

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 Monday, February 13, 1989, Committee Room 116, State Capitol, Des Moines, Iowa. This meeting was held in lieu of the statutory date of February 14, 1989.

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

Convened Chairman Priebe convened the meeting at 8:05 a.m. and called up the following agenda as the first order of business:

PROFES-  
SIONAL  
LICENSURE  
DIVISION

PUBLIC HEALTH DEPARTMENT "umbrella"  
Board of optometry examiners, 180.10(5) to 180.10(7), 180.12(5), 180.112(8), 180.200 ARC 9577 ..... N ..... 1/11/89  
Physician assistants, ch 325 ARC 9586 ..... N ..... 1/11/89

Department representatives present were Mary W. Vavrock, Division Chief; Dr. James W. Hartzell, Optometry Board, and Keith Rankin, Administrator; Dr. Dale L. Christensen, Elizabeth Coyte, and William Crews, Physician's Assistant Executive Board; Greg Kolbinger, Physician's Assistant; Mark Dickinson, Timothy Gibson and Mark Templeton, Iowa Medical Society; Deborah Fulton, Board of Nursing; Dr. Donald Soll, IMS and IAFP; L. H. Baeke, M.D., and Don Baker, IAFP; William Vanderpool, Executive Director, Board of Medical Examiners.

Ch 180 Discussion of amendments to Chapter 180. Chairman Priebe questioned the \$100 penalty for late renewal of license in 180.10(5). Hartzell stated that provision and fees for reinstatement of a license had been redefined and updated. He indicated that the rules had not previously addressed lapsed license. Royce pointed out that lawyers pay \$25 for late renewal. Hartzell responded that the Board wanted to discourage late renewals. Rankin interjected that license and penalty fees were identical for some professions.

Ch 325 Coyte offered background information on physician's assistants and explained that the rule making was a modification of current rules of the medical examiners which have been in effect since 1974. Coyte spoke of the controversy surrounding the rules as they were developed over the last six months. Supportive comments and some concerns have been expressed.

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Priebe had received complaints that the Board had exceeded its authority and he mentioned health care in rural areas. Coyte pointed out that the PA Board was comprised of individuals from small communities and they had worked hard to provide flexibility to address problems of rural health care.

Clark voiced support of proposed disciplinary procedure in 645-325.10. She also suggested several nonsubstantive changes for the rules. There was discussion of the ARRC preference for use of "shall" over "must" when a mandate is involved.

Vanderpool spoke on behalf of the Medical Examiners and declared that the proposal of the PA Board was ultra vires and that the entire issue should be addressed by the Legislature. Clark recognized differences faced by the two boards and suggested possible use of an outside mediator.

In a prepared statement, Soll voiced opposition of the IMS and IAFP to the proposed rules. He contended that legislative intent in establishing the PA program in 1971 was to address the family physician shortage. Further, it was not the Legislature's intent to have the physician assistant substitute for the physician. Soll continued that PAs received only one year of formal classroom training and one year of patient care experience, which does not adequately expose them to the full range of tasks permitted in the rules. Blanket authority for PAs to perform any task delegated by a physician exceeds the legal and ethical ability of physicians to safely delegate and supervise medical care.

Clark reasoned that the physician will be in charge of PAs and "delegation is the name of the game." Tieden concurred. He was confident that physicians would not delegate to "incompetents." Priebe recalled that the statute allows much "leeway." Clark was advised that there were no lawsuits on the matter. Soll argued that certain areas go beyond discretion of the supervising physicians, e.g., allowing PAs to order medication based on protocol is inappropriate from a medical and legal standpoint. He referenced a 1984 AG advisory opinion which advised that PAs should not be allowed to prescribe prescription drugs. He urged withdrawal of the proposed rules and recommended revision to increase supervision requirements; eliminate provisions inappropriately allowing PAs to perform any physician-delegated task; develop a mechanism to establish a direct patient-physician relationship between the supervising physician and all patients which are seen initially by PAs; remove provision that authorizes PAs to order medication; delineate procedures to be performed by PAs under the immediate on-site supervision of a physician. In conclusion, Soll referred to Code section 148.13 which mandates cooperation between the two Boards.

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Royce noted the absence of a set definition for practice of PAs. Vague language in the Act states that a PA can perform "medical services under supervision of a physician." Another section indicates that a doctor need not be present. (148C.1(4) Clark questioned meaning of "medication based on protocol" and Soll said that the physician would set up a page to inform PAs of drugs which could be given for certain ailments. He contended this would allow a PA to diagnose and treat patients who should be treated by physicians. Tieden understood Soll's concern but reiterated that PAs were still under "direct control and the liability of a physician."

