

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, May 9 and 10, 1989, Committee Room 22, State Capitol, Des Moines, Iowa.

Members Present Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David Schrader and Betty Jean Clark. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Vivian Haag, Executive Secretary. Also present: Barbara Brooker Burnett, Governor's Administrative Rules Coordinator.

Convened Chairman Priebe convened the Tuesday meeting at 10:02 a.m., Senate Committee Room 22.

ECONOMIC DEVELOPMENT DEPT Present for review of the following rules of the Economic Development Commission was Melanie Johnson.

Self-employment loan program, 8.2, 8.3(3), 8.3(4), 8.4(2), 8.4(3) ARC 9793 F 4/5/89

Johnson explained minor changes from the Notice. She said that the definition of household member was patterned after the federal Job Training Partnership Act. No questions.

CULTURAL AFFAIRS DEPT. Carol L. Ulch and David Crosson appeared on behalf of the Cultural Affairs Department for review of the following:

Museum property, ch 7 ARC 9789 N 4/5/89

HISTORICAL DIVISION[223]
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"
Uniform rules: description of organization; programs and services, chs 4 to 6, 13.7(6), 13.11(3)"d," 14.9(4)"b"
ARC 9790 N 4/5/89

According to Ulch, Chapter 7 would implement "quite specific" statutes. Also, Chairman Priebe requested inclusion of a date certain for the forms.

Crosson explained that the state indemnification program was created by statute for items on loan from one museum to another. The program is directed by the Arts Council.

Rules of Historical Division were reviewed with discussion focusing on use of "effect" and "impact" in 14.9(4)b(7) relative to the review and compliance program. Department officials described the provisions as "federal language"-- "an impact creates an effect."

4.10(2) In re 4.10(2), Doyle took the position that provisions in 4.10(2) were too broad with respect to exemptions from rule making and he suggested inclusion of a date certain.

Committee Business Doyle moved approval of the minutes of the March meeting as submitted. Motion carried.

5-9-89

June
Meeting

It was agreed that rules appearing in the May 31 Iowa Administrative Bulletin should be placed on the agenda for the June 6 and 7 meeting.

Motion

Royce called attention to damage to his office equipment by stone dust accidentally released during restoration work on the capitol. Tieden moved that Royce be authorized to request Neumann Construction to pay the costs of cleaning the Xerox copy machine. Carried.

Barry inquired about the intent of S.F. 141, §4, which amended Iowa Code §17A.6(2). The frequency of publication will be determined by the Administrative Rules Coordinator and the Administrative Rules Review Committee. Barry was advised there were no immediate plans to change the current biweekly schedule of the Supplement.

JOB
SERVICE

The following rules of Job Service were reviewed by Joseph Bervid:

EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"
Employer's contribution and charges, claims and benefits, benefit payment control, appeals procedure, 3.2(2), 3.36, 3.43(4)"c," 4.2(1)"g," 4.13, 4.14, 4.16(3), 5.13(3)"f," 6.3(1) ARC 9811 4/19/89

In response to question by Clark, Bervid offered an example of "winding down wages." No Committee action.

ENVIRON-
MENTAL
PROTEC-
TION
COMMIS-
SION

Mark Landa presented the following rules of the Environmental Protection Commission:

NATURAL RESOURCES DEPARTMENT[561] "umbrella"
Emission standards for contaminants, 23.1(2), 23.1(3) ARC 9803 4/19/89

He reported that the hearing had been held and no comments were received. No Committee action.

LABOR
SERVICES
DIVISION

Walter Johnson was present for the following:

EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"
Access to records -- citizens' aide, 1.59(2)"h" ARC 9772 4/5/89
OSHA discrimination-- dangerous conditions, 9.12(3) ARC 9773 4/5/89
OSHA rules for general industry, 10.19(8), 10.20 ARC 9774 4/5/89
OSHA rules for construction, 26.1 ARC 9775 4/5/89
Private employment agency license application, 38.10(1) ARC 9770 4/5/89
Boilers and pressure vessels -- update codes and fees, 41.2, 41.5, 41.6, 41.12, 43.2, 44.1(1), 44.4(1), 44.4(10)"c," 44.10, 45.3(8), 45.10, 45.11, 46.2, 48.1, 48.2(2)"b," 48.2(4), ch 49 title, 49.4, 49.7(1), 49.7(2), 49.14, 49.15
ARC 9783 4/5/89
Asbestos -- licensing denial, 82.3(5) ARC 9784 4/5/89
OSHA rules for general industry, 10.20 ARC 9788 4/5/89

1.59 No questions re 1.59(2)h. Priebe expressed concern that
9.12(3) 9.12(3) contained "gray" areas. Johnson recognized the potential for confusion. He stressed the need for employees to work through proper channels in an attempt to correct unsafe working conditions. General discussion.

10.19(8) No questions re 10.19(8) and 10.20, 26.1, 38.10(1).

41.2 In re 41.2 et al., ARRC members referenced new legislation
et al. pertaining to antique tractors and they were advised that these rules did not address that matter. Johnson gave brief overview of legislation which would be of interest to the Old Threshers Association.

82.3(5) There was review of 82.3(5), which imposes a requirement that past penalties be paid to the Division before an

LABOR
SERVICES
DIVISION
10.20

asbestos removal license can be issued. Priebe challenged the legality of this approach and Johnson cited broad authority of the Commissioner. Royce saw no problem. No formal action by the ARRC. No questions re 10.20.

NATURAL
RESOURCE
COMMISSION

Victor Kennedy and Lowell H. Joslin appeared on behalf of the Department of Natural Resources for the following:

NATURAL RESOURCES DEPARTMENT (661) "umbrella"	
Bait motor regulations - Crawford creek recreation area, 45.4(1)"b" ARC 9782	4/6/89
Salvage of fish and game, ch 80 ARC 9777	4/6/89
Private open space lands, ch 32 ARC 9778	4/6/89
Development and management of recreation trails on state lands, 67.7(4), filed emergency ARC 9766	4/6/89
General license regulations, 15.4 ARC 9829	5/3/89
Boating speed and distance zoning, 40.31, 40.32 ARC 9830	5/3/89

No questions re 45.4(1)b. No public comment had been received.

