

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 Monday and Tuesday, April 13 and 14, 1987, Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representative David M. Tabor; Representative Betty Jean Clark, excused due to illness. Staff present: Joseph Royce, Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened

Chairman Priebe convened the meeting at 7:40 a.m. in Senate Committee Room 24.

PUBLIC HEALTH DEPARTMENT

The agenda was reviewed by Susan Osmann, Irene Howard, and Kenneth Choquette.

Hearing aid dealers, board of examiners for the licensing and regulation of. 145.6, 145.11, 145.12.	
145.204 ARC 7416	3/11/87
Dietitians, licensure of. 162.4(1)"a" and "b." 162.4(4) ARC 7417	3/11/87
Swimming pools, sampling and analysis requirements. 15.4(3)"c"(1), 15.4(3)"d"(1), 15.4(4)"c" ARC 7476	3/25/87
Board of social work examiners, licensure requirements. 161.4(1), 161.4(3) ARC 7477	3/25/87
Standards for certificate of need review, long-term care. 203.5 ARC 7432	3/11/87

145.6 et al

In re 145.6 et al, Howard stated that only editorial changes had been made since Notice. Tieden observed that no public hearing had been held. Howard responded that comments were evenly divided for and against the amendments. However, the Board made no changes. Howard continued that no comments were received on the amendments to 162.4.

162.4

15.4(3)c(1)

Choquette pointed out that substantive change in the amendments to rule 15.4 was from fecal coliform to coliform analysis. Although a hearing was scheduled, no one appeared. The change will accommodate pool operators around the state since there is a shortage of certified laboratories. Choquette described "total coliform bacteria" in 15.4(4)c as being an indicator, not a pathogen.

Choquette advised Tieden that there was no evidence that chlorine was carcinogenic but tryhelmethanes-- a combination of organic chemicals--are created and they are carcinogenic in animals.

No questions re 161.4(1).

203.5

In re 203.5, Osmann said the standards for long-term care review had been reviewed under Certificate of Need. No one attended the public hearing but two written comments will be perused before the Board of Health adopts the rules in May.

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PUBLIC
HEALTH
DEPARTMENT
Continued

Priebe was interested in the impact on rural areas and whether an extra ICF might be built in his district. Osmann explained that the revised standards include more factors than previous rules. Priebe cited an instance where a church was unsuccessful in receiving approval for a 40-bed facility but an individual contractor was successful.

203.5(3)

Tieden was interested in method used to develop formulas found in 203.5(3) and Osmann indicated it had been developed sometime ago and was based on population estimates. More recent formulas used by other states were considered but this one seemed more appropriate. No other questions.

HISTORICAL
DIVISION
Terrace
Hill
ch 25

Chairman Priebe called on Madelyn Priebe, Commission member, to present the following:

Organization and operation. Terrace Hill endowment for the musical arts, chs 25 and 27, filed emergency ARC 7407. E.E. 3/11/87

In review of Chapter 25, Mrs. Priebe commented that it had been evident for sometime that rules were needed since different groups oversee many areas. She added that these rules "only scratch the surface." Mrs. Priebe stressed the importance of the mission statement required in reorganization. Previously, the Terrace Hill Society, the Commission, and the Foundation worked together in managing the Governor's Mansion which is owned by the state. It was decided that the Commission, which is appointed by the Governor and approved by the Legislature, should be in control of changes, improvements, or maintenance.

Under acquisitions, Terrace Hill Society owns and insures furnishings in the Mansion. Mrs. Priebe described the mansion as a combination of home and museum and reasoned it was difficult to administer under the best of circumstances.

25.2(1)

Doyle raised question in 25.2(1) as to whether or not recreational equipment for the Governor's children was paid for by the state and Mrs. Priebe replied in the negative. Tieden was informed that since the state did not insure property, the only way the Mansion's furnishings could be insured was to have them owned by the Society.

ch 27

In re chapter 27, she said the endowment for musical arts evolved with acquisition of the antique Steinway piano for the Mansion.

27.2

Discussion of 27.2 which provided for establishment of a scholarship fund to be used for an Iowa young person who would be an entering freshman piano major at an Iowa college or university. Mrs. Priebe knew of no criticism of the rules and pointed out that the money was donated from private sources.

HISTORICAL DIVISION Terrace Hill Concluded Chairman Priebe recognized Royce who read a letter from Casimir V. Plotkin, American Accordion Society, a fictitious opponent of the rules. Moments later, Mrs. Priebe realized she had been the "recipient" of jest by Committee and Staff. No official action taken.

ECONOMIC DEVELOPMENT DEPARTMENT Melanie Johnson presented the self-employment loan program, Chapter 8, ARC 7428, also filed emergency, ARC 7427, IAB 3-11-87. She explained that \$50,000 is available for a pilot project to be conducted within the next few months. Johnson was willing to provide information to Tieden and Priebe relative to 70 per cent of the living standard income.

8.3(4) In 8.3(4), she said that input was requested from Human Services and Employment Services personnel and the standards were driven from the Job Training Program. The Department is hopeful of tapping into the system which is already developed.

Parker requested revision of the rules to remove what he considered to be a double standard for eligibility. He viewed the debt level of \$3,000 in 8.3(7) as being very arbitrary and he recommended inclusion of a scale. Johnson explained that it was based on a similar Minnesota program. General consensus was that the rules will be revised when additional funding is available.

