

MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The special meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, April 19 and 20, 1988, State Capitol, Room 24, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David M. Tabor and Betty Jean Clark. Representative Edward G. Parker was excused. Staff present: Joseph A. Royce, Committee Counsel; Phyllis Barry, Administrative Code Editor; Vivian Haag, Executive Secretary. Also present: Barbara Brooker Burnett, Administrative Rules Coordinator.

Convened

Chairman Priebe convened the meeting at 10:05 a.m., Tuesday, April 19, 1988, Senate Room 24. He announced that the first order of business would be general discussion of Public Records Law and the Fair Information Practices Act (FIPA), and the required rule making to implement Iowa Code chapter 22.

Fair Information Practices Act (FIPA)

The following interested individuals were in attendance: Kim Walker, Attorney, and Michael Giudicessi, President, Iowa Freedom of Information Council; Elizabeth Osenbaugh, Deputy Attorney General, Victor Kennedy, Department of Natural Resources.

Royce provided legislative history on the open records law (Code chapter 22). He recalled 1984 amendments which included a new section on fair information practices (section 22.11). Under that section, agencies must describe confidential records and personally identifiable information, and which records are open or closed. Procedures for access to the various records must also be adopted. Noncompliance with rule making recommendations by July 1, 1988, will result in a ban on the use of "personally identifiable information."

Burnett spoke of the accomplishment of the Governor's Task Force in establishing means of access to records and procedures to determine which records are confidential under Code section 22.7. She commented on the involvement of the Freedom of Information Council in developing the eight uniform rules for implementing Code section 22.11. She concluded that rule 2 on statement and purpose was the "theme" -- the Task Force tried to "open records and provide balance and fairness."

Priebe mentioned an Attorney General's opinion which advised that an agency could charge a fee. He could see substantial research costs to a large agency such as the Department of Transportation. Burnett emphasized that the Task Force chose not to take a stand on the issue since the Code is silent with respect to fees.

Fair  
Information  
Practices  
Act (FIPA)  
(Cont.)

Giudicessi commented on the Freedom of Information Council formed in 1977, and comprised of individuals from various news and information groups in the state-- Iowa Photographers Association, Register and Tribune, etc. Giudicessi described the council as an "umbrella group" concerned with access to information, including freedom of the press material.

In the matter of fees, Giudicessi concurred with Burnett that the Code does not mandate a charge and he urged that discretion be left to the agency. He added that the United States Freedom of Information Act provides for waiver of fees.

Walker observed that determination has never been made as to whether research fees can be charged. He concluded that "Government must assume certain responsibility related to its recordkeeping." It was Council intent to leave that issue open.

With respect to the AG opinion relative to fees, Osenbaugh pointed out the difficulty of writing a rule for each situation.

Giudicessi was extremely pleased with the cooperation of Burnett, Royce and the office of the Attorney General. He reminded that concerns were not limited to the media and he wanted assurance that adopted rules would reflect the Task Force recommendations.

Royce reasoned that "X.5 is the guts of the rule making" in establishing a uniform procedure for implementing Code sections 22.7 and 22.8.

Osenbaugh said the AG office had recommended that agencies address agreements for trade secret information. She cited an instance relative to gas rate information to the energy policy council. She stressed that it was important for the industry to inform an agency when information is "trade secret."

Giudicessi could foresee problems with that approach. He favored the final version of X.5 and it was his opinion that the "theme is the determination of status of the record." There was never intent to make it easier to declare a record "confidential."

Osenbaugh commented that an agency could set out in the rules the type of information that would be considered confidential. Royce suggested careful perusal of lists of open and closed records. It was noted that the term "exempt records" was eliminated from the final rules. Royce advised that "confidential records" is a defined term and use of the two words together can eliminate ambiguities.

Fair Information Practices Act (FIPA) (Cont.) Recess

Giudicessi had not yet reviewed the AG memo dated 3-30-88, but was hopeful that agencies would adopt the Final Report of the Task Force.

Committee was in recess for 10 minutes.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

John D. Hinshaw, Arlo Hullinger and William H. Greiner were present for the following:

Registration of Iowa-foaled horses and Iowa-whelped dogs, 30-14.1, 14.3(2)"c," 14.41, 14.41(1), 14.43	ARC 8632	.....	F.	3/23/88
Dairy rules, rescind 30-chs 30, 31, 33 and 34; adopt 21-chs 30, 31 and 34	ARC 8466	.....	F.	3/9/88
Contracts for dairy inspection services, ch 32	ARC 8464	.....	F.	3/9/88
Agricultural revitalization program, 56.1, 56.4, 56.6, 56.8 to 56.10, 56.12, 56.16,	<u>filed emergency</u> ARC 8482	.....	FE	3/9/88

Also present: Marshall Inman, Iowa Dairy Products Association.

Hinshaw presented amendments to Chapter 14. Priebe pointed out that under the definition of "bona fide Iowa resident," a stallion could be registered when he was one year old. He asked that the words "in Iowa" be included when the rule is amended again.

Tabor arrived.

Ch 30

Hullinger gave brief explanation of amendments to Chapter 30 et al. It was noted that manufacturing milk can be used for making cottage cheese. No recommendations.

Ch 56

In review of Chapter 56, Greiner recalled that committee suggestions had been incorporated in the final draft. Clark questioned ranking and evaluating factors in the fourth and fifth categories of 56.9. Greiner said that number 4 addressed whether local citizens would be willing to contribute to a program. Paragraph 5 addressed consideration of available funds. Tieden was concerned that areas with greatest needs often lack funds. Greiner contended that 20 points would not make a significant difference. He indicated that thirty-two applications were received for the \$300,000 appropriation. No action.

CORRECTIONS DEPARTMENT

Fred Scaletta represented the Department for the following:

Community-based corrections, ch 47,	<u>filed emergency</u> ARC 8622	.....	FE	3/23/88
Parole officers/firearms ban, 40.4(11)	ARC 8282	.....		1/13/88

Ch 47

Scaletta pointed out that Chapter 47 had been Noticed in September 1986 but was not adopted within the 180-day time frame. That Notice was terminated and the rules were readopted under emergency provisions. Doyle recalled legislation (HF 173) which could require changes in the program structure -- 47.4.

CORRECTIONS DEPARTMENT (Cont.)

Discussion of firearms ban for parole officers, etc., 40.4(11), ARC 8282, published 1/13/88 IAB and delayed for 70 days by the ARRC. In response to Tabor, Scaletta said the position of the Department and the Board continues to be one of strong opposition to allowing parole and probation officers to carry firearms. Tabor was interested in liability of the state if an officer were to carry an unauthorized weapon. Scaletta was unsure. He quoted from the statute and said that the Corrections Board must promulgate rules for judicial districts. He was aware of possible conflict in that the Code definition of "parole office" fits the definition of "peace officer." Scaletta suspected that the rule would continue to be challenged.

Priebe mentioned possible delay into the next General Assembly and Tabor preferred that approach since he was not sure the state had considered the variation in environments where officers work. Backup is not readily available in some areas. Doyle suggested that the Department seek guidance on the matter from the Assistant Attorney General. He recalled recent legislation which precludes officers from being sued individually if they are in compliance with rules. Scaletta agreed to report Committee concerns to the Board and advise the ARRC.

Motion 40.4(11)

Tabor moved that 40.4(11) be delayed into the next General Assembly. Doyle took the position that parole officers should not carry weapons but should have backup from deputy sheriffs or city police. The Tabor motion failed on a voice vote of three to two. Parker absent.

Failed

Doyle asked the Department to consider a provision whereby, in specific cases when officers were in peril, permission to carry firearms could be granted by the Department director rather than by the district. In conclusion, Scaletta emphasized the importance of adequate training on the use of weapons.