Priebe pointed out that law cannot be changed by the ARRC and suggested that interested parties seek corrective legislation through the Committees on State Government.

325.6(1)y

Dickinson, on behalf of the Iowa Medical Society, voiced opposition to 325.6(1)y with respect to prescription by protocol and to 325.6(4) which would allow a PA to provide medical services in a remote medical clinic in which the supervising physician was present less than 50 percent of the time. With respect to prescriptions, Dickinson suspected that the Board lacked authority for the rule because of other express statutory provisions in Code chapters 147 and 155A. Dickinson added that chapter 148C does not recognize physician assistants as "practitioners" authorized to prescribe pursuant to a pharmaceutical drug order. Coyte recalled many discussions with the Board of Medical Examiners but they had received no specific suggestions in that area.

325.4(2)

Royce reported that Representative Schrader was concerned about temporary licensure, in certain instances, prior to individual passing the national examination--325.4(2). Coyte said the provision was taken from old rules. Examinations are given annually in October.

Chairman Priebe urged the two groups to consult with Royce and Burnett in an attempt to compromise. No Committee action.

MEDICAL  
EXAMINERS  
BOARD [653]

William Vanderpool, Executive Director, was present for the following:

PUBLIC HEALTH DEPARTMENT 644 "under the"  
Physician assistant supervision, ch 21 ARC 9611 ..... F..... 1/25/89

Ch 21

It was Clark's understanding that the rules would create problems for St. Joseph Mercy Hospital in supervision of rural clinics, including Sheffield. She referenced 21.4(1) pertaining to ineligibility of a supervising physician and asked about retired physicians.

Vanderpool cited the importance of a current license. He was aware of unethical physicians who would not be adverse to exploitation. Vanderpool continued that the Board of Medical Examiners takes the position that physicians must keep current in the practice of medicine

MEDICAL  
EXAMINERS  
BOARD  
Continued

which could include more than continuing education. He declared that it would be "frightening if physicians merely met minimum standards." Clark could envision unfair application of the broad language in 21.4(1)-- "sufficient training or experience to supervise a physician assistant." She preferred more specificity and feared eventual elimination of the entire PA program. Clark requested that the Board urge doctors to move from the big cities to help those in rural Iowa.

Vanderpool stated that the Board has never denied a physician the right to supervise a PA. Clark reiterated her opinion that someone with an unbiased point of view should be consulted to mediate the issues of the two Boards.

Motion to Delay Ch 21 Clark moved to delay 653--Chapter 21 for 70 days from the effective date of March 1, 1989. Motion carried.

Deferral Review of rules of Racing and Gaming temporarily deferred.

HUMAN  
SERVICES

Chairman Priebe called up the following:

Medicaid-certified substance abuse units and psychiatric units, 79.1(5)"b"(1) and (3), 79.1(5)"e" (3) and (4), filed emergency after notice ARC 9588	FEAN.	1/11/89
Other policies relating to providers of medical and remedial care, 79.1(5)"d"(3), 79.1(5)"e"(1) and (2), 79.1(5)"m."	F	1/11/89
"r," "t" and "u" ARC 9587		
Standards for individual case management services, 21.1, 21.3 ARC 9625	N	1/25/89
Granting assistance, 41.2(9)"a" and "c" ARC 9584	N	1/11/89
Payments for foster care and foster parent training, 156.1, 156.6, 156.7, 156.8(1), 156.8(6) to 156.8(8), 156.19 ARC 9589	N	1/11/89

The Department was represented by Mary Ann Walker, Margaret Ward, Don Herman, Vivian Thompson, Charles Parrish and Maureen McGuire.

Ch 79 Walker provided brief explanation of amendments to Chapter 79. A hearing had been held. Walker responded to question by Tieden that the payments to out-of-state hospitals averaged what was being paid to Iowa hospitals--the matter is in court. Approximately six hospitals around the state, including Broadlawns in Des Moines and the University of Iowa Hospital, participate in disproportionate share payments. Tieden wondered if the diagnosis-related group (DRG) exemption had resulted in a higher or lower cost to the state. According to Walker, it was budgeted.

