

**MINUTES OF THE REGULAR MEETING  
OF THE**

**ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Time of meeting** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday and Wednesday, December 9 and 10, 1997, in Room 116, State Capitol, Des Moines, Iowa.
- Members present:** Senator H. Kay Hedge, chair, and Representative Christopher Rants, vice chair; Senator Sheldon Rittmer; Representatives Danny Carroll, Minnette Doderer, Janet Metcalf and Keith Weigel. Senators Merlin E. Bartz, John P. Kibbie, and William Palmer were excused.
- Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Jackie Von Ekeren Romp, Administrative Rules Coordinator; caucus staff and other interested persons.
- Convened** •Chair Hedge convened the meeting at 10:01 a.m.
- HUMAN SERVICES DEPARTMENT** Present from the department were Mary Ann Walker, Janice Von Arb, Siri Granberg, Michaela Funaro, Eloise Gardner, Michael Thomas, Eric Sage, Doris Taylor, Mary Loven, and Ruth Schanke.
- ARC 7674A** No questions concerning child support amendments to 7.1 and Chapters 95, 96, 98 and 99.
- ARC 7675A** No questions on FIP amendments to Chapters 7, 9, 40, 41, 42, 46 and 93.
- ARC 7676A** No committee action on the 25 percent sanction of FIP benefits for failure to cooperate with the child support recovery unit, amendments to Chapters 40, 41, 43 and 46.
- ARC 7656A** No questions regarding exemption of educational funds when determining income for FIP and Medicaid eligibility, 40.27, 41.27, 75.52, 75.57.
- ARC 7617A** •Hedge requested clarification of the change in Medicaid policy in 75.54(3) regarding deprived children. Granberg explained that if a parent is unemployed or underemployed, the child is considered deprived; and eligibility for Medicaid can begin seven days after the date of application. Since income considerations apply, it is possible that working parents can be eligible if they are underemployed.
- ARC 7677A** Several revisions were made to the HCBS MR and BI waivers in Chapters 77 to 79 and 83 as a result of public comment.  
•Weigel was advised by Schanke that concerns of the nine commenters were addressed except when the department was bound by statute.
- ARC 7657A** Previously only one code for manual manipulation existed. The American Medical Association has approved three codes, depending upon the part of the spine manipulated.  
•Rittmer inquired about the financial effect of the new codes in 78.8 and 79.1(2). Walker confirmed that areas requiring more intense work, based on the spinal manipulation code identified in the diagnosis, will be reimbursed more.
- ARC 7679A** No committee action on reimbursement policies for federally qualified health centers and rural health clinics, 79.1, 88.14.  
•Weigel requested information regarding the department's collection of overpayments in cases of agency error.
- ARC 7618A** •The amendment to 83.22 adds two counties to the elderly waiver program. Weigel was informed that ten counties are left to be added.
- ARC 7619A** No questions on the managed health care amendments to Chapter 88.
- ARC 7620A** •Loven responded to Doderer that the court system resolves contested paternity.
- ARC 7680A** Administrative adjustment of support amendments to Chapter 99 will be implemented in June of 1998 due to extensive changes that need to be made to the computer program.  
•Walker advised Rittmer that administrative changes in support are still approved by the court, but the parties do not need to appear in court.
- ARC 7621A** No committee action on rehabilitative treatment and supportive services amendments to Chapters 108, 114, 152, 156, 182 and 185.
- Special review** •Following audit of a Sioux City facility, Rants requested a review the department's documentation requirements. The state auditor's office reported that DHS did not have rules requiring agencies to document how program money was spent. Sage responded that over the three-fiscal-year period, services were offered under different programs. Rules for documentation were not established for the tracking and monitoring pilot program; however, contracts with providers were required. Rules have been formulated in coordination with juvenile court officers and are now in place, along with a reporting format for providers. The courts review documentation before submission to the department for payment. The attorney general's office is currently involved in determining whether Woodbury County will need to repay any moneys to the state.
- Audit records**
- Emergency filing** Walker informed the committee of the SSI cost of living adjustment. Discussion ensued regarding resources and income allowed the community spouse.

**DEPARTMENT FOR THE BLIND** R. Creig Slayton and Diann Weinman represented the department.

ARC 7673A •In response to Carroll's inquiry about exceptions to the education and experience requirements in Chapter 2, Slayton confirmed that exceptions may be made upon the director's recommendation to the commission.