PUBLIC BROADCASTING DIVISION

David Bolender and Linda K. Vanderloo appeared for the following:

PUBLIC BROADCASTING DIVISION[225] CULTURAL AFFAIRS DEPARTMENT[221] "umbrella" Organization, facilities management, chs 1 and 2; rescind 340—chs 1 to 16 and 645—ch 1 ARC 8612.....N. 4/6/88

Bolender described the rules as basic to implement government reorganization which placed the Division under Cultural Affairs.

1.1(5)

Tieden challenged quorum provisions in 1.1(5), "A majority vote...of board members present...before the board." Bolender indicated that the matter would be addressed at the next Board meeting since a change in the by-laws would be necessary.

PUBLIC  
BROADCASTING  
DIVISION  
(Cont.)  
2.1(3)c

Tieden questioned 2.1(3)c which would prohibit use of alcoholic liquor in the television center even though wine and beer would be allowed. Priebe recalled that had been a request of the legislative branch. Burnett pointed out that liquor was allowed in the Historical Building because of the receptions held there. Bolender interjected that receptions were held at the broadcasting facility also, but allowing liquor would create additional liability. Tieden and Priebe preferred a consistent policy.

1.1(2)

Doyle was advised that use of "infamous crime..." in 1.1(2) was from the statute. Doyle suggested that the Division recommend a law change in that area. Bolender agreed to convey ARRC concerns to the Board.

COMMITTEE  
BUSINESS

Tentative meeting dates were set for Tuesday and Wednesday as follows: May 10 and 11, June 14 and 15, July 12 and 13, and August 16 and 17, 1988.

Recessed

Recessed at 11:55 a.m. for lunch.

Reconvened

Chairman Priebe reconvened the meeting at 1:35 p.m. with the following agenda being presented by Clint Davis, Personnel Department.

Amendments to chs 4, 5, 7, 8, 11, 12, 14, 15, 19 and 21	ARC 8466	.....	F	3/9/88
Combined charitable campaign, ch 25	ARC 8607, also filed emergency	ARC 8606	.....	NtFE 4/6/88
Pay; promotion, transfer, temporary assignment and voluntary demotion; separation, disciplinary actions and reduction in force; grievances and appeals; leave; benefits; records; general.	4.5(9)"d," 4.9(2)"a," 10.3(6), 11.1(1)"b," 11.3(6), 12.2(7), 14.2(2)"i," 14.3(12), 14.4, 14.5(1), 14.5(3), 14.5(4), 14.6, 14.8(3), 15.6(11)"a," 15.6(11)"d" to "g," new ch 17, 19.4, 19.5	ARC 8467	.....	N 3/9/88
Adoption leave -- selective review				

Also present: Karen Crowder, Senior Systems Analyst Supervisor, Department of Transportation.

Ch 4, et al. Amendments to chapter 4, et al. were considered.

According to Davis, one major change in the rules addresses recall for long-term disability employees if the physician agrees to limited work duty.

17.5(5)

Clark called attention to 17.5(5), line 5, where "or" should be substituted for "of".

Ch 25

Davis gave brief overview of Chapter 25 which had been adopted at request of the Governor's office. Davis said national health agencies had contacted the Governor and an AG opinion advised that if charitable campaign drives and access to state grounds, etc., were allowed, they must be open to any organization.

Responding to Doyle and Priebe with respect to amount collected and costs involved, Davis said that the Revenue and Finance Department would be responsible for that aspect.

Special  
Review--  
Adoption  
Leave

Chairman Priebe recognized Royce who briefed the Committee re correspondence he had received from Karen Crowder. Crowder was advocating a uniform policy for contractual and noncontractual employees with respect to enforced leave for adoption. Currently, contractual employees are entitled to 40 hours. Davis spoke of correspondence exchanged between the Department and Crowder as well as Representative Rosenberg. This material was provided to the ARRC.

Davis clarified that benefits differ among the three contractual bargaining agreements negotiated by Iowa Department of Personnel and he elaborated on them. He added that, in case of noncontractual employees, Code chapter 79 governs. Although the Department was not opposed to legislative initiative, Davis took the position that rule making on the issue raised by Crowder would be inappropriate at this time.

Crowder spoke at length on the "obvious need" for adoption leave for noncontractual employees. She requested provision to allow 40 hours sick leave for adoption in a fiscal year. Davis responded that up to 40 hours sick leave is allowed in a fiscal year for a variety of purposes and their intent was to broadly construe that language. He continued that the Department's position is that sick leave provisions are "extremely generous to a fault in terms of accrual rate" and they have attempted to reduce that rate for contractual employees and members of Iowa United Professionals and State Police Officers Council. He concluded that the restructuring issue must be addressed by the legislature.

Doyle recommended that the issue be referred to the legislature for review by Committees on State Government.

CIVIL  
RIGHTS  
COMMISSION  
8.27(6)  
2.1(8)

Inga Bumbary-Langston and Richard Autry, Assistant Attorney General assigned to Civil Rights Commission, were present for special review of objections to 8.27(6) and 2.1(8) which were not carried forward when the rules were revised, ARC 8275, IAC 1-13-88.

Also present: Kathleen Reimer, Attorney; Jay R. Storey, Maytag Company; Michael D. Treinen, The Principal Financial Group; Terrence R. Dolphin, ER Manager, Meredith Corporation; Russell Samson, Counsel, Iowa Association of Business and Industry; Donald G. Hauser; and Laverne Schroeder, former state representative.

Royce summarized the essential issue for consideration being rules pertaining to "reasonable accommodation" adopted in 1978 and objected to by the ARRC in 1979. He described the concept as ensuring against refusal to hire an applicant because of a handicap. The objections remained in the Iowa Administrative Code until state reorganization, when, as a part of that

CIVIL  
RIGHTS  
COMMISSION  
(Cont.)

process, the rules were repromulgated and the objections were omitted. Question has been raised as to whether the objections should be reimposed.

Doyle wondered if anyone had ever filed suit on the objections and received a negative response. Chairman Priebe recognized Hauser who wanted to focus on the issues in depth. He introduced other interested individuals and distributed copies of the position taken by the Iowa Association of Business and Industry.

Samson contended the rules in question had been invalid since 1979 and he viewed the "resurrection" through the reorganization process as a "convoluted procedure." He quoted from Code section 17A.4(4) as to the burden of proof on an agency to prove validity of a rule on which an objection has been imposed.

6.2(6)a(2)  
6.2(6)b

Samson reviewed the objection to original rules numbered 6.2(6)a(2) and 6.2(6)b and noted that no court had ever addressed the validity of the rules. He argued that under the Code, they are presumably invalid. He stated that the Iowa Supreme Court has read into Code chapter 601A the reasonable accommodation requirements and ABI had no objection to that abstract concept--Foods, Inc. case. He then referred to Code chapter 19B enacted in 1986 as an affirmative action obligation.

Samson discussed the Iowa Supreme Court's consideration of federal and state requirements in the abstract. It recognized that the Federal statute requires a different type of accommodation than is required under Chapter 601A and it provides funding for reasonable accommodation. The State does not provide that funding to all employers in Iowa. Samson thought there was clear indication that the Supreme Court agreed with the Committee action to object in 1979. He recalled an attempt by the 1987 GA to codify the objectionable rules verbatim into Code chapter 601A (HF 500) -- vetoed by the Governor. The Governor's Task Force has been studying the issue of "reasonable accommodation." Samson declared, "It is not a question of whether there is an accommodation but what the parameters should be. The sole issue is whether these rules are in excess of agency's authority." He urged that the objections stand.

Langston offered her interpretation of the "reasonable accommodation" language in 8.27(6). She focused on use of "may" (8.27(6)a) which was not mandatory but provided guidelines or examples of ways to accommodate a handicapped person. Langston recalled cases of factual situations where jobs were restructured. The Iowa Supreme Court affirmed this.

CIVIL RIGHTS COMMISSION (Cont.)