Ch 80

Joslin indicated that three dissenting letters were received from taxidermists regarding 80.1(2) which lists spotted fawn deer as nonsalvageable. The taxidermists contended that this was an infringement on their rights to preserve the deer and make use of it by some means. DNR officials oppose commercialization of wildlife. Further, they believe that it would be inappropriate to send officers to tag a deer for the profit of someone else.

Responding to question by Priebe concerning protected owls, Joslin described the two types of permits--one for rehabilitation of injured animals and an exhibit or scientific collector's permit for dead animals. Joslin knew of no permits for private citizens. He agreed to contact Linda Vaudt, a constituent of Senator Priebe.

Ch 32

Kennedy summarized new Chapter 32 which was intended to implement Iowa Code section 172C.5. Schrader expressed concern about a possible loophole in the law which could allow a large corporation to buy farm land and create a private preserve by planting many trees. Kennedy was unsure of legislative intent of Code Chapter 172 as to any limitation on corporations and partnerships. General discussion. No Committee action.

67.7(4)

Kennedy explained that amendment to 67.7(4) would provide that, upon request of six or more persons, a public informational meeting would be held in the area of a planned trail closure. Kennedy stated that use of six was a judgment decision by the agency. He discussed the position of the Attorney General's office on the amendment with respect to contested case hearings.

15.4

Brief discussion of 15.4 which allows fishing license exemption for patients of substance abuse facilities.

Joslin reported that two comments had been received so far on proposed amendments to 40.31 and 40.32. No-wake zones and swimming areas will be established on East and West Okoboji Lakes and in Clair Wilsons State Park.

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UTILITIES
DIVISION

Vicki Place and Gary Stump appeared on behalf of the Utilities Division for the following:

COMMERCE DEPARTMENT (1001) "umbrella"
Notice to gas transportation customers, 19.13(8) ARC 9801 F 4/19/89
Intrastate access service tariffs and interutility service, 22.1(3) ARC 9794 F 4/6/89
Energy conservation strategies and programs, 19.9, 20.10 ARC 9771 F 4/6/89

19.13

No questions re 19.13(6) or 22.1(3).

et al.

19.9(5)

Clark called attention to new language in 19.9(5) pertaining to annual filings by gas utilities. She was advised that extensions were granted only in emergency situations.

RACING AND
GAMING
DIVISION

Mick Lura was present for the following:

INSPECTIONS AND APPEALS DEPARTMENT (1481) "umbrella"
Harness racing, thoroughbred racing — alcohol and drug testing, 9.4(14)"a," 10.4(14)"a" ARC 9759 F 4/5/89

Lura recalled ARRC objection [published in IAB 5/3/89] which was imposed at its April 10, 1989 meeting. Lura had discussed the matter with commissioners. They share Committee concerns but also feel strongly that owners should not be set apart from grooms, trainers, etc. in terms of standards. He stated that a proposal would be published this summer relative to blood alcohol level for jockeys and officials. The commissioners were in agreement with ARRC that a .05 level was unacceptable for those on duty.

According to Lura, based on reasonable cause, everyone tested had been well over .10 percent. He advised Schrade of four instances of intoxication, three of which were jockeys who were disciplined. Responding to Tieden, Lura said that .05 percent is recommended by the National Organization but not uniformly adopted by states. Pavich reasoned that strict rules might be a deterrent to out-of-state owners.

Lura could foresee no problem if the Commission relies on "reasonable cause." No Committee action.

VOTER REG-
ISTRATION
COMMISSION

Douglas Lovitt, Director, presented the following rules:

Organizational structure changes, alternate registration forms, 1.2, 1.4(1), 1.4(2), 2.1, 2.2, 2.4(3), 3.1, 4.3, 6.1(2),
7.1 ARC 9785 F 4/5/89

Lovitt described proposed changes in the alternate registration form as an attempt to simplify its use by the public and county commissioners. It was noted that Voter Registration has never been under the authority of the Secretary of State.

Schrader observed that the revised form did not provide space for the precinct number. Lovitt explained that most registrants do not know the numbers and often supplied incorrect information. Other administrative rules require electronic assignment by the voter's address. Schrader pointed out the advantage of precinct numbers for candidates and the League of Women Voters who register voters by postcard in his district.

VOTER REG-
ISTRATION
COMMISSION

Lovitt pointed out that, by law, the registrant is sent a receipt showing the school district and polling place. Brief discussion.

Royce suggested that the rules be clarified as to a registrant's option to decline to list a social security number. Lovitt thought the inclusion of the words "if available" would answer that concern. He added that approximately 90 percent of the records contain social security numbers.

Recess
Reconvened

Chairman Priebe recessed the Committee at 11:35 a.m. for lunch and reconvened it at 1:30 p.m.

HUMAN
SERVICES
DEPARTMENT

Representatives for the Department of Human Services were: Mary Ann Walker, Don Kearney, Mary Nelson, Mary Helen Cogley, Mike Baldwin, Phil Bingaman, Mary Roberts, Cynthia Tracy, Bob Lipman, Dan McKeever, Carol L. Meisel, Margaret Ward, Marjorie Corkery, Carol Stratemeyer, Jan Clausen, Vivian Thompson and Kathi Kellen. The following rules were before the Committee:

Developmental disabilities basic grant program, 1.7, amendments to ch 38 ARC 9765 . F	4/5/89
Standards for services to persons with mental retardation, developmental disabilities, or chronic mental illness, ch 22 preamble, 22.1, 22.5 ARC 9762 . F	4/5/89
Standards for individual case management services, 24.1, 24.3 ARC 9767 . F	4/5/89
Interim assistance reimbursement, 67.1, 67.2(1) ARC 9766 . F	4/5/89
Amount, duration and scope of medical and remedial services, 78.31(4)"b"(4), 78.31(4)"g"(7) ARC 9767 . F	4/5/89
Family support subsidy program, ch 184 ARC 9768 . F	4/5/89
State community mental health and mental retardation services fund, 32.1, 32.2, 32.3(1), 32.3(7), 32.4 ARC 9766 . N	4/5/89
Refugee cash assistance, conditions of eligibility, 60.1(3), 60.8(1)"f", 60.9(1)"e" and "f", 60.9(3) to 60.9(6), 75.1(1)"b" ARC 9770 . N	4/5/89
Model waiver services, 64.9, 75.1(18), 77.30, 78.3(17), 78.34, 79.1(2), 80.2(2)"a", 81.13(29), 82.2(46), ch 83, 130.2(6), 130.3(4), 130.5(1)"h", 130.5(2)"j" to "m", 130.7(2)"h", 150.3(4), 150.3(8), 156.0(3), 177.5(6), 177.12, ch 180, 202.2(6), ch 207 preamble, 207.1 ARC 9819 . N	4/19/89
Electronic benefits transfer of ADC benefits, statement of citizenship status, ADC qualifying pregnant women, 40.7(4)"e"(9), 40.7(4)"f"(9), 41.3(4), 41.7(1)"h"(1), 41.8(4), 42.8, 42.8(1), 43.2(2)"c", 43.3(3)"f", 46.1, 46.1, 46.2(2), 46.4(1), 46.5, 65.2, 75.1(14), 75.1(26), 75.1(26)"b", 75.1(12), 75.1(14) ARC 9823 . F	5/3/89
Granting assistance, 41.7(6)"q", "r", and "v", 41.7(9)"c"(2), filed emergency after notice ARC 9824 . F	5/3/89
Commodity distribution programs, amendments to ch 73, amend and transfer 74.1 to 74.22 to 73.41 to 73.62 ARC 9825 . F	5/3/89
Conditions of eligibility, 75.1(2)"a"(4), 75.1(2)"b", filed emergency after notice ARC 9826 . F	5/3/89
Application and investigation, health maintenance organizations, 76.6(2), amendments to ch 88 ARC 9834 . F	5/3/89
Payments for foster care and foster parent training, 156.1, 156.6, 156.7, 156.8(1), 156.8(6), 156.8(7), 156.19 ARC 9828 . F	5/3/89
Dependent adult abuse -- request for correction or expungement, 176.17 ARC 9827 . F	5/3/89
Subsidized adoptions, 201.1 to 201.8, 201.10, 201.11 ARC 9838 . F	5/3/89
Promise Jobs Program, 9.10(4)"e", 40.1, 41.4, 41.7(2)"d"(1), 41.7(2)"e", 41.7(7)"f" and "m", 41.8(3)"c", 42.1, 42.4(2)"a", 42.4(3), 42.4(4)"b", 42.4(5) to 42.4(7), 42.5, 43.2(1)"b", 48.3(4), rescind chs 47, 55, 59, 90, 91, new ch 93 ARC 9835 . N	5/3/89
Conditions of eligibility -- transfer of resources to qualify for Medicaid, 75.9, 75.10(1), 75.15, 75.25 ARC 9832 . N	5/3/89
Intermediate care facilities for the mentally retarded, 82.6(14), 82.6(16) ARC 9820 . N	5/3/89
Child day care services, ch 170 preamble, 170.1, 170.2(1), 170.2(3)"b" ARC 9833 . N	5/3/89

No questions re 1.7, amendments to Chapters 38, 22, 24.1, 24.3, 57.1, 57.2 and 78.31(4) et al.

Ch 184

With respect to the Family Support Subsidy Program, Chapter 184, Priebe was informed that the 1989 appropriation was \$400,000. According to Walker, 54 children currently receive benefits and the appropriation should cover approximately 35 on a waiting list. The eight districts include Sioux City, Mason City, Waterloo, Council Bluffs, Cedar Rapids, Dubuque, Ottumwa, and Des Moines. The monthly stipend per client will be \$245. No recommendations were made for amendments to Chapter 32. Amendments to 60.1(3) et al. will implement federal changes. Kearney advised Priebe that refugees who meet income guidelines are eligible for assistance--they must apply for ADC before being entitled to refugee cash assistance. There are fewer than 200 cases. No questions were posed on amendments to 54.9 et al. or 40.7(4)e(9) et al.

Ch 32
60.1(3)
et al.

HUMAN
SERVICES
DEPARTMENT
Continued
41.7
Ch 73

In review of 41.7(9), paragraph (2), Priebe questioned deletion of "...unless the lump sum was from a loan,..." Walker referred to a memorandum from the U. S. Department of Health and Human Services which precludes counting of loans from any source as income or resources since they must be repaid. No questions re Chapter 73 et al.

75.1 Walker stated that 75.1(2)a(4) provides for Medicaid eligibility to children ineligible for ADC because of excess income of a stepparent. No comments were received and no changes had been made. Walker gave an example of application of the rule.

Clark expressed concern about the concept from a "morality" standpoint. Schrader was interested in knowing whether there were many cases of this type. Walker responded that most wealthy families do not want to use a Medicaid card. It was pointed out that a law change would be needed to ensure equal responsibility for the child by the natural parent and stepparent.

76.6, Ch 88 Brief discussion of 76.6(2) and Chapter 88.

156.1 Walker reported that revision of Chapter 156 elicited extensive comments and major changes were made. "Special needs child" has been defined to allow out-of-state foster homes the same rate as in-state unless exception is made by the district administrator. Funds are being distributed to districts and rules will be developed. Tieden observed the changes since Notice were quite comprehensive. Royce saw no problem.

176.17 Brief review of new rule 176.17 and it was pointed out that the Department of Inspections and Appeals is responsible for processing requests for correction or expungement of dependent adult abuse reports. No questions re 201.1 through 201.8, 10 and 11.

Walker advised that amendments pertaining to the Promise Jobs Program may be renoticed because of new legislation.