24.1, Brief review of amendments to 24.1 and 24.3. Ward advised  
24.3 that the counties were still not satisfied with Chapter 24. Walker indicated that the AG had declined to issue an opinion as requested by the Department.

No questions re 41.2(9)a or c, or 156.1 et al.

NATURAL  
RESOURCES  
DEPART-  
MENT

The following persons were in attendance for review of rules of the Natural Resources Department: Michael Carrier, Marion Conover, Victor Kennedy, Mark Landa, Tom Blewett and Morris Preston. Also present: Patricia Griffin, Indianola Equestrian; Roy Downing, ATV Association; Randy Brown, President, Peter Wicks, Adel, Jeff Light, Jim Hickman, business owner, Dennis Thielke,

2-13-89

NATURAL Des Moines, members of the Iowa All-Terrain Vehicle Asso-  
RESOURCES ciation; Jerry Smith, Douglas Thornton, and Linda Long,  
DEPARTMENT Iowa Motorcycle Dealers Association.  
Continued

The agenda follows.

NATURAL RESOURCES DEPARTMENT 116611 "umbrella"  
Concessions, title 11, 14.1, 14.2(1)(d)(3), 14.2(2)"a" and "c," 14.3, 14.5 to 14.8 ARC 9624 ..... F ..... 1/25/89  
Wildlife refuges, 52.1(1) ARC 9622 ..... F ..... 1/25/89  
Development and management of recreation trails on state lands, ch 67 ARC 9623 ..... F ..... 1/25/89  
Fishing license exemption for patients of substance abuse facilities, 15.1 ARC 9621 ..... N ..... 1/25/89

Ch 14 No recommendations re amendments to Chapter 14 which were identical to the Notice.

52.1 In re 52.1, Carrier agreed to provide Doyle with information on the Preparation Canyon area. In 52.1, Hardin City Woodland, Lost Island and Rush Lake were removed from the list of wildlife refuges and hunting will be continued. Priebe pointed out that Lost Island bordered Emmetsburg and wondered about the impact of hunting. Carrier assured him that local ordinances would supersede the rule.

Ch 67 Discussion moved to Chapter 67 which establishes guidelines for management of recreation trails on state parks, recreation areas, forests, preserves, game management areas and wildlife areas operated by the Department. Carrier said that three public hearings had been held and these rules reflect public comment. Responding to Doyle, Carrier said an ATV weighing less than 1000 pounds with low pressure tires can be registered as a snowmobile if it meets snowmobile criteria.

Priebe expressed opposition to the carte blanche authority of the director in control of trail use--67.7(4). He then opened the meeting for public comment and recognized Griffin who opposed what she considered to be vague language in 67.7. She preferred that decision to permanently close a trail be made by a committee.

Brown considered it an absurdity to include jeeps and pickups in the definition of "all terrain vehicles." He expressed dismay that "no trails shall be established for all-terrain vehicles..."--67.5. It was his position that DNR should establish a riding area for ATV enthusiasts and he suggested an old mining area south of Knoxville. He offered to work with the Department to develop rules which would include ATVs.

Wicks concurred that areas should be set aside for ATVs and he described such an area located in Chadwick near Springfield, Mo. Light also opposed autonomous decision-making by the Department Director and urged that ATVs be included in development of recreation trails. Smith favored development of areas suited to ATVs and he referenced Finger Lakes State Park which had been donated by Peabody Coal Company at no state expense.

NATURAL  
RESOURCES  
DEPARTMENT  
Continued

Thornton spoke of the importance of designated areas for ATVs to avoid discrimination. Hickman viewed lack of consideration for ATV enthusiasts to be "detrimental." His business success is dependent on this group.

Tieden asked what opportunities were being precluded by the rules, and opponents to the rules cited restrictions as to crossing streams and being limited to riding on roadways.

Thielke reported that he had been riding off-road vehicles for 25 years in other states with good recreational facilities which Iowa lacks. He urged the Department to seek input from ATV groups in rewriting the rules. Clark and Thielke discussed the economic advantage for Iowa to pursue development of recreation areas suitable for ATVs. Tieden pointed out that the Legislature had not appropriated funding for such an endeavor. He noted that Missouri has, for many years, set aside a certain percent of sales tax for development of recreation areas. General discussion of funding.

Responding to Doyle, Thielke said that federal land is used in many states and no proof of insurance is required. Thielke suggested funding by user stickers similar to the park user fee. Doyle was interested in liability factor if private land were developed. Long had found the ATV Association to be very responsible. She referenced their lobbying effort to set up registration fees for ATV riders. She added that a coal mining area had been offered to the state. Long cited the successful snowmobile program. In answer to question by Pavich, Long suggested use of non-productive land for the trails and a \$10 registration fee for maintenance.