Responding to Royce, Samson cited the Foods, Inc. Case where the employer was liable since he could have restructured the job but did not. He also mentioned the Martin, Mowery Tension Envelope Case out of the Court of Appeals to be published soon. In that case, the employer restructured the job and the Court quoted the reasonable accommodation rule and discussed it.

Storey spoke of the hours spent working with Civil Rights on the entire area of accommodation. Federal rules governing what must be done are identical to Iowa rules. Storey spoke of the complexity of meeting requirements to fill a handicapped position. When bidding on Federal jobs, the price can be adjusted at a level for the employer to recoup the additional expense. However, it was Storey's opinion that it was not legislative intent to extend the rigid requirements to every situation in Iowa while other states and foreign governments do not have the stringent provisions. He concluded that additional costs of doing business in Iowa seemed untimely in today's increasingly competitive marketplace.

General discussion of statutory language.

Autry addressed the issue and recalled that in 1987 and 1988, the Supreme Court, in effect, said, "We are not going to read the statute literally--will not read it as narrowly as the ARRC did in 1979."

There was discussion of HF 500 [1987] on individual rights which was vetoed by the Governor. Copies of the veto message were distributed.

Motion

Chairman Priebe reviewed ARRC options. Tieden moved that the 1979 objections be reinstated. Tabor preferred an opportunity to review materials submitted today, including the veto message. After discussion, there was agreement that the matter should be deferred until Wednesday, April 20 at 1:00 p.m. Tieden withdrew motion.

Withdrawn

COMMUNITY ACTION AGENCIES

Sue Downey and John Burnquist presented the following proposals and no questions were asked.

- COMMUNITY ACTION AGENCIES DIVISION[427]
- HUMAN RIGHTS DEPARTMENT[421] "umbrella"
- Energy assistance crisis program, 10.3(5) to 10.3(10) ARC 8499 .....N. 3/9/88

ECONOMIC DEVELOPMENT DEPARTMENT

Melanie Johnson and Doug Getter were present for the following:

- Economic and research development grants, ch 63 ARC 8533 .....F 3/23/88
- Small business innovation research grant assistance program, ch 59 ARC 8534 .....F 3/23/88
- Iowa industrial new jobs training program, 5.3(3), filed emergency ARC 8508 .....FE 3/23/88
- Rescind 630—chs 6 and 25, filed emergency ARC 8509 .....FE 3/23/88
- Iowa targeted small business procurement program, 54.2, 54.3(5)\*e, 54.5 to 54.7, 54.8(3), 54.9(3), 54.9(5), 54.9(6) ARC 8535 .....N. 3/23/88

ECONOMIC  
DEVELOPMENT  
DEPARTMENT  
Ch 54

No questions re Chapter 53, 59, 5.3(3), chs 6 and 25.

Getter gave brief overview of proposed amendments to chapter 54. He cited 1987 Iowa Acts, chapter 233, as the Department's authority for performance bond waiver in certain situations. No action taken.

EDUCATION  
DEPARTMENT

Charles Moench, John Hartung, Orrin Nearhoof, Merrill Halter, and Ralph Childers appeared for review of the following:

Accredited schools and school districts, 670—ch 4	ARC 8538	.....F	3/23/88
Educational programs and services for pupils in juvenile homes, 670—ch 42	ARC 8460	.....F	3/9/88
Evaluator approval, 670—ch 81	ARC 8487	.....F	3/9/88
Area vocational schools and community colleges, 670—5.45(2)	ARC 8594	.....F	4/6/88
Rehabilitation division—use and exchange of information, 670—35.23	ARC 8489	.....V	3/9/88

Ch 4

There was brief discussion of Chapter 4 and legislation which, if signed by the Governor, would delay the entire rule making one year.

Motion  
70-Day  
Delay

Clark moved a 70-day delay on 670--Chapter 4, published in 3/23/88 IAC. Motion carried.

Doyle in the Chair.

Ch 81

Nearhoof reviewed the purpose for Chapter 81. Royce envisioned a problem if the Department did not set out procedures on how equivalence is approved. Nearhoof stressed the need for balance since there is a tendency for agencies to write law with rules or exceed legislative intent.

5.45(2)

Moench reported on updating of the manual--5.45(2). No questions. No questions re 35.23.

Recess

Recessed at 3:05 p.m. to be reconvened at 9 a.m., Wednesday, April 20, 1988.

Reconvened Chairman Priebe reconvened the ARRC meeting at 9:10 a.m.  
 Wednesday Wednesday, April 20, 1988, with a quorum present.

NURSING Priebe called on Ann Mowery who presented the following:  
 BOARD

- Administrative and regulatory authority, 1.1, 1.3(1), 1.3(3) ARC 8457.....F 3/9/88
- Licensure to practice RN/LPN, 3.4(2)\*a\*(1) and (2), 3.6(8) ARC 8458 .....F 3/9/88
- Petitions for rule making, declaratory rulings, rule making, chs 8, 9, 10 ARC 8459 .....F 3/9/88
- Licensure to practice—RN/LPN, 3.1, 3.6 ARC 8587 .....F 4/6/88

Chs 1, 8, Mowery explained that the Board, by amendments to  
 9 and 10 chapters 1, 8, 9 and 10, adopted uniform rules of the  
 1.3(1) Governor's Task Force with some modifications. A  
 statement was added in 1.3(1). Doyle questioned use  
 of "at least minimally competent" in 1.3(1). Mowery  
 spoke of the Board's "legal obligation" in fulfilling  
 their role through examination and disciplinary  
 procedures.

3.4(2) Doyle took the Chair. According to Mowery, amendment  
 to 3.4(2) will allow examination scores to be reported  
 by either pass or fail. There had been a trend to  
 misuse scores, especially by Area Schools. No questions  
 with respect to other amendments to chapter 3.

Ch 2 Priebe in the Chair. Discussion of chapter 2, "Nursing  
 Education Program," which had been delayed into the  
 General Assembly. General concensus was that no legisla-  
 tive action had been taken and the rules would become  
 effective June 8.

HUMAN Mary Ann Walker, Jim Evans, Anita Smith, Don Kearney,  
 SERVICES Jo Sheeley, Roger Herr, Dan McKeever, Barb Momberg,  
 DEPARTMENT Cynthia Tracy, Ruth Schlesinger, Dan Gilbert, C.S.  
 Ballinger, Sally Titus Cunningham, Jim Evans, Vivian  
 Thompson, and Nancy Haigh appeared for the following:

- Standards for services to persons with mental retardation, developmental disabilities, or chronic mental illness. ....F 3/23/88
- ch 22 ARC 8523 .....F 3/23/88
- State community mental health and mental retardation services (fund. 32.3(1)\*b\* and "c" ARC 8524 .....F 3/9/88
- Aid to dependent children program administration, 40.4(4), 41.2(7), 41.7(9)\*j\*, 45.5 ARC 8456 .....F 3/9/88
- Health maintenance organizations, 88.1, 88.2(1)\*a\* and "b." 88.2(2)\*b\*(8), 88.2(3), 88.2(3)\*a\*, 88.2(4)\*a\*, 88.3(2) to  
 88.3(6), 88.4(1), 88.4(2), 88.4(3)\*a\*, 88.4(4)\*b\* and "d." 88.5(1), 88.5(4), 88.5(5), 88.6, 88.7(1), 88.7(2)\*a\* and "d."  
 88.7(5)\*a\*, 88.8(1), 88.8(1)\*c\*, 88.9(1), 88.9(2), 88.9(3)\*a\*, "b." and "d." 88.10(1), 88.10(2), 88.10(4), 88.11(3).  
 88.12(1), 88.12(2), and 88.12(4) ARC 8525 .....F 3/23/88
- Cash bonus program, ch 92, filed emergency after notice ARC 8497 .....FEAN 3/9/88
- Granting assistance, 41.3, 41.3(4), 41.7(2)\*b\*, 41.7(4)\*a\*, 41.7(8)\*a\*; rescind 41.1(2) and 41.2(2), filed without  
notice ARC 8598 .....F.W.N 4/6/88
- Granting assistance, 41.6(4)\*a\* and "b." 41.6(8), 41.7(6)\*t\*; rescind 41.6(4)\*c\* and "d" ARC 8596 .....F 4/6/88
- Aid to dependent children eligibility under the self-employment investment demonstration project, ch 48  
 preamble, 48.3, filed emergency after notice ARC 8602 .....FEAN 4/6/88
- Conditions of eligibility, 75.10, 75.11, 75.12 ARC 8597 .....F 4/6/88
- Application and investigation, 76.5(1) ARC 8596 .....F 4/6/88
- General provisions, 130.6(2), 130.7, filed emergency after notice ARC 8603 .....FEAN 4/6/88
- Conditions of eligibility, 75.1(23)\*f\* filed emergency ARC 8593 .....F.F. 4/6/88
- Cash bonus program, 92.1, 92.3(2) filed emergency ARC 8592 .....F.F. 4/6/88
- Welfare reform—work and training services ARC 8531 .....N 3/23/88
- Iowa veterans home, new ch 10, ARC 8507 .....N 3/9/88
- Granting assistance, rescind 41.1(5)\*c\*(4) ARC 8530 .....N 3/23/88
- Employment services department registration and referral, 41.2(14), 42.4(3) ARC 8464 .....N 3/9/88
- ADC eligibility under the grant diversion program, 47.2(1), 47.3 ARC 8529 .....N 3/23/88
- Medicaid program, 75.1(27), 75.4(3)\*f\*, 81.4(2), 81.10(3), 82.9(2), 85.4(1)\*a\* ARC 8498 .....N 3/9/88
- Hospital outpatient services, 78.31, 79.1(2), 79.1(5)\*c\* ARC 8526 .....N 3/23/88
- Other policies relating to providers of medical and remedial care, 79.1(13),  
 notice ARC 8348 terminated ARC 8527 .....M.T. 3/23/88
- Title XIX waiver services, 83.5(8), 83.5(8)\*b\* ARC 8528 .....N 3/23/88
- Iowa state juvenile home, 101.14, 101.20 ARC 8452 .....N 3/9/88
- Purchase of service, 150.2(1)\*a\*, 150.3(3)\*j\*(2), 150.3(5), 150.6(2)\*b\*(2) ARC 8465 .....N 3/9/88

HUMAN  
SERVICES  
DEPARTMENT  
(Cont.)

Also present: Jim Berhow and Jack J. Dack, Iowa Veterans Home; Dennis Weis, Assistant Medical Director, Powell III; Daniel A. Christiansen, Ph D, Iowa Lutheran Hospital, Kris Lischefska and Jeff Gronstal, Vice President, Iowa Board of Substance Abuse; Ron Davis, President, Private Programs of Iowa.

Ch 22

Walker stated that revisions had been made to chapter 22 which would allow for service options resulting in more response to individual needs. These rules provide standards and do not address entitlement-- other agencies would need to adopt them--22.1(4).

Priebe questioned definition of "least restrictive environment." Cunningham responded that the thrust of the legislation speaks to that concept and the rules provide guidelines without prescribing. Programs would be tailored to individual needs. Priebe observed that to a degree "we are all regimented" and he wanted to avoid a misconception that the handicapped or disabled would be excepted from restrictions of the normal flow of life. Clark saw no problem.

32.3

No recommendations for 32.3(1)b.

40.4(4)

In consideration of the amendments to 40.4(4), et al., Doyle commented that he had received complaints about a shortage of equipment for entering the data. Department officials indicated that more terminals had been ordered and stressed that the program was working. Discussion of the program in general. No action taken.

Ch 88

No questions re chapter 88.

Ch 92

Herr described changes in chapter 92. The cash bonus program for adult ADC recipients, with no employment for more than 36 months, has been changed to \$500 for the recipient and \$500 for the employer after the ADC recipient has worked full time for six months. Herr said there were 27 approved for the program but he did not have an evaluation of the jobs. No other questions.

Ch 41

No recommendations for amendments to chapter 41. Tabor arrived.

Ch 48

Tieden was informed that 21 to 24 individuals had participated in the SEID Project for ADC recipients. No Committee action.

75.10 et al.

Walker gave brief overview of amendments to 75.10 to 75.12. With reference to the definition of "emergency services," Ballinger stated that payment was limited to three days--75.11(1). Clark observed repetitious language in 75.10(2). Tracy admitted that they tried to cover all eventualities in the complicated rule. A child can have two states of residency, Iowa where

HUMAN  
SERVICES  
DEPARTMENT  
(Cont.)

they are living, and the state where the parent moves. The child can remain in Iowa if parental rights are terminated.

Department officials advised that federal requirements prohibit Medicaid coverage for persons incarcerated--75.12.

76.1, 76.5  
130.6(2) General discussion. No other comments re 76.1, 76.5 and 130.6(2).

Walker explained the Department's Notice (ARC 8531) to secure input to aid the Welfare Reform Coordinating Council created by Executive Order No. 27. Consolidation of certain services is being considered to improve access for welfare recipients. Herr reported considerable disagreement on the options and added that the issue will be presented to six agency directors of the Welfare Reform Council for future direction. Doyle was told there had been no legislative action in 1988 pertaining to this study.

Ch 10

Royce commented on chapter 10 which seemed to impose many restrictions and discipline on residents in the Veterans Home. Both Code and rules contain military language. Dack emphasized the need for discipline in the communal living situation. He cited alcohol problems which require individuals to understand "where we are coming from." Doyle recalled that a few years ago, he had asked Rusty Laird, active in the Legion, and others to review the Code sections where there are provisions for court martial. According to Dack, court martial is not used and he had recommended Code correction.

Priebe was informed that 91 persons are on the waiting list. With the funding provided in 1988, there should be fewer problems. In January 1989, the first beds will be phased-in. Dack concurred with Royce that the statute has its genesis from the Civil War era. The Home was established in 1887 and Veterans benefits date back to 1836.

75.1 No questions re 41.1(5)c(4), 41.2(14) or 42.4(3). Department officials estimated that changes in the Medicaid program would cost \$889,000--federal and state; 62 percent being federal funds.

Tracy advised Doyle that federal law precludes extended Medicaid benefits to a divorced person--benefits are restricted to widows or widowers aged 60 or over.

47.2, 47.3 No questions re 47.2(1), 47.3.

Chs 78,79 Discussion of proposed amendments to chapters 78 and 79 relative to hospital outpatient services.

HUMAN SERVICES DEPARTMENT (Cont.) Chs 78, 79

Chairman Priebe recognized Gronstal who took exception to 78.31(2)b and requested revision to read: "Medical direction. All outpatient services must be provided by or at the direction and under the supervision of a medical doctor or osteopathic physician, except j, mental health, which may be provided by or at the direction and under the supervision of certified health service provider in psychology." Gronstal also took exception to the Department's setting of educational criteria for substance abuse counselors--78.31(4)a(3). He pointed out the Iowa Board of Substance Certification and Commission on Substance Abuse (Public and Private Program Directors, Minority Coalition etc.) forms that organization and sets minimum standards.

Clark had no problem with the amendments. Weis addressed the issue of the professional vs medical direction and stressed the importance of continued physician involvement in the "management of these patients" even on an outpatient basis. Those specifically trained in chemical dependency should have ongoing involvement with the program.

Davis spoke of the different therapeutic approach for chemical dependency and mental health problems. Lifscheska saw possible conflict with the statute which says "diagnose and evaluate, not direct and admit patients" to facilities.

Doyle asked if the OWI facilities were being evaluated. Gronstal said the Board reviews and certifies substance abuse counselors and the Health Department licenses and reviews facilities. Walker said that the Council would provide copies of the revised rules before they are submitted for publication. No questions re 79.1(13), 83.5(8) or 150.2(1)a et al.

