

**MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Time of meeting The regular meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday, May 9, 1995, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Representative Janet Metcalf and Senator Berl E. Priebe, Co-chairs; Senators H. Kay Hedge, John P. Kibbie, William Palmer and Sheldon Rittmer; Representatives Horace Daggett, Roger Halvorson, Minnette Doderer and Keith Weigel.

Also present: Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; Kimberly McKnight, Administrative Assistant; Caucus staff and other interested persons.

Convened: Co-chair Metcalf convened the meeting at 10 a.m.

**HUMAN
SERVICES**

Attending from the Department were Mary Ann Walker, Merlie Howell, Don Kassar, Doris Taylor, Sally Nadolsky, Kathy Ellithorpe, Eileen Creager, Elizabeth Scott, Mary Nelson and Kim McMiller. The following agenda items were reviewed:

HUMAN SERVICES DEPARTMENT[441]

Transitional child care assistance program, ch 49 division II preamble, 49.21, 49.24, 49.25, 49.35,
Notice ARC 5525A, also Filed Emergency ARC 5526A 4/12/95
 Eligibility guidelines for federal surplus food program, 73.4(3)"d"(2), Notice ARC 5546A 4/26/95
 Medicaid coverage of ambulance service, 78.11(5), Notice ARC 5188A Terminated,
Notice ARC 5541A 4/26/95
 Medicaid reimbursement for orthodontial services under the EPSDT program, 79.6,
Filed ARC 5521A 4/12/95
 Collections, support enforcement services, 95.16, 98.23, 98.24(2), 98.33(2), 98.36, 98.42(1), 98.42(2),
 98.91 to 98.97, Notice ARC 5547A 4/26/95
 Life skills service workers in child-placing agencies, 108.1, 108.4, 108.4(3), 108.4(5), 108.6(3),
Notice ARC 5545A 4/26/95
 Foster care, 113.5(6)"h," 113.8(4), 113.10(1)"d," 156.1, 202.4(5)"b," 202.6(1), 202.8(2), 202.10(4),
Filed ARC 5522A 4/12/95
 Adolescent monitoring and outreach services — juvenile justice and delinquency program,
 133.1, 133.3(4)"f," ch 151 title, ch 151 preamble, 151.21 to 151.29, Notice ARC 5524A,
 also Filed Emergency ARC 5523A 4/12/95

**Ch 49 et al. and
73.4(3)"d"(2)** No questions on Ch 49 et al. and 73.4(3)"d"(2).

78.11(5) Walker noted many comments had been received on the previous Notice for new subrule 78.11(5) so the Department terminated the October 26 Notice and renoticed a revised version. The terminated rule stated Medicaid coverage would be allowed only to the ambulance which transported the patient. In the renoticed subrule the words "that transports the patient" were deleted.

Department officials indicated the amendment did not address the situation of air ambulance following ground ambulance being called to a scene. They noted the rule followed Medicare guidelines. Additional appropriation would be needed to

- DHS (Cont.) cover expanded paramedic and ambulance service. It was noted a national review of ambulance policy was in process.
- 79.6 No questions on 79.6.
- 95.16 et al. In review of amendments in 95.16 and Chapter 98, Metcalf referred to 98.93, relative to verification of accounts by telephone or written communication. Taylor stated that a focus group with members of the banking industry had been formed with the Department. The rural banking industry thought they could recognize the voices of people working in the child support recovery unit. Although verification by telephone would reduce paperwork, Taylor was aware this would not work for large metropolitan areas. Metcalf favored a uniform policy with written communication.
- Taylor described an administrative process which would allow the Department to implement garnishment in an expeditious manner. Notification language would be added to court orders and was similar to income withholding.
- Notice with the support order would be the only preliminary notice the Department would have to give. A notice would be sent to the financial institution and 2 days later it would be sent to the support obligor. In response to Metcalf, Taylor stated that it could be months or years after the court order before the Department might intercept funds.
- 108.1 et al. In review of Chapter 108, Walker stated that college was not a requirement for life skills service workers and child-placing agencies were not required to have these workers. Caseworkers could perform this function. According to Nelson, the service worker would help with basics such as how to open a bank account, shop for groceries or prepare for a job interview.
- 113.5(6)"h" et al. Walker stated that two comments had been received from Children and Families of Iowa and Four Oaks supporting changes in Chapter 113 et al. relative to foster care special needs including HIV care.
- Daggett asked about liability for refusal to release information. Nelson replied that if a parent, guardian or child refused to release the information that the child was HIV positive, the Department would seek court permission. She knew of no instance where the court blocked release of the information. However, if the court refused to grant the order, the Department would pursue an appeal with assistance from the Attorney General's Office.
- Hedge and Kibbie thought it was important for emergency workers to know when a person was HIV positive. Kibbie recalled legislation on the subject. Priebe wondered how babies could be tested and hospitals not disclose this information. Nelson was unfamiliar with the hospital testing of infants. In this rule the Department was requesting permission from persons who had the ability to release the information. This language was developed in consultation with

DHS (Cont.)

attorneys who had worked with the University of Iowa Hospital's hematology project and was reviewed by the Attorney General's Office who indicated it was consistent with the statute.