HUMAN SERVICES DEPARTMENT Mary Ann Walker, Kathi Kellen, Mary Nelson, Julie Dettman, Joe Mahrenholz, C. Ballinger, Barb Momberg, Dan Gilbert, Stan Monroe, and Lorena Griffith were present for review of the following:

Petition for rule making, declaratory rulings, chs 4 and 6	ARC 7464	.....	3/25/87
Burial benefits, ch 56	ARC 7466	.....	3/25/87
Medical assistance corrective payments, 76.8	ARC 7469	.....	3/25/87
Medical and remedial care—providers—amount, duration and scope, 77.12, 78.2(1)"d," 78.2(2)"a," 78.3(12)"a,"		.....	3/25/87
78.12, 79.1(2), 79.1(7), 79.1(9), 79.1(10)	ARC 7466	.....	3/25/87
Abuse of children, 175.8(4)"a" (7), (9) and (10), 175.8(6), 175.9, 175.15	ARC 7467	.....	3/25/87
Foster care services, 202.2(6)"b" and "c," 202.3, 202.11(2), 202.12(4)	ARC 7468	.....	3/25/87
Standards for the care of and services to county care facility residents with mental illness and mental retardation, ch 37	ARC 7486	.....	3/25/87
ADC, granting assistance, 41.4(1)"c"	ARC 7457	.....	3/11/87
Food stamp program, administration of, 65.3, filed emergency	ARC 7470	.....	3/25/87
Medical assistance, conditions of eligibility, 75.2(5)	ARC 7434	.....	3/11/87
Medical and remedial services, 78.2(1)"d," 78.2(2), 79.1, 79.8(1)	ARC 7458	.....	3/11/87

Also present: Pat Montgomery, citizen, and Susan Voss, Citizens' Aide/Ombudsman Office.

75.8 No changes re amendments to chapters 4, 5, and 56. In response to question by Priebe re 75.8, Walker said that any unpaid bill will continue to be reimbursed to the provider if the billings are submitted in the regular manner. Walker clarified that if a bill has been denied, the client knows the bill must be resubmitted. SSI cases are appealed to Social Security, and when the denial is appealed, the Court can allow eligibility. Social Security pays SSI and the state picks up Medicaid.

77.12 et al Walker said that amendments to 77.12 et al will provide a new reimbursement system for drugs and a determination whether or not to pay for hospital emergency rooms.

HUMAN
SERVICES
DEPARTMENT
Continued

Payment to skilled nursing facilities will be allowed whether the individual is hospitalized or on visitation. This will require approximately \$16,000 additional state funds.

77.12 Priebe wondered if a date certain were necessary in 77.12, first paragraph, since Title XVIII does not remain constant. Walker assured him that Medicare provides ample time for facilities to make transition to comply with any changes. She added that the Department allows the same amount of time as Medicare. Priebe insisted a time frame should be included in the rules and Kellen said that the state is notified if a facility no longer meets federal eligibility standards.

78.2(2)a Tieden raised question re payment for legend drugs in 78.2(2)a. Mahrenholz explained that the pharmacist would be adjusted if the rule were not adhered to. The Department pays the lower of the usual fee.

79.1(b) Walker agreed to supply information on the skilled nursing facility market basket index--79.1(b).

ch 175 Walker reviewed amendments to chapter 175 which grant access to information to all parents whose children are subject of a child abuse report regardless of parent's custodial status. Researchers will have the ability to use child abuse information without removing identifying information if they can prove it is necessary to research and if the child's guardian or guardian ad litem gives permission. Expungement of unfounded or undetermined child abuse information may be delayed upon a request for correction only if the request is first made by a person other than the alleged perpetrator.

Chairman Priebe recognized Montgomery who could foresee a problem with expungement. He cited an example of someone charged with child abuse administratively, not through the court system. When a founded case exists, the first step is to provide a written request for correction of that information through the appeals process. Montgomery continued, "After the written request, the Department changes the determination to be undetermined, which is a limbo situation, meaning we don't know if you are a child abuser, or if you are not child abusers, so you are only a child abuser for a year." At the end of the one-year period, the person who asked for correction decides to appeal and a hearing is granted but not heard before the year is up. The DHS sees that the case could be closed and the file expunged. Under previous rules, a file could not be expunged if an appeal was pending. Under the new provision, people are left with no place to go and no place to appeal which, according to Montgomery, was a major problem. He discussed the two available types of expungements.

HUMAN
SERVICES
DEPARTMENT
Continued

Walker said the changes had been recommended by the Attorney General's office but she was willing to have someone contact Montgomery.

Montgomery suggested delay of the rules and he discussed the statutory requirements. He contended that expungement as used in the rules should be changed to sealment since information is only sealed, not destroyed.

Voss cited Iowa Code section 235A.19 which addresses requests for correction or expungement and no reference to "undetermined" is used. She questioned whether the rules were within the statute.

Motion to
Delay
ch 175

Tieden moved a 70-day delay on the amendments to chapter 175 in ARC 7467, IAB 3-25-87, and recommended that involved parties meet for study. Motion carried.

No questions raised re 202.2(5)b.

ch 37

Department officials reported that much interest had been generated by proposed chapter 37. Comments had been received from nine counties which object to costs and limited applicability to county facilities. Walker pointed out that legislative authority was limited to county care facilities. General discussion of the potential advantage for those counties which lease facilities and therefore would not be governed by the rules.

41.4(1)c,
65.3
75.2(5)
78.2(1)d
et al

No questions re 41.4(1)c, 65.3 and 75.2(5). In re 78.2(1)d et al, Walker indicated that the proposed changes represent a major change for the department in reimbursement methodology. She referred to the fixed fee schedule as somewhat of a "misnomer"--not really fixed but the lower of the fee schedule or the actual charge. The schedule will be based on the existing statewide prevailing rate--75 per cent of the existing charge--not "usual and customary."