79.1(13), 83.5(8) 150.2 et al. Ch 101

Amendments to chapter 101 were a result of legislative mandate.

Recess

Committee in recess for 10 minutes.

INSURANCE DIVISION

Chairman Priebe called up Insurance rules. Fred Haskins and Kevin Howe presented the following and there were no questions.

Workers' compensation group self-insurance, workers' compensation self-insurance for individual employers. 56.3(2)1, 56.4, 57.3(3), 57.6, 57.9(2) ARC 8536 ..... F 3/23/88  
 Unfair trade practices — health data commission, 15.12, amended notice ARC 8477 ..... AN 3/9/88

ENVIRONMENTAL PROTECTION COMMISSION

Mark Landa, Morris Preston, Keith Bridson, Mike Murphy, Vic Kennedy, Al Stokes, Richard Bishop, Michael Carrier, and Rick McGeough appeared for review of the following:

Free liquids—definition, sanitary landfill prohibition, 100.2, 102.13(8) ARC 8490 ..... F 3/9/88  
 Underground storage tanks, 135.9(3) ARC 8491 ..... F 3/9/88  
 Solid wastes grants, ch 209, filed emergency after notice ARC 8474 ..... FEAN 3/9/88  
 Agency procedure for rule making, ch 4; rescind 900—ch 5 ARC 8482 ..... N 3/9/88  
 Petitions for rule making, ch 5 ARC 8493 ..... N 3/9/88  
 Private well sampling and abandonment—grants to counties, ch 47, 40.1 ARC 8475 ..... N 3/9/88  
 Underground storage tanks -- required removal, 135.12 IAC

ENVIRON-  
MENTAL  
PROTECTION  
COMMISSION  
(Cont.)  
100.2  
102.13(8)

Landa reviewed the amendments to 100.2 and 102.13(8). Responding to Doyle, Preston indicated the rules address the type of liquids which are prohibited at landfills, e.g., sewage sludge not dewatered, and sugar solution from pop companies. The water content will increase leachate and create problems. Landa spoke of a proposed rule concerning wet sewer sludge which will implement the Parker amendment adopted last year.

135.9 In review of new subrule 135.9(3), Priebe asked if the Department had authority to install sniffer wells. Landa said the legislation requires monitoring of new and old tanks, and options are provided, one being use of sniffer wells. Priebe expressed concern as to the cost of sniffer wells and wondered about the effectiveness of a new monitoring system which could be used by walking over the tank. Department officials were unaware of such a system but mentioned an organic vapor analyzer with a probe now used by most consultants. No further discussion.

Ch 209 In re chapter 209, Kennedy recalled that three solid waste grants were in process. No Committee recommendations.

Chs 4 & 5 No questions regarding uniform rules in chapters 4 and 5.

Kennedy and Stokes explained the purpose of chapter 47 was to define procedures for making grants to counties in connection with testing private water wells and closing of wells. As a result of the hearings, a change will be made to allow up to \$200 reimbursement for well closing. Many who attended the hearing thought it was inappropriate to set up a competitive grant formula which would penalize those without county sanitarian programs. They favored availability of base grant to all counties. To the extent counties would choose not to participate, remaining funds could be allocated on an equal share basis to other counties. There were also recommendations for cost sharing or assistance for proper plugging of abandoned wells. The rules and recommendations will be considered by the Commission next week. Stokes pointed out that a separate set of rules will address guidelines to follow in determining priority of wells. No other comments.

There was discussion of legislation pertaining to leaking underground storage tanks [LUST]. Possible methods of tank disposal were mentioned. It was pointed out that tanks could be cut up but caution needed to be exercised to ensure that tanks were properly cleaned of flammable and explosive material. Priebe preferred using concrete to fill empty tanks.

NATURAL  
RESOURCE  
COMMISSION

The following agenda was considered:

Concessions, ch 14	ARC 8546	.....	F	3/23/88
Agency procedure for rule making, petitions for rule making, chs 4 and 5	ARC 8539	.....	N	3/23/88
Rules of practice in contested cases, ch 7; rescind 290—ch 64	ARC 8540	.....	N	3/23/88
Contracts for public improvements and professional services, ch 8; rescind 290—ch 62; renumber 671—ch 8 as		.....	N	
671—ch 10	ARC 8541	.....	N	3/23/88
Motor regulations, 45.4(2)"b" also notice	ARC 7789, <del>terminated</del> ARC 8542	.....	N	3/23/88
Game management areas, 51.3(1)"a"	ARC 8543	.....	N	3/23/88
Trapping limitations, 110.2, 110.4	ARC 8544	.....	N	3/23/88

Ch 14

Carrier summarized changes from the Noticed version of Chapter 14 which included removal of language in 14.2(1) that required the minimum monetary bid and acceptable services to be published in the newspaper. It will be provided in the bid package. Concessionaires may request renewal of contract before the end of its term and they may remove buildings and facilities constructed in lieu of annual lease payments if the contract language provides for it. The district park supervisor is now included in the first step of dispute resolution.

With respect to the definition of "Permit/lease" meaning "contract," Carrier told Tieden that it would be modified to conform with 1988 legislation. No questions re chapters 4, 5, 7, 8, or 45.4(2)b.

51.3(1)a

McGeough stated that amendment to 51.3(1)a would clarify areas for target shooting with firearms on Banner Mine area. Doyle submitted a petition to Department officials from his constituents requesting a change in the duck season.

Ch 110

Trapping

Bishop presented 110.2 and 110.4. Also present for the review: Loren Myers, Macksburg; Fred Stooky, St. Charles, landowner; Dean Decker, Peru, all members of CACTAS and Robert Andersen, Iowa Wildlife Federation and Iowa Sportsmen Federation.

Bishop pointed out that proposed changes would implement 1988 Acts House File 395 (\$33 amending \$109.92) which will allow a snare with an eleven-inch loop on private land other than roadsides within 30 yards of ponds, lakes, streams, ditch, river, etc. Also provided that all snares must have a functional deer lock of 2½ inches.

Decker viewed legislative action as giving the "road right-of-way back to hunters and trappers and a spit in the farmer's face." Priebe discussed the Conference Committee Report. He declared, "I don't think anyone knows which ditch the farmer owns" and urged opponents of the legislation to make recommendations. Decker voiced his opposition to the loop snare on land since "it will catch livestock--dogs, deer, or a horse can get his head through it."

Stooky also expressed opposition to the 11-inch loop as being dangerous for his dogs. Myers opposed the 11-inch loop and spoke of confusion as to who owns the land to the middle of the road. No formal action taken.

NATURAL  
RESOURCES  
DEPARTMENT

According to Murphy, the following rules were repetitious of rules adopted by reference by the Environmental Protection Commission and Natural Resource Commission.