Tieden recommended that advocates of the change should appear before the Appropriations Committee on Natural Resources. Pavich in the Chair.

Downing was critical of the all-terrain vehicle definition and he urged that Chapter 67 be "sent back to the drawing board." Downing pointed out conflicting provisions between Chapters 67 and 51 relative to use of ATVs by handicapped in public hunting grounds. Priebe resumed the Chair.

67.6

Carrier discussed 67.6--guidelines for trail location--which provided in part that "no trail shall be constructed on any slope where erosion will occur...". He said that agreement could not be reached as to what would be reasonable threshold so the Department relied on the professional judgment of the area manager. All types of ATVs were lumped together since current practice has been to prohibit use of those vehicles on trails supervised by the Department. According to Carrier, the issue is not new but is being addressed for the first time in rules. Prohibition is consistent with past practice except those

NATURAL  
RESOURCES  
DEPARTMENT  
Continued

ATVs registered as snowmobiles can operate on state trails when there is one-tenth inch of snowfall. Carrier defended the provision allowing the Director authority to close trails. The Department viewed this as a positive approach since the public will have opportunity to appeal to the Director rather than to an area manager. Appeals can also be made to the Natural Resource Commission or Environmental Protection Commission--they can overrule the Director and have many times. Carrier spoke to the issue of why DNR does not provide ATV use areas within its system of parks and recreational areas. He stated that this type of recreation was the seventh least popular and there was no funding mechanism. In addition, Carrier said that this high-risk sport would expose the state to liability if it were poorly managed.

Motion to Delay 70 Days  
Ch 67 Doyle moved that Chapter 67 be delayed for 70 days to allow for study and that the rules be sent to the President of the Senate and the Speaker of the House for possible referral to Natural Resources Committees.

Schrader was sympathetic to the needs of the ATV sport but also voiced support of the Department's position.

Vote The Doyle motion failed on a voice vote. Chairman Priebe announced the vote as follows: Priebe, Doyle and Clark, aye; Tieden, Schrader and Pavich, no.

15.4 Doyle asked if there were opposition to sending information on the rules to the respective legislative committees. There was none. Priebe reiterated his concern as to the power of the DNR Director. No questions on new rule 15.4.

RACING &  
GAMING

Mick Lura presented the following agenda for Racing and Gaming:

INSPECTIONS AND APPEALS DEPARTMENT (180) "umbrella"  
Harness racing, ch 9 ARC 9580 ..... F..... 1/11/89  
Administrative law judge; greyhound racing; mutual departments; thoroughbred racing, 4.14, 7.2(12), 8.1, 8.2(4)"m," 8.6, 10.2(6)"b," 10.3(25), 10.4(5), 10.4(10)"c," 10.4(21) ARC 9576 ..... N..... 1/11/89  
Greyhound racing; mutual departments; thoroughbred racing, 7.2(12), 8.1, 8.2(4)"m," 8.6, 10.2(6)"b," 10.3(25), 10.4(5), 10.4(10)"c," 10.4(21), filed emergency ARC 9575 ..... FE..... 1/11/89  
Thoroughbred racing, 10.4(14), 10.4(19)"b," 10.6...70-day delay...11-30-88

Also present: Charles Schott and Ray Shattuck, Iowa Thoroughbred Association.

Ch 9 Regarding amendments to Chapter 9, Lura advised ARRC that wherever practical, the Division had drafted their rules to coincide with those of the U.S. Trotting Association. All concerned with harness racing had reached agreement on the changes.

9.4(6) Priebe and Clark noted that numerous changes had been made since the Notice. Lura emphasized that the changes were basically nonsubstantive and there had been no opposition. In discussing subrule 9.4(6), Lura stated that a horse is permitted one start, but if the horse owner fails to obtain a license, the purse is not awarded.  
10.3 Schrader and Lura discussed the financial report in 10.3(25).

RACING &  
GAMING  
Continued

Rules 10.4 and 10.6 relating to thoroughbred racing were before the Committee. Portions of the rules had been delayed for 70 days at the December ARRC meeting. Lura requested that the delay be lifted. He explained that owners were opposed to the alcohol prohibition when they were at the track socially. The owners opposed the .05% alcohol standard (legal impairment) which originated with the National Association of State Racing Commissioners. Lura continued that emergency rules were adopted to accommodate owners as much as possible without removal of the .05% standard (ARC 9652, 2/8/89 IAB).

