

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

- Date of meeting:** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, June 11, 2002, in Room 116, State Capitol, Des Moines, Iowa.
- Members present:** Senator Sheldon Rittmer, Chair; Senators Patricia Harper, John P. Kibbie, and Paul McKinley; Representatives Danny Carroll, Mark Kuhn and Janet Metcalf. Vice chair Clyde Bradley, Senator Jeff Angelo and Representative Marcella Frevert were not present.
- Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Brian Gentry, Administrative Rules Coordinator, and Kristen Hardt, Assistant; Andrew Fay, committee intern; caucus staff and other interested persons.
- Convened** Chair Rittmer convened the meeting at 9 a.m.
- HUMAN SERVICES DEPARTMENT** Mary Ellen Imlau and Cathy Anderson represented the department. Other interested parties included Jayme Whitehead of Iowa Lutheran Hospital and Ned Chiodo of Iowa Health Systems.
- ARC 1644B** No action on ch 24 regarding accreditation of providers of services to persons with mental illness, mental retardation, and developmental disabilities.
- ARC 1645B** No questions on amendments to ch 25 concerning community mental health center waiver request.
- ARC 1646B** No questions on amendments to eliminate well-being visits.
- ARC 1665B** Amendments to chs 51 and 52 change the way the department meets the federal SSI "pass along" requirements for SSA recipients. These amendments change reimbursements for dependent persons and family life homes. Imlau reported that the new annual method will eliminate the need for monthly adjustments.
- ARC 1648B** No questions on amendments relating to reimbursements to rehabilitation agencies.
- ARC 1243B** After reviewing the amendments to the Iowa plan for behavioral health, Gentry reported that providers include 27 hospitals and that Iowa Lutheran Hospital, which provides 9 percent of the care statewide, has filed three appeals since 1999. Gentry noted that no appeals have been filed since these amendments became effective in March and suggested that no action be taken until a sufficient period of time has passed to determine the effectiveness of the rule. Gentry emphasized that the rule pertains to situations in which medical or psychosocial necessity for hospitalization no longer exists, but a discharge plan has not been developed or cannot be implemented. Because one of the criteria for psychosocial necessity specified in the rule includes lack of a place to live, an ALJ could determine that psychosocial necessity exists and the 14-day limit should not be imposed.
- Anderson indicated that the department's role on the treatment planning team varies, depending on whether or not the department has custody of the child, and clarified that when a discharge plan is in place but the location is not available within 14 days, the department continues payment to the hospital.
- Chiodo requested that the rule include language to allow an ALJ to waive the 14-day limit or to specify that the hospital will be paid if the 14 days are exceeded.
- Metcalf advised concerned parties that they have the option of petitioning the department for a rule making.
- Whitehead stated that Lutheran Hospital would be satisfied if the department would provide written assurance that payment to the hospital would be continued if the agreed-upon placement were not available within 14 days. Chiodo asked that at next month's meeting the department respond to Lutheran Hospital's request for a written statement of its policy regarding payment when a discharge plan cannot be implemented because of a waiting list at the appropriate facility.
- Motion to refer** Kibbie moved a referral to the general assembly.
- Motion carried** The motion carried; subrule 88.67(8) was referred to the general assembly.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland and David Schmitt represented the department.
- ARC 1628B** No questions on amendments related to organization of the department.
- ARC 1627B** No questions on rule 68.36 regarding antibiotics in raw milk.
- ARC 1547B** No questions on amendments to ch 64 concerning reportable diseases and voluntary testing for paratuberculosis.
- ARC 1548B** Rowland reported that proposed amendments pertaining to scrapie disease will likely be changed because of revisions at the national level.

**GENERAL SERVICES DEPARTMENT** Betsy Dittmore represented the department of public safety and Shirley Walker represented the department of general services. Other interested parties included Margaret Thompson, chief clerk of the house.

ARC 1624B Amendments to chs 1, 3, and 11 pertain to capitol complex operations. Metcalf indicated that concerns have been raised about the effect of the rules on areas of the capitol complex that are under the control of the legislative and judicial branches.

Thompson listed concerns relating to parking, space management, weapons, security guards and interim hours of operation. Carroll asked that Thompson provide written concerns to the department and that the department respond in writing.