Concessions, ch 14 ARC 8547.....	F	3/23/88
Agency procedure for rule making, ch 4 ARC 8404.....	N	3/9/88
Petition for rule making, ch 5 ARC 8495.....	N	3/9/88
Rules of practice in contested cases, ch 7 ARC 8545.....	N	3/23/88
Contracts for public improvements and professional services, ch 8 ARC 8548.....	N	3/23/88
Rules of practice in contested cases, ch 7 amended notice ARC 8615.....	AN	4/6/88

REVENUE  
AND FINANCE  
DEPARTMENT

Carl Castelda appeared for the following:

Practice and procedure before the department of revenue and finance, 7.8, 7.14(2) ARC 8514.....	F	3/23/88
Taxable and exempt sales determined by method of transaction or usage, sales tax exemption, 18.24, 20.9(1) to 20.9(3), 20.9(5) ARC 8516.....	F	3/23/88
Sales and use tax on construction activities, receipts exempt from use tax, 19.5, 32.8 ARC 8515.....	F	3/23/88
Sales and use tax on services, 26.11 ARC 8518.....	F	3/23/88
Amendments to chs 38 to 41, 43 and 49 to bring Iowa's income tax into conformity with federal tax law ARC 8506.....	F	3/9/88
Withholding, 46.4(1)"a" to "c" ARC 8517.....	F	3/23/88
Inheritance tax, 86.5(10)"d" and "f" ARC 8605.....	F	3/9/88
Determination of a sale and sale price, 15.3, 15.3(3), 15.3(4), 15.3(5) ARC 8610.....	F	4/6/88
Fair information practices, ch 5 ARC 8504.....	N	3/9/88
Filing returns, payment of tax, penalty and interest; administration; assessments and refund; allocation and apportionment; assessments, refunds, appeals, 12.9, 30.11, 38.2(1)"a" and "f," 43.3(8)"b," 51.2(1)"a" and "f," 52.1(1), 52.4(6)"c," 52.6(10), 54.2(1), 54.7(5), 54.9, 55.3(5)"b," 57.2(1)"a" and "f," 60.3(5)"b" ARC 8503.....	N	3/9/88
Determination of a sale and sale price, 15.2 ARC 8512.....	N	3/23/88
Composite returns, ch 48, notice ARC 8201 terminated ARC 8511.....	N/T	3/23/88
Composite returns, ch 48 ARC 8513.....	N	3/23/88

Ch 48

Chapter 48 was taken out of order. Castelda cited 1987 legislation as the Departments' authority for filing of a composite return to report income of a number of nonresident individuals in partnerships.

The first proposal of rules was terminated and the revision reflects clarifications recommended by CPAs.

Ch 5

Castelda stated that approximately 1300 hours had been spend in drafting rules (ch 5) to implement the fair information practices law. Castelda responded to question by Doyle with respect to confidentiality of franchise tax information at a bank. Castelda referenced language enacted which allows Department to release confidential information to one or two employees who will be granted permission to examine Revenue and Finance Department records--with restrictions to sales tax or local option taxes. The Department has "guarded franchise tax information" and has been able to guard confidentiality on particular banks.

Recess

Recessed at 11:45 a.m.

CIVIL  
RIGHTS

Reconvened at 1:05 p.m. for review of Civil Rights issue deferred at yesterday's meeting. (See page 3851) Those in attendance included: Inga Bumbarly-Langston, Civil Rights Director, Rich Autry, Assistant Attorney General, Donald Hauser, ABI; Michael Treinen, Principal Financial Group, and Terrence R. Dolphin, Meredith Co.

Chairman Priebe recognized Langston who stated she could accept reinstatement of the 1979 ARRC objections if that action is taken to be consistent and it is a continuation. However, she would have concern if the motion were to be based on the brief submitted yesterday and recitation of someone's understanding of the

CIVIL RIGHTS CONT'd

law. Bumbarry-Langston continued that changes have occurred in that the Supreme Court has been definitive on some issues. She reiterated that language included in the rules in question, especially on "reasonable accommodation," was not mandatory. Had she been present in 1979, Bumbarry-Langston would have argued vehemently against the objection.

Motion

Doyle moved to reinstate the 1979 objection for the reason that the rules were merely transferred to implement state government reorganization and there was no substantive change.

Tabor noted the absence of substantive change and said he would be extremely concerned if renumbering of a rule could result in the elimination of an objection.

Objection Rein-stated

The Doyle motion carried with 5 ayes. Parker absent and not voting. The following language was drafted by Royce:

At its April 20 meeting the committee voted to reimpose two 1979 objections to rules which required employers to provide specific types of "reasonable accommodation" to the handicaps of employees (paragraphs 6.2(6)"a"(2) and 6.2(6)"b") and defined the terms "injury" and "benefit systems" (Subrules 1.1(8) and 1.1(9). Subsequent to the 1979 objections, subrule 1.1(9) was deleted by the commission, rendering that portion of the objections inoperative. The remaining portions remained in place and in effect until they were deleted when the rules at issue were renumbered and repromulgated by the commission as part of the reorganization process. The committee action will reinstate those objections into the Iowa Administrative Code. The rules appear as part of ARC 8275 in X IAB 15 (1-13-88) and are codified as paragraphs 161 IAC 8.27(6)"a"(2) and "b," relating to reasonable accommodation, and subrule 2.1(8), relating to the definition of the term "injury".

RACING & GAMING

Mick Lura represented Racing and Gaming for the following:

- Greyhound rules, mutual departments, 7.2(9)"b," 8.2(4)"f" and "j," 8.6 ARC 8463 .....N.
- Mutuel rules, 8.2(4)"f" and "j," 8.6, filed emergency ARC 8462.....FE.
- Claiming races, 9.178 ARC 8588.....N.
- Special review, 7.9 Medication and administration of drugs .....

Lura said that the U.S. trotting rules for claiming races at fairs will be adopted in rule 9.178. The rules will accommodate harness racing for one season only.

7.9

Chairman Priebe announced special review of rule 7.9, entitled, "Medication and administration, sample collection, chemists, and veterinarians." He called on Ted Hovick from Story City who expressed concern as to use of preservatives in feeds and raw meats which are fed to racing dogs. This can result in a positive drug test if the dog has been injected. Other states have recognized this fact and have provided a tolerance factor. Lura admitted that dogs have tested positive and they are taking action to use chemicals which do not affect animal performance. He pointed out that the law is very inflexible. He added that a masking agent found in some dry dog food (polyethalene glycol) would still be prohibited and subject to discipline. Use of this drug makes it impossible to determine if other harmful drugs have been administered.

Royce wondered if a tolerance level could be established. Lura replied that even a trace interferes.

RACING AND GAMING (Cont.)

Hovick was aware of differing views by chemists. Lura concluded that they were attempting to solve the problem from a management standpoint. Otherwise, it may be necessary to recommend legislation.

INSPECTIONS AND APPEALS DEPARTMENT

Xenda Lindel-Prine, Mary Oliver, and Nancy Ruzicka were present and the agenda follows:

- Field survey administration—farmers markets, 30.2, 30.3(4) ARC 8621.....F 3/23/88
- Food establishment and food service establishment inspections, 31.2, 32.3(6) ARC 8601.....F 4/6/88
- Health care facilities administration—records, 50.8 ARC 8637.....N 3/23/88
- County care facilities, care fo mentally ill and mentally retarded, 57.49, 58.53, 63.48, 64.59, Economic Impact Statement on ARC8199 Notice published 12/16/87.....N 4/6/88

No questions were posed for 30.2, 30.3(4), 31.2, 32.3(6), or 50.8.

In re the Economic Impact Statement for county care facilities, Lindel-Prine pointed out that it was drafted by Human Services since they are responsible for rules concerning care of the mentally ill and mentally retarded in county care facilities. Inspections and Appeals are required to monitor those facilities.

Responding to Doyle, Oliver said that an annual Fine and Citation Report was prepared for the legislature. It provides a public record of who is fined and the reasons therefor.

EMPLOYMENT APPEAL BOARD

James Althaus and Mary Olson presented the following:

- INSPECTIONS AND APPEALS DEPARTMENT(481) "umbrella"
- Rules of procedure for OSHA appeals, rescind 610—ch 1, adopt 486—ch 4 amended notice, ARC 8613.....AN 4/6/88

There was brief review but no recommendations.

PUBLIC HEALTH DEPARTMENT

Susan Osmann, Mike Guely, Don Kerns, and Dennis Bach were present for Public Health Department. Also present were Cheryl Brinkman, Medical Examiners, and Nancy Ruzicka, Inspections and Appeals. The following agenda was reviewed:

- Hospital protocol for donor requests, ch 180 ARC 8501.....N 3/9/88
- Hospitals—abuse prohibited, 51.4(4) ARC 8500.....N 3/9/88
- Medical examiners—information policy, record system, and inspection of records, 470—135.601 to 135.619 ARC 8582.....N 3/23/88
- Hospitals, 470—51.3(4), 51.3(5) ARC 8599.....N 4/6/88
- Basic emergency medical care, 641—ch 131 ARC 8589.....N 4/6/88
- WIC rules, ARC 8410, ch 73, 70 day delay.....2/24/88

Also present: James B. West and Trish Smallenberger, Grocers Association of Iowa.