Motion

Priebe moved that more information be compiled for review at the June meeting. Motion carried.

Rittmer asked if this rule was intended to remove any doubt about foster care parent notification. Nelson responded there had been some concern on the part of foster parents that a child could be placed without their knowing the HIV status. She stressed the Department's primary reason for the rules was the best interest of the children. HIV positive children were at risk for opportunistic infections or other kinds of illnesses and should not be exposed. Rittmer concurred with notification to the foster family.

133.1 et al.

Walker summarized amendments to 133.1, 133.3 and Chapter 151 relative to adolescent monitoring and evaluation. Kassar stated that negotiation with the Kansas City federal staff was started last June and there was clarification that adolescent delinquents were not a part of child welfare services. After lengthy negotiation with the federal government, they approved putting this service in the IV-A emergency assistance plan. In order to claim the federal matching funds, the rules had to be filed emergency.

Kassar continued that the state appropriated \$800,000 and it would increase in 1996. Juvenile court officers were supportive of the program which would, in their opinion, reduce placements in group foster care and in Eldora or Toledo. Daggett asked if there were providers available for this program or if new providers were needed. Service was provided through current agencies providing in-home services and two judicial districts which were hiring individuals with experience with adolescents and delinquents. No Committee action.

**ATTORNEY
GENERAL**

Marti Anderson, Kelly Brodie, Deputy Director of Crime Victim Assistance Division, and Lynn Walding, Counsel, were present from the agency for the following:

ATTORNEY GENERAL[61]

Crime victim compensation, ch 9, division II, 9.25 to 9.33, Filed ARC 5551A 4/26/95

Ch 9 et al.

Metcalf asked for clarification of the language in 9.26"3." Anderson responded that a victim of a crime in another state would apply to that state's compensation program. Brodie added that compensation would be extended to Iowa residents injured in a foreign country where there was no compensation program. She cited instances where Iowa residents had been victimized while tourists in another country and they would be eligible for benefits under this program.

Metcalf wondered if the \$2 million fund was an all-time high and Anderson replied in the affirmative. Funds were derived from criminal fines and penalties and surcharges on criminal fines brought in an additional \$900,000 per year. The

ATTORNEY
GENERAL (Cont.)

agency had also worked to increase the collection of restitution from perpetrators. Five collections have increased from \$2,000 to \$3,000 per year to \$300,000 per year enabling the agency to increase benefits and maintain a reserve for catastrophes or decreased revenue.

Halvorson noted that "caretaker" had been deleted from 9.28(11) with respect to reporting of crimes against dependent adult victims. According to Anderson, the agency broadened the rule by allowing for anyone to make the report. The Human Services Department had pointed out elderly abuse was often inflicted by caretakers. Halvorson felt the definition was tightened not broadened.

Anderson explained that children and those not competent to report within the 72-hour time frame would be allowed additional time. Halvorson asked if statistics were kept on report beyond the 72 hours. Brodie stated that failure to meet the 72-hour reporting requirement resulted in the highest denial rate but only a small percentage was denied.

In response to Rittmer, Anderson said all payments were based on out-of-pocket expenses for injuries—there was no overall cap, it was broken down by category. For example, \$5,000 would be allowed for a funeral. Hospital and medical costs prior to death and loss of support for children would be compensated. Anderson recalled \$15,000 being paid on one claim but the average payout was between \$2,000 and \$3,000 per applicant.

Anderson advised Hedge that counseling per victim and support for dependents was capped at \$6,000.

Priebe expressed opposition to extending the compensation program to Iowans in a foreign country—9.26"d." Anderson stated the agency was reimbursed 40 percent of payout by the federal government.

Kibbie wondered about availability of funds for the European tourists in Florida. Anderson replied that all 50 states as well as many foreign countries had a compensation program. However, Iowa would pay compensation for an Iowan injured in Nevada because their program was limited to Nevada residents. Because of this, Nevada does not receive federal dollars.

Brodie noted the case of a college student who went to Israel as part of college studies for a two-month intensive research project. While the student was there she was kidnapped and raped and needed care and mental health counseling upon return. The student received funding for this from the state's program.

Anderson advised Doderer that victims learn about the program primarily through law enforcement agencies, county attorneys, victim service agencies, hospitals and word of mouth. Anderson clarified that the program did not receive an appropriation but was funded through criminal fines and penalties—\$1.4 million from OWI penalties, \$950,000 from criminal fines surcharge and restitution from the prison system. The program received 18 percent of the 30 percent criminal fines surcharge. Anderson added that victims were paid restitution before the program was paid. Reimbursement was limited to costs relative to the injury.