93.26 In answer to question by Clark re 93.26(2), Lipman said that the guidelines for work sites were federal.

75.6 In discussion of 75.6 et al., it was clarified that the equity in the vehicle is counted, not the value. Walker said that this provision would pertain to nursing home residents who own a vehicle.

82.5, Ch 170 No questions re 82.5 or Chapter 170.

MEDICAL
EXAMINERS William Vanderpool appeared on behalf of Medical Examiners Board for the following:

PUBLIC HEALTH DEPARTMENT (611) "umbrella"
Physician assistant supervision, ch 21, delayed 70 days at February ARRC meeting ARC 9611 1/25/89

Also present: Dennis M. Carr and Cheryl Brinkman, Medical Examiners; Ann Jones, President, IPAS; Elizabeth Coyt,

MEDICAL
EXAMINERS
Continue

and Bill Crews; Board of Physicians Assistants; Marc Templeton, Iowa Medical Society; Ed Friedmann, Legislative Coordinator, Iowa Physicians Assistants Society.

Vanderpool was aware of serious differences between physicians and physicians assistants and their two respective boards. A series of meetings had been held and Vanderpool spoke of his frustration at the lack of a compromise. He highlighted changes in the ineligibility rules since they were noticed. All rules were changed to reflect criteria for ineligibility rather than eligibility. Vanderpool continued that a PA is an extension of the physician's practice and is less restricted than other health practitioners in the functions performed. He cited 21.4(7) as the most controversial ineligibility determinant: "If any other factors exist which interfere with physician's ability to supervise a physician assistant." The word "may" was dropped in the final version but the Board of Medical Examiners, at their last meeting, voted to retain it on advice of their attorney. The PA Board opposed this action.

Vanderpool was unaware that a physician had ever been denied the ability to supervise a PA except in the context of the free medical clinic at the University of Iowa. He stressed the importance of having acceptable rules in place for PAs. The Noticed provision in 21.4(3) relative to sufficient geographic proximity was added to final 21.4(4), according to Vanderpool. He continued that the two major issues were prescribing in a remote clinic setting and the amount of time for a physician to be in this setting. Vanderpool stressed the necessity for being able to hold the physician responsible.

Crews referenced the May 4 letter to the ARRC from Thomas Mills, Chairman, Board of Physician Assistant Examiners. Complaints included contention that rules 21.3 to 21.5 were vague in failing to provide detailed eligibility criteria; the Medical Board was attempting to regulate the practice of the physician assistant/physician team even though that authority was granted to the PA Board; certain physicians were prohibited from supervising PAs yet were not precluded from supervising other health personnel with less training; and standarization of the rules was lacking. Crews was also critical of the application form to be submitted: "For sponsoring or alternate supervising physician for a physician's assistant." Much of the information requested was irrelevant to the physician ineligibility criteria as listed in the rules of the Medical Examiners. The application process seemed to be in direct conflict with Code section 148C.3(4).

Vanderpool defended the need for subrule 21.4(7). He pointed out that the process to determine ineligibility was not secret since reason for denial is given. Vanderpool conceded that the questions on the application should be tied to the reason for ineligibility. Other

MEDICAL
EXAMINERS
Continued

questions are somewhat optional. He was willing to work on that area.

Friedmann referenced a December 5, 1988, letter wherein he reiterated concerns expressed by Crews and complained of the lack of responsiveness from the Medical Examiners Board. Friedmann urged ARRC objection to the rules.

Chairman Priebe recalled that the ARRC had made it quite clear that if change were to be made, it should be done through the legislative process. Vanderpool resented Friedmann's inference that there had been no opportunity for involvement since Friedmann had been present for "every step" of the process.

Friedmann stressed that criteria should be specific and that rural areas were losing PAs. He concluded that all factions must follow the law and the Legislature never intended to grant unlimited authority to anyone.

Clark suspected there was more to the controversy that had not been brought out. There was discussion of possible delay into the next General Assembly. Royce explained that a Session delay was for a specific purpose and such Committee action could not be reversed. Vanderpool spoke of the impact of the continual controversy on his staff for the last two years. He declared that the time spent on the matter was excessive for the 155 PAs in the state. Vanderpool concluded that the controversy had been "fueled by a few."

Burnett was convinced that a compromise could be reached.

Motion to
Delay

After further discussion, Pavich moved that rules 653--21.3 to 21.5 be delayed until the expiration of the 1990 Session of the General Assembly. Seconded by Clark. Motion carried.

PUBLIC
HEALTH
DEPARTMENT

David Fries, Kenneth Choquette, Jack Kelly, Mike Guely and Joyce Bowerish appeared on behalf of the Health Department to review:

Residential water treatment, ch 14 ARC 9792	4/5/89
Notification and surveillance of reportable diseases, 1.2(1)"a," 1.9 ARC 9754	4/5/89
Well elderly screening clinics, ch 83 ARC 9806	4/19/89

Also present: Dave Herman, Steve McAleer, Martin J. McCarthy, John M. Hall, James O. Boyt, and Charles L. Hauser, Iowa Water Quality Association members; Pete Henter, AIM; John D. Lee, Attorney for Sears, Roebuck and Company and Association of Iowa Merchants; Dirk Bloemendaal, Amway Corporation; and Representative David Osterberg.

Ch 83

Fries gave brief explanation of Chapter 83. No questions.

1.2
1.9

Tieden inquired as to use of "suspected" contagious diseases in 1.9(2). According to Guely, a deceased body should be treated as having a suspected contagious or infectious disease. Tieden wanted assurance that the Department

PUBLIC
HEALTH
DEPARTMENT
Continued
Ch 14

had not created a loophole in 1.9(2) and Guely saw no problem.

Choquette provided history on minimum standards for testing and labeling residential water treatment devices for sale in Iowa. Legislation enacted in 1988 [SF 2267] requires rules to support the law. After 1990, dealers cannot advertise for sale home water treatment units unless they are tested by a third-party evaluator. Test data must be furnished to the buyer prior to the consummation of the sale. Ad hoc committee meetings and public hearings have been held since the inception of the rule making. The final rules allow for a detailed third-party laboratory audit and evaluation of manufacturer's testing as an alternative to third-party testing. Choquette commented that the Department took the position that the law and rules were clear with respect to contamination.