Priebe had received suggestions that the rules be modified to exclude an owner who might want to go down to the track to see his horse. Lura stressed the need for authority to deal with an owner who might be causing problems in the backstretch of the paddock. This could involve a number of restricted areas. Lura pointed out that under the emergency rule, the licensee or employee will be sent home if an alcohol test shows .05%. He added that offenders are protected by reasonable clause portion of the statute. Clark noted .05% was higher than limitation for driving while drinking.

Schott questioned why, legally, the owner should be permitted to do anything but visit his own horse. He agreed that trainers, exercisers, etc. should certainly be restricted on their alcohol content but "owners" are there in social situations and should not have a "cloud hanging over their heads." Schrader and Pavich agreed with Schott.

Royce reasoned that the Commission clearly has authority to regulate based on public health, safety and welfare. He wondered why owners and jockeys would have the same regulation. It was Royce's opinion that jockeys should be banned from having alcohol in their blood.

Motion to  
Object  
10.4(14)a

After further discussion, Clark moved to object to 10.4(14)a as it was published in 2/8/89 IAC. The objection could be corrected by providing an exemption for the owners of horses. The following language was prepared by Royce:

At its February 13th, 1989 meeting the committee voted to object to the language contained in 491 IAC 10.4(14)"a" on the grounds that it is unreasonable as being over inclusive. The rule states that no licensee or employee at a track may consume alcohol which would constitute a blood level of .10 per cent, while on duty or in a restricted area. The committee notes that this would apply to owners of racing horses. It was the opinion of the committee that an owner who is simply acting as an observer should not be subject to this restriction. The committee generally approves of this restriction but requests that the division provide an exemption for owners of horses if those owners are not actively working during the race.

Delay  
Lifted

Chairman Priebe called for a motion to lift the 70-day delay imposed on 10.4(14), 10.4(19)b and 10.6. Pavich so moved. Motion carried. Pavich in the Chair. No recommendations for amendments to 4.14 et al.



ENVIRON-  
MENTAL  
PROTECTION  
COMMISSION

Mark Landa and Tom Blewett presented the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]  
NATURAL RESOURCES DEPARTMENT[601] "umbrella"  
General requirements relating to solid waste disposal, 101.4 ARC 9596 ..... F ..... 1/11/89  
Grants for solid waste demonstration projects, title, 209.7 ARC 9597 ..... F ..... 1/11/89  
Emission standards for contaminants, 23.1(2), 23.1(3) ARC 9583 ..... N ..... 1/11/89  
Scope of titles -- definitions -- forms -- rules of practice; sanitary landfills; design, construction and operation  
standards for solid waste management facilities, 100.2, 103.2(1)"l," 103.2(2)"j" and "k," 103.2(3) to 103.2(10),  
ch 110 ARC 9584 ..... N ..... 1/11/89

No questions on 101.4 or 209.7.

Ch 23

Landa described amendments to Chapter 23 as an adoption of federal regulations pertaining to new source performance standards and emission standards for hazardous pollutants. No one had appeared at the public hearings which had been scheduled. No recommendations were offered for amendments to Chapters 100, 103 and 110. Landa agreed to review the spelling of parameters listed in 103.2(4)d. No Committee action. Priebe resumed the Chair.

ELDER  
AFFAIRS  
Ch 20

David Ancell and Lois R. Haecker were present for review of Chapter 20, Older Iowans Legislature, ARC 9600, 1/11/89 IAB.

According to Ancell, new Chapter 20 will codify operating procedures of the Older Iowans Legislature into rule form as suggested by the AG's office.

Doyle was advised that \$13,000 was appropriated to conduct the Older Iowans Legislatue (OIL). As a general rule, each Area Agency on Aging contributes to advocacy efforts in supporting delegates. It was Doyle's opinion that the definition of "one person--one vote" in 20.3 was incongruous with 20.6(4)c(1). He questioned application of strict rules of rounding in 20.5.

With respect to prefiling of bills by OIL, Doyle noted that 20.8(1)d was too restrictive since he recalled that the group had authority for ways and means or tax bills. In 20.9(2), Doyle thought that paragraph c(1) needed further detail as to procedure on resolutions by voice vote. Ancell advised him that resolutions are not subject to amendment since time does not permit adjustment--20.9(2)c(2). Doyle suspected that some lobbyists work very hard getting OIL to present a bill which is subsequently sent to Legislative committees for filings--20.11(3). He expressed his opposition to that process.