Daggett asked if comments brought forward had been worked out and Anderson replied they had been addressed.

ATTORNEY
GENERAL (Cont.)

Rittmer expressed concern with the expansion of the program to those traveling outside the U.S. Anderson explained the Agency was merely implementing their five-year policy by rules. During the past five years the expanded program had been utilized three times.

Anderson informed Halvorson other sources such as insurance or Medicare/Medicaid would be used first before the program would contribute. In conclusion, Department officials spoke of their intensive efforts to find the collateral sources and share their expertise with other states. No Committee action.

UTILITIES

Vicki Place represented the Utilities Board for the following:

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Telephone bill forms, 22.4(1)"b," Filed ARC 5548A 4/26/95

22.4(1)"b"

Place stated that all comments received had been supportive of the amendments to 22.4(1) which requires local exchange utilities and other telephone utilities that do their own billing to notify customers where a qualified representative may be reached. The customer may also call the Board if their questions are not answered.

REGENTS

Richard Tiegs and Louise Houseworth were present from the Regents Board for the following:

REGENTS BOARD[681]

Rescission of parietal rules at University of Iowa and University of Northern Iowa, 2.2, 2.36,

Notice ARC 5520A 4/12/95

Updating and corrective amendments, 3.3, 7.1(2)"a," 7.6(2)"f," "g" and "h," 8.1(1)"e," 8.3(1), 8.3(2), 8.3(2)"b," 8.5, 8.6(1), 8.6(2)"b," 8.8(1)"a" and "d," 8.9(1), 8.9(2), 8.9(5), 8.9(8), 9.4(8)"b," "c" and "d," 10.3, 11.1(2) to 11.1(4), 11.1(6), 11.2(2), 11.3(1), 11.3(2), 11.4, 11.5(1), 11.5(3), 11.5(4), 12.1(4), 12.10(5), 13.1(4), 15.1(4), 16.1(4), 16.6, 17.1, 17.3(1), Notice ARC 5533A 4/12/95

2.2 and 2.36

Tiegs explained rescission of the parietal rules which had been suspended for freshmen and sophomore students through 1997. No written or oral comments were received at the public hearing.

3.3 et al.

Metcalf questioned the change in definition of employee—8.9(8). Houseworth indicated the revision was recommended by the Attorney General's Office. Dierenfeld added the definition was intended to address conflict of interest and business relationships that a spouse or family member may have with the institution.

Kibbie wondered about the impact of 8.3(1) and 8.3(2) where the level was increased from \$10,000 to \$25,000 at which hearings would be required for construction etc., funded by academic revenue bond proceeds. Houseworth pointed out the 1981 Iowa Code mandated \$25,000 but the Board had overlooked updating the rules.

Priebe wondered if there should be a time limit on prior authorization in 8.9(2) relative to entering into contracts. Royce gave an example of an individual on the master list who married a staff member from a regent institution or the board. Houseworth thought the example was well taken. In response to Daggett, Houseworth stated there were no comments at the public hearing. No action taken.

**ECONOMIC
DEVELOPMENT**

Melanie Johnson and JoAnn Callison were present for the following:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Iowa industrial new jobs training program, tax increment financing coordination between
community colleges and communities, 5.1 to 5.12, Filed ARC 5519A 4/12/95

5.1 to 5.12

In response to Metcalf, Callison stated the Department had received comments from six or seven of the colleges. Rittmer referred to "incremental property taxes" and reasoned with the machinery and equipment provision there would be little left in some cases. Callison agreed and stated that many agreements would provide all withholding rather than part withholding and part property taxes.

Palmer viewed revision of rule 5.2 as a major change because it limited job training money to manufacturing or industry. He noted that the definition of "industry" in 5.3 included "providing services." Callison explained this was updating the rules which had not been changed since the program began in 1982—the only exclusion was health, retail and professional. She told Palmer, rules would be forthcoming on the loan loss reserve program. Palmer asked if the money would be divided equally and Callison replied that of the new money coming into the fund, \$670,000 went to existing programs, \$260,000 for the retraining program and \$270,000 went for the loan loss reserve program.

Hedge asked if 5.8—standby property tax levy—were limited to job training when money ran out or if it went to other aspects of the community college. Callison replied this was for bonds issued under Code chapter 260E and it could not be used for general expenses. In fiscal year '94, six colleges issued a standby tax and the total collected was \$300,000. The colleges at the end of last fiscal year and since the beginning of the program in 1992 had sold \$210 million in bonds and had a default rate of 2.8 percent.

Daggett asked about possible impact of the recent education appropriation bill on bonding. Callison pointed out that Chapter 260E was not actually amended.

Halvorson asked if withholding were limited to one and one-half percent and Callison replied in the affirmative except for a new jobs and income program. Callison added that any new jobs and income program could go to three percent. Callison suspected the size of some job training projects would be decreased without a property tax drive.

