

**MINUTES OF THE JUNE 2001 MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, June 5, 2001, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Merlin E. Bartz, Chair; Representative Clyde Bradley, Vice Chair; Senators Patricia Harper, JoAnn Johnson, John P. Kibbie, Sheldon Rittmer; Representatives Danny Carroll, Marcella Frevert, Janet Metcalf, and Paul Scherrman.

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

Convened Chair Bartz convened the meeting at 10 a.m.

**RACING AND GAMING COMMISSION** Karyl Jones represented the commission.

ARC 0665B No questions on amendments to update chs 4 to 7 and 10 to 12.

ARC 0666B No action on ch 9 relating to harness racing. Johnson posed a question regarding the cost of obtaining information about purses paid to individuals. Jones agreed to review the newspaper editorial which prompted the question and send a response to the committee.

**PROFESSIONAL LICENSURE DIVISION** Marge Bledsoe represented the division.

ARC 0703B No questions on licensure rules of the board of dietetic examiners.

ARC 0704B Chs 141 to 145 pertain to licensure rules for nursing home administrators. Bledsoe explained the difference between the board's rules which allow for an individual to obtain provisional licensure for six months and rules of the department of inspections and appeals which allow nursing facilities to have a provisional administrator for six months of every year. Bledsoe confirmed for Rittmer that it is possible for an individual to serve as administrator of more than one facility.

Motion Metcalf moved that coordination of oversight of nursing homes be referred to the General Assembly.

Motion carried The motion to refer carried.

ARC 0705B No action on licensure of speech pathologists and audiologists.

**NATURAL RESOURCE COMMISSION** Anne Preziosi, Janet Ott, and Richard Bishop represented the commission.

ARC 0713B No questions on proposed ch 11 concerning waivers.

ARC 0715B Proposed amendments to ch 61 pertain to state parks and recreation areas. In response to the question Bartz raised about applicability of local option taxes to park fees, Ott explained that the fees paid by park users include taxes and the department handles payment of local option taxes internally. Johnson asked Ott to advise the committee about how much it costs the department to pay local option taxes.

ARC 0714B No action on wild turkey fall hunting.

ARC 0711B Ch 106 pertains to deer hunting by residents. Bishop attributed some of the reduction in the size of herds to last year's severe winter and informed Johnson that decisions regarding opening of state parks to hunting are made on a case-by-case basis. Discussion ensued regarding the best means by which the department can obtain data from hunters.

**PRESERVES ADVISORY BOARD** Daryl Howell represented the board.

ARC 0712B No action on proposed amendments to chs 1 and 2 pertaining to management of state preserves.

**ENVIRONMENTAL PROTECTION COMMISSION** Brent Parker, Lavoy Haage, and Catharine Fitzsimmons represented the commission. Elizabeth Henderson of the Iowa Association of Business and Industry (ABI) and Tina Mowry of Metro Waste Authority were also present.

ARC 0667B No action relative to the on-site wastewater treatment assistance program, ch 93. Parker clarified the funding, county eligibility, and support for county sanitarians.

ARC 0668B Proposed ch 118 pertains to removal and disposal of PCBs from white goods prior to processing. Henderson distributed and read written comments expressing concerns of the Iowa Association of Business and Industry. Haage commented that prior rules dealt only with removal of PCBs, whereas these proposed rules also address refrigerants and mercury. There is an environmental concern when, in violation of a federal standard, lines are cut and refrigerants leak into the atmosphere. Mowry stated that federal regulations place responsibility on the last handler of the appliance, so counties and communities owning landfills would prefer permitting of haulers. Carroll urged the department to work with industry to best protect the environment. Bradley questioned the scope of the definition of "appliance" and Bartz challenged use of the words "but not limited to" in the definition of "demanufacturing." Haage indicated that an advisory committee had been consulted prior to the drafting of the

**Environmental Protection Commission (continued)**

- rules but agreed that some of the affected parties were not represented on the committee. Metcalf asked the department to advise Royce before the rules are adopted of any changes being made.
- Motion Carroll moved the committee request a regulatory analysis of the rules.
- Motion carried The motion for a regulatory analysis passed.
- IAC 22.1(2) Fitzsimmons reported that the department is working with ABI on provisions which were delayed at the March 2001 meeting. Henderson confirmed ABI's intention to continue working with the department.

