

MINUTES OF THE JULY 2004 MEETING  
OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Thursday, July 8, 2004, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Michael Connolly, John P. Kibbie, Mary Lundby, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, and David Heaton. Representative Geri Huser was not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Kristen Hardt of the office of the Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened Chair Eichhorn convened the meeting at 9 a.m.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.
- ARC 3386B No questions on the amendments to 7.5(2) concerning treatment intervention appeals in the civil commitment unit for sexual offenders.
- ARC 3437B No action on proposed amendments to ch 50 concerning SSA for Medicaid and Medicare eligibles. The state anticipates a net savings of \$40 per person per month for the approximately 6200 individuals who may be affected.
- ARC 3438B No action on proposed amendments relating to HCBS waivers.
- ARC 3439B The proposed amendment to 78.25(2)"e" pertains to Medicaid coverage for dental hygiene services in maternal health centers. Following discussion about whether services may be provided in public health settings or are limited to maternal health centers, the department was advised to clarify the adopted rule. Suspecting that the cost estimate of \$4600 may be low, McKinley asked that actual costs be reported after one year.
- ARC 3387B Proposed amendments to chs 130 and 170 relate to child care services. McKinley requested further information about the number of audits conducted in the past year.
- ARC 3388B No questions on amendments to ch 185.
- Special review Proposed 76.13 provides the requirements for health insurance data match to ensure that Medicaid is the payer of last resort.
- STATE PUBLIC DEFENDER** Mark Smith represented the office. Other interested parties included Jenny Tyler and Keith Rigg of the Iowa State Bar Association and Erika Anderson on behalf of the Iowa Association of Criminal Defense Lawyers.
- ARC 3443B Amendments relating to appointment of counsel and claims for services were adopted and filed emergency. Eichhorn and Connolly expressed concerns about the emergency filing.  
Anderson reported that the association is reviewing the amendments and intends to submit comments at the public hearing. Tyler noted that the state bar association has several concerns which will be expressed at the public hearing. Rigg added that the bar association's concerns relate to the emergency filing, the lack of an appeal procedure for denial of claims not filed within 45 days, court orders being made void, and consideration of amounts paid to a privately retained attorney prior to appointment by the court.
- ADMINISTRATIVE SERVICES DEPARTMENT** Carol Stratemeyer and Lise Melton represented the department.
- ARC 3415B Amendments to chs 102 and 105 affect printing and procurement of information technology. Melton advised McKinley that a decrease in the volume of printing has resulted in layoffs in the printing division and closing of printing centers.
- ARC 3432B No questions on amendments to the definition of state agency in ch 106, service contracting.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland and Dr. John Schiltz represented the department. Judy Collora of the Iowa farm deer council was also present.
- ARC 3413B No action on emergency rule 66.13, which increases feeder pig dealer bonding and letter of credit requirements.
- Special review Rowland outlined the chronic wasting disease program's history and reported that, based on an opinion from the attorney general's office which indicated that the department lacked statutory authority to establish fees to fund the program, fees have been refunded and the CWD rules have been rescinded. Discussion related to the department's budget reductions, costs of the program, and needs of the industry. Lundby expressed serious concern that the department chose to drop the program; Kibbie concurred and asked that all avenues be explored to find a way to reinstate the program. Members requested a copy of the letter from the attorney general's office. Eichhorn directed Royce to draft a letter to the legislative council outlining committee concerns; Lundby asked that the specific amount of money needed to run the program be included in the letter. Connolly commented that the governor's office

**Agriculture and Land Stewardship Department (continued)**

needs to be involved in finding a solution and that the department needs to meet with industry so that agreement can be reached and a plan can be presented to the legislature. Collora stated that the deer industry wants the CWD monitoring program to remain in effect. Committee members expressed strong opinions that the program should be preserved. Rowland emphasized that there is no scientific proof that CWD has an adverse effect on human health.

**COLLEGE STUDENT AID COMMISSION** Julie Leeper represented the commission.

**ARC 3431B** Proposed ch 12 pertains to the Iowa tuition grant program. Leeper clarified the requirements that eligible institutions be exempt under Section 501(c)(3) and provide matching institutional funds and stated that the statute included existing for-profit colleges. Some members expressed concern about the exclusion from the program of for-profit institutions that may operate in Iowa in the future. Leeper advised Carroll that the legislation was recommended by the college presidents association.

**INSPECTIONS AND APPEALS DEPARTMENT** David Werning represented the department.

**ARC 3392B** No questions on proposed amendments to ch 51 concerning critical access hospitals.

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION** John Benson represented the division.

**ARC 3391B** No questions on the amendment to increase the wireless E911 surcharge.

**ENVIRONMENTAL PROTECTION COMMISSION** Jeff Myrom represented the commission.

**ARC 3399B** No questions on the amendment to ch 11 regarding a tax exemption for property used to process waste wood products.

**ARC 3408B** No action on proposed amendments to ch 5 concerning composting of organic materials.

**ARC 3397B** No action on proposed amendments to chs 120 and 121 pertaining to landfarming of petroleum-contaminated soil and land application of wastes.

**ARC 3409B** No action on the proposed rescission of waste tire management rules, chs 215 to 217.

**NATURAL RESOURCE COMMISSION** Jon Tack, John Phoenix, Kelly Smith, Ross Harrison, and Steve Dermand represented the commission.

