

# MINUTES OF THE SPECIAL MEETING OF THE

## ADMINISTRATIVE RULES REVIEW COMMITTEE

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, April 14, 2003, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Jeff Angelo, Chair, and Representative George Eichhorn, Vice Chair; Senators John P. Kibbie, Paul McKinley, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, David Heaton, and Mark Kuhn. Senator Michael Connolly was not present.

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 parties.

Convened Chair Angelo convened the meeting at 8 a.m.

**EDUCATION DEPARTMENT** Carol Greta and Jeff Berger represented the department.

ARC 2400B No questions on ch 11 concerning the unsafe school choice option.

ARC 2395B No questions on striking references to SSI guidelines in rules governing waiver of school fees.

ARC 2399B No action on proposed ch 19, which establishes procedures for closing school attendance centers. McKinley suggested that the considerations listed in 19.2(4) include student performance.

ARC 2398B Proposed amendments to ch 21 establish minimum standards for community college-employed faculty. In conformance with other states, effective July 1, 2003, community college instructors no longer need to be licensed by the board of educational examiners. Redfern was advised that individual community college standards may exceed these minimum standards.

ARC 2397B No questions on ch 51, approval of on-the-job training establishments and programs for qualified veterans.

ARC 2376B No questions on ch 52, approval of educational institutions for the education and training of eligible veterans.

ARC 2396B Greta identified changes in the teacher quality program, ch 83. Frevert expressed concern about the authority of the evaluator in the evaluation of beginning teachers.

**HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Charlene Hansen represented the department. Bernard Nesbit was also present.

ARC 2394B No questions on the rescission of ch 48.

ARC 2333B Freudenberg outlined the fiscal impact of electronic transfer of food stamp benefits. McKinley requested a list of retailers that receive state-supplied machines.

ARC 2401B No action on 65.37 restoring food stamp eligibility for some legal immigrants.

ARC 2341B Amendments to ch 97 provide for electronic receipt of child support payments. Expressing a desire that electronic receipt of benefits be voluntary, rather than required of all recipients, Nesbit opposed the amendments. The department noted that the amendments are expected to save the state \$35,000 per month. In response to Nesbit's concern about potential fees, Freudenberg clarified that the bank cannot charge a fee for use of the card for purchases, but may assess a fee for cash withdrawals. Heaton suggested that other benefits, such as child care, be paid in this manner.

ARC 2393B No action on proposed 130.3(3). Freudenberg noted that the department intends to move child care assistance from the adoption program to the child care program.

ARC 2402B No questions on extension of federally funded Medicare Part B benefits until September 30, 2003.

ARC 2331B The Medicaid reimbursement rate for transportation by car for individuals to receive necessary medical care outside the home community is reduced from 29 cents per mile to 20 cents per mile. Frevert expressed concern about the effect of the amendment on access to care. Freudenberg reported that so far there have been no appeals, and local offices have reported no problems.

ARC 2334B No questions regarding medicaid coverage for orthopedic shoes.

ARC 2392B Proposed amendments to ch 79 pertain to Medicaid reimbursement methodology for hospital inpatient and outpatient groups.

ARC 2332B No action on amendments to state maximum allowable cost for specified drugs. Discussion concerned whether pharmacies should be required to submit invoices.

ARC 2390B No action on proposed amendments establishing procedures for submitting paper attachments when requests for prior authorization of Medicaid services are filed electronically.

ARC 2391B No questions on accountability measures for reimbursement of non-state-owned nursing facilities.

**Human Services Department (continued)**

- ARC 2335B No action on amendments relating to nursing facility reimbursement. The department worked with provider groups to resolve issues pertaining to crossover claims and payment for "bed hold" days.
- Special review Freudenberg reported that in response to Carroll's request at last month's meeting, the department is providing more detailed information to the legislative fiscal bureau along with rule makings. Carroll asked that the fiscal bureau report progress in this process at the November meeting of the committee.