**PERSONNEL DEPARTMENT** Michael Prey and Kelly Lovell represented the department.

- ARC 0675B Proposed amendments to chs 10, 11 and 14 are intended to correct rules that did not accurately reflect legislation.

- ARC 0670B No action on amendments pertaining to IPERS.

**INSPECTIONS AND APPEALS DEPARTMENT** Marvin Tooman and Nancy Ruzicka represented the department. Also present were Denise Hill of the Iowa Medical Society, Deanna McCallum of the Iowa Nurses' Association, and certified nurse midwives(CNMs) Dana Ericson and Carey Ann Ryan.

- ARC 0696B Tooman outlined amendments to ch 52 concerning birth centers. Hill voiced concern about the amendments and urged the legislature to consider changes in the law to require a medical director. Ryan indicated that the amendments are a step in the right direction and reported difficulties CNMs have faced in attempting to operate birth centers whose licensure requirements are more stringent than CNM licensure requirements. Ericson, who delivers in a hospital setting and was involved in the original birth center licensure laws, expressed support for licensure of birth centers and does not oppose these amendments. Physician liability and hospitals' perception of competition from birth centers remain issues.

- Motion to delay Metcalf moved a session delay be imposed on these amendments to ch 52. Kibbie noted that these amendments represent compromise and are in compliance with current statute. Tooman stated that the department believes that physician oversight is necessary for state-licensed birth centers and expressed a commitment to continue working with affected parties to reach agreement.

- Motion withdrawn Metcalf withdrew the motion to delay.

- ARC 0695B No questions on ch 66, quality-based inspections.

**MEDICAL EXAMINERS BOARD** Ann Mowery represented the board.

- ARC 0710B No comments on fees, ch 8.

- ARC 0708B No action on ch 9 and subrule 12.40(5) concerning physician licensure.

- ARC 0707B No action on ch 10 pertaining to resident, special and temporary physician licensure. Mowery informed Royce that out-of-state physicians performing screening for Shrine hospitals do not need Iowa licensure.

- ARC 0709B No questions on ch 11 regarding continuing education and training for identifying and reporting abuse.

**HUMAN SERVICES DEPARTMENT** Karla Fultz McHenry, Maya Krogman, and Mary Bilstad represented the department. Ralph Rosenberg of the Coalition for Families and Children Services was also present.

- ARC 0681B No questions on amendments relating to sex offender registry.

- ARC 0682B Subrules 65.21(4) to 65.21(6) relate to the food stamp program. Johnson inquired about any response to the letter sent to Iowa's Congressional delegation about income of students saving for college counting toward the family's eligibility for food stamps and was advised that both the department and the committee have received acknowledgments of receipt of the letters.

- ARC 0683B No action on amendments providing for Medicaid payment for drugs prescribed for weight loss.

- ARC 0671B McHenry reported that an emergency filing in accordance with recent legislation will change these rules before they go into effect. In response to Metcalf's request for the department to afford the committee more time to review emergency filings, McHenry reported that the department waited for the Governor to sign the legislation before distributing the rules. Bilstad informed Rittmer that the increase in the salary allowed for nursing home administrators with an ownership interest is a result of the case-mix methodology and inflation factors and is not as large a jump as it may appear. McHenry agreed to advise Frevert regarding the wage base for administrators who are not owners.

- ARC 0684B No questions on 78.50 pertaining to Medicaid reimbursement for local education agency services.

- ARC 0685B No action on amendments to ch 79.