CH 180

No questions with respect to Chapter 180, amendments to Chapter 51 or 135.

Ch 131

Guely reported that Chapter 131 reflects current policy followed by the state emergency medical services. The rules do not govern basic operation of ambulance care services, only the training and certification of personnel involved.

Guely advised that language in 131.10(2) was lifted from Code §17A.19(3). Doyle recommended that language in 131.10(10) follow 131.10(2).

PUBLIC HEALTH  
Continued  
Ch 73

Bach reported on action by the agency regarding amendments to Chapter 73 on the WIC Program. He distributed drafts of the revisions which he understood were acceptable to the Grocers Association. West concurred that their opposition had been addressed.

The amendments to Chapter 73 had been delayed 70 days by the ARRC at their March meeting. Bach asked and received consent to submit the revisions under emergency provisions since a comment period had been held.

UTILITIES DIVISION

Ray Vawter, Jr., Allan Kneip, Vicky Place, and Cindy Dilley were present for the following agenda:

- Low-income telephone connection assistance program, 22.18 ARC 8483 .....F 3/9/88
- Pipeline safety, 19.2(5), 19.5(2), 19.5(3), 19.7(3), 19.7(6), 19.7(7), 19.8(3), amended notice ARC 8484 .....A/V 3/9/88
- Service area boundaries, 20.3(8) to 20.3(12), amended notice ARC 8485 .....A/V 3/9/88
- Telephone rates—shared tenant service, 22.17(1)"b" ARC 8591 .....A 4/6/88

22.18

No questions on 22.18.

19.2

Dilly stated that amendments to 19.2(5) et al. embody federal changes for safety standards. She pointed out differences from the Notice.

Ch 20

Place summarized the minor changes in Chapter 20 following the Notice.

22.17

According to Kneip, amendment to 22.17(1)b will remove mandatory local measured service for shared tenant telephone service providers. The rule making was initiated on a petition by Mid-America Investment Company, as well as other shared service providers.

Priebe suspected that the amendment would result in profit for the company. Kneip replied that heavy volume would reduce costs, e.g. the service could be utilized by the Ruan Center where a landlord would install a telephone system with purchased lines from Northwestern Bell. Tenants rent from that landlord.

No formal action taken on Utility rules.

HISTORICAL DIVISION

Carol Ulch represented the Historical Division for Chapter 13, "Description of organization," ARC 8481, published in 3/9/88 IAB. No Committee action.

TRANSPORTATION DEPT.

Special Review Driver License

Al Chrystal and Norris Davis appeared for special review of eligibility for four-year driver license, 602.11, ARC 8375, IAB 2-10-88, delayed at the March ARRC meeting.

Doyle contended that a compromise could be made -- before a person 17 years, 11 months old, completes an application for a driver license, the individual should be informed that if renewal is made before the 18th birthday, a two-year license is issued; after the birthday, a four-year license can be issued. Doyle agreed to withdraw the

TRANSPORTA-  
TION DEPT.  
Continued

the objection if such notification would be provided to 17-year olds. There was general consensus that the Department could post an appropriate sign at the licensing station. Chrystal was amenable.

Delay  
Lifted

Doyle moved to withdraw the 70-day delay in view of the fact that DOT officials have agreed to place a notice to those applicants who will be 18 years old. Motion carried.

Doyle and Chrystal discussed the problems encountered when applying for a duplicate driver license because of those who violate the system.

DENTAL  
EXAMINERS  
BOARD

The following persons appeared for review of amendments to Chapter 15:

Fees, 15.2(1), 15.2(2), 15.3(1), 15.3(2) ARC 8480, also filed emergency ARC 8479.....N/PE 3/9/88

Constance Price, Executive Director, Dr. Gene Houck, Chairman, Marilyn J. May, Janice A. Brown, Pamela E. DeMoss, Carmen S. Miller, DDS, Myron L. Zeigler, DDS, Board members; Connie O'Meara, Nancy G. Miller, Nancy A. Slack, and Judy Smith, Hygienists and members of the Iowa Dental Hygienists Association; Lyle Krewson, representing the Iowa Dental Hygienists Association.

Royce pointed out that fees had been raised for both dentists and hygienists, \$10 per year, resulting in a 40 percent increase for dental hygienists and 17 percent for dentists.

Price reviewed the history of the Board's action which was submitted under Notice of Intended Action and Filed Emergency. Priebe expressed his opposition to that approach.

Slack explained this was the first change for input from the Hygienists Association and she distributed a list of license fees since 1979 and a comparison of fees with those of other states for both dentists and hygienists. It was her understanding that the increases were to be used to fund a full-time investigator for the Board. She was also aware that 95 percent of the complaints filed relate to dentistry while 5 percent or less involve dental hygiene. Slack contended that individual hygienists should not bear the responsibility for lack of communication on this issue. She offered the following figures: Percent of increase--

	Dentists	Hygienists
1982	200%	300%
1984	11	25
1988	20	40

Slack presented an alternate plan which would generate \$382,815 by a 25 percent increase for both dentists and hygienists.

DENTAL  
EXAMINERS  
Continued

Priebe reasoned that hygienists have no way of recovering a fee increase but dentists can pass it on to the patient.

Houck said the Board ran out of money last year and disciplinary hearings were closed as of March 1 and all actions against licensees ceased. A modest supplemental has helped and the Governor supports increase in size of the staff. He continued that the letter from the hygienists was considered by the Board April 14. A percentage basis for fees has never been used and final approval was given to the emergency rules, which they believe to be fair. Houck reminded that the Board must be self-funded. There are 2400 dentists and 1097 hygienists in the state.

Doyle mentioned the fact that Standing Committees of the Legislature could be apprised of the issue. Discussion of the problem of delaying license renewal.

Krewson felt it was important to call attention to the issue even though the rules were in effect. Doyle suggested post-audit might be beneficial for costs of hearings, etc. Priebe suggested more effort to keep each other informed. Clark was advised that salaries for Iowa hygienists rank lowest among the states. General agreement that no formal action could be taken.

NO AGENCY  
REPS

No agency representatives were requested to appear for the following:

ACCOUNTANCY EXAMINING BOARD[10]		
Transfer 10—chs 1 to 15 to 193A—chs 1 to 15 ARC 8468 .....	N.	3/9/81
ALCOHOLIC BEVERAGES DIVISION[185]		
COMMERCE DEPARTMENT[181] "umbrella"		
License and permit division, 6.5(7) ARC 8453 .....	F.	3/9/88
Fair information practices, ch 18 ARC 8553 .....	N.	3/23/88
ARCHAEOLOGIST[685]		
REGENTS BOARD[681] "umbrella"		
Transfer 70—chs 1 to 13 to 685—chs 1 to 13, filed emergency, ARC 8502 .....	FE	3/9/88
ARCHITECTURAL EXAMINING BOARD[80]		
Transfer 80—chs 1 to 5 to 193B—chs 1 to 5 ARC 8469 .....	N.	3/9/88
ATTORNEY GENERAL[61]		
Fair information practices, ch 2 ARC 8583 .....	N.	3/23/88
AUDITOR OF STATE[81]		
Fair information practices, ch 24 ARC 8585 .....	N.	3/23/88
BANKING DIVISION[187]		
COMMERCE DEPARTMENT[181] "umbrella"		
Fair information practices, ch 7 ARC 8551 .....	N.	3/23/88
COLLEGE AID COMMISSION[246]		
Amend. renumber, and transfer 246—chs 2 to 7 and 10 to 18 to [283]; rescind 246—chs 1, 8, and 9 ARC 8488 .....	N.	3/9/88
Fair information practices, ch 6 ARC 8611 .....	N.	4/6/88
COMMERCE DEPARTMENT[181]		
Organization and operation, 1.7 ARC 8552 .....	F.	3/23/88
CORRECTIONS DEPARTMENT[291]		
Fair information practices, ch 6 ARC 8586 .....	N.	3/23/88
DENTAL EXAMINERS BOARD[320]		
Information policy, record system, and inspection of records, ch 6; transfer 320—chs 1 to 61 to 650—chs 1 to 51 ARC 8548 .....	N.	3/23/88
Evidence, 61.8(3) ARC 8619 .....	N.	3/23/88
DISASTER SERVICES DIVISION[650]		
Fair information practices, ch 9 ARC 8559 .....	N.	3/23/88
EDUCATION DEPARTMENT[281]		
Fair information practices, ch 83 ARC 8486 .....	N.	3/9/88
Fair information practices, 83.1(2)"c." 83.16(81), amended notice ARC 8581 .....	N.	3/23/88
ELDER AFFAIRS DEPARTMENT[321]		
Confidentiality and records, ch 19; rescind 2.6 ARC 8562 .....	N.	3/23/88
ENGINEERING AND LAND SURVEYING EXAMINING BOARD[390]		
Transfer 390—chs 1 to 4 to 193C—chs 1 to 4 ARC 8470 .....	N.	3/9/88
ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]		
Professional Licensing and Regulation Division[193]		
COMMERCE DEPARTMENT[181] "umbrella"		
Administration, amendments to, ch 1 ARC 8609 .....	N.	4/6/88
Fair information practices, ch 5 ARC 8608 .....	N.	4/6/88

NO AGENCY  
REPS  
Continued

FOSTER CARE REVIEW BOARD[489]	
INSPECTIONS AND APPEALS DEPARTMENT[481] "umbrella"	F. 3/23/88
Transfer 445—chs 1 to 3 to 489—chs 1 to 3 ARC 8520	N. 3/23/88
Fair information practices, ch 4 ARC 8510	
HIGHER EDUCATION LOAN AUTHORITY[480]	
Petitions for rule making, declaratory rulings, agency procedure for rule making, fair information practices, chs 2 to 5, amend and transfer 480—ch 1 to 284—ch 1; rescind 480—ch 2 ARC 8560	N. 3/23/88
INDUSTRIAL SERVICES DIVISION[343]	
EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"	N. 3/9/88
Fair information practices, ch 9 ARC 8496	
INSPECTIONS AND APPEALS DEPARTMENT[481]	
Fair information practices, ch 6 ARC 8566	N. 3/23/88
INSURANCE DIVISION[191]	
COMMERCE DEPARTMENT[181] "umbrella"	F. 4/6/88
Public information and inspection of records, 1.3 ARC 8604	
IOWA FINANCE AUTHORITY[524]	
Records, ch 13 ARC 8584	N. 3/23/88
JOB SERVICE DIVISION[345]	
EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"	F. 3/9/88
Employer's contribution and charges, claims and benefits, benefit payment control, 3.3(3)"d," 4.1(67)"b," 5.8(1)"c" ARC 8478	
LABOR SERVICES DIVISION[347]	
EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"	N. 3/23/88
Description of organization and procedures before division—division I, administration; division II, uniform rules; division III, fair information practices, ch 1 ARC 8557	
LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]	
Professional Licensing and Regulation Division[193]	
COMMERCE DEPARTMENT[181] "umbrella"	F.W.N. 3/9/88
Transfer 540—chs 1 to 4 to 193D—chs 1 to 4, filed without notice ARC 8472	F. 3/9/88
Amendments to chs 1 to 4 ARC 8473	N. 3/23/88
Fair information practices, ch 5 ARC 8555	
MILITARY DIVISION[650]	
Fair information practices, ch 2 ARC 8563	N. 3/23/88
PHARMACY EXAMINERS BOARD[657]	
PUBLIC HEALTH DEPARTMENT[641] "umbrella"	N. 3/9/88
Examination fee, 2.2 ARC 8461	
License fees, renewal dates, fees for duplicate licenses and certification of grades, 3.1, 3.4, 3.4(2) to 3.4(6) ARC 8460	N. 3/9/88
PROFESSIONAL LICENSURE DIVISION[645]	
PUBLIC HEALTH DEPARTMENT[641] "umbrella"	N. 3/23/88
Fair information practices, ch 10 ARC 8579	N. 3/23/88
Barber examiners—fair information practices, ch 29 ARC 8565	N. 3/23/88
Chiropractic examiners—fair information practices, ch 49 ARC 8566	N. 3/23/88
Cosmetology examiners—fair information practices, ch 69; transfer 470—ch 160 to 645—ch 60 ARC 8567	N. 3/23/88
Dietetic examiners—fair information practices, ch 89; transfer 470—ch 162 to 645—ch 80 ARC 8568	N. 3/23/88
Mortuary science examiners—fair information practices, ch 109; transfer 470—chs 146 and 147 to 645—chs 100 and 101 ARC 8570	N. 3/23/88
Hearing aid dealers examiners—fair information practices, ch 129; transfer 470—ch 145 to 645—ch 120 ARC 8569	N. 3/23/88
Nursing home administrators examiners—fair information practices, ch 149; transfer 600—chs 1 to 3 to 645—chs 140 to 142 ARC 8571	N. 3/23/88
Ophthalmic dispensers—fair information practices, ch 169; transfer 470—ch 159 to 645—ch 160 ARC 8573	N. 3/23/88
Optometry examiners—fair information practices, ch 189; transfer 470—ch 143 to 645—ch 180 ARC 8573	N. 3/23/88
Physical and occupational therapy examiners—fair information practices, ch 209; transfer 470—chs 137 and 138 to 645—chs 200 and 201 ARC 8574	N. 3/23/88
Podiatry examiners—fair information practices, ch 229; transfer 470—ch 139 to 645—ch 220 ARC 8572	N. 3/23/88
Psychology examiners—fair information practices, ch 249; transfer 470—ch 140 to 645—ch 240 ARC 8575	N. 3/23/88
Social work examiners—fair information practices, ch 289; transfer 470—ch 161 to 645—ch 280 ARC 8576	N. 3/23/88
Speech pathology and audiology examiners—fair information practices, ch 309; transfer 470—chs 155 to 157 to 645—chs 300 to 302 ARC 8577	N. 3/23/88
Barber examiners, 20.2(4) notice ARC 8083 terminated ARC 8590	N.T. 4/6/88
PROFESSIONAL TEACHING PRACTICES COMMISSION[640]	
Fair information practices, ch 7 ARC 8554	N. 3/23/88
PUBLIC SAFETY DEPARTMENT[680]	
Records, ch 21 ARC 8580	N. 3/23/88
REAL ESTATE EXAMINING BOARD[700]	
Transfer 700—chs 1 to 4 to 193E—chs 1 to 4 ARC 8471	N. 3/9/88
REGENTS BOARD[681]	
Fair information practices, ch 17 ARC 8550	N. 3/23/88
SUBSTANCE ABUSE COMMISSION[805]	
Fair information practices, ch 5; transfer 805—chs 1 to 6 to 643—chs 1 to 6 ARC 8558	N. 3/23/88
TREASURER OF STATE[781]	
Fair information practices, ch 9 ARC 8561	N. 3/23/88
VETERANS AFFAIRS DIVISION[841]	
Fair information practices, ch 4 ARC 8564	N. 3/23/88

Next Meeting Adjourned The next meeting was scheduled for May 10 and 11, 1988.  
Adjourned 2:50 p.m.

APPROVED:

*Beck E. Luebo*  
CHAIRMAN

Respectfully submitted,

*Phyllis Barry*  
Phyllis Barry, Secretary  
Assisted by Vivian Haag  
and Bonnie King