**EDUCATION DEPARTMENT** Ann Molis represented the department.

ARC 7651A There were no questions regarding Chapter 8, ICN subsidization reimbursement procedures.  
 ARC 7650A Amendments to 12.2(3) and 12.3(6) regarding minimum school day and student records were adopted as noticed.

•Rants requested further information regarding the rationale for including parent-teacher conference time in the required instructional time.

Molis distinguished between a student's permanent record and cumulative record. Senate File 515 granted juvenile authorities access to a student's permanent record. Because the information needed by juvenile authorities is contained in the cumulative record, this amendment allows the cumulative record to be considered the permanent record in the case of students who are in the juvenile justice system.

**ETHICS AND CAMPAIGN DISCLOSURE BOARD** Lynette Donner represented the board.

ARC 7682A Donner explained that the amendment to 2.1(7) sets a date certain for the Department of Revenue and Finance to determine the number of registered voters in each party in order to distribute undesignated election campaign funds according to the formula set by statute.

**UTILITIES DIVISION** Vicki Place, Cynthia Dilley and Don Stursma represented the division.

ARC 7670A No questions regarding safety standards in Chapters 9, 10, 12, 19, 20 and 25.

ARC 7669A The amendments to 19.13 permit utilities to develop plans for the transportation of natural gas in order to bring competition to small volume and residential customers. Only the cost of transportation is tariffed. Gas utilities now sell the commodity and its transportation together; this will allow separation of the gas and its transportation. Over the past several years, federal orders have made this possible; but because of cost barriers marketers have not been involved in the residential class.

•Weigel asked about reliability assurances. Place responded that the obligation to serve will still exist and that the utility, as provider of last resort, would need to be compensated by the marketer.

Motion to refer Weigel moved a general referral to the legislature.

Motion carried The motion carried.

ARC 7643A There were no questions on management efficiency amendments in 29.3(1) and 29.5.

**PUBLIC HEALTH DEPARTMENT** Mike Marshall and Frank Biagioli represented the department.

ARC 7642A No committee action on Chapter 22 amendments regarding practice of tattooing.

ARC 7641A •Responding to Hedge's inquiry about success rates for gambling treatment programs and frequency of relapse, Biagioli stated that a number of factors determine success and that the new data-taking system should help the department document success statistics.

•Rants compared the programs to other treatment programs in which the goal is for clients to quit the behavior. Biagioli emphasized that the programs want to help people keep balance in their lives.

•Rittmer acknowledged the significance of a client's recognition that a problem exists.

Motion to publish Marshall asked the committee's permission to publish in the Iowa Administrative Bulletin a notice of the availability of the department's lead hazard information pamphlet. Metcalf moved the committee permit publication of the notice in the Bulletin.  
 in IAB

•Carroll asked the department if this pamphlet would replace the one that is currently in use by realtors. Rita Gergely will provide information.

Motion carried The motion carried.

**SUBSTANCE ABUSE COMMISSION** Dean Austin represented the division.

ARC 7662A A new rule 3.25 is proposed to set standards for assessment and evaluation programs for OWI offenders.

•Austin outlined for Metcalf the rationale for the new rule, as well as how the 26 current providers can continue to provide the service until the licensure application process, which includes an on-site review, is completed.

ARC 7664A Proposed new Chapter 8 sets forth the procedures for programs implementing the OWI law.

•Doderer voiced a concern about the record-keeping requirement. Records may be destroyed after five years, but the rule doesn't require destruction of the records.

•Hedge inquired about possible overlap or conflict in DOT and substance abuse commission rules. Austin said the departments worked together closely in developing the rules.

•Weigel asked what constitutes completion of treatment. Austin responded that the program would determine completion on an individual basis, with an individual remaining in the program until treatment goals are met.

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE** Pat

Rounds represented the board.

- ARC 7668A No questions on 11.1(3)“b” concerning good faith efforts to maintain coverage.
- ARC 7615A No questions on consideration of cash flow to determine inability to pay, 11.1(3)“n”(3).
- ARC 7616A Rule 11.8 allows \$10,000 for RBCA analysis for monitor-only sites. Most owners will be able to exit the program after this analysis.
  - Rounds reported to Weigel that there are about 1800 sites in the state with an SCR accepted as high-risk or low-risk monitoring, many of which have already paid the \$5000 copayment and wouldn't have to pay the 18 percent copayment on the next \$10,000 anyway. Since the program is retroactive, owners can be reimbursed the copayment for RBCA if they were at monitor-only status.