With respect to representative candidates, Pavich voiced preference for following legislative boundaries--20.6(2). He also supported Doyle's position on lobbyists. Clark asked if lobbyists were on hand during that session and response was in the affirmative. She had problems with the fact that OIL was the only group of potential registered voters with a model legislature. The model legislature held by students differs in that it is merely a learning process. Clark could foresee a precedent whereby other groups might insist upon state financing.

ELDER  
AFFAIRS

She was also concerned about involvement by lobbyists. Tieden wondered if a law change were needed and there was discussion. Ancell indicated that OIL was created by Resolution in 1979. Schrader shared Committee sentiments regarding lobbyists and pointed out that the Legislature was tempered by groups at home. Older Iowans Legislature does not have the input from constituents.

Ancell stated that, from the point of view of Elder Affairs Department, the OIL brings to their attention the issues and potential solutions to problems concerning older people. He continued that the Department has a problem with the way certain bills have been passed. Irrelevant issues have been part of the OIL agenda. Ancell informed Doyle that the apportionment of seats did follow the Planning and Service Areas--20.5.

Clark recommended substitution of "things that affect older people" for the words "concerns of older people" in the purpose statement--20.1. Ancell agreed with her requests. No other discussion.

DEPARTMENT  
OF  
ECONOMIC  
DEVELOPMENT  
Ch 28

Lane Palmer, Melanie Johnson and Sharon Dreyer appeared on behalf of the Department for the following:

Community and rural development loan program, ch 28 ARC 9605 ..... F ..... 1/25/89  
Self-employment loan program, 8.2, 8.3(3) to 8.3(6), 8.4(2), 8.4(3) ARC 9601 ..... N ..... 1/11/89

Doyle questioned Palmer as to the procedure for a low-interest loan and 28.5 was referenced.

Tieden and Palmer discussed 28.3(5)--indebtedness limitations. According to Palmer, the last sentence reflected a veto. In essence, a community cannot be required to issue bonds through a designed program--the community can elect to do so.

## Ch 8

In re amendments to Chapter 8, Johnson said minor changes had been made to clarify present procedures. Royce referred to 8.2 and asked if family income included parents of a potential applicant who lives at home. Johnson was unsure but thought recent funding had been made in this type of situation. Tieden was told by Dreyer that federal guidelines were sufficiently specific. No other comments.

REVENUE &  
FINANCE  
DEPARTMENT

Carl Castelda presented the following for consideration:

Determination of net income; assessments and refunds; withholding, 40.3, 43.7(2), 43.7(3), 43.7(6), 43.7(7),  
46.1(1)"d"(1) ARC 9612 ..... F ..... 1/25/89  
Administrative law judge, 7.1, 7.3, 7.8, 7.8(2), 7.9 to 7.12, 7.14(1), 7.14(2), 7.16, 7.17(1) to 7.17(6), 7.19 to 7.21,  
7.24(1), 7.24(2), 7.24(1), 7.27(6) ARC 9610 ..... N ..... 1/25/89  
Filing and extension of tax liens and charging off of uncollectible tax accounts; administration, 9.6(3)"e," 11.1,  
11.10, 11.10(1)"c," 11.10(2), 63.23, 63.23(1)"c," 63.23(2) ARC 9595 ..... M ..... 1/11/89  
Casual sales -- aircraft, 18.28(1) ARC 9609 ..... N ..... 1/25/89  
Sales and use tax exemption for farm machinery and equipment in livestock or dairy production, 18.48(2)"e,"  
filed emergency ARC 9603 ..... F.E. .... 1/11/89

40.3 et al  
18.28(1)

No questions re 40.3 et al. or Chapter 7. Castelda said that a statutory definition was being adopted in 18.28(1).

## 63.23(2)

Discussion of 63.23(2)--type of security or bond. Tieden asked why "...conversion to a certificate of deposit..."

REVENUE &  
FINANCE  
DEPARTMENT  
continued

was not allowed. Castelda explained the problems created when persons are allowed to post bonds in several different forms. License holders will be requested to select one option.

18.48

In general discussion of 18.48(2), Doyle was advised that a law change would be necessary to exempt from sales and use tax the gross receipts from sale or rental of irrigation equipment used in farming operations. [See 89 GA, SF 215] Clark presented a list of suggested grammatical changes for Revenue rules.

