

**MINUTES OF THE MARCH 2002 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, March 8, 2002, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative Clyde Bradley, Vice Chair; Senators Jeff Angelo, Patricia Harper, John P. Kibbie, Paul McKinley, and Sheldon Rittmer; Representatives Danny Carroll, Marcella Frevert, Mark Kuhn and Janet Metcalf.

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 Vice Chair Bradley convened the meeting at 8 a.m. and requested nominations for committee chairperson.

Committee business Kibbie nominated Senator Rittmer. Metcalf moved nominations cease. The motion carried; Rittmer was elected.

ALCOHOLIC BEVERAGES DIVISION Lynn Walding and Judy Seib represented the division.

ARC 0854B Seib distributed a preliminary report based on the 20 responses the division has received to the survey distributed to 50 licensees and pointed out that the effect of the rules on insurance rates is speculative since rate schedules have not been developed. The proposed rules would increase required coverage for personal injury/death from \$10,000 for an individual and \$20,000 in the aggregate to \$50,000 and \$100,000, respectively. Coverage for lost wages would increase from \$10,000 and \$20,000 to \$50,000 and \$100,000. Coverage for property would increase from \$5,000 to \$20,000; and loss of support would be established at \$50,000 and \$100,000.

The proposed rules have been posted on the division's Web site and published in the Iowa Administrative Bulletin. Because of concern that affected parties might not be aware of the proposed changes or the survey results, ways of notifying the over 4,700 licensees were discussed, taking into consideration the costs of a newsletter or flyer and the need to inform licensees. The division agreed to notify the hospitality associations and licensees of the survey results. The committee agreed that no further surveying would be recommended.

GENERAL SERVICES DEPARTMENT Carol Stratemeyer, Dale Schroeder and Kathy Shannon represented the department. Laverne Schroeder was also present.

ARC 1349B Stratemeyer outlined amendments. Metcalf suggested the department consult with Royce about definitions. Several committee members expressed a desire that the Capitol and the State Historical Building be open to the public later in the day and on weekends.

Stratemeyer informed Schroeder that grounds and related property are mentioned in the definition of facilities because events may be scheduled on the grounds only. Schroeder voiced concern about members of the public who have a permit to carry a weapon and may be unaware of these rules and noted confusion about some inconsistencies in hours state buildings are open to the public.

ARC 1322B No action on emergency-implemented amendments to ch 3.

PUBLIC SAFETY DEPARTMENT Mike Coveyou, Jerry Brown, Sam Knowles, and Bob Messelheiser represented the department.

ARC 1373B No action on proposed amendments to ch 7 pertaining to calibration of breath-testing equipment.

ARC 1372B No action on emergency amendments to 7.5(1) and 7.5(2).

Special review Bradley requested a review of 2.3(14) regarding limitations on peace officer security guards. Royce indicated that the Code allows officers to work for merchants, but not for security companies. The department agreed to consult with local law enforcement agencies before recommending legislation, but Knowles indicated that the department would wish to retain the prohibition against peace officers working as bail enforcement agents or bounty hunters and to retain the requirement that peace officers have the knowledge and consent of their chief before engaging in security work.

INSPECTIONS AND APPEALS DEPARTMENT Jan Curtis represented the department.

ARC 1370B No action on proposed amendments to ch 51 pertaining to construction standards for hospitals. Curtis explained that standards are determined according to the level of occupancy: inpatient, outpatient surgical, or ambulatory outpatient. Curtis agreed to verify the plumbing code reference questioned by Bradley.

ARC 1369B No action on the amendment to 100.32(3) relating to discounting of raffle tickets.

RACING AND GAMING COMMISSION Karyl Jones represented the commission.

ARC 1325B No questions on the amendment to ch 5, which represents a compromise with concerned parties.

HUMAN SERVICES DEPARTMENT Mary Ellen Imlau, Nancy Freudenberg, Dennis Janssen, Jane Gaskill, and Marty Swartz represented the department. Other interested parties included Linda Goeldner of the Iowa Nurses Association, Jayme Whitehead of Iowa Lutheran Hospital, and Joan Discher of Merit Behavioral Care of Iowa.

ARC 1326B No questions on 48.24 regarding FIP eligibility.

ARC 1327B No action on the rescission of ch 56 pertaining to burial benefits.

ARC 1329B No questions on 61.6(2) regarding refugee services eligibility.

ARC 1330B No action on proposed 61.16 and 61.17 regarding recredentialing of refugees.