**PROFESSIONAL LICENSING AND REGULATION DIVISION** Roger Halvorson represented the division.

- ARC 7671A There were no questions on vendor appeals, Chapter 3.
- Rants in chair

**PERSONNEL DEPARTMENT** The department was represented by Kelly Lovell and Greg Cusack.

- ARC 7667A •Doderer requested information about the proposal from protected classes of local fire and police and the costs of salaries of those administering the system. Ed Cook will respond. There was no committee action on IPERS amendments to Chapter 21.

**WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION** Joann Callison represented the division.

- ARC 7658A No committee action on the JTPA program, Chapter 12.

**IOWA DEPARTMENT OF ECONOMIC DEVELOPMENT** Phil Dunshee, Keri Boyd, Mike Miller, Lane Palmer, Melanie Johnson, Kim Stattler, and David Lyons represented IDED.

- ARC 7649A No questions relating to Chapter 7 amendments to the apprenticeship program of the jobs training program.
- ARC 7648A The amendments to 23.2, 23.6, 23.7 and 23.17 regarding the CDBG component for community facilities and services fund allow for more community-centered activities and establish a preapplication process to provide technical assistance to communities in the application process.
  - Dunshee told Metcalf that the percentage allowed for sewer and water projects is adjusted periodically to address other barriers to community growth and distinguished between the Iowa physical infrastructure assistance program, which is state-funded, and the CDBG fund, which is federally funded.

- ARC 7647A CEBA wage standards are established in Chapter 53.
  - Weigel pointed out that while the wage requirement is up in 76 counties, it's going down in 23 counties and expressed concern that the legislature should be involved in these changes.

**Motion to delay** In view of the purpose of the CEBA program to assist communities and rural areas of the state, Weigel moved a session delay of the amendments to Chapter 53.

**Motion failed** Following discussion, the motion failed.

**Motion to refer** Weigel moved a referral of the CEBA wage standards to the general assembly.

**Motion carried** The motion carried.

- ARC 7646A No questions on the CEBA venture project component, 53.2, 53.6(3)“e,” and 53.9.
- ARC 7645A •Lyons responded to Metcalf's inquiry that the physical infrastructure assistance program, Chapter 61, is primarily for economic development projects with statewide impact and for revitalization of contaminated property; so DNR and DOT funds are also invested on these projects.
  - Weigel identified Internet access for businesses as an economic development issue and asked the department to look into a report about a Waterloo company that has shipped manufacturing out of state and has requested designation as an enterprise zone to build an administrative office.

**INSPECTIONS AND APPEALS DEPARTMENT** Rebecca Walsh, Robert Haxton, and Mary Oliver represented the department.

- ARC 7624A No questions on amendments to Chapters 30, 31, 32 and 36 concerning egg handlers.
- ARC 7623A No questions on 51.32(2) and 51.38(1) regarding hospitals.
- ARC 7687A No action on amendments regarding infection control in health care facilities made in accordance with Centers for Disease Control information.
- ARC 7688A No questions on dependent adult abuse and criminal history record checks for employees of health care facilities.
- ARC 7686A No questions on the addition of violation classifications.

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

- ARC 7655A •Changes were made as a result of comments. Jones advised Metcalf that the qualified sponsoring organization is differentiated from the licensee, and subcontractors are not required to report to the commission.

Hedge in chair

**Committee business** Doderer moved approval of the minutes.  
**Minutes** Motion carried.  
**January meeting** The January meeting will be Tuesday, January 6, 1998, as a one-day meeting if possible.  
 Rants in chair

**TRANSPORTATION DEPARTMENT** The department was represented by Dave Titcomb and Dick Hendrickson.

ARC 7612A •Rittmer clarified that the financial liability coverage increase in 425.10(8) applies to dealers. Chapter 641 provides for the content of the financial liability coverage card.

ARC 7644A OWI and implied consent amendments to Chapter 620 implement 1997 Iowa Acts, House File 707.