14.6

Clark referred to 14.6(2) and asked if the performance data sheets should be made in duplicate. She was told that information is provided to a prospective buyer prior to a sale. Clark thought it was important for the buyer to have a copy and that the rule should be amended to require this. Royce interjected that the law did not require a copy for the consumer. Clark suggested that the Sears Catalog could contain a performance data sheet which could be signed and sent with the order.

Bloemendaal urged caution in this "very new area" where Iowa is first. Amway has no opposition to the goals but maintained that the rules were deficient and should be delayed. He labeled as the "gut" of the law the performance data sheet which contains information needed by the consumer. Bloemendaal suspected that unscrupulous companies would not provide a copy to the buyer. Choquette mentioned the pamphlet that goes with the data sheet. The Department can recommend that the owner keep a copy--not require it.

Schrader recalled Bloemendaal's appearance before the ARRC when he expressed opposition to third-party testing vs auditing and requested an analysis of cost impact. Bloemendaal responded that their main concern at that time had to do with use of manufacturer's test data. They recognize that this is a technical issue but have no intent of "flying in the face of the law." The rules have no guidepost for comparison.

Osterberg spoke of his extensive work on the rules which address the major problem. He suspected that opponents of the rules would always find new criticisms.

Boyt introduced members of the Iowa Water Quality Association and urged acceptance of the rules. They were willing to continue to work toward further refinement of the rules when necessary. Priebe interjected that a constituent of his had complained that some bottled water does not meet standards.

PUBLIC
HEALTH
DEPARTMENT
Continued

Osterberg indicated that Representative Hatch had introduced legislation in this area several years ago but was unsuccessful in getting it passed. Osterberg was willing to introduce legislation on this issue in the next General Assembly.

Tieden wondered if a statement could be included on the bottled water that it meets Iowa standards. He also suggested a notice to consumers that manufacturers data should be retained. Choquette thought the Department could do that through the pamphlet which is with the data sheet. He was of the opinion that a law change would be needed to include the notice on the data sheet.

Chairman Priebe recognized Lee who identified concerns of Sears and other companies with catalog sales with respect to consummation of sale and manufacturer's performance data sheet. Discussion of guarantees with Lee emphasizing that Sears has satisfaction guaranteed as do many other companies.

Choquette clarified that consummation of sale required providing pertinent information prior to sale--it did not address returning a product. Most homeowners would not know whether the system was performing as advertised.

Priebe preferred a satisfaction guaranteed policy and opposed use of "prior to." Osterberg contended that the law ensures that the consumer will be well informed. The fact that water should be tested prior to a sale was mentioned.

Schrader supported the legislation and offered an example of a friend who sold a water treatment device from the trunk of his car. In this situation, unintentional misrepresentation would be very possible. Being able to return an item is good, but not always practical. Lee contended that inclusion of the performance data sheet in the Sears Catalog would be impractical.

Kelly recalled that the drafters of the rules spent 12 months debating all issues and there certainly was disagreement. Points of law had been referred to the Attorney General and the Health Department cannot make additional compromise. He acknowledged there was probably a marketing problem. Choquette cautioned that any delay would preclude meeting the statutory deadline.

McCarthy took the position that it was important to inform the consumer prior to the sale and if health-related claims are made, they should be supported with third-party verification.

Henter spoke to the fact that catalog business sales would be at a definite disadvantage. No Committee action.

Recess

The Committee was in recess at 4:10 p.m.

5-10-89

Reconvened
COMMUNITY
ACTION
AGENCIES
DIVISION

Chairman Priebe reconvened the meeting and called for review of rules of the Community Action Agencies Division as follows:

HUMAN RIGHTS DEPARTMENT(421) "umbrella"

Emergency community services homeless grant program, 23.2, 23.5, 23.5(6), 23.6(1), 23.7(3), 23.7(4) ARC 9779 ...N..... 4/5/89
Low-income home energy assistance program, 10.2(2), 10.2(3), 10.3(4)"b" and "c," 10.3(5) to 10.3(7) ARC 9802...F..... 4/19/89

Sue Downey and Rod Huenemann, Bureau Chiefs, and John Brumquart were present for the Division.

23.2 et al. Doyle noted that assistance would be limited to mortgage or rental payments for those who have received notice of foreclosure or eviction--23.2. He took the position that contracts and forfeitures should also be considered. Department officials had followed federal language but were willing to review the matter.

Ch 10 Discussion of amendments to Chapter 10. Schrader was informed that about 75 percent of \$500,000 which was available for furnace repair, etc. had been used. There is wide latitude in distribution of this block grant.

EDUCATION
DEPARTMENT

The following agenda was before the ARRC:

Area vocational schools and community colleges, 21.45(2) ARC 9761 ..F..... 4/5/89
Driver education, amendments to ch 26 ARC 9814N..... 4/19/89
Extracurricular interscholastic competition, 36.1, 36.3(2), 36.5, 36.14(1), 36.15(6)"d" ARC 9768N..... 4/5/89
School buses, 44.3(3)"c"(2), 44.3(7)"d"(1), 44.3(40)"d" ARC 9822 ..F..... 5/3/89
School buses, 44.2(6)"g"(1), filed emergency ARC 9821...FF..... 5/3/89

Present for the Department were John Hartwig, Charles Moench and Robert Roush. It was noted that neither Kathy Collins nor Terry Voy would be present and Chairman Priebe requested that ARCS 9768, 9822 and 9821 be placed on the June agenda.

21.45 No questions re 21.45(2).

Ch 26 Department officials explained that amendments to Chapter 26 would provide more flexibility to local school districts. The requirements for driver education had not been changed since 1965. A significant modification will allow the course in 30 instructional days rather than a whole semester. Iowa has offered driver education for the past 50 years. No Committee action.