In response to Priebe, Ballinger said the maximum payment is the 75th percentile of all customary charges, but once the fee schedule is in place, it would be subject to annual update.

Ballinger pointed out that the 1983 base standard was frozen by the Legislature at that time. A consultant had recommended the formula as referenced in the preamble to the rules. Tieden was interested in total costs and Walker replied that it was supposed to be fairly neutral except for the elimination of the budget reduction by the Department. A public hearing was held, no one appeared, and no written comments were received. However, many factions were involved in drafting the rules.

HUMAN SERVICES concluded

Discussion as to whether a date certain was needed when referencing a private publication in 79.1(6). Barry indicated it had not been a common practice in the past.

NATURAL RESOURCES DEPARTMENT

The Department was represented by Mike Murphy, Keith Bridson, Diana Hansen, Mark Landa, Bob Fagerland, and Bob Walker. Also present: Mike Smith, Attorney General's Office, and John Stuart, Wapello County Conservation Board.

The agenda follows:

Controlling pollution, 22.1(1), 22.1(2), 22.1(3)"b"(7), 22.1(4)"a," 22.1(4)"b"(7), 22.4	ARC 7446	F	3/11/87
Wastewater construction and operation permits, 64.2(9)"b"	ARC 7447	N	3/11/87

Environmental Protection Commission

Landa explained 22.1(1) et al and Priebe asked if permits had been issued for the southeast bottoms nonattainment area of Des Moines. Landa replied that area would be subject to the nonattainment or offset requirements which have been in effect for many years. He knew of no recent permits. Landa attributed pollution problems in downtown Des Moines to traffic.

Priebe reiterated his displeasure with what he considered to be double standards in regulation of water and air. Landa stated that for permitting in nonattainment areas, they are required to get offsets so there is no increase in the problem.

Tieden asked if the changes from the Notice were substantive and Royce saw no problem. Landa reported on the three public hearings which were held and the universal support from industry in the state. No other questions.

64.2(9)b

Bridson and Hansen presented amendments to 64.2(9)b relative to design standards for wastewater facilities. Hansen commented that no one had attended three scheduled hearings in Des Moines, Iowa City, and Council Bluffs.

Parker was interested in the landfill rules and asked Hansen to convey that to the appropriate Department official.

AGRICULTURE & LAND STEWARDSHIP DEPARTMENT

Teresa Hay, Dan Cooper, John Whipple, Lynette Donner, AG's office, Grain Indemnity Board, and Dr. G. E. Schoel, Supervisor of Animal Welfare, appeared on behalf of the Agriculture and Land Stewardship rules as follows:

Grain indemnity fund board—organization and operations, ch 63	ARC 7436	F	3/11/87
Claims against the grain depositories and sellers indemnity fund, ch 64	ARC 7437	F	3/11/87
On-site containment of pesticides, fertilizers and soil conditioners, 9.55(1)"a," 9.56(1)"a," 9.56(2), filed emergency	ARC 7421	F	3/11/87
Infectious and contagious diseases—rabies control, 30—16.25(1)	ARC 7422	N	3/11/87

Hay gave brief overview of the filed rules, Chapters 63 and 64.

ch 63

In reference to meetings in rule 63.4, Priebe was interested in the procedure to be followed if the chairperson determined that the Board would not meet each month. Hay advised that meetings average one monthly.

AGRICULTURE
& LAND
STEWARDSHIP
Continued
9.55

Donner informed the Committee that \$150,000 in claims had been paid with regard to the Stockport Grainland case.

Whipple explained 9.55 et al. He advised Priebe that 9.56(2) was relative to runoff from fertilizer piled outside. Normal rate of application is determined by the farmer.

16.25(1)

In review of 16.25(1) by Hay, it was noted that a date certain was not included with the referenced publication. Schoel said the Compendium is mailed annually to all veterinarians in Iowa. Priebe had no problems with the concept but wondered how an individual would know if a vaccine was removed from the list. Schoel indicated that had never happened with a rabies vaccine and was unlikely. However, if that were to happen, all veterinarians would be notified. No other questions.

AGRICULTURE
DEVELOPMENT
AUTHORITY
ch 7

William Greiner appeared for review of appeals, Chapter 7, ARC 7471, filed, IAB 3-25-87. Doyle inquired as to the possibility of uniform rules for appeals. Royce advised that none were planned because of the many varieties of agencies.

7.4

In response to Doyle, Greiner explained that 7.4--time limit for request--describes a situation when application is made for money from a bond issue in which funds have been exhausted. The Authority can defer until the next issue.

7.21

Priebe asked Royce to explain 7.21 relative to waiver. Royce interpreted the provision to provide waiver of rights, e.g. many people waive the right to a public hearing.

NATURAL
RESOURCE
COMMISSION

See page 3646, Natural Resource Department, for those in attendance.

