditional license.

ARC 0293B

No questions on amendments to 14.20 pertaining to school counselor competencies.

ARC 0294B

No questions on the reinstatement of the general science endorsement.

ARC 0295B

No questions on 14.25, the two-year administrator exchange license.

Educational Examiners Board (continued)

ARC 0288B Ch 21, the behind-the-wheel driver instructor authorization, complies with legislation and is intended to alleviate the shortage of instructors.

EDUCATION DEPARTMENT Ann McCarthy and Leland Tack represented the department.

ARC0252B No questions on ch 48, certified school to career program.

ARC 0253B No questions on amendments to ch 97 concerning supplementary weighting for at-risk students.

ARC 0254B No action on ch 100 which implements the vision Iowa school infrastructure program.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and George Howe represented the department. Gregg Rogers of EFWPF was also present.

ARC 0314B Amendments to ch 16 include a fee for building plan reviews. The fee schedule has been adjusted in response to comments received, and a provision for refunds has been included.

ARC 0313B An exception for elevators in apartment buildings of three stories and less has been adopted. Rogers expressed concerns about medical emergencies and the difficulty of taking patients on stretchers down staircases. Howe responded that ADA does not apply to apartment buildings and the exception is in line with federal fair housing requirements.

PUBLIC HEALTH DEPARTMENT Gary Ireland and David Fries represented the department.

ARC 0327B Ch 92 pertains to the fatality review team. Carroll voiced concerns about dissemination of confidential information. In response to remarks by Bartz, Fries agreed to make the references to age consistent throughout the rules and to ensure that release of information complies with statute.

ARC 0326B No questions on EMS amendments to ch 132.

ARC 0274B No questions on amendments to chs 134 and 135.

SUBSTANCE ABUSE COMMISSION Ronald Eckoff represented the commission.

ARC 0324B No action on proposed ch 9 relating to substance abuse prevention and treatment regions.

PROFESSIONAL LICENSURE DIVISION Marge Bledsoe and Rosalie Steele represented the division.

ARC 0322B No action on amendments governing barbers. Discussion about the need for continuing education ensued.

ARC 0319B Proposed amendments concerning cosmetology pertain to testing requirements. Bledsoe noted errors in the figures shown in the chart printed on p. 863.

ARC 0320B No questions on continuing education for cosmetologists.

ARC 0318B No questions on continuing education for physical therapists.

ARC 0317B No questions on continuing education for occupational therapists.

ARC 0321B No questions on continuing education for speech pathologists.

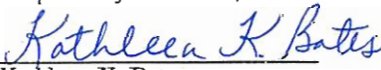
ARC 0275B No questions on continuing education for physician assistants.

IOWA FINANCE AUTHORITY Loyd Ogle and Lori Beary represented the authority.

ARC 0286B Proposed amendments to ch 8 pertain to private activity bond allocation. Ogle summarized the history of bond allocations and the shift from the days when supply exceeded demand to the present situation in which demand exceeds supply. Under these rules, all applications simultaneously received will be prioritized by lottery. A competitive system will be proposed in the next legislative session.


Adjourn The meeting was adjourned at 3:30 p.m.

Respectfully submitted,


Kathleen K. Bates


Teresa Vander Linden

APPROVED:


Chair Clyde Bradley

Vice Chair H. Kay Hedge