Rittmer referred to 5.6(2) and wondered if the excess payments to be forwarded to Revenue and finance could be used to cover the property taxes that would have to be levied otherwise. Callison replied that withholding was never used to pay the counties. She explained it was two separate amounts of money which were attempted to be kept in balance with the original plan. No Committee action.

EPC

Mike Murphy represented the Commission and Jenny Tyler represented the Iowa Hospital Association for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Transportation, treatment, and disposal of infectious waste, ch 112, Notice ARC 5540A 4/12/95
Requirements for waste tire facilities, 117.1 to 117.4, Notice ARC 5539A 4/12/95

EPC (Cont.) Ch 112 In review of Chapter 112, Murphy stated most infectious waste was incinerated or treated at the hospital. There was some interest in establishing commercial systems that would draw in waste from other facilities.

Tyler spoke in support of Chapter 112 but described clarifying revisions the Iowa Hospital Association would suggest to EPC before the rules were finalized.

117.1 to 117.4 Metcalf questioned the delay in developing rules for requirements of waste tire facilities. She recalled the legislation had been in effect for a year. Royce advised that the statute would be enforced but areas requiring interpretation could not be enforced.

In response to Rittmer, Murphy replied the rules contained detail not reflected in the Code.

Priebe referred to 117.2(2)"e"(1) and took the position that many existing waste tire piles exceeded 50,000 cubic feet. He also noted height of the piles could not exceed 10 feet—117.2(2)"e"(2). According to Murphy, intent was to have more than one pile of tires if processing more than the amount in a single pile to allow for fire lanes. Priebe asked if fire lanes had been added at Vinton and Murphy replied Vinton was still out of compliance. Priebe also expressed concern over the 5,000 square feet restriction in 117.2(2)"e"(3). He asked how water would be released if 117.2(2)"e"(6) were enforced. Murphy was unsure but suspected there would be a release mechanism. Priebe pointed out that the rule did not specify this and he opined these rules were "inconsistent and unworkable." Murphy noted that the pile in Vinton potentially could be cleaned up since a contract had been made with the city of Davenport to take processed tires. Priebe took the position that height was not as important as width of a tire pile.

In response to Kibbie, Murphy stated that any project to be developed on a floodplain would need review and would be under a separate authority.

Weigel also questioned the 10-foot height restriction and Murphy cited control, e.g., fires.

Priebe wondered about installation of fire lanes for tires stored in ravines. Murphy stated progress was being made in existing tire piles. The proposed rules would allow a one-year grace period for a plan to avoid financial assurance and other requirements.

Rittmer asked if there had been progress in using these tires. Murphy replied that utility companies were burning them and some recycling facilities were using them for manufacturing products. No formal action taken.

FAIR BOARD

Joanne Giles represented the Board for the following:

FAIR BOARD[371]

Mailing address; board members; insurance requirements for exhibitors; elimination of classification; buildings, machinery and services available for interim events, 1.2(1), 1.2(2), 1.2(4)"c," 4.9, 4.27(1), 5.2, 6.21, 6.31, 7.2(1), 7.2(1)"e," 7.2(2)"a" to "d," 7.2(3)"b," 7.4(1), 7.4(3)"a" and "c," 7.4(5)"a," 7.5(1), 7.5(3)"a," 7.5(5)"a," 7.6(1), 7.7(5)"b," 7.8(1), 7.8(5)"a," 7.15, 7.16(7), 7.16(10), 7.17(1), 7.18(1), 7.18(2), 7.19(1), 7.20(1), 7.20(5), 7.21(1),

Filed ARC 5536A, See text IAB 2/15/95, page 1238 4/12/95
Objection to 4.8 imposed 8/9/81, Special review IAC

FAIR (Cont.)
1.2(1) et al. Giles noted that the only change from the Notice of 1.2(1) et al. was in the quorum requirements.

Special Review
Objection to 4.8 Barry distributed copies of an objection to Fair Board rule 4.8 voted by the ARRC in 1981. The rule, relative to liens on property, had not been revised since the objection was imposed. There was discussion of the rule and statute with consensus the issue should be referred to the General Assembly.

Motion Priebe moved to retain the objection and refer the issue of liens by the state fair board to the President of the Senate and Speaker of the House. Motion carried.