NURSING
BOARD

Lorinda Inman, Executive Director, appeared for Board of Nursing to review:

PUBLIC HEALTH DEPARTMENT(841) "umbrella"

Advanced registered nurse practitioners, ch 7 ARC 9769.....N..... 4/5/89

Inman recalled that refinements in the rules had been developed over the past year. Guidelines for practice had been added upon request of the Attorney General. The Nurses, Medical Examiners, Medical Society and the Nursing Association had worked to resolve differences.

7.2(8) Clark called attention to use of "etc." in 7.2(8) pertaining to continuing education requirements. There was Committee consensus that this provision should be clarified and include a date certain. Inman was directed to work with Burnett and Royce.

Recess

The Committee was in recess for 10 minutes. Pavich in the Chair at 9:57 a.m. and reconvened the meeting.

COLLEGE AID
COMMISSION

Darlene Lawler appeared for College Aid Commission to review the following:

EDUCATION DEPARTMENT(281) "umbrella"
State of Iowa scholarship program, 11.1(7)"b," "c," and "f" ARC 9816 N 5/3/89
Occupational therapist loan payments program, 19.1(3)"a," 19.1(4)"a" ARC 9816 .. N 5/3/89

Lawler said that amendment to 11.1(7) addresses the method of determining need for renewal of scholarship. There will be flexibility much like the previous guaranteed student loan program. Many colleges have proposed needs analysis systems where parents and students would provide basic income and asset information. A formula would be used to ensure that "the most worthy" receive funds. Tieden questioned the efficiency of such a system but Lawler saw no problem.

19.1

Discussion of amendments to 19.1. Doyle referred to language in 19.1(3)a "...or other priority plan approved by the Commission...", and thought that the other plan should be more detailed. Royce advised that a plan is a statement of particular applicability, not general, and would be approved on a case-by-case basis. Schrader concurred with Doyle's position. Lawler said that the Commission works with the Department of Education and the hospital. Research would be done ahead of time as to which areas have the greatest need for occupational therapists in a given year. Those practicing in public schools could receive the award if the need were greatest there.

Schrader made the point that the applicant should have some idea as to process to be used in determining eligibility. Lawler mentioned that, currently, they are dealing with occupational therapists practicing in Iowa and those students who desire to return to Iowa--they have priority.

Pavich admonished Ms. Lawler for being late and delaying the Committee. Senator Priebe resumed the Chair.

PROFESSIONAL
LICENSURE

Susan Osmann presented the following:

PUBLIC HEALTH DEPARTMENT(641) "umbrella"
Board of optometry examiners, 180.10(5) to 180.10(7), 180.12(5), 180.112(3), 180.200 ARC 9809 F 4/19/89
Cosmetology continuing education, 62.2(1), 62.2(2) ARC 9780 N 4/5/89
Board of optometry examiners -- license renewal fee, 180.10(2) ARC 9808 N 4/19/89
Podiatry examiners, 220.1 to 220.5, 220.100, 220.102(2), 220.102(3), 220.103, 220.105 to 220.107, 220.109(1), 220.109(2), 220.201, 220.203, 220.204, 220.206, 220.211, 220.212, 220.212(1)"e," 220.212(10) ARC 9807 N 4/19/89
Board of psychology examiners, 240.5(10)"f" and "i," 240.6(9)"b," 240.6(11)"a" and "d," 240.8(4), 240.8(7), 240.8(8), 240.10, 240.10(2), 240.10(12), 240.11(2)"g" and "j," 240.11(4)"l," 240.103(2), 240.104, 240.105, 240.205
ARC 9781 N 4/5/89

No recommendations re amendments to 180.10(5) et al. or 220.1 et al.

62.2

Discussion of amendments to 62.2 and Osmann clarified that the license renewal fee for cosmetologists would revert to \$20 per year. No questions re "clean-up" amendments to

240.5

240.5 et al.

INSPECTIONS
AND APPEALS

Xenda Lindel-Prine appeared on behalf of Inspections and Appeals for consideration of:

INSPECTIONS
AND APPEALS
Continued

Residential care facilities for persons with mental illness, 62.16(2)"f" ARC 9891 6/3/89
Health care facilities -- contact with body fluids -- universal precautions, 57.11(11)"b," 68.10(8)"b," 69.12(11)"b,"
62.19(4)"b," 63.9(10)"b," 64.12(14)"b" ARC 9700 4/19/89

No questions on 62.15(2). According to Lindel-Prine, the Center for Disease Control modified standards as to universal precautions which must be taken by employees in health care facilities. Proposed amendments to Chapters 57 et al. address this matter. Lindel-Prine asked and received permission to adopt amendments under emergency provisions of Iowa Code chapter 17A.

ELDER
AFFAIRS
DEPARTMENT
Ch 20

Hanne Harris and Lois R. Haecker appeared for review of:
Older Iowans Legislature, ch 20 ARC 9800 4/19/89

Harris briefly explained Chapter 20 pertaining to standards for selection of delegates to the Older Iowans Legislature. Pavich and Doyle reiterated their concern as to possible influence by lobbyists on this body. Harris stated that staff is assigned to each of eight or nine Committees and an attempt is made to obtain both pro and con on issues.

Doyle contended that it was virtually impossible to comprehend both sides of a complex issue and make a decision in two days.

Schrader referred to provisions for candidate characteristics and reasoned that they were unrealistic. Harris admitted there were problems in that the appropriation is only \$13,000 and there are 100 delegates. There is a tendency for the more affluent to serve as delegates. Schrader urged emphasis on serving rather than discouraging others from participation. Pavich favored an election process which followed legislative districts. Haecker said that each area agency publicizes the event and encourages people to run for delegates. No formal action by the ARRC.

REGENTS
BOARD
9.5

Chairman Priebe called up rule 681--9.5 entitled "Policy on telecommunications." The rule was published under Notice as ARC 9751, March 22, 1989, IAB and was carried over from the April meeting.