Boat motor regulations, 45.4(2)"b" ARC 7448	F	3/11/87
Waterfowl and coot hunting seasons, ch 91 ARC 7449	N	3/11/87
Migratory game birds, 92.3(8) ARC 7450	N	3/11/87
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 96.1(1), 96.2, 96.3 ARC 7451	N	3/11/87
Common snipe, Virginia rail, sora, woodcock, and ruffed grouse hunting seasons, 97.1 to 97.4 ARC 7452	N	3/11/87
Wild turkey fall hunting, 99.1, 99.2, 99.4 ARC 7453	N	3/11/87
Deer hunting regulations, ch 106 ARC 7454	N	3/11/87
Rabbit and squirrel hunting, 107.1 to 107.3 ARC 7455	N	3/11/87
Mink, muskrat, raccoon, badger, opossum, weasel, skunk, fox, beaver, coyote and otter seasons, 108.1 to 108.5, 108.7(2)"e" to "g" ARC 7456	N	3/11/87
Recreation/tourism grants to county conservation boards, ARC 7402	F	2-25-87

45.4(2)b

Murphy and Smith informed the ARRC that under 45.4(2)b unrestricted horsepower vessels could be operated at no-wake speed on Big Creek and McBride Lakes basically from Labor Day to Memorial Day [9/8 through 5/20].

ch 91

No questions re chapter 91, amendments to 92.3, 96.2 et al, 97.1 to 97.4, 99.1 et al, Chapters 106 and 107.

108.2

Tieden commented that the hunters in his area would oppose change of the season from November 1 to November 7 in rule 108.2.

NATURAL
RESOURCE
COMMISSION
Continued

The temperature averages 15 degrees cooler than other areas of the state. He asked for Commission consideration of that factor. Fagerland was aware of the matter but pointed out that an attempt is made to avoid simultaneous opening of the pheasant season, which is October 31 this year, and the furbearer season. Tieden favored the earlier opening date in rule 108.2. According to Fagerland, there are 250,000 pheasant hunters and 20,000 trappers.

ch 24

Chairman Priebe recognized John Stuart who addressed the Committee relative to his concerns on amendments to 571--chapter 24. The rules were delayed 70 days at the March ARRC meeting. A critical area, in Stuart's opinion, was rule 24.8 which will allow the Department to alter rankings recommended by Review and Selection Committee without any notice or criteria to follow. He contended that this could drastically change the funding scheme of the entire program.

Department officials discussed use of "Committee" and "Commission" and Smith spoke of the AG's involvement when they declined to render an opinion to the Wapello County Board; instead, the AG offered informal advice one year ago. Smith pointed out that the Review and Selection Committee was created by rules of the Natural Resource Commission. He added that the Commission has the authority to create the Committee but cannot delegate power to it. Smith advised, "If there is a problem with the Commission reversing recommendations, there are other alternatives."

Priebe questioned the reason the opinion was declined. Smith responded that Wapello County officials were unhappy about the decision to change a particular ranking and their County Attorney requested an A.G.'s opinion. The A.G.'s office took the position that the Commission's decision to alter that recommendation would depend upon facts--a matter which an AG opinion could not resolve.

Royce reasoned that persons making the rankings for grant programs should be subject to some sort of criteria. Priebe thought the criteria should be spelled out. Smith argued that the rules contained criteria which the Commission is required to follow. He admitted that is not expressly set out in the rule and thought addition of such a provision might resolve the issue.

May agenda

The ARRC directed that the amendments to 571--chapter 24 be placed on the May agenda, allowing opportunity for resolution of the problem.

TRANSPOR-
TATION
DEPARTMENT

Al Chrystal, Leland D. Smythson, James E. Graham, Julie Fitzgerald, Will Zitterich, Roger L. Anderberg, Steve Westvold, and Ruth Skluzacek were present for Department

TRANSPORTATION of Transportation. The agenda follows:
 DEPARTMENT
 Continued

Amend. renumber and transfer all rules from agency number 820 to 761	ARC 7430	✓	3/11/87
Real property acquisition and relocation assistance, 761—ch 111, rescinds (06.F) ch 8	ARC 7412	✓	3/11/87
Outdoor advertising, logo signing, (06.O) 6.1(5), 5.1(6), 5.4(5), 5.7, 5.7(2), Figures 1—10, 761—ch 118	ARC 7413		3/11/87
Outdoor advertising, private directional signing, (06.O) 6.1(11), 5.7(1) 761—ch 120	ARC 7425	✓	3/11/87
Federal aid urban systems, (06.Q) 10.3(3)"b," 10.5(4)"b"(3) and (4), 10.5(6)"a"(3), 10.5(6)"d," 10.5(6)"f"(3)	ARC 7414	✓	3/11/87
License examination, driver licenses, 761—ch 604, (07.C) 13.3, 13.5, 13.7(3), 13.17	ARC 7415	✓	3/11/87
Vehicle registration and certificate of title, (07.D) 11.2(1), 11.3(9), 11.3(12)"f," 11.4(3)"e"(3), 11.4(3)"d" and "f," 11.7, 11.8, 11.12(1), 11.12(2), 11.14, 11.12, 11.17(1)"b," 11.19, 11.22, 11.22(1), 11.23, 11.25, 11.29, 11.30(1), 11.33, 11.40, 11.41(1), 11.41(2)"b," 11.41(2)"d"(1), (3), (7) and (8), 11.41(5), 11.44, 11.48, 11.49(1), 11.49(2), 11.50(1), 11.50(2), 11.53, 11.55, 11.56, 11.58(1), 11.61, 11.63	ARC 7429	✓	3/11/87
Vehicle registration, (07.D) 11.21(4), filed emergency	ARC 7423	✓	3/11/87
Tourist oriented signing, 761—ch 119	ARC 7421	✓	3/11/87
Special permits for operation and movement of vehicles and loads of excess size and weight, (07.F) amendments to 2.7, 2.8 and 2.9	ARC 7478	✓	3/25/87

Also present were Bruce Cowell, Charles R. Ragan, Myron Liable, and Stephen F. Hardie, all representing sign companies.