**INSPECTIONS
AND APPEALS** Rebecca Walsh and Sherry Hopkins, Administrator for Audits, were present for the following:

INSPECTIONS AND APPEALS DEPARTMENT[481]
Iowa targeted small business certification program — targeted group persons, persons with a disability, 25.1, 25.2, 25.2(2), 25.3, 25.4, 25.4(1)"a," "c," "e," "f," 25.4(2), 25.4(3), 25.4(5), 25.4(5)"a" to "c," 25.5, 25.6, 25.7"1" and "2," 25.10"1," Filed ARC 5544A 4/26/95
Title XIX divestiture claim, 71.1, Filed ARC 5542A 4/26/95
Divestiture unit, ch 75, Filed ARC 5543A, See text IAB 1/4/95, page 1038 4/26/95

25.1 et al. Walsh stated that one comment was received from the Department of Education which requested clarification of "targeted group persons" to identify that federal standards were used to determine eligibility of persons with disabilities for vocational/rehabilitation services. The change was made to clarify the definition and to indicate that the Department for the Blind could also determine eligibility for vocational/rehabilitation services. Metcalf recalled the Committee had asked the Department to work with the Department of Economic Development to avoid any conflict with the definitions of targeted small business.

Hopkins stated they had been in contact with Mike Miller from Economic Development and it was her understanding there was no problem

71.1 No questions on 71.1.

Ch 75 There was brief discussion of new Chapter 75 which specified the procedures the Department would follow to investigate and collect debts of Medicaid applicants or recipients who have transferred assets for less than fair market value to gain Medicaid eligibility. Records may be reviewed up to five years.

Committee Business
Travel Expenses-
National Association Priebe asked for the Committee's permission to attend the Executive committee of the National Association on Administrative Rules Review, Council of State Government in Chicago on June 3. Halvorson moved to approve the travel and the motion carried.

Minutes Priebe moved to approve minutes of the April meeting as submitted and the motion carried.

Meeting Dates The following statutory meeting dates were agreed upon: June 13 and 14, July 11 and 12 and August 8 and 9 (or a later date in August).

Committee Terms Priebe noted that all ARRC terms had expired April 30, 1995, but members would continue to serve until successors were appointed. There was discussion on confusion regarding the appointments, possible statutory changes to provide staggered terms and a different expiration month. Barry point out the statute [17A.8(2)] had not been amended since 1975 and read as follows:

17A.8"2" "A committee member shall be appointed prior to the adjournment of a regular session convened in an odd-numbered year. The term of office shall be for four years beginning May 1 of the year of appointment. However, a member shall serve until a successor is appointed. A vacancy on the committee shall be filled by the original appointing authority for the remainder of the term. A vacancy shall exist whenever a committee member ceases to be a member of the house from which the member was appointed."

Recess The Committee was in recess at 11:55 a.m. and reconvened at 1:30 p.m.

REVENUE AND FINANCE Carl Castelda, Deputy Director and Coadministrators of the Compliance Division, represented the Department for the following:

REVENUE AND FINANCE DEPARTMENT[701]
Practice and procedure before the department, 7.1, 7.2, 7.7, 7.8, 7.8(2), 7.11(1)"a"(6), 7.11(1)"b," 7.11(2), 7.12, 7.14(2), 7.16, 7.17, 7.17(1), 7.17(2)"c"(1) and (3), 7.17(3), 7.17(5), 7.17(6), 7.20"2""d," 7.21, 7.24(1), 7.24(3), Filed ARC 5538A, See text IAB 2/15/95, page 1247 4/12/95

7.1 et al. Castelda gave a brief overview of the rules and noted the Department had worked with the Iowa Bar Association. No Committee action.

PHARMACY Terry Witkowski, Administrative Assistant, was present from the Board and there were no questions on the following rules:

PHARMACY EXAMINERS BOARD[657]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Practice of pharmacy — display of pharmacist's license, 8.14(2), 8.16, 8.29(2)"a"(5),
Filed ARC 5529A 4/12/95
Controlled substances — registration of advanced registered nurse practitioners, 10.2,
Filed ARC 5530A 4/12/95
Public information and inspection of records, 14.3(1), 14.6, 14.13(2)"k" and "m," 14.14(1), 14.14(2), 14.14(4) to 14.14(7), 14.14(9), 14.14(10), 14.14(12) to 14.14(15), 14.15(1) to 14.15(5), 14.16,
Filed ARC 5531A 4/12/95
Wholesale drug licenses — exemptions for reverse distributors, 17.8(3), 17.10(4), 17.12(5),
Filed ARC 5532A 4/12/95

DOT Will Zitterich represented the Department for the following:

TRANSPORTATION DEPARTMENT[761]
Primary road access control, 112.2(5), 112.2(8), 112.2(15), 112.2(17) to 112.2(20), 112.2(23), 112.2(28), 112.4(1), 112.4(5) to 112.4(7), 112.4(8)"b," 112.4(9)"b," 112.5(1)"c" and "d," 112.5(2)"a"(7), 112.6(3)"a," 112.6(4), 112.8, 112.9(1) to 112.9(3), 112.9(4)"d," 112.9(5), 112.9(6), 112.11(3) to 112.11(8), 112.12(3) to 112.12(5), 112.13(2), Notice ARC 5518A 4/12/95

DOT (Cont.)
112.2(5) et al.