Present for the discussion were Emmett J. Vaughan, University of Iowa; Al Kent, Director of Media, Iowa State University; Robert P. Hardman, Director, Educational Media, University of Northern Iowa; Betty Volm, Regents.

Vaughan distributed copies of a letter to the Board of Regents regarding information which the University of Iowa had sent. The detailed document was sent in response to Regents request for "policy" with respect to telecommunications and should not have included the proposed rules. A copy of the appropriate revisions were included in the letter and the Board will make necessary modifications before final adoption of the rule. It was noted that there was no legislation in 1989 which would affect the state's network.

REGENTS
BOARD
Continued

The University of Iowa decided the Continuing Education Division would administer and manage the telecommunications program. The scope of the policy coincides with that of Iowa State and the University of Northern Iowa. Schrader was advised that salary would be a part of the costs of telecommunications. No additional funds had been provided and U of I has operated on a self-supporting basis by using the microwave length established between Cedar Rapids and Iowa City and between Iowa City and the Quad cities. Tieden was told there were no courses available for the secondary level. Last week, an agreement was signed with 15 Community Colleges to cooperate in offering courses which will be offered to community college faculty who are working toward graduate degrees.

Royce inquired as to opportunities for interaction of a video class to the teacher of the class. The U of I has discouraged this but it is possible. Pavich questioned officials as to availability of programs for western Iowa. Kent knew of no specific programs for this area but recognized the need. He added that with available technology, all parts of the state can be served eventually. Vaughn interjected that the U of I anticipates difficulties over the question of turf with respect to undergraduate programs. Private colleges are genuinely apprehensive about the impact of the TV effort as it is "unleashed across the state."

Tieden was told that the satellite was not being used with Kent citing expense. The campus is equipped for fiber optics, to tie into every classroom in the future.

Kent referenced an ISU effort--"teacher on television"--via microwave. He distributed brochures with information relative to a Satellite Teleconference on May 25. Responding to Priebe, Vaughn said on CE programs, people are drawn from the profession to answer questions and serve as site coordinators.

Hardman spoke of UNI's enthusiasm about the potential for a fiber optics network since they have not purchased a satellite uplink. They feel strongly that fiber optics is an efficient way to deliver instruction throughout the state. Workshops for teachers were being planned. No Committee action.

CORRECTIONS
DEPARTMENT

Fred Scaletta represented the Department for the following:

Jail facilities, 50.1, 50.11(2)"a"(1), 50.13(1)"f," 50.13(2)"a"(6)	ARC 9843	F	5/3/89
Temporary holding facilities, 51.11(2)"a"(4)	ARC 9842	A	5/3/89
Jail facilities, 50.1, 50.24, 50.25	ARC 9844	N	5/3/89
Temporary holding facilities, 51.5(8)	ARC 9845	N	5/3/89
Publications, 20.6	ARC 9813	F	4/19/89
Community-based corrections administration, 40.5(9)	ARC 9812	F	4/19/89

No questions re 50.1 et al.

51.11

In re 51.11(2)a(4), Priebe was advised that juveniles are monitored continuously or held in a nonjail setting away from actual housing of regular inmates. Doyle interjected that the suicide rate was higher among younger offenders.

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CORRECTIONS
DEPARTMENT
Continued

In review of proposed amendments to 50.1, 50.24 and 50.25, Clark recommended modification of the definition of "lock down" to read: "Whenever the inmates are locked in their individual cells, no matter the reason."

50.24

Doyle pointed out need for clarification of 50.24(7)b(2) since visits by attorneys cannot be limited. No comments re 51.5(8). There were no recommendations offered for 20.6 or 40.5(9).

LIVESTOCK
HEALTH
ADVISORY
COUNCIL

The Livestock Health Advisory Council was represented by Mark Truesdell who explained the following:

Recommendations, ch 1 ARC 9817.....N..... 5/3/89

Priebe spoke of the current high incidence of pseudorabies in sheep resulting in great losses. He suggested reverting funds from Items 3, 5, 7, 8, 10 and 12 of the recommendations for pseudorabies research in sheep. Truesdell agreed to refer that request to the Council.

SHEEP &
WOOL, BEEF
INDUSTRY,
EGG COUNCIL

Truesdell also represented the following commodity groups:

BEEF INDUSTRY COUNCIL[101]
Public records and fair information practices, ch 5 ARC 9841.....E..... 5/3/89

EGG COUNCIL[301]
Public records and fair information practices, ch 5 ARC 9840.....E..... 5/3/89

SHEEP AND WOOL PROMOTION BOARD[741]
Rules of practice, election of members, public records and fair information practices, 2.2, 2.4(2), 2.5, 3.1(5),
ch 5 ARC 9839.....E..... 5/3/89

The three sets of rules were intended to implement the Fair Information Practices Act. Royce could see possible problems in terms of confidentiality for the Egg Council. He advised that the rules may need to address who would have access to production records. No other comments.

Recess

Chairman Priebe recessed the Committee for lunch at 11:33 a.m. and Vice Chairman Pavich reconvened it at 1:04 p.m.

INSURANCE
DIVISION

Fred Haskins, Rita Garland and David Lyons appeared for review of:

COMMERCE DEPARTMENT[1811]"umbrella"
Workers' compensation self-insurance for individual employers, 57.9(1)"b" ARC 9830.....E..... 5/3/89

Also present: Donald G. Hauser, Association of Business and Industry, and Jack Clark, Iowa Utility Association.

57.9

Haskins described the amendment to 57.9 as an attempt to address "a perennial problem." The Division regulates employers who self-insure their exposure to workers' compensation insurance. An employer is required to have workers' compensation insurance or to meet certain financial conditions (bond or trust funds) set by the Insurance Division. Many self-insureds become bankrupt and still lack adequate funds. The amendment was intended to strengthen the rule. Adverse comments have been received by the Division.