•Metcalf reported that Polk County judges are concerned that the drinking driver course varies from county to county. Hendrickson stated that the department of education oversees the course provided by the area community colleges. DOT has authority for oversight but has not reviewed the courses.

**January agenda** Metcalf asked that the drinking driver course requirements be reviewed in January.

**Special review** Hedge requested the review of the DOT application of House File 707, which allows offenses from the past 12 years to be counted. The previous statute allowed the record to be kept for 12 years with a 6-year window of previous offenses for enhanced revocation period. Hendrickson stated that there would have to be a triggering event such as an additional conviction before the department would extend the period to 12 years.

•Carroll categorized the legislation as an attempt to stiffen the penalties for a second or third offense and for driving while under suspension or revocation.

•Both Hedge and Doderer reported instances of extension of a revocation period without a subsequent violation.

**January agenda** Carroll requested further information and placement on the January agenda.

**Motion to refer** Hedge moved referral to the general assembly.

**Motion carried** The motion carried.

**ELDER AFFAIRS DEPARTMENT** Ron Beane represented the department.

ARC 7614A The amendment to 1.2 provides for the department to grant exceptions to its rules.

•Metcalf requested the department to provide a way for the public to appeal its waivers. Beane responded that one of the criteria for granting the exception is that it be in the public interest. The department will look into ways to inform affected parties. Royce suggested that petitioner could be asked to list names of those who might be aggrieved.

•Hedge questioned adopting the amendments emergency after notice. Beane responded that although the amendments went into effect, no exceptions have been granted.

ARC 7613A No questions on the AAA meal site assessment amendments to 7.3.

Hedge in chair

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland, John Whipple, John Schlitz, and Jake Wakefield represented the department.

ARC 7629A Anhydrous ammonia tanks unloaded in the field may now have a capacity of 5,000 gallons if the applicator can handle the entire load. The previous limit was 3,500 gallons.

ARC 7684A No committee action on milk haulers and milk graders, 68.40 to 68.71.

**Special review** Rowland asked the committee to reconsider the objection imposed in 1981 regarding license fees for auction markets and livestock dealers. If the objection remains in place, the department will stop charging the fees and will lose the \$15,000 generated by the fees.

**Objection to 66.1(3)** •Rowland confirmed for Metcalf that fees are charged for other licenses.

**Motion** Doderer moved lifting the objection.

**Motion carried** The motion carried.

**Objection to 66.7(2)** This objection relates to an exemption to brucellosis testing for calves six months of age or less brought into Iowa for dairy or breeding.

•Schlitz explained to Weigel that those calves aren't at risk and that testing at that time wouldn't detect brucellosis. Iowa recently achieved brucellosis-free status.

**Motion** Weigel moved the objection be lifted.

**Motion carried** The motion carried.

**ENVIRONMENTAL PROTECTION COMMISSION** The commission was represented by Darrell McAllister, Wayne Ferrand and David Wornson.

ARC 7652A McAllister explained Chapter 49, 60.3(2)"j," 64.15(3), and Chapter 69, concerning nonpublic water wells and wastewater treatment and disposal. These rules will be implemented at the county level.

•McAllister informed Hedge that these rules will be applicable to individuals who put in their own wells, including wells used only for livestock and that requirements for sandpoints are included.

**EPC continued**

- ARC 7653A •Chapter 64 amendments extend stormwater discharge permits for an additional five years, and include a new general permit. Ferrand related to Rants that the main requirement of the permits is a pollution prevention plan.
- ARC 7654A •McAllister told Weigel that the pollution prevention plans are kept on site, and that enforcement actions can be taken if the plans aren't followed.  
Chapter 134, groundwater professional certification, is amended to remove a grandfather date. Wornson informed Royce that the change from registration to certification, requiring examination and continuing education, was made two sessions ago.