Dittmore clarified that the weapons prohibition does not apply to legislators since they are excluded from the definition of members of the public. Dittmore also explained that under the 24D agreement, security guards are legislative employees working under the supervision of the department of public safety; and House File 2614 appropriated funds to the department of public safety to pay the salaries of the security guards.

Metcalf asked that the department consider adding language to rule 3.4 similar to language found in 3.3(1) to clarify policy regarding areas under the control of the legislature and court.

Motion to delay Metcalf moved a 70-day delay be imposed on rule 3.4.

Motion carried The motion carried. The July 1, 2002, effective date of rule 3.4 was delayed 70 days.

Royce suggested the department define "common areas."

McKinley requested further information about the lease of buildings outside contiguous counties and work standards for the maintenance division.

**EDUCATIONAL EXAMINERS BOARD** Susan Fischer and Jane Heinsen represented the board.

ARC 1639B Amendments to ch 14 relate to teacher interns.

McKinley asked whether work experience acquired prior to the baccalaureate degree could qualify for the required three years' postbaccalaureate experience. Heinsen responded that the board did not want individuals who had failed the teacher education program to qualify under this program, and noted that exceptions could be granted in exceptional cases or for nontraditional students.

ARC 1640B No action on proposed amendments relating to the superintendent endorsement.

ARC 1641B No questions on amendments pertaining to teachers of hard-of-hearing and visually disabled students.

ARC 1642B No questions on proposed 20.3 and 20.9, evaluator license and administrative license.

**EDUCATION DEPARTMENT** Carol Greta, Dwight Carlson, Su McCurdy, Sandra Renegar, Jeff Berger and Judy Jeffrey represented the department.

ARC 1605B No action on amendments relating to athletic eligibility of open enrollment students. A revision regarding nonvarsity competitions was made in response to a suggestion from the rules review committee.

ARC 1603B No action on amendments to ch 36. Greta reported that the amendments discourage athletic recruiting and treat public and nonpublic students the same.

ARC 1604B No comments on amendments to ch 37.

ARC 1650B No questions on ch 77, which pertains to teacher intern preparation programs.

ARC 1651B No action on amendments to ch 83 regarding the teacher quality program.

ARC 1652B Proposed amendments to ch 97 pertain to supplemental weighting. McKinley asked the department to provide additional information regarding criteria for advanced level courses.

**ENVIRONMENTAL PROTECTION COMMISSION** Brent Parker, Randy Clark, Wayne Ferrand, Amber Sauser, Jon Tack and Brian Tormey represented the commission.

ARC 1619B No action on private water well construction permits. Parker indicated that these amendments encourage counties to contract with neighboring counties for the issuance of permits. The proposed fee will be used to support the data system and provide services to counties.

ARC 1620B No comment on proposed amendments to ch 64.

ARC 1621B No action on fees for new and renewed certification of confinement site and commercial manure applicators.

ARC 1618B Proposed ch 82 pertains to well contractor certification. Royce indicated that the actual amount of the fee, rather than the fee adjustment formula, needs to be stated in the rules and noted that fees must be deposited into the general fund unless a specific statute authorizes the agency to retain the fees.

ARC 1622B No action on ch 105 regarding organic materials composting facilities.

ARC 1623B Rittmer noted that rules relating to waste tire management specify that a tire pile may be located 50 feet from a property line, but burning is not allowed within 300 feet of a tire pile. Although the intent was to restrict burning on the tire site, it may affect neighboring properties. Rittmer asked the department to review the provision.

**NATURAL RESOURCE COMMISSION** Richard Bishop, Jon Tack, John Walkowiak, and Jerry Kemperman represented the commission. Other interested parties included Fred Huebner of the Iowa Whitetail Deer Association and Mike Hinc of the Iowa Deer Association.

- ARC 1657B No questions on 51.9 regarding use of nontoxic shot on wildlife areas.  
 ARC 1656B No questions on proposed amendments relating to controlled waterfowl hunting.  
 ARC 1655B No questions on amendments pertaining to licensure for wild turkey fall hunting.  
 ARC 1664B Ch 104 was adopted and filed emergency. Bishop distributed information about chronic wasting disease which affects elk and deer. Huebner expressed appreciation to DNR for seeking input from the breeders' associations.
- ARC 1653B No questions on amendments to ch 106 concerning deer hunting.  
 ARC 1517B Proposed nursery stock prices were reviewed in May. Carroll, who attended the May 29, 2002, meeting between the department and affected stakeholders, reported that the annual demand for conservation planting far exceeds the capacity of private sector nurseries. Walkowiak stated that a listing of private nurseries that grow conservation trees and shrubs will be included in the state nursery catalog. Carroll encouraged continued cooperation between the department and private nurseries.