Fitzgerald briefly reviewed ARC 7430 which amends, renumbers and transfers all DOT rules from agency number 820 to 761 to conform with state reorganization.

13.4(1)

In response to Doyle's question re 13.4(1), Chrystal said rules had not been promulgated to implement the law which provides parents an option to withdraw their consent for an under 18-year old to drive. Chrystal said the numbers would be infinitesimal. Doyle had problems with the field personnel's interpretation of the rule on license renewal for a person who was originally licensed under age 18. He cited an example: A person is issued a driver license before age 18, which license can be renewed for two years. A person with a January 1 birthday who applies for renewal in December can get only a two-year license. However, if they wait until January 1, or 29 days later, they can obtain a four- or six-year license. Chrystal said the statute was quite clear but he was willing to develop a clarifying rule.

ch 111

No questions re chapter 111.

5.1(5) et al

In re 5.1(5) et al, Westvold said that the logo signing change was intended to coincide with federal law. Doyle noted that the last paragraph of 118.7(7) covered only damage by vandalism or natural causes. He asked if there were a rule to address situations where a snow plow or car damages a sign. Westvold knew of an instance when the driver of a car was cited. DOT provided information to the owner of the business sign, whose insurance company paid sign replacement costs. Signs damaged by the Department's equipment are replaced by the State. Department officials were not aware of any hit and run incidents but if those should occur, DOT would repair the main line panel and the business sign.

Tieden raised question as to minimum distance between speed limit signs if the law changes to allow 65 mph. Graham could foresee modification in this area.

4-13-87

TRANSPOR-
TATION
DEPARTMENT
Continued

Priebe reiterated his continuing frustration with conflicting speed signs in Algona on the north and south sides of the same road within a one-mile stretch. Zitterich and Priebe reviewed a map of the area. Zitterich attributed the differences to more development on one side of the road. Priebe promised to provide pictures to support his argument.

ch 5

Hardie, representing Frank Hardie Advertising, spoke in opposition to logo signing and tourist-oriented signing rules. Hardie contended that state government should not compete with or displace the legitimate business of providing motorists with needed information through commercially erected and maintained advertising displays. Contemplation of the TOS (Tourist-Oriented Signs) program on the freeway primary system would be an expansion which should not be allowed until the federal government has completed their review of the Tourist-Oriented Directional Signs (TODS) program. Priebe reminded those present that the state may adopt rules more restrictive than federal requirements.

Westvold discussed 1972 federal legislation which mandated an advertising control law to avoid a 10 per cent loss of federal highway funding. Discussion of noncompliance by some states. Westvold stressed that DOT wants to avoid placing Iowa in jeopardy of losing those funds.

Hardie emphasized that the industry supports reasonable and fair regulation but objects to prohibition in many areas because of state legislation, rules, or local ordinances.

According to Westvold, DOT would heartily endorse any effort by Congress to provide for industry installation and state approval of the signs. He discussed right-of-way signing and problems experienced with the federal government. Westvold indicated those who will benefit, in most cases, are tourist-oriented small businesses and antique shops. Historically, they have been unable to afford the industry signs. He declared that, "Federal and state laws have left the small businesses out in the cold." Hardie reiterated preference for limiting the TOS program to rural areas.

Cowell, of northeast Iowa, spoke in support of comments by Hardie. Discussion of costs for the tourist-oriented business signs and Smythson estimated cost to the state as \$100 each for the life of the sign. Two would be needed at each intersection.

Tieden suggested that all interested parties appear at the hearing scheduled for April 28. Graham urged acceptance of the rules to ensure TOS this summer.

4-13-87

TRANSPOR-
TATION
DEPARTMENT

Jay Glassknap, Adventureland representative, spoke of their loss of signs along the interstate when the 1972 legislation was enacted. He supported right-of-way signs as encouraging economic development and commended DOT which had "made every effort to get us back into signs for tourism and small businesses."

[06,Q]10.3 et al Anderberg, Urban Systems Engineer, briefed the Committee with respect to federal aid to urban systems. No questions.

761--ch604 Driver License Examination Discussion of amendments to [07,C]chapter 13. [renumbered as chapter 604] Chrystal said the Iowa driver services have the support of the Iowa Medical Safe Transportation Committee and the Iowa Optometric Society to implement screening of driver license applicants for peripheral vision.

Chrystal informed Parker that there is no data on the issue. Parker was concerned about imposing additional requirements for a driver license. He saw a fine line between public safety and individual rights. Chrystal responded that in 1986, 8250 people could not meet basic visual acuity of 20/40ths.

Priebe questioned whether there was statutory authority for the proposal and suggested that the Attorney General be consulted. Chrystal emphasized that the rules would authorize "screening" not "testing."

604.10(2) In 604.10(2), Doyle observed use of "Keystone" vision tester. Chrystal was willing to remove the manufacturer's name from the rule.

604.31(1) In response to question by Doyle as to history of "random selection of birth dates" in 604.31(1), Chrystal estimated longer than 10 years--when driver educators began approving field testing.

[07,D]ch 11 Skluzacek presented amendments to chapter 11 relative to vehicle registration. No action taken.

761--ch 119 No questions re chapter 119.

[07,F]ch 2 Dennis Ehlert reviewed amendments to [07,F]chapter 2 with respect to movement of loads of excess size and weight. He informed the ARRC that subrule 2.9(1) would be revised before adoption to read: "For movement under single trip permit, no axle may exceed 20,000 irrespective of gross weight." No opposition was voiced.