**NATURAL RESOURCE COMMISSION** Steve Derman, Richard Bishop and Donald Bonneau represented the commission.

- ARC 7697A No committee action on hunter safety course, 15.1.
- ARC 7696A No questions on dock flotation devices, 16.5(4).
- ARC 7690A No questions on amendments to 33.50 concerning protection of open space lands.
- ARC 7693A No questions on catch and release of black bass in Brown's Lake in Jackson County, 81.2(2).
- ARC 7695A •Bishop told Doderer that a caller reaches a recording when telephoning the harvest information program, 92.7.
- ARC 7692A •Doderer asked about deer hunting licenses for nonresidents who own land in Iowa. Bishop replied that resident hunters have voiced concerns about out-of-state hunters buying a piece of land in Iowa so that they can be guaranteed a license.  
•Carroll was informed that more licenses are issued in the southern and western parts of the state. The department has limited the number of licenses available in the northeast.  
•Bishop answered Weigel that 5000 nonresident licenses were issued and about 1600 were denied. All residents can get licenses; the department estimated 200,000 will be issued. Out-of-state hunters are generally interested in taking bucks, so they do not affect the deer population.  
•Bishop told Doderer that out-of-state hunters may lease land for hunting from Iowa landowners but, for the most part, the landowners don't require the taking of does.
- ARC 7694A No questions on wild turkey spring hunting, 98.12.
- ARC 7689A No action on proposed wild turkey hunting license application procedure, 98.14.
- ARC 7691A No action on deer population management units in Dubuque and Polk County, 105.3 and 105.4.

**Rants in chair**

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

- ARC 7635A No questions concerning interest rate for 1998, 10.2(17).
- ARC 7639A No questions on credit allowed resident shareholders of S corporations, amendments to Chapters 10, 42, 50 to 54 and 59.
- ARC 7636A No committee action on the adoption of the model recordkeeping and retention regulations.
- ARC 7700A •Castelda explained to Rittmer that the department anticipates approximately 25 businesses will be issued direct pay permits to pay tax directly to the department every two weeks rather than paying a vendor who remits tax to the department.
- ARC 7698A Exemptions for sales or rental of computers, industrial machinery and equipment, fuel and electricity have been proposed for 15.3(3), 17.3, 17.14, 18.29, 18.45, and 18.58 and will remain under notice pending legislation.
- ARC 7638A No questions on sales and use tax amendments to Chapters 16 to 18 and 30.
- ARC 7637A No action on property tax amendments to Chapters 71, 75, 78, 80 and 123.  
•Rittmer questioned the handling of due date; Castelda responded that it's a local issue decided by county treasurers.
- ARC 7699A No questions on fiduciary income tax amendment to 89.8.

**REGENTS BOARD** The board was represented by R. Wayne Richey and Richard Tiegs. Joe D. Coulter was present from the University of Iowa.

- ARC 7627A No action on the amendment to Chapter 1 proposing Iowa resident tuition fees for Native Americans from 14 tribes with historical ties to Iowa. The board anticipates about 10 or 12 students per year would be affected by the amendment.
- ARC 7626A No questions regarding personnel administration, 3.39.
- ARC 7625A The board proposes amending 8.9(1) to remove the requirement for a roll call vote for consent in situations of potential conflict of interest, usually involving the spouse of an employee; however, the vote remains public.

**INSURANCE DIVISION** Susan Voss and Ann Outka represented the division.

- ARC 7659A No action on licensure of agency, 10.2, 10.8 to 10.24.
- ARC 7611A No action on portability of health insurance amendments to Chapters 35, 36, 71 and 75.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Betsy Dittmore represented the department and Darwin Chapman, Bob Pontious and Joanne Tinker were present from the DCI.

ARC 7661A Sex offender registry rules, 8.301 to 8.305, generated extensive public comment. The rules incorporate an affirmative public notification process based upon risk assessment.

Hedge in chair

ARC 7660A No questions on amendments to Chapter 23 pertaining to closed circuit videotape surveillance on excursion gambling boats.

**LABOR SERVICES DIVISION** Byron Orton, Walter Johnson, Carl Robey, and Cynthia Tofflemire represented the division.

**Special review  
lockout/tagout** The review of lockout/tagout restrictions on industrial equipment was requested by Carroll. Iowa statute requires the adoption of federal safety standards that provide that equipment must be prevented from accidental operation during service and maintenance. An Iowa plant objected to a February 1996 citation for a violation of the lockout/tagout requirement. A settlement satisfactory to all parties has now been reached in the case.

**Adjourned** The meeting was adjourned at 12 noon.

Respectfully submitted,

*Kathleen K. Bates*  
Kathleen K. Bates

APPROVED:

*H. Kay Hedge*  
Chair H. Kay Hedge

*Christopher Rants*  
Vice chair Christopher Rants