Zitterich described amendments to Chapter 112 as primarily changing the unit of measurement from U.S. customary units to metric units to comply with federal regulations to be effective in the fall of 1996. Road signs were not required to be changed. Zitterich added that pending national legislation addressed the changing of the numbers on the signs but he suspected it would be several years before implementation. Zitterich did not foresee much additional cost since changes would be made as signs were routinely replaced.

LAW ENFORCEMENT

Gene Shepard was present from the Academy for the following:

LAW ENFORCEMENT ACADEMY[501]

Limited law enforcement officer certification for sheriffs, 3.1, Notice ARC 5528A 4/12/95

3.1

Kibbie asked if there were any objections to the rule at the hearing and Shepard replied there were no appearances and no written comments filed. Shepard added that the rule would not affect a law enforcement officer who had already attained certification and then was elected or appointed to office.

Hedge asked about duration of this certification and Shepard replied there was no expiration unless the individual was decertified. Hedge was concerned that a sheriff could be elected who was not capable of the physical aspects of the job. Shepard stated that an in-service program was not yet mandated but the Academy was working with the Iowa League of Municipalities to develop a voluntary in-service program to address concerns about fitness and health. The rule had been submitted to the Board of Directors of the Iowa State Sheriffs and Deputies Association and the Board supported them.

In response to Rittmer, Shepard said the statute provided that a sheriff must be certified by successful completion of the basic training program. Physical fitness training was optional. Shepard believed most, if not all, sheriffs serving were certified.

LIVESTOCK

Angela DeGooyer represented the Council for the following:

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

Recommendation for fiscal year 1995-1996, ch 1, Notice ARC 5552A 4/26/95

Ch 1

DeGooyer explained that she would be the staff person for this Council for the next two years.

Priebe commended the Council for including a contingency fund in paragraph 18.

Foster Care
Special Review

Kibbie brought up the issue of the special review in June of Human Services rules on foster care with respect to HIV. He took the position that to review HIV care needs generally would be more appropriate. Conway spoke of legislation initially passed in 1989 and revised in 1994 which allowed the hygienic lab and the University of Iowa to conduct epidemiological blind studies. Samples taken from newborns were identified only by number and tested for prevalence and incidence of HIV.

Special Review
(Cont.)

With respect to the rules, foster parents were concerned that information about a child's HIV status was being withheld. It was noted the statute gave authority to the Department to test a child, particularly a high-risk child, for HIV status and the foster parents would be informed and the child would be classified as a special needs child.

Priebe made the point that there was confidentiality involved with foster care. Conway interjected that the rule stated specifically that informed consent must be received from the child or the parent to relay that information. Priebe wondered if no one gave the consent, would it be difficult to place the child in foster care. Conway stated that without informed consent, the child would probably remain in state custody. Halvorson wondered if a court order could force the information and Conway stated this was an option.

It was Kibbie's opinion that any special review should focus on how HIV permission was granted across the spectrum. Priebe agreed but favored referral to the Speaker of the House and the President of the Senate. Metcalf felt Kibbie's point was that the rule was clear-cut. Conway stated that it was the prevailing opinion of public health officials that simply providing information about the number of children who are HIV positive was sufficient. There was new data about concerns of a number of people about what happens if the child were HIV positive and nobody knows.

Hedge understood that the special review would cover the health care providers and what their status was for their right to know. Kibbie did not disagree but contended that did not pertain to the rules.

Motion
HIV - July

Kibbie moved to rescind the motion for special review of Human Services rules, ARC 5522A and there was no objection.

Hedge moved for a special general review of the risks that health care providers may face from HIV. Weigel asked for expansion of the special review to include emergency and CPR personnel. The motion carried. Priebe requested this review be placed on the July agenda.

NURSING

Lorinda Inman was present for the following:

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Use of preceptors in nursing education programs, report of employment data for graduates, 2.1, 2.2(2)"a"(3), 2.2(2)"g," 2.3(1)"g"(1) to (6), 2.9, 2.10(1)"g" to "m," Notice ARC 5534A 4/12/95
Licensure to practice RN/LPN, 3.1, 3.4(3)"a"(3), 3.4(3)"b"(2), 3.4(3)"c"(1), (3), (6) and (7), 3.4(4)"a"(2), 3.4(4)"b"(3), 3.4(4)"c"(6) and (7), 3.4(5)"b"(3), (6) and (7), 3.4(6)"b"(10) and (11), 3.4(8)"e"(3) and (4), 3.7(5)"d," 3.7(5)"d"(1), 3.7(5)"e," 3.7(5)"e"(1), 3.7(6)"b," 3.7(6)"b"(1), 3.7(8),
Notice ARC 5535A 4/12/95

2.1 et al.

No questions on 2.1 et al.

NURSING (Cont.)
3.1 et al.