CREDIT
UNION
DIVISION

Betty Minor, Superintendent, Credit Union Division, presented the following:

Director election--absentee ballot voting procedure, ch 16.5 i. 6.1(1), 15.3(1) ARRC 7408 F 3/11/87

CREDIT
UNION
DIVISION
Concluded

Minor briefed the Committee with respect to changes made since the Notice. No recommendations.

Committee
Business

Barry distributed copies of the rules computerization questionnaire as it will be published in the 4/22/87 IAB. Committee approved inclusion of the material.

No Agency
Representatives

No agency representatives were requested to appear for the following:

ALCOHOLIC BEVERAGES DIVISION[185]
Beverages defined; advertising; distillers, wholesalers and their representatives. 4.1(7), 6.1(9), 7.2(5) ARC 7483 *N*..... 3/25/87
Execution and levy on alcoholic liquor, wine, and beer. 4.19 ARC 7485, also filed emergency ARC 7484 *N.F.F.*..... 3/25/87

BLIND, COMMISSION FOR THE[160]
Available services. 2.4 ARC 7459 *F*..... 3/11/87

COLLEGE AID COMMISSION[245]
Iowa summer institute program, ch 17 ARC 7420 *F*..... 3/11/87
Iowa guaranteed student loan program, 10.22, 10.27, 10.60, 10.64 ARC 7419, also filed emergency ARC 7418 *N.F.F.* 3/11/87

CULTURAL AFFAIRS, DEPARTMENT OF[221]
Iowa community cultural grants. 1.7(3), filed emergency ARC 7431 *F.E.*..... 3/11/87

ENERGY AND GEOLOGICAL RESOURCES[565]
Energy measures and energy audits grant programs for schools and hospitals and buildings owned by units of local government and public care institutions. 7.1(1), 7.1(2), 7.5(3) ARC 7488 *N*..... 3/25/87
Technical assistance and energy conservation; grant programs for schools and hospitals and buildings owned by units of local government and public care institutions. 8.1, 8.2(2)"c," 8.3(1)"f," 8.4, 8.6(3), 8.6(4), 8.6(7), 8.7(1)"a," 8.8 ARC 7489 *N*..... 3/25/87

Rescind 380—chs 1, 2, 9 to 12, 14 and 15, and 460—ch 1; new 565—ch 1; transfer and amend 380—chs 9 to 5, 7, 8, 13, 16 to 18; new 565—ch 50; amend and transfer 780—ch 29 as 665—ch 51, filed without notice ARC 7445 *F.W.N.* 3/11/87

GENERAL SERVICES, DEPARTMENT OF[450]
Capitol complex—consumption of alcoholic beverages. 1.6(5) ARC 7411 *N*..... 3/11/87

IOWA FINANCE AUTHORITY[524]
Targeted small business loan guarantee program, ch 11 ARC 7480 *N*..... 3/25/87

INSPECTIONS AND APPEALS, DEPARTMENT OF[481]
Food establishments, bulk food operations, food service establishments, food and beverage vending machines, hotels, amend and transfer 30—chs 36 to 39 and 46 to 481—chs 21 to 25 ARC 7444 *F*..... 3/11/87

INSURANCE DIVISION[191]
Coordination of benefits, ch 38 ARC 7433 *F*..... 3/11/87
Health maintenance organizations. 40.1, 40.19 ARC 7482 *F*..... 3/25/87

LAW ENFORCEMENT ACADEMY[501]
Definitions, minimum standards. 1.1, 2.2, 2.2(8)"b," 2.2(9), transfer 550—chs 1 to 6 to 501—chs 1 to 6 ARC 7442 *F*..... 3/11/87
Minimum standards, personality tests. 2.2(5)"a" ARC 7443 *F*..... 3/11/87
Minimum standards for law enforcement officers. 2.1(1), 2.1(3) ARC 7441 *N*..... 3/11/87

LOTTERY DIVISION[705]
Operation of the lottery, advertising. 4.20 ARC 7474 *F*..... 3/25/87
Operation, LOTTO. 4.9(12), 4.9(13), 10.4(4), notice ARC 7225 terminated ARC 7475 *N.F.*..... 3/25/87

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600]
License fees. 2.5(1) ARC 7463 *N*..... 3/25/87

PERSONNEL DEPARTMENT[581]
IPERS, federal social security, amend and transfer 370—chs 8 and 9 to 581—chs 21 and 22 ARC 7460 *N*..... 3/11/87

PROFESSIONAL LICENSING AND REGULATION DIVISION[193]
Organization and operation, ch 1 ARC 7435 *N*..... 3/11/87

PUBLIC SAFETY DEPARTMENT[680]
Fire marshal, residential care facilities. 5.552(1), 5.552(4), 5.552(5)"d"(1), 5.552(5)"d"(5), 5.552(7)"b," 5.552(8)"a," 5.552(10)"a," 5.552(12)"a," 5.552(13)"a," 5.552(15)"d," 5.552(16)"a" ARC 7479 *F*..... 3/25/87

RAILWAY FINANCE AUTHORITY[695]
Organization, financial assistance, projects. 1.1, 1.4(7), 1.5(4), 3.1, 3.1(1)"e," 3.1(4), 4.3(2), 4.4(1), transfer all rules from agency number 695 to 765 ARC 7426 *N*..... 3/11/87

SAVINGS AND LOAN DIVISION[197]
Amend and transfer rules 130—chs 2 to 13 to 197—chs 2 to 13, filed emergency ARC 7491 *F.F.*..... 3/25/87

SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
Organization, rules of practice, election of members, assessment on sheep and wool sales, chs 1 to 4 ARC 7410 *F*..... 3/11/87

UTILITIES DIVISION[199]
Formal complaint procedures. 6.5(3) ARC 7438 *N*..... 3/11/87
Uniform system of accounts.—telephone, 16.5(1)(a) to 16.5(1)(7) ARC 7439 *N*..... 3/11/87

Committee members decided to request General Services and Sheep and Wool Promotion Board to appear at 8:00 a.m. Tuesday morning.

