

**MINUTES OF THE APRIL 2004 MEETING
OF THE**

ADMINISTRATIVE RULES REVIEW COMMITTEE

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, April 12, 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, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, David Heaton, and Geri Huser.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Brian Gentry, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Vice Chair McKinley convened the meeting at 9:02 a.m.

MEDICAL EXAMINERS BOARD Ann Mowery represented the board.

ARC 3232B No action on the filed emergency amendments to ch 21 regarding physician supervision of a physician assistant. Mowery stated that determinations about whether a physician is providing adequate supervision will be made by peer review on a case-by-case basis as complaints are received.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department.

ARC 3274B No action on proposed amendments to ch 7 denying appeals of patient treatment interventions in civil commitment units for sexual offenders. Freudenberg noted that the amendments are consistent with those of mental health institutes and that the attorney general's office concurs that internal procedures ensure due process.

ARC 3248B No questions on extension of Medicaid eligibility for expanded specified low-income beneficiaries through September 30, 2004.

ARC 3249B No questions on amendments pertaining to maternal health centers. Freudenberg noted that 78.25 has been revised since the notice and that provisions relating to dental hygienists will be included in a separate rule making.

ARC 3250B Freudenberg outlined changes, including provisions relating to comprehensive health assessments, medication policies, and records requirements, made in response to comments received on amendments to juvenile detention home and juvenile shelter care home rules.

ARC 3251B No action on amendments to independent living placements for youth in foster care. Freudenberg stated that the amendments, made in response to a report by the state ombudsman, allow youth between the ages of 18 and 20 to voluntarily return to foster care in order to complete high school or obtain a GED. Youth who lost eligibility due to substance abuse will be allowed back into the program if they have addressed the problem and entered treatment. In addition, the amendments remove the requirement that youth be financially and emotionally independent upon discharge from the program; require juvenile court approval for placement of youth under the age of 18; require weekly face-to-face caseworker visits for youth under the age of 18 and biweekly visits for youth over the age of 18; remove the six-month limit for cluster site arrangements; and revise supervision requirements. Kibbie commented on the success of the program. Freudenberg advised Heaton about the number of youth in the program and agreed to find out if participants who voluntarily return to foster care prior to the age of 20 must leave the program upon reaching the age of 20.

INSPECTIONS AND APPEALS DEPARTMENT David Werning and Jay Bennett represented the department. Brandi Hoffman of the Iowa lottery was also present.

ARC 3254B No questions on amendments to ch 50 and the rescission of ch 52 concerning birth centers.

ARC 3252B No action on amendments to long-term care facility admission procedures to assist in the determination of veterans' eligibility for benefits.

ARC 3253B The amendment to nursing facility rules allows for the use of paid nutritional assistants.

ARC 3080B Ch 105 and amendments to ch 104 are under a 70-day delay.

Motion Carroll made a motion to lift the delay. Discussion concerned the number of registrations to date, pending legislation, counting devices, and capping the number of registered machines.

Motion carried The motion to lift the delay carried, effective April 13, 2004.

ENVIRONMENTAL PROTECTION COMMISSION Jeff Myrom, Dennis Alt, and Jim McGraw represented the commission. Emy Eide represented the Iowa Rural Water Association.

ARC 3222B Proposed amendments to ch 11 pertain to tax exemption certification of pollution control and recycling property used to process waste wood products. Connolly requested information about the amount of revenue lost from the tax exemption.

ARC 3221B No action on 23.1(5)“c” concerning emissions from commercial and industrial solid waste incineration units. This amendment implementing a federal requirement affects a facility in Muscatine; McGraw reported that no comments were received during the comment period or at the public hearing.

Environmental Protection Commission (continued)

- ARC 3223B No action on proposed amendments to ch 49 and 82 pertaining to nonpublic water supply wells and well contractor certification.
- Special review Construction permit fees were reinstated by a rule making published September 17, 2003. Eide indicated that the rural water association fears that fees may turn out to be higher than expected and has questions about what is required to be permitted, but noted that the commission has indicated a willingness to work with the association and reconsider the fee scale. Eide asked that the committee continue to monitor the rule and that LSA's fiscal staff analyze amounts that will be raised under the fee scale. Eichhorn encouraged the commission and the association to continue cooperation and to advise the committee if excessive amounts are being generated.

ADMINISTRATIVE SERVICES DEPARTMENT Carol Stratemeyer and Barbara Krom represented the department.