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

- ARC 2385B Amendments relating to dramshop liability insurance requirements reflect compromise with the insurance industry and hospitality association. Walding noted that the amount of coverage required for loss of support has been reduced by half and that minimum auto insurance already adequately covers property damage. The continuous coverage requirement was changed to allow coverage to terminate during a period of suspension. Additional time was provided for issuance of the new policy. Walding noted that dramshop reform public forums will be held in April, May, July and August to improve understanding of the law and to find ways to reduce amounts paid out and, therefore, premiums. Walding noted that information regarding claims is not currently available because most settlements require confidentiality.

Eichhorn expressed concern about inadequate input from the legislature in setting limits, the designation of "ordinary and customary" exclusions for civil tort liability, and the perception that the division is regulating insurers. In response, Seib stated that the division does not see or review policies; licensees certify to adequate coverage. The wording "ordinary and customary" was added at the request of the insurance industry.

- Motion to refer Eichhorn moved a referral of the dramshop law to the general assembly.
- Motion carried The motion to refer carried. Royce agreed to draft a summary of issues for the committee to consider at the next meeting.

**DENTAL EXAMINERS BOARD** Jennifer Hart represented the board.

- ARC 2327B Hart stated that the proposed amendments regarding preventative services provided by a dental hygienist under a collaborative agreement with a dentist generated many comments. Frevert expressed hope that an agreement can be reached and that access to dental care in Iowa will improve.

**ECONOMIC DEVELOPMENT DEPARTMENT** Ken Boyd represented the department.

- ARC 2360B No action on proposed amendments to ch 60 to merge the CEBA venture assistance program and the entrepreneurial ventures assistance programs.

**PERSONNEL DEPARTMENT** Gregg Schochenmaier, Greg Cusack, and Donna Mueller represented the department.

- ARC 2367B Cusack outlined proposed amendments to the IPERS rules. The department intends to continue to work on equitable calculation of wages in cafeteria plan arrangements and clarification of the application for retroactive benefits.

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland and Morris Boswell represented the department.

- ARC 2371B No questions on embryo transfer rules applying to quarter horse racehorses.

- ARC 2362B No questions on pseudorabies monitoring test.

**AGRICULTURAL DEVELOPMENT AUTHORITY** Ron Rowland and Jeff Ward represented the authority.

- ARC 2359B No questions on proposed amendments to the IADA loan participation program.

**ENVIRONMENTAL PROTECTION COMMISSION** Anne Preziosi, Jim McGraw, Brian Tormey, and Jon Tack represented the commission. Representative Mary Lou Freeman was also present.

- ARC 2361B No questions on the increase in the fee cap for Title V operating permits.

- ARC 2355B No action on ch 108, beneficial use determinations: solid by-products as resources and alternative cover material.

- ARC 2357B No action on proposed amendments to ch 109 concerning disposal of general special waste.

- Special review Tack distributed copies of the statute and the rules regarding closure and postclosure of landfills. Postclosure accounts ensure that postclosure costs are covered by user fees as opposed to future taxpayers and communities. Freeman requested that local governments be exempt from maintaining dedicated funds if they conform to one of the financial assurance mechanisms provided for in sections 111.6(1) through 111.6(9). Following discussion, it was agreed that a statutory change would be needed to address Freeman's request.

**NATURAL RESOURCE COMMISSION** Jon Tack, Richard Bishop, John Walkowiak, Kevin Szcodronski, and Marion Conover represented the commission. Laverne Schroeder was also present.