Priebe referred to 3.4(6)"b"(10) which required applicants who do not test within 95 days of NCLEX authorization to submit a new application and fee. He asked why no exceptions were allowed. Inman replied the Board was working with the testing company and beginning and ending time had to be set up. The test was given every day of the week, three times a day and individuals could schedule at their convenience. Testing sites include Des Moines, Cedar Rapids, Burlington (soon) and several other major cities throughout the country. Priebe reiterated there should be some exceptions to being charged another fee.

The fee at the national testing center was \$88. Inman agreed to convey Priebe's concern to the Board.

ARCHITECTURAL K. Marie Thayer and Kate Schwennsen were present for the following:

ARCHITECTURAL EXAMINING BOARD[193B]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Description of organization — definitions, 1.5, Notice ARC 5553A 4/26/95

- 1.5 Schwennsen gave a brief overview of amendments to rule 1.5 which clarified the definitions, "commercial" being the most problematic. Although the Board maintained that "commercial" meant a very specific type of building, building code officials were faced with the argument that other types of buildings were also commercial. New definitions—"educational use," "family dwelling unit," "governmental use," "institutional use" and "residential use," were intended to clarify. Schwennsen advised Metcalf that this definition which came from the uniform building code which is the state building code was used by building code officials but was not checked with the assessors.

ENGINEERING K. Marie Thayer represented the Board for the following:

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Examinations, applications, fees, 1.4(4), 1.5, 1.9, Filed ARC 5527A 4/12/95

- 1.4(4) et al. Thayer advised that fees were on a national fee system and an application fee would be paid to the Board who would in turn reimburse the National Council for Engineering Examiners Advisory. Thayer explained that the Boards operated on appropriations—there were no trust funds.

PROFESSIONAL LICENSING K. Marie Thayer represented the Division for the following:

PROFESSIONAL LICENSING AND REGULATION DIVISION[193]

COMMERCE DEPARTMENT[181]"umbrella"
Allocation of disciplinary fees and costs, ch 2, Filed ARC 5549A 4/26/95

- Ch 2 No questions on Chapter 2.

**PROFESSIONAL
LICENSURE**

Marge Bledsoe represented the Division and James Barr and Ruth Ohde represented the Board of Mortuary Science Examiners for the following:

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Board of dietetic examiners, 80.1, 80.4(3), 80.4(4), 80.5 to 80.99, 80.102(1), Filed ARC 5550A . 4/26/95

Mortuary science, 100.1(4)"a," 100.1(5)"c," 100.1(8)"a," 100.6, 100.7, 101.3, 101.98(3), 101.212(16),

Filed ARC 5414A, 70-day delay 2/15/95

80.1 et al.

Priebe referred to 80.4(4) and suggested guidelines as to who may need additional continuing education. Bledsoe was willing to clarify.

Daggett read from a letter he had received concerning qualifications for dietetic managers. Bledsoe stated that dietitians were licensed, but not dietetic managers. However, she was willing to work with Daggett.

100.1(4)"a" et al.

Barr told the Committee that three Board administrators, three assistants attorney general and two bureau chiefs had taken the position the mortuary science rules were very vague, difficult to interpret and, in some cases, impossible to enforce. With this in mind, the Board had undertaken a review of all rules and statutes pertaining to mortuary science.

Barr recalled the 70-day delay was imposed on ARC 5414A because of concern over the addition of new requirements for a supervising funeral director (preceptor). Barr believed it was understood that a preceptor meant a teacher or mentor and the issue was resolved.

Royce explained that the Code required funeral directors to serve an internship program referred to as an apprenticeship program and the Board was required to provide by rule for these apprenticeships in funeral directing. That direction to establish the program by rule was the authority to regulate the apprentice and the program teacher.

Barr added that interns came in for licensure after the 25 cases of embalming and funerals. However, they lacked hands-on training for working with families, making arrangements, or other important duties. The Board was spelling out in guidelines the important areas and it was the preceptor's responsibility to teach those things. The Board had implemented a six-month review and intended to monitor this training period to ensure new licensees were prepared to operate a business and to conduct services once they obtained the certificate. In response to Priebe, Barr stated this could only be done through a licensee. Barr concluded that every funeral home in Iowa must have a licensed funeral director in charge of the facility and an intern could serve under any licensee in good standing with the Board.

✓
Motion to Lift Delay

Doderer moved to lift the 70-day delay on ARC 5414A and the motion carried.

Priebe asked for the Committee's approval for Barry to purchase filing cabinets. There was no opposition.

PERSONNEL

Clint Davis and Jennifer Dixon, attorney for the IPERS division, were present for the following:

PERSONNEL DEPARTMENT[581]

Iowa public employees' retirement system, 21.5(1)"a"(6), (28) and (42), 21.6(9), 21.6(9)"b" and "c,"

21.11(9), 21.13(7), 21.19(1), Filed Emergency ARC 5517A 4/12/95

PERSONNEL
(Cont.)
21.5(1)"a"(6) et al.

Davis explained the reason for Emergency filing of amendments to Chapter 21 which would implement new legislation and statutory interpretation. No Committee action.