**ARC 3398B** No action on proposed amendments to add form numbers to rules regarding registration of boats, snowmobiles and all-terrain vehicles and to conform to Coast Guard rules.

**ARC 3407B** No action on proposed 40.6(3) establishing "no anchoring" areas on Red Rock Lake.

**ARC 3402B** No action on 40.49 concerning mooring of vessels on posted riparian property of the state of Iowa. Frevert expressed concern about the department's changing the rules after the boating season began. Dermand reported that the rule was adopted in response to complaints about a private, commercial barge that was blocking access to a public area and offered assurance that only problem areas will be posted.

**ARC 3401B** No action on amendments to ch 43 pertaining to motorboat noise levels.

**ARC 3406B** No questions on daily deadline for removing decoys from game management areas.

**ARC 3405B** No questions on 53.3 pertaining to controlled hunting at the Lake Odessa wildlife management area.

**ARC 3400B** No questions on rental fees for renovated cabins.

**ARC 3403B** No action on amendments intended to encourage landowners to implement conservation methods to provide habitat areas on private land for endangered and threatened species.

**ARC 3404B** No action on amendments to ch 99 to increase combination shotgun-or-archery license quotas for wild turkey fall hunting.

**Special review** No action on the proposed rules for the Iowa nature store. Royce advised the committee that the department's authority rests with its designation as a charter agency. McKinley expressed concerns about agreements the department has made and encouraged expansion of the scope of vendor solicitations in the private sector.

**Committee business** Minutes of the June 2004 meeting were approved.

The August meeting was scheduled for August 10 and 11.

**LAW ENFORCEMENT ACADEMY** Penny Westfall represented the academy.

**ARC 3393B** No action on proposed amendments to chs 1 and 2. Eichhorn questioned inclusion of the phrase "appointed by the director" in the definition of law enforcement officer.

**HISTORICAL DIVISION** Kathy Gourley represented the division.

**ARC 3425B** No questions on amendment of ch 1, description of organization.

**ARC 3423B** No questions on proposed amendments to public records and fair information practices rules.

**ARC 3424B** No action on proposed amendments to ch 22 concerning public access to the historical library and state archives.

**RECORDS COMMISSION** Gordon Hendrickson represented the commission.

**ARC 3426B** No questions on amendments to rules of the records commission.

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

ARC 3412B No action on proposed amendments to ch 4 concerning the center for congenital and inherited disorders. The department agreed to report back in response to Royce's inquiry about the authority for the neonatal metabolic screening fee and the related questions of who keeps the fee and how the fee may be used.

**UTILITIES DIVISION** Cecil Wright and Jennifer Smithson represented the board.

ARC 3411B No questions on proposed amendments to chs 19 and 20 relating to consumer services, payment agreements and notices of disconnection.

ARC 3410B No action on proposed amendments to ch 19 pertaining to purchased gas adjustment and reserve margin.

ARC 3441B No action on the amendment to ch 39 regarding eligible telecommunications carrier designations for wireless carriers. Smithson explained changes made in response to comments received and clarified the authority of the board in designating eligible telecommunications carriers.

**VOTER REGISTRATION COMMISSION** Sandy Steinbach represented the commission.

ARC 3428B Proposed voter registration amendments are intended to assist county auditors in implementing changes to Iowa Code chapter 48A. Steinbach listed acceptable identification numbers, clarified handling of incomplete applications, and noted that a two-year period of inactivity will result in removal from the list.

**REGENTS BOARD** Deb Hendrickson and Tom Evans represented the board.

ARC 3433B Amendments to chs 1 and 2 remove specific dollar amounts for admission fees. Eichhorn asked for additional information about the prior inclusion of the actual fee in the rule.

**ECONOMIC DEVELOPMENT DEPARTMENT** Melanie Johnson and Sandy Ehrig represented the department. Brian Stickel represented the Knoxville Chamber of Commerce.

Special reviews Eichhorn requested a review of the Grow Iowa Values rules following the supreme court decision that the statute was void. Johnson reported that the department has taken no action since the court decision and agreed to provide information about the number of awards already made, including amounts disbursed and amounts promised in contracts. McKinley also requested employment data on awarded projects, comparing the number of jobs created with the number of employees at each company in the previous year. Connolly expressed confidence in the declared intentions of the governor and legislature to honor commitments the state has made.

A special review was held regarding the \$250 per-year fee charged by the department for placement of brochures in racks at Iowa welcome centers. Johnson reported that funds generated are set aside for tourism regions. Discussion took place as to whether the fees collected and deposited into the foundation account are public funds or private funds. McKinley requested a letter from the department citing the specific statutory authority for collecting the fee and depositing fees in the account of the IDEED foundation.

Stickel reported that the fee is a hardship on Marion County and voiced opposition to the shifting of the cost of state budget cuts to local entities.

Kibbie expressed concern that all committee members are not receiving the same information for special reviews.

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

ARC 3420B No action on proposed amendments requiring applicants for licensure or reinstatement and physicians being monitored by the board to submit a fingerprint packet and fee so that criminal background checks can be performed. Mowery reported that the FBI informed the DCI that the board has access to information under the federal Volunteers for Children Act. Eichhorn urged the board to present legislation to establish Iowa statutory authority.

Adjourned The meeting was adjourned at 3:50 p.m.

Respectfully submitted,

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Kathleen K. Bates

APPROVED:

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Chair George Eichhorn

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Vice Chair Paul McKinley