- ARC 2348B No questions on ch 12 concerning conservation education.
- ARC 2388B No questions on 15.13, wildlife violator compact.
- ARC 2389B No action on amendments relating to titling, registration and bonding of boats, all-terrain vehicles and snowmobiles. Frevert will forward a letter for the department's response.
- ARC 2339B No questions on the proposed amendment to add the pool slough wildlife area to the list of wildlife refuges.
- ARC 2337B No questions on amendments to ch 61 concerning fees for education programs and group camps at state parks and recreation areas.
- ARC 2346B Proposed ch 74 implements the forest land enhancement program. Walkowiak distributed copies of the state priority plan.
- ARC 2338B No action on amendments to ch 88 regarding fishing tournaments.
- ARC 2340B No action on proposed amendments to ch 91 pertaining to waterfowl and coot hunting seasons, which include two urban zones for shooting giant Canada geese.
- ARC 2343B No questions on nonresident deer hunting licenses.
- ARC 2344B Proposed amendments to ch 99 pertain to wild turkey fall hunting.
- ARC 2345B No action on 104.11 concerning identification and disposal of disease-affected Cervidae.
- ARC 2342B No action on proposed amendments relating to deer hunting licenses.

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

- ARC 2325B No questions on proposed ch 4, which is rewritten to remove outdated rules.

**INSURANCE DIVISION** Susan Voss and Roseanne Mead represented the division.

- ARC 2364B These amendments propose to divide ch 15 into four divisions, clarify claims settlement practices, and adopt NAIC model regulations. An issue not yet resolved concerns diminished value, 15.43(10).
- ARC 2353B No questions on amendments to ch 90 pertaining to an exemption from privacy notice requirements.

**TREASURER OF STATE** Karen Sinclair, Lynn Bedford, and Stefanie Devin represented the treasurer's office.

- ARC 2358B No action on proposed ch 13, deposit and security of public funds in banks. Devin noted that changes regarding custodians will be made in response to comments received during the notice period.

**UTILITIES DIVISION** Gary Stump and Cecil Wright represented the division.

- ARC 2378B No action on proposed amendments resulting from Executive Orders 8 and 9.
- ARC 2379B No action on proposed amendments to gas pipeline and storage rules.
- ARC 2329B No action on proposed amendments to ch 15 concerning alternate energy production.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou, Sam Knowles, Jim Kenkel, and Jeff Quigle represented the department.

- ARC 2354B Coveyou explained changes from the proposed amendments to ch 2, including provisions regarding uniform approval and proof of financial responsibility.
- ARC 2365B Amendments to ch 5 were filed emergency to conform to federal requirements for facilities receiving Medicare and Medicaid reimbursement. After March 11, 2003, facilities may use the 2000 Life Safety Code, but all facilities must comply with the 2000 Life Safety Code by September 11, 2003. In regard to ICF/MR, Coveyou noted that Iowa law requires compliance with the 1985 Life Safety Code, whereas CMS rules require compliance with the 2000 Life Safety Code. The department of inspections and appeals may request that CMS recognize current Iowa law; otherwise, facilities will be required to comply with both the 1985 and 2000 Life Safety Codes. Coveyou also reviewed amendments that the department intends to make regarding existing assisted living facilities.

**PUBLIC HEALTH DEPARTMENT** Barb Nervig represented the department.

- ARC 2383B Nervig noted that the amendment to 85.3(1) was requested by the Iowa Hospital Association. Comments indicate that additional work is needed. While the amendment does no harm, it does not really accomplish the intent of the hospitals.

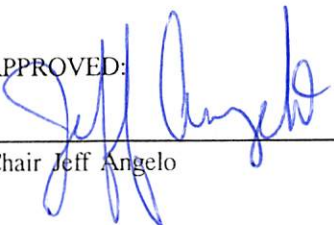
**Committee business** Kibbie moved approval of the minutes of the March meeting. The motion carried. The next meeting was scheduled for Tuesday, May 13, 2003, at 8 a.m. Angelo requested that the agenda include a review of fees for driver's education provided by private companies for students receiving free and reduced-price lunches.

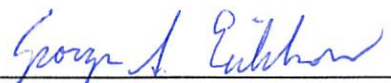
Adjourned The meeting was adjourned at 12:23 p.m.

Respectfully submitted,

  
Kathleen K. Bates

APPROVED:

  
Chair Jeff Angelo

  
Vice Chair George Eichhorn