CORRECTIONS

Fred Scaletta was present from the Department and also in attendance was Carlos Jayne, Friends of Prisoners at Mitchellville, for the following:

CORRECTIONS DEPARTMENT[201]

Correctional institution for women — visiting and tours, 23.2, 23.3, Filed Emergency

ARC 5502A, Referred to General Assembly at April Meeting 3/15/95

23.2 and 23.3

Scaletta reminded the Committee that the rules on visiting at Mitchellville women's facility were referred to the General Assembly with recommendation that funding be appropriated for renovation or building. Scaletta stated that \$100,000 was appropriated for this. He was unsure how the money would be used to correct the situation but requested that the rules be allowed to go into effect as written. If the rules do not correct the problem, they would consider fewer hours during the week with additional hours for Saturday evening. The Department preferred not to take this approach because of staffing changes. The issue of visitor parking was also addressed. The prison plans to designate an area outside of the institutional property as a parking area for the people who have to wait.

Doderer was told that some facilities allow inmates to have picnics with their visitors and she wondered if this would be possible at Mitchellville. Scaletta emphasized that all visiting must take place within the visiting room at this time.

Scaletta reported on a survey of visiting rules in all institutions and four out of eight have two-hour visitations on weekends (Anamosa, Oakdale, Mt. Pleasant and Newton) and Mitchellville currently had three. No institution had more than three hours.

Scaletta discussed different solutions, one being that all visitors between A and K would visit on Saturday at certain hours. Oakdale was considering reducing visits from three to two hours in all cases. Mitchellville would lower the hours when necessary.

In response to Doderer, Scaletta stated that three or four inmates had walked away from Mitchellville. Doderer made the point that she didn't want the security issue to delay change for six months. Scaletta pointed out the money would not be available until July 1 and the Department had until then to develop a plan.

Jayne expressed his appreciation to the Department and his group was hopeful that visiting opportunities would not be reduced.

Scaletta agreed to provide a profile of each inmate in Mitchellville which should include types of crime and average amount of time served.

CORRECTIONS (Cont.)

Palmer asked about problems with gangs and Scaletta did not believe it was a serious problem. The Department followed a gang identification process and members were identified by seven different criteria such as hand signs, clothing, correspondence and community. The Department had to confirm two of the seven criteria in order for a person to be documented as a gang member. A gang monitor at each facility was responsible for gathering information for evaluation.

Palmer asked if any institution allowed unsupervised visitation outside of the visiting room. Scaletta was unaware of any and expressed surprise at the possibility.

Scaletta agreed to furnish Doderer copies of any rules which affect the public. Doderer questioned why 169 prisoners out of 300 were from four counties—Polk, Scott, Black Hawk and one other. She wondered if this were a problem with the judges or school system and felt it should be investigated.

Priebe reminded that these rules would go into effect May 19 without any action. No formal action taken.

INDUSTRIAL SERVICES

Byron Orton, Industrial Commissioner, Karen Hanson, Iowa Hospital Association, and Jeanann Hood, IHIMA, were present for the following:

INDUSTRIAL SERVICES DIVISION[343]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General provisions, contested cases, substantive and interpretive rules, 2.6, 4.44, 4.44(1)"k" to "m,"

4.44(4) to 4.44(7), 4.44(12), 4.44(13)"a," 8.9, Filed ARC 5385A,

See text IAB 12/7/94, 70-day delay, 8.9, 2/15/95 2/1/95

2.6 et al.

Discussion focused on rule 8.9 which was under a 70-day delay. Orton stated the Division had received a number of complaints from various interest groups in workers compensation that when medical records were duplicated for purposes of creating a workers compensation file, in some instances, the fees for reproduction of medical records had been exorbitant.

At this Committee's suggestion, the Division worked with the Association and drafted rules which were noncontroversial at this time. [See 6/7/95 IAB for new version.]

Orton stated that the fee schedule was not altered but language was added which required the Industrial Commissioner to review the appropriateness of the schedule on an annual basis. Hanson confirmed everything that Orton had stated.

Delay Lifted

Priebe moved to lift the 70-day delay on 8.9 and the motion carried.

NO REPS.

No agency representative was requested to appear for the following and there were no questions:

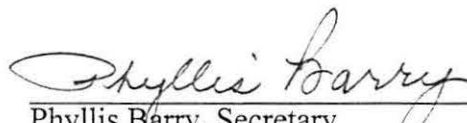
INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

National Securities Exchange — exemption, 50.47, Filed ARC 5537A 4/12/95

Meeting Dates The next meeting was scheduled for June 13 and 14, 1995, the statutory date.
Adjournment The meeting was adjourned at 3:25 p.m.

Respectfully submitted,



Phyllis Barry, Secretary
Assisted by Kimberly McKnight

APPROVED:



Representative Janet Metcalf, Co-chair