- ARC 3226B No action on proposed ch 7 concerning contested cases.
- ARC 3213B Accounting rules are proposed to be transferred from the department of revenue to the department of administrative services. McKinley inquired about the 60-day term in 41.1(2) and requested information regarding the number of invoices outstanding over 30 days, 60 days, and 90 days as well as the average number of days outstanding. McKinley inquired about 48.3(2) regarding working capital advances. Stratemeyer agreed to provide the requested information.
- ARC 3212B Human resources rules are transferred from the department of personnel to the department of administrative services. Following discussion about use of the word "gender" or "sex," the department agreed to use the same terminology as the statute and to provide the committee with a copy of the guidelines for sexual harassment procedures.
- ARC 3247B Stratemeyer outlined changes to and comments received on rules governing parking in the capitol complex, which are transferred from the department of general services to the department of administrative services. Frevert expressed a hope that visitors to the capitol complex will be afforded adequate parking.

ECONOMIC DEVELOPMENT DEPARTMENT Mike Fastenau, Ken Boyd and Rose Wazny represented the department.

- ARC 3215B Amendments to the CDBG program add definitions; increase wage thresholds; increase grant award ceilings; and increase amounts reserved for job creation, retention and enhancement. McKinley voiced concern that wage thresholds may prevent entrepreneurial growth in some areas and emphasized that the legislature did not mandate wage levels. Eichhorn concurred and was advised that wage requirements are waiverable.
- ARC 3216B Boyd outlined changes in the CEBA program and noted that wages of probationary employees in their first six months of employment are not included in the calculation for meeting the wage criterion; and governmental, agricultural and mining jobs are excluded from the calculation of the average wage in the county or region. Boyd noted that there is an opportunity for waiver of the wage requirement. Members stressed the need for jobs, particularly in rural areas, and a desire that wage requirements not be an obstacle.
- ARC 3217B No action on amendments to ch 59 concerning enterprise zones. Wazny agreed to respond to Heaton's inquiry about the source of funding.

EDUCATIONAL EXAMINERS BOARD Anne Kruse represented the board.

- ARC 3256B No action on proposed 14.141(6) pertaining to the driver education teaching endorsement.
- ARC 3255B The amendments to 14.142(3) and 14.142(4) establish the superintendent/AEA administrator endorsement.
- ARC 3257B No questions on amendments to ch 20 regarding the evaluator endorsement and license.

TRANSPORTATION DEPARTMENT Dave Titcomb and Steve Tudor represented the department.

- ARC 3236B Amendments reflect administration of driver education courses by the department. McKinley commented on difficulties of scheduling classroom instruction for driver's education and encouraged the department to have flexibility in the area of waivers.

PHARMACY EXAMINERS BOARD Terry Witkowski represented the board.

- ARC 3241B No action on proposed amendments to ch 3 concerning registered pharmacy technicians.
- ARC 3238B No questions on 3.28(2) regarding confidentiality of patient information.
- ARC 3237B No questions on termination of the proposed amendment to 6.10(1).

Pharmacy Examiners Board (continued)

- ARC 3242B Proposed 6.10(1)“g” pertains to labeling of prescription drug containers. The provision requires pharmacies to include the name of the drug dispensed and the option of also including the name of the drug prescribed when a therapeutic equivalent is substituted. Witkowski added that a physician may direct that a pharmacist make no substitution. Concerned that DHS have access to needed data, Carroll asked that in the board advise DHS Medicaid staff of this amendment. In addition, Carroll requested that the board forward to the committee copies of comments received.
- ARC 3239B No action on amendments to ch 8 concerning authorization by patient for release of confidential information and a requirement for a pharmacist identification badge.
- ARC 3243B No action on amendments to ch 8 pertaining to prescriptions transmitted by an authorized prescriber’s agent and Internet-based prescription orders.
- ARC 3244B No questions on proposed amendment to 10.1 to require registration of reverse distributors.
- ARC 3240B No action on amendments to ch 20 concerning label information for compounded drug products.
- ARC 3245B No action on proposed amendments to ch 21 prohibiting delegation of computer-to-computer transmission of prescriptions.

PUBLIC HEALTH DEPARTMENT Charlene Craig and Rita Gergely represented the department.

- ARC 3268B No questions on amendments to radiation rules, chs 38 to 42, 45, and 46.
- ARC 3263B No questions on amendments to ch 69 regarding the lead hazard notification process.
- ARC 3269B No questions on amendments to ch 70 concerning lead-based paint activities.

RECORDS COMMISSION Gordon Hendrickson represented the commission.

- ARC 3229B No action on proposed revision of commission rules.

CULTURAL AFFAIRS DEPARTMENT Gordon Hendrickson represented the department.

- ARC 3228B No action on ch 9 concerning cultural and entertainment districts.
Regarding a rule making of the historical division for which no representative was requested to appear, McKinley requested clarification of the change in policy regarding sale of mementos; Hendrickson agreed to respond.

Committee business The minutes of the March 2004 meeting were approved.
The next meeting was scheduled for Tuesday, May 11, 2004.

Adjourned The meeting was adjourned at 11:58 a.m.
Respectfully submitted,

Kathleen K. Bates

APPROVED:

Chair George Eichhorn

Vice Chair Paul McKinley