ARC 1331B No questions on amendments to ch 75 correcting addresses and legal references.

ARC 1332B No questions regarding correction of a cross-reference in 77.38.

ARC 1333B No action on amendments to chs 77 to 80 related to Indian health services.

ARC 1365B The amendments relating to reduction in provider payment rates are under a session delay. The amendments will be rescinded in a forthcoming rule making.

ARC 1334B Amendments to ch 78 relate to payment for services of nurse-midwives. Swartz summarized the changes from the notice. On behalf of the Iowa Nurses Association Goeldner expressed appreciation that Iowa rules now comply with state law as required by the federal government.

Motion to refer Metcalf expressed dismay at the emergency filing and moved a referral of the rules to the General Assembly.

Motion failed The motion failed.

ARC 1381B No questions on proposed amendments to ch 79 relating to reimbursements to inpatient and outpatient hospitals.

ARC 1335B No action on amendments to ch 81 pertaining to Medicaid rates for nursing facilities and submission of cost reports by the Iowa Veterans Home.

ARC 1336B No questions on amendments to ch 81 relating to accountability measures.

ARC 1338B No questions on amendments related to child care assistance under the PROMISE JOBS program.

ARC 1337B No action on amendments to ch 93 and the rescission of ch 94.

ARC 1339B No action on amendments to ch 111 pertaining to family life homes.

ARC 1243B A special review of amendments to the Iowa plan for behavioral health was requested by Bradley. Gaskill stressed that Medicaid pays for medically necessary services. When inpatient hospital care is no longer needed, a waiver of medical necessity is granted for up to 14 days until a residential bed is available. For the past three years, the contract with the managed care provider has included the 14-day waiver provision, which is now incorporated into the rules. The managed care provider has the option of continuing to pay beyond the 14 days. Gaskill indicated that the department received no opposition to the rule and is confident that children will continue to receive the appropriate care they need.

Whitehead confirmed that although the 14-day provision has been in the contract, in practice the "keep kids safe" policy authorizes continued care until appropriate placement is found. Whitehead expressed concern about the effect of the amendments on decisions issued by administrative law judges and indicated that DHS did not seek input from stakeholders before proposing these amendments.

Acknowledging that appropriate placement may require more than 14 days, Discher stated that the amendments will not affect the established practice of continuing care, but may help expedite finding the appropriate placement.

Gentry agreed to continue work with providers and the department.

TRANSPORTATION DEPARTMENT Ron Beane, Nancy Burns, Jody Johnson, Tom Sever and Valerie Hunter represented the department.

ARC 1379B No questions on proposed amendments resulting from Executive Order 8.

ARC 1380B No action on proposed amendments to ch 151 related to city requests for temporary closure of highways.

ARC 1399B No questions on proposed amendments to ch 165 pertaining to the recreational trails program.

ARC 1378B No questions on amendments to ch 400 regarding vehicle registration and certificate of title.

ARC 1320B No questions on proposed amendments to ch 520 applicable to motor carriers.

ARC 1321B No questions on proposed 529.1.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION The commission was not represented. ARC 1352B was not reviewed.

REVENUE AND FINANCE DEPARTMENT David Casey represented the department.

- ARC 1342B Proposed amendments to chs 7, 10, 67, and 81 relate to protests, exceptions to penalty, minimum bond for motor fuel licensees, and valid signatures.
- Motion to refer Carroll moved to refer to the general assembly the charging of interest on returns containing a mathematical error.
- Motion carried The motion carried.
- ARC 1343B No questions on exemptions from sales tax, inheritance tax, hotel and motel tax, and local option tax.
- ARC 1396B No questions on amendments to ch 42 relating to ethanol production and eligible housing business tax credits.
- ARC 1341B No action on proposed amendments relating to eligible development business investment tax credit applicable to individual, corporate and franchise tax.

PUBLIC HEALTH DEPARTMENT Don Flater, Jane Borst, Mary Anderson, Tim Peterson, Barb Nervig, and Pierce Wilson represented the department.