Minutes

Doyle moved approval of the January minutes as submitted. Motion carried.

UTILITIES  
DIVISION

Ray Vawter, Allan Kniep, Cindy Dilley and Susan Allender appeared for review of:

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[199] "umbrella"

Division organization and operation, 1.4, 1.5 ARC 9591	.....	F.....	1/11/89
Applications for rehearing, 2.2(13), 7.9(1) to 7.9(3) ARC 9619	.....	F.....	1/25/89
Direct assessments, 17.1, 17.3, 17.5(1), 17.5(4) ARC 9590	.....	F.....	1/11/89
Meter standards, 19.1(3), 19.3(2), 19.5(2) "b," 19.6, 19.7(4) "b," 20.6 ARC 9617	.....	F.....	1/25/89
Flexible rates, 20.14(2) "a," 20.14(3) "d" ARC 9592	.....	F.....	1/11/89
Notice of rate increase, 7.4(1) "f" (2) and (3) ARC 9620	.....	N.....	1/25/89
Alternate energy production, 15.1, 15.2(1) "a" and "c," 15.2(2), 15.3, 15.11, 15.11(4), 15.11(6), 15.12 to 15.16, also notice ARC 8394 <del>terminated</del> ARC 9618	.....	N, J.....	1/25/89
Natural gas flexible rates, 19.12(2) "a," 19.12(3) "d" ARC 9593	.....	N.....	1/11/89
Alternative operator services, 22.19 ARC 9594	.....	N.....	1/11/89

There were no questions re amendments to Chapter 1, 2.2(13), 7.9(2) to 7.9(3), 17.1 et al., or 20.14(2) a.

Ch 19

Dilley reviewed amendments to Chapter 19, wherein each utility adopts programs for inspecting and testing meters. Also, the rules establish a timetable for customer request tests and referee tests. Current ANCI standards have been adopted.

7.4(1) f

In re 7.4(1) f, Priebe questioned use of "may" with respect to mailing notice of rate increase to customers. Vawter assured him that the law required notice to be given but the Board has option as to the method.

Ch 15

Kniep said that amendments to Chapter 15 were revised to comply with a Supreme Court ruling. No questions re 19.12(2) a, or 19.12(3) d. Kniep notified the ARRC of possible opposition to the final draft of 22.19.

TRANSPOR-  
TATION  
DEPARTMENT

Julie Fitzgerald and Carol Coates were present for DOT to present Chapter 25 addressing competition with private enterprise, ARC 9572, Notice, IAB 1/11/89.

According to Coates, there was no change in the current method of doing business. In response to Clark's question on 25.2(11), Fitzgerald explained that new equipment is under warranty and the vendor comes to the DOT shop to make repairs. Coates responded to question by Priebe that all of the purchased equipment must be delivered to Ames and selling it at another location would not be feasible.

TRANSPOR-  
TATION  
DEPARTMENT

Priebe had constituents who were unhappy with the one cent local option tax being placed on machinery. Coates recalled that Minnesota had sales in various locations and costs increased 17 percent. Discussion of legislation introduced to address the issue. No other comments.

LAW  
ENFORCEMENT  
ACADEMY

Ben Yarrington, Director, and William Callaghan were present on behalf of LEA for the following:

Certification of law enforcement officers, 3.4(1) to 3.4(3) ARC 9616 ..... F.... 1/25/89

Also present: Senator Joseph Welsh, Dubuque.

## 3.4(1)

Discussion of rescission of subrule 3.4(1) pertaining to qualification for attendance at a short course as part of certification for law enforcement officers. The subrule read: "...must have five or more years of full-time civilian law enforcement experience."

Yarrington informed Welsh that the Academy had no plans to offer the short course training based on experience and education. The Academy has taken the position that the five-week course offered each year serves their needs. This year's course is in its third week.

Welsh offered background on a situation in his district. A Deputy Sheriff from Dubuque took the civil service test in 1980 and has been a Deputy since that time. The Deputy was registered for the short course starting two weeks ago. On Thursday, prior to the beginning of the course, she was notified of her ineligibility since she was considered to be a secretary or civil deputy. Welsh understood that a similar situation involving a Deputy from Linn County had gone to court and the Deputy was then admitted to the course. Yarrington provided history on the short course training. The short course was never intended for individuals serving in a limited capacity such as a jailer or civil deputy. The Linn County applicant's case was upheld by the District Court because of the jailer's job description under the County Board of Supervisors.