Minutes
Recessed

Doyle moved approval of the March minutes. Motion carried.
Recessed at 10:15 a.m.

4-14-87

Reconvened Chairman Priebe reconvened the meeting in Senate Room 24, 7:37 a.m.

Members present: Priebe, Doyle, Tieden and Tabor.
Members excused: Parker and Clark, because of illness.
All staff were present.

Committee Business Chairman Priebe convened the meeting and announced that no formal action would be taken until Representative Tabor arrived.

Obsolete Rules At the March meeting, Barry had sought guidance with respect to disposition of rules when the initiating agency no longer exists. An immediate question concerned the Inmate Transfer Hearing Board. Doyle had suggested that a representative from the Corrections Department appear today to discuss the situation. John Goeldner was in attendance today, as well as William Angrick, Citizens' Aide, who also had an interest in the matter.

Chairman Priebe recognized Angrick who discussed Corrections rule 20.14 on inmate civil legal assistance. Angrick noted that the program is not being implemented because of funding restraints, but the rule has not been suspended or rescinded.

Priebe thought the Department should rescind the rule by emergency provisions. Doyle suggested that Corrections be requested to suspend the rule by emergency and seek reinstatement of appropriations in the next fiscal year. In addition, he asked Burnett and Royce to develop proposed legislation to clarify the issues raised by Barry and Angrick. Doyle would attempt to include the proposal in the Code Editor's bill.

Racing & Gaming Racing and Gaming Division was deferred to await arrival of a Department representative.

BOARD OF NURSING ch 2 Ann Mowery, Executive Director, Pamela Triolo, Chairperson, Erlene Veverka, Marjorie Matzen, and Lorinda Inman appeared on behalf of the Board of Nursing for review of the Nursing Education Programs, Chapter 2, ARC 7409, filed, IAB 3-11-87. Also present: Linda Brady, Director, Division of Nursing, Drake University; Suzanne Mains, Director, Mercy School of Nursing; Ellen M. Strachata and JoAnn Reinboth, Grand View College; Sharon Hillery, Division Chair, Health Sciences, University of Dubuque; Geraldine Felton, University of Iowa; Carol Brabst, Hawkeye Institute, Waterloo; Evelyn Nicholson, Iowa Methodist School of Nursing; Loretta Eckels, Nursing Education, Southwestern Community College; James Sutton, Iowa State Education Association, and approximately 20 other interested individuals.

4-14-87

BOARD OF
NURSING
Continued

Mowery introduced Board Members and she called attention to an inadvertent omission by the Board in 2.6(2)c(3). Mowery provided history on the rule making which had been published under Notice in September 1986 for which a hearing had not been held.

The ARRC had encouraged the Board to negotiate with the Community Colleges and attempt was made to comply. Ultimately, Rich Byerly, President of Southwestern Community College, agreed to serve as the spokesperson. The factions met and Byerly, who declined to continue, was replaced by Dr. Jean Gardner, Southeastern Community College, Keokuk. Their agreement was submitted to the Presidents and others in the Community Colleges. Although neither faction was totally satisfied, the agreement was acceptable to the majority. Mowery urged acceptance of the rules so the Board could proceed.

Doyle commented on the hundreds of letters received on the rules and the fact that two ARRC members were absent today due to illness. It was his opinion that further study was needed.

Eckels stated that, in southern Iowa and most rural areas, compliance would be difficult. She could foresee closing of many small nursing schools due to lack of qualified faculty. She pointed out that Southeastern has supplied both RNs and LPNs to Area 14. Tabor arrived.

Brady spoke in support of the compromise and viewed the time frames as "feasible and generous." She stressed that educational advancement is rarely realized without some sacrifice on the part of individuals.

Sutton indicated that his organization did not oppose the concept of raising standards of the nursing profession. He referred to Iowa Code section 294.2 and contended that acceptance of the compromise would condone adoption of rules contrary to statute. Sutton took the position that the Nursing Board has the right to require standards for approval and accreditation of nursing programs, but "grandfather" provisions should be adopted for existing practitioners. He reasoned that "A real compromise would be to raise the standards, to grandfather in the current teachers." Priebe thought Sutton's point was well taken. He suggested delay of the rules and that they be placed on the May agenda.

Tieden asked if consideration had been given to "grandfathering" and Mowery responded in the affirmative. However, the Board was concerned with having qualified practitioners to meet the health care needs of the 1990s.

BOARD OF
NURSING
Concluded

Tabor questioned Royce as to whether or not the rules were in conflict with the statute. Royce stated, "The issue is complicated; Area Community Colleges are loosely created as part of the school systems in the state." He was unsure whether school laws in section 294.2 had any applicability to Area Community Colleges. Sutton interpreted the reference to chapter 280A as indicating a correlation.

Mowery disagreed since the Board is not a part of Department of Public Instruction and not making requirements on DPI.

Motion to
delay 70
days

Tieden moved a 70-day delay on Chapter 2 of the Nursing Board rules and recommended a special meeting be set for Tuesday, May 19, 1:00 p.m., and that an Attorney General's opinion be requested as to interpretation of statutes in 280A and 294.2. Motion carried with four ayes. Clark and Parker absent.