Hauser understood the objective but was unconvinced that this approach was appropriate. He suspected that CPA

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INSURANCE
DIVISION
Continued

and actuarial fees would increase with some changes in internal accounting and clerical operations without really addressing the objectives. The first financial condition statement would be required June 1, 1990.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda, Deputy Director, appeared for the following:

Taxable and exempt sales — replacement parts, 18.44(1)"b"(4), 18.44(2)"g," 18.45(1), 18.45(5) ARC 9804. F..... 4/19/89
Determination of net income, 59.5 ARC 9837..... N..... 5/3/89

59.5

No questions re 18.44(1)"b"(4) et al. Castelda explained that revision of 59.5 will correct an erroneous interpretation of federal statutes and interest and profits from bonds issued by governments of Guam and the Virgin Islands will no longer be exempt from the state franchise tax. Castelda described the "franchise tax" as a privilege tax not to be confused with income tax. No recommendations. Priebe resumed the Chair.

ENGINEERING
& LAND
SURVEYING

K. Marie Thayer, Professional Licensing, introduced Pat Peters, Executive Secretary, Engineering and Land Surveying, and the following amendments were presented:

Professional Licensing and Regulation Division (193) "umbrella"
COMMERCE DEPARTMENT (181) "umbrella"
Administration — fees, 1.9(1) to 1.9(3) ARC 9704 F..... 4/5/89
Administration, 1.4"3" ARC 9703..... N..... 4/5/89

Ch 1

Certain registration and examination fees were increased in Chapter 1 in order for the Board to meet its allocated share of the budget for the Division. No questions re 1.4.

ACCOUNTANCY
EXAMINING
BOARD
14.1

Bill Schroeder, Executive Secretary, reviewed changes in their fees as set out in adopted rule 193A--14.1(116), published in IAB 4/19/89 as ARC 9797. No Committee recommendations.

ARCHITECT-
TURAL
EXAMINING
BOARD
1.4

K. Marie Thayer explained the following amendments of the Architectural Examining Board:

Professional Licensing and Regulation Division (193)
COMMERCE DEPARTMENT (181) "umbrella"
Description of organization, registration, continuing education, 1.1(8), 1.1(4), 1.4, 2.2(2), 2.3, 3.1 ARC 9798... F..... 4/19/89

Doyle referred to revision in 1.4 with respect to biennial registration renewals. The applicant's last initial would determine whether renewal would be made in odd or even-numbered years. Thayer assured him there would be no problem for those whose names change.

PERSONNEL
DEPARTMENT

Clint Davis was present for review of:

Pay, leave, benefits, political activity, equal employment opportunity and affirmative action, 4.5(2)"b"(1), 4.5(8)"e"(1), 4.5(10), 14.3(4), 14.8(4), 14.13, 14.18, 15.4(4), 16.1(6), 20.6(2) ARC 9796..... F..... 4/19/89

According to Davis, minor changes were made following the Notice. Rule 14.13 on voting leave had been clarified to be commensurate with the law. Brief discussion of test scores, vacancies and eligibility lists.

TRANSPOR-
TATION
DEPARTMENT

Al Chrystal, Norris Davis, Don Stevens, H. E. Sims, Rail and Water Division; Peter Hallock, Air and Transit Division, represented DOT for the following:

OWI and implied consent, 620.1, 620.4(2)"e" ARC 9795. F..... 4/19/89
Improvements and maintenance on primary road extensions, 150.3(1)"a," 150.3(3)"a" ARC 9701..... N..... 4/5/89
Notice of divestment, 800.10, notice ARC 9846 terminated ARC 9780..... N..... 4/5/89
State transit assistance, appendix to 920.5 ARC 9818..... N..... 5/3/89

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TRANSPOR-
TATION
DEPARTMENT
150.3

Also present: John Lewis, Iowa Utility Association.

Chairman Priebe recognized Stevens who presented amendments to 150.3. Attention focused on use of "smaller city" in 150.3(3)a(1). Royce reasoned that it would be those under 5000 population. Priebe was told that the engineer would make the determination as to whether the Department would install interchange lighting. There was dissatisfaction among the ARRC with use of words "smaller city" and Stevens was directed to draft specifics as to what constitutes a smaller city.

Ch 800

Sims offered background information on the proposed termination of amendment to Chapter 800. Six major railroads in Iowa sent letters of criticism on the proposal to require a railroad to notify all interested persons when the railroad diverts a right-of-way or easement. Railroads contend it would be impossible to abide by the rule.

Lewis cited Code section 327G.77(3) which addresses utility facilities located on abandoned railroad right-of-way. He stressed the need for utilities to be aware of a transfer of ownership. By following the process to abandon a railroad right-of-way, Royce thought a compromise could be worked out and monitored by the Utility Association.

920.5

Sims stated that the amendment was terminated after opponents agreed to bargain in good faith with the Utility Association to reach an agreement. Sims explained the abandonment and notification process. Hallock reported that amendment to 920.5 was the result of a study of the distribution formula for public transit assistance. The new formula was endorsed by both Houses of the GA in HCR 7 and will be implemented July 1, 1989. There were

620.1 et al. no questions on 620.1 et al. No recommendations by ARRC.

No Reps

No agency representatives were requested to appear for the following:

DENTAL EXAMINERS BOARD(660)

PUBLIC HEALTH DEPARTMENT(641) "umbrella"

General anesthesia, parenteral sedation and nitrous oxide inhalation analgesia, 29.6(6) ARC 9787 .f..... 4/6/89
Grounds for discipline, 30.4"15" and "30" to "34" ARC 9788.....f..... 4/6/89

PUBLIC EMPLOYMENT RELATIONS BOARD(621)

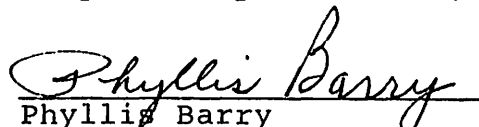
Public records and fair information practices, ch 12 ARC 9846...f..... 5/3/89

A special meeting was scheduled for June 6 and 7, 1989.

Adjourned

Chairman Priebe adjourned the meeting at 2:15 p.m.

Respectfully submitted,


Phyllis Barry
Assisted by Vivian Haag

APPROVED:

CHAIRMAN