Callaghan commented that it was their understanding that the Dubuque Deputy was essentially a paper-server with no background in defense tactics but was asking to assume full law enforcement duties. The Council decided this person was not eligible for the course.

Welsh disagreed with identifying the Dubuque Deputy as a "paper-server" since she is a sergeant in charge of the entire civil division. Welsh suspected discriminatory practice since the Dubuque individual would have been the only woman in the program. He asked for further consideration of the matter with possible legislative action.

2-13-89

LAW Yarrington indicated that he had asked the Dubuque County  
ENFORCEMENT Sheriff to write a letter to the Council requesting that  
ACADEMY the Sheriff and the Deputy be allowed to appear before  
Concluded the Council at their March meeting.

Motion to Royce recommended a delay for study of the issue. Tieden  
Delay moved that a 70-day delay be imposed on 501--3.4(1).

No Agency No agency representatives were requested to appear for  
Reps the following:

ARCHITECTURAL EXAMINING BOARD[193B]  
Professional Licensing and Regulation Division[193]  
COMMERCE DEPARTMENT[181]"umbrella"  
Intern development program; reinstatement policy for registrants, 1.1(3), 1.1(4), 1.4, 2.2(2), 2.3, 3.1 ARC 9616 .. *N* ..... 1/25/89

DENTAL EXAMINERS BOARD[650]  
PUBLIC HEALTH DEPARTMENT[641]"umbrella"  
General anesthesia, parenteral sedation and nitrous oxide inhalation analgesia, 29.5(6) ARC 9608 ..... *N* ..... 1/25/89  
Grounds for discipline, 30.4"15" and "30" to "34" ARC 9607 ..... *N* ..... 1/25/89

HISTORICAL DIVISION[223]  
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"  
Programs and services, 14.1, 14.9 ARC 9604 ..... *N* ..... 1/11/89

INSPECTIONS AND APPEALS DEPARTMENT[481]  
Health care facility audits, 22.1 ARC 9613 ..... *F* ..... 1/25/89  
Intermediate care facilities, 58.11(2)"g" ARC 9614 ..... *F* ..... 1/25/89  
Food establishment exceptions to federal standards, 30.2, 31.1, 32.1 ARC 9585 ..... *N* ..... 1/11/89

INSURANCE DIVISION[191]  
COMMERCE DEPARTMENT[181]"umbrella"  
Registration and operation of broker-dealers, 50.1, 50.2(8)"b" ARC 9582 ..... *F* ..... 1/11/89

IOWA FINANCE AUTHORITY[621]  
Title guaranty division, 9.1, 9.12, 9.13"1," 9.14"2" and "4," 9.15, 9.17, 9.18, 9.20, 9.30 ARC 9599 ..... *N* ..... 1/11/89

PAROLE BOARD[205]  
CORRECTIONS DEPARTMENT[201]"umbrella"  
Rescind 615—chs 1 to 9; adopt 205—chs 1 to 13, notice ARC 8435 terminated ARC 9574 ..... *M. T.* ..... 1/11/89

PERSONNEL DEPARTMENT[581]  
Benefits, 15.4(4), filed emergency ARC 9571 ..... *FE* ..... 1/11/89

PUBLIC BROADCASTING DIVISION[225]  
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"  
Public records and fair information practices, 3.9 to 3.17 ARC 9578 ..... *F* ..... 1/11/89

PUBLIC SAFETY DEPARTMENT[661]  
Autopsy reimbursement, title, 21.2, filed emergency after notice ARC 9602 ..... *FEAN* ..... 1/11/89

SECRETARY OF STATE[721]  
Election forms and instructions — local option taxes, 21.3 to 21.5 ARC 9606 ..... *N* ..... 1/25/89

TRANSPORTATION DEPARTMENT[761]  
Abandoned vehicles, ch 480 ARC 9573 ..... *F* ..... 1/11/89

TREASURER OF STATE[781]  
Informal claims for second injury fund, ch 10 ARC 9579 ..... *N* ..... 1/11/89

Adjourned Chairman Priebe adjourned the Committee at 11:40 a.m.  
Next regular meeting was scheduled for Monday, March 13,  
1989, 8 a.m.

Respectfully submitted,

*Phyllis Barry*  
Phyllis Barry  
Assisted by Vivian Haag

APPROVED:

CHAIRMAN