**Human Services Department (continued)**

- ARC 0686B No action on amendments relating to sex offender registry checks and evaluation of of founded child abuse reports and criminal convictions for adoptive or foster care families, adoption agencies or investigators, child care centers, and providers of family or group child care.
- ARC 0687B No action on amendments exempting from the experience requirement graduates with a bachelor's degree in social work.
- ARC 0689B Subrule 185.102(4) provides for independent audit of RTSS providers. Rosenberg expressed concern about the number, scope, frequency and cost of audits required of RTSS providers by DHS, the department of inspections and appeals, national organizations, the department of education, and insurance companies.
- ARC 0610B Amendments pertaining to the hardship exemption criteria for the family investment program are proposed. Metcalf expressed a preference for a residency requirement to ensure that recipients from other states do not relocate in order to avoid the five-year limit on assistance. Krogman reported that because no national tracking system currently exists, the federal DHHS is considering this issue and added that states may impose limits. After noting that in December of this year the first families will reach the end of their five years, Carroll was informed that 20 percent of the average monthly case load will be allowed to exceed the five-year limit. Harper added that there are legitimate hardships, and not everyone who applies for the extension has chosen to be on welfare.

**INFORMATION TECHNOLOGY DEPARTMENT** Stephanie Pickens and Bill Haigh represented the department.

- ARC 0700B No questions on proposed ch 12 pertaining to information technology operational standards.
- ARC 0699B Ch 15 provides for an alternate funding source through advertising on the state's Web pages. Agencies that choose to participate in the Web-sponsorship program may use funds from the IowaAccess revolving fund to meet technology needs. In response to Johnson's inquiry, Bradley indicated that the oversight committee decided to resolve possible conflicts on a case-by-case basis. Haigh offered as precedents state university athletic sites and IDED's tourism site. Bartz expressed a concern about selection of advertisers and the appearance of conflict of interest. Haigh responded that a third party will select advertisers and that ads will be regulated by the department to ensure they are appropriate for the general public. Johnson added a concern that advertising not hamper access to public information. Gentry raised questions about mechanisms for stopping objectionable advertising and the authority of the director, the IowaAccess advisory council, and the Iowa information technology council.

**CORRECTIONS DEPARTMENT** Michael Savala represented the department. Other interested parties included Representative Lance Horbach, Roger Baysden of Prison Industries, and Ombudsman William Angrick and Kristie Hirschman of the office of citizens aide.

- ARC 0698B No questions on 20.18 relating to violator/shock probation programs.
- Special review Bradley requested a review of prison industries. The committee had asked the ombudsman to review the selling of signs and posts by prison industries. Angrick distributed a written report which found that the practice was both legal and appropriate. Horbach referenced a letter from Director Kautzky which stated that prison industries would not distribute posts without adding value and contended that the practice of selling posts is not legal without the director's approval. Savala responded that the letter also specified that posts would be sold only in direct relation to signs sold. Baysden reported that statistics show that prison industries sells one post for every three signs sold. Baysden confirmed that plans for manufacturing and expansion of value-adding activities will be subject to availability of funds.
- Johnson reported receiving a complaint about unfair competition caused by companies employing prison labor. Baysden responded that federal requirements stipulate that companies employing prison labor must pay the prevailing wage and Iowa requires the industry to guarantee the inmate a job upon release from prison. Wages paid to inmates cover state and federal taxes, child support, restitution, victim compensation, and room and board. Savala added that unemployment levels and prevailing wage are determined by workforce development department, and complaints can be filed with that department.

**DENTAL EXAMINERS BOARD** Excused from review.**PUBLIC SAFETY DEPARTMENT** Michael Coveyou, George Howe, Randy Novak and Steve Conlin represented the department. Other interested parties included Bed and Breakfast Inn owners Dave Stuart, Clark Smith, and Danny Faga, and Okoboji Tourism's representative, Lorelei Heisinger.

- ARC 0677B No questions on the amendment to the sex offender registry's list of aggravated offenses, 8.302(11)"a."
- ARC 0678B No action on fee schedule for building plan review, 16.131(2)"e."

Public Safety Department (continued)

ARC 0566B Amendments relating to fire safety for bed and breakfast inns were delayed 70 days at the April meeting. Coveyou asked the committee to impose a session delay on the amendments, which will become effective July 10 when the 70-day delay expires, because of conflicts between the rules and the uniform fire code.

Stewart, owner of a bed and breakfast inn in Dubuque, stated that he must meet the standards of the uniform fire code adopted by that jurisdiction. Heisinger, Smith, and Faga expressed a desire to work with the fire marshal to resolve conflicts in the rules. Bradley asked that interested parties and organizations give their names and telephone numbers to the department.

Motion to delay Bradley moved a session delay on the amendments in ARC 0566B.

Motion carried The motion to delay the amendments until the end of the 2002 Session passed.

ARC 0565B No questions on ch 54 relating to firefighter certification.

ARC 0564B No questions on ch 59 concerning volunteer emergency services provider death benefits.

**PUBLIC HEALTH DEPARTMENT** Judy Goddard, Judy Solberg, Randy Mayer and David Fries represented the department.

ARC 0691B Ch 1 combines three former chapters pertaining to notification and surveillance of reportable diseases, ophthalmia prophylactics, and clinical laboratories. Royce distributed a letter from the University of Iowa which opposes burdensome laboratory reporting requirements. Goddard summarized the rules and indicated that the department received comments from the university in relation to the requirement to report positive test results for HIV and sexually transmitted diseases. Mayer clarified that such reports are required by statute and the university is the only laboratory that does not currently report findings to the state for HIV surveillance. The information collected is used for notification of infected persons about prevention of the transmission of the disease as well as available treatments and assistance. All funding for HIV prevention, care, and surveillance programs is from the Centers for Disease Control and is based on the surveillance database. Mayer stated that requiring the laboratory to send the department a photocopy of the report sent to the physician provides needed information and requires no additional work.

ARC 0694B No questions on amendments to radiation rules.

ARC 0692B Solberg outlined changes to the WIC rules made in response to new federal guidelines. Only 6 of the 588 current grocery store vendors indicated that they do not already meet the new criteria. Bartz was advised that, with a WIC identification folder bearing all authorized signatures for a family, the WIC check requires only one signature.

ARC 0597B Subrule 38.8(11) is under a 70-day delay. Fries reported that the concerned parties were unable to meet with the department until after June 11. Changes have been proposed to clarify that the fees are paid by the shipper, not the transporter.

**TRANSPORTATION DEPARTMENT** Jody Johnson and Andy Lewis represented the department.

ARC 0662B Excused from review.

ARC 0697B No action on proposed amendments to chs 400 and 405 relating to vehicle registration, certificate of title, and salvage.

ARC 0661B Excused from review.

Committee business Johnson moved approval of the minutes of the May meeting. The motion carried. The next meeting was scheduled for July 10.

**REVENUE AND FINANCE DEPARTMENT** Carl Castelda represented the department.

ARC 0702B Excused from review.

ARC 0701B No questions on amendments relating to tax exemptions in chs 68 and 82 to 84.

ARC 0674B No questions on proposed ch 85 pertaining to the tobacco master settlement agreement.

**PROFESSIONAL LICENSING AND REGULATION DIVISION** Excused from review.

Adjourn The meeting was adjourned at 4:10 p.m.

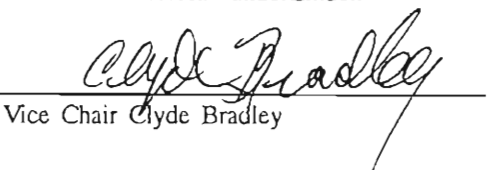
Respectfully submitted,

  
Kathleen K. Bates

  
Teresa VanderLinden

APPROVED:

  
Chair Merlin E. Bartz

  
Vice Chair Clyde Bradley