- ARC 1317B No questions on proposed amendments to radiation rules.
- ARC 1310B Subrule 38.8(11) establishes the fee schedule for transportation of radioactive waste.
- Special review At the July 2001 meeting a session delay was imposed on item 6 of ARC 0597B.
- Motion to lift delay Metcalf moved the delay be lifted.
- Motion carried The motion carried; the delay was lifted.
- ARC 1311B No questions on amendments to ch 76, maternal and child health program.
- ARC 1312B No questions on ch 93 relating to the abuse education review panel.
- ARC 1313B No action on emergency medical services provider education, training, and certification.
- ARC 1316B No questions on amendments to ch 132 relating to EMS service program authorization.
- ARC 1314B No questions on cross-reference updates in chs 134 and 135.
- ARC 1315B No questions on 176.8 regarding the appeal process for competitive grants.
- ARC 1318B No questions on proposed amendments to ch 177 resulting from the Executive Order 8 review.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT The department was excused. ARC 1375B, ARC 1377B, and ARC 1376B were not reviewed.**DENTAL EXAMINERS BOARD** The board was excused. ARC 1403B, ARC 1402B, ARC 1401B, ARC 1360B, ARC 1354B, ARC 1355B, ARC 1359B, ARC 1400B, ARC 1404B, ARC 1361B, ARC 1357B, ARC 1356B, ARC 1358B, and ARC 1353B were not reviewed.**DEAF SERVICES DIVISION** The division was excused. ARC 1395B was not reviewed.**EMERGENCY MANAGEMENT DIVISION** The department was excused. ARC 1347B was not reviewed.

- Committee business** Carroll moved approval of the minutes of the February meeting. The motion carried. The next meeting was scheduled for Monday, April 8, 2002, at 8 a.m. Metcalf requested that Gentry provide a report on waivers and on the status of Executive Order 8 reviews.

ENVIRONMENTAL PROTECTION COMMISSION Mary Skopec, Wayne Gieselman, Sara Smith, Mel Pins, and Brian Tormey represented the commission. Bob Ellis of Alter Trading Corporation was also present.

- ARC 1351B No action on proposed amendments to chs 60 and 61 relating to volunteer monitoring data requirements.
- ARC 1384B Proposed amendments to ch 65 relate to fees for certification of confinement sites and commercial manure applicators.
- ARC 1387B No questions on proposed ch 105 regarding organic materials composting facilities.
- ARC 1386B No action on proposed requirements for waste tire facilities.
- ARC 1383B Subrule 118.14(2) represents compromise with concerned parties regarding the rules pertaining to discarded appliance demanufacturing. Ellis expressed support for the process and the rules.
- ARC 1192B Royce pointed out that the 70-day delay imposed in January will expire on March 27. No action was taken on the delayed rules.
- ARC 1385B No action on amendments to chs 119, 144, 210, 211, 212, and 214 resulting from the Executive Order 8 review.

EDUCATIONAL EXAMINERS BOARD Susan Fischer represented the board.

- ARC 1348B Proposed amendments to ch 14 pertain to the teacher intern license and alternative preparation license for out-of-state candidates. Discussion ensued about the need for both knowledge of the subject matter and classroom management skills.

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EDUCATION DEPARTMENT Ann McCarthy, Jeff Berger, Carol Greta and Dwight Carlson represented the department. Other interested parties included Bob Stouffer of Des Moines Christian School and Jerry Deegan of Dowling High School.

ARC 1363B The proposed amendments to ch 17 would limit participation of open enrollment students to nonvarsity competitions for 90 days. Discussion continued about the intent to prevent athletic recruiting while encouraging participation in school activities. Metcalf recommended, and Carroll concurred, that the department not proceed with adoption of the amendments.

ARC 1345B Proposed amendments to ch 36 relate to uniform enforcement for male and female athletes regarding allowed value of athletic awards, conduct of coaches, and student transfers.

Deegan articulated the difficulty of defining school district as the term relates to nonpublic schools and the variety of reasons for transfer to a nonpublic school. Stouffer added that students are not apt to transfer to Des Moines Christian School for athletic reasons.

ARC 1346B No questions regarding proposed amendments to ch 37.

ARC 1366B No questions on the proposed rescission of ch 77.

ARC 1367B No questions on the proposed rescission of ch 78.

ARC 1344B No action on proposed amendments to ch 83 regarding teaching standards and model criteria for the beginning teacher mentoring and induction program. Questions were raised about measuring achievement and effectiveness of strategies and about the requirement to foster an appreciation for diversity.

Adjourn The meeting was adjourned at 2:55 p.m.

Respectfully submitted,

Kathleen K. Bates
Kathleen K. Bates

Teresa VanderLinden
Teresa VanderLinden

APPROVED:

Sheldon Rittmer
Chair Sheldon Rittmer

Clyde Bradley
Vice Chair Clyde Bradley