**ETHICS AND CAMPAIGN DISCLOSURE BOARD** Charlie Smithson represented the board.

ARC 1607B, ARC 1606B, ARC 1602B, ARC 1601B, and ARC 1608B were reviewed as a group. There were no questions.

**ACCOUNTANCY EXAMINING BOARD** Bill Schroeder represented the board.

- ARC 1581B Schroeder reported satisfactory resolution of the issue raised at the previous meeting regarding use of the term CPA. Royce expressed appreciation to the board on behalf of the Accountancy Society.

**COLLEGE STUDENT AID COMMISSION** Jim Wisby represented the commission.

- ARC 1649B No action on proposed ch 37 which relates to license sanctions for nonpayment of student loans.

**INSPECTIONS AND APPEALS DEPARTMENT** ARC 1625B was excused from review.

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

- ARC 1636B No questions on proposed amendments relating to the board of barber examiners.  
 ARC 1638B No questions on ch 59 pertaining to the board of cosmetology arts and sciences.  
 ARC 1660B No action on proposed amendments to chs 60 and 63 affecting cosmetology.  
 ARC 1635B No questions on amendments pertaining to hearing aid dispensers.  
 ARC 1600B No comments on proposed amendments related to the optometry board.  
 ARC 1599B No questions on proposed amendments for the board of podiatry examiners.  
 ARC 1658B No questions on amendments pertaining to the board of psychology examiners.  
 ARC 1637B No questions on proposed amendments relating to respiratory care practice. Bledsoe indicated that the division anticipates public comment on the amendments.  
 ARC 1659B No questions on amendments relating to the speech pathology and audiology board.

**PUBLIC HEALTH DEPARTMENT** Kathleen Widelski, Cort Lohfe and Tim Peterson represented the department.

- ARC 1632B Proposed amendments to ch 74 pertain to family planning services. Metcalf suggested that the department consult with Gentry about changing "waiver" to "exception." McKinley asked that the department provide further information about federal requirements, membership of the maternal and child health advisory council, the review criteria for grants, examples of special purpose projects referenced in 74.9(2) and the amount of money that might be represented by 5 percent of unobligated program income.

- ARC 1654B No action on proposed ch 112 pertaining to biological agent risk assessment.

- ARC 1663B Ch 140 pertains to emergency medical services system development grants fund. Royce advised Peterson of complaints that the application process is too complicated. Peterson responded that the department provides assistance and examples to educate applicants and that the new system allows for greater choice and access to funding. McKinley requested data to show that the additional work yields measurable benefits, a list of EMS advisory committee members, and minutes of the meeting at which the emergency adoption was approved.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Jen Worthington represented the department.

- ARC 1661B Proposed ch 55 pertains to the volunteer fire fighter training and equipment fund. Coveyou reported that the department intends that the rules will be adopted emergency after notice so that they can be effective July 1, 2002.

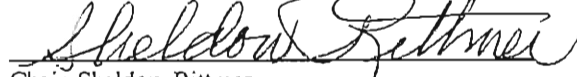
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**REGENTS BOARD** Keith Bystrom represented the board.  
ARC 1611B Proposed amendments to ch 4 relate to traffic and parking at Iowa State University. Bystrom informed Royce that the board has given each university the authority to regulate its own traffic and parking.  
ARC 1612B No action on proposed amendments to ch 13.  
**REVENUE AND FINANCE DEPARTMENT** David Casey represented the department.  
ARC 1626B No action on proposed amendments relating to practice and procedure before the department, vehicle trade-ins, and applicability of inheritance rules to estate taxes.  
**Committee business** Royce reported that Representative Hatch has requested a special review of the vision Iowa grants program.  
Kibbie moved approval of the minutes of the May meeting. The motion carried.  
The next meeting was set for the statutory date, July 9, 2002.  
Adjourn The meeting was adjourned at 2:40 p.m.

Respectfully submitted,

  
Kathleen K. Bates

APPROVED:

  
Chair Sheldon Rittmer