

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

Time of meeting The special meeting of the Administrative Rules Review Committee (ARRC) was held on Monday and Tuesday, October 4 and 5, 1993, in Senate Room 22, State Capitol, Des Moines, Iowa.

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

Also present Joseph A. Royce, Legal Counsel; Paula Dierenfeld, Administrative Rules Coordinator; Phyllis Barry, Iowa Administrative Code Editor; Mary Ann Scott, Administrative Assistant; Caucus Staff and other interested persons.

Convened Co-chair Priebe called the meeting to order at 10 a.m. and the following Agriculture agenda was reviewed:

AGRICULTURE

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Animal welfare — grass exercise areas and runs, breeding animals, in-home kennels, sterilization of