The Committee recommended that Mowery rely on the emergency provisions of chapter 17A to add the necessary language in 2.6(2)c(3).

RACING &
GAMING

Jack Ketterer was present for Racing and Gaming and presented the following:

Organization, mutuel departments, harness racing, 1.2(3), 8.2(4), 8.2(4)"(5), (9) and (13), 8.3(2), 8.10, 9.7(9)"c,"
9.16, 9.23, 9.37, 9.69(12), 9.83, 9.98 ARC 7473..... 3/25/87
Greyhound racing, mutuel rules, 7.3(9), 7.11(2), 7.13(1), 8.2(4)"b"(7), 8.3(2), 8.10, notice ARC 6354
terminated ARC 7472 3/25/87
Games of skill, chance, bingo and raffles, 20.1, 20.4(3), 20.5, 20.5(3), 20.5(4), 20.6(1)"i," "j," "k," 21.1"2," 21.4, 21.8,
22.1, 22.3, 23.1, 23.2(1), 23.3"5," 23.4, 23.5, 23.7 to 23.9, 23.10(3), 23.10(5), 25.3 ARC 7410 3/11/87

No questions re amendments to 1.2(3) et al or amendments to chapters 7 and 8, which were terminated.

20.1 et al
25.3

Doyle raised questions re 25.3. He thought it was unclear since existing language applied to everybody. New language seemed limited to schools. He was unsure how the play money would be dispensed and what the winnings would be. Ketterer was granted permission to research that area and respond. It was decided that the rule would be scheduled for the May meeting.

SHEEP &
WOOL
PROMOTION
BOARD
3.2

Mark Truesdell represented the Board for the following:

Organization, rules of practice, election of members, assessment on sheep and wool sales, chs 1 to 4 ARC 7440 3/11/87

Priebe had a problem with 3.2, election procedure. Priebe viewed the 5-day notice of election as being too short and giving the Board an unfair advantage. Truesdell agreed to bring the matter to the attention of the Board.

4.1

Priebe asked for estimate of sales from the assessment on sheep and wool. Truesdell cited a figure of less than \$100,000.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda and Gene Eich were present for the following:

Procedures used in determining productivity and net earning capacity for agricultural realty, 71.12(1)"a"(1) to (4), (7) ARC 7490 ...*N*..... 3/25/87

Eich said a public hearing was scheduled. He summarized the amendments which were intended to clarify procedures followed in determining productivity and net earning capacity of agricultural realty. According to Eich, Iowa State University has developed new and more accurate expense data which includes consideration of depreciable property such as tile and fences, in addition to grain bins and hay barns. An adjustment will be developed on a county-by-county basis. Individual county production will be compared with statewide average and expenses will be increased or decreased accordingly. No action taken.

GENERAL
SERVICES

Cathy Williams, General Services, and David Crosson, Cultural Affairs, appeared for the following:

Capitol complex - consumption of alcoholic beverages, 1.6(5) ARC 7411 ...*N*..... 3/11/87

1.6(5)

An amendment to 1.6(5) would exempt the new state historical building from the prohibition of alcoholic beverages. Crosson said interest had been shown in holding wine and cheese receptions and dinners in the new facility. This would provide income and reduce the amount of state tax revenues needed.

Tieden expressed opposition to competition with industry and he pointed out the liability factor and the need for license. He declared it was "bad policy all the way around." Priebe concurred. Williams agreed that those serving would need dram shop coverage.

Discussion of entertainment functions at Terrace Hill and the definition of Capitol Complex. Crosson said that Terrace Hill was a part of Cultural Affairs and not under General Services. It was pointed out that Regents institutions allow consumption of alcoholic beverages, e. g., in the Union [University of Iowa]. Priebe asked Crosson to mention the fact that rules from Cultural Affairs had not been received for publication. Crosson agreed to convey Committee concerns.

BLIND
COMMISSION

R. Creig Slayton, Acting Director, Catherine Ford, and Kris Leschefska represented the Commission for the Blind for the following:

Organization, procedures, rule making, declaratory ruling, library for blind and physically handicapped, business enterprises program, adult orientation and adjustment center, vocational rehabilitation and independent living rehabilitation services, facilities, chs 1 to 12, rescinds 160 - chs 1 to 10 ARC 7481 ...*N*..... 3/25/87

Slayton stated that the proposed rules were a result of reorganization and additional changes were made for ease in reading.

4-14-87

BLIND
COMMISSION
Concluded

In response to question by Doyle, Slayton said that eligibility in 6.3 was limited to Iowans. Doyle contended it was not clear and Slayton agreed to review the rule. Doyle asked Slayton to draft a rule relative to library service. No other questions.

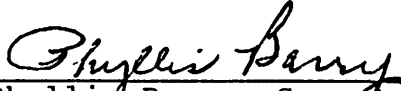
Adjourned

Chairman Priebe adjourned the Committee at 8:45 a.m.

Next
Meeting

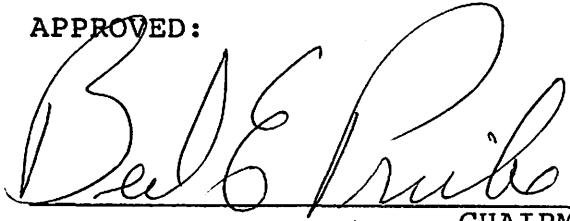
Next meeting was scheduled for Tuesday and Wednesday, May 19 and 20, 1987.

Respectfully submitted,



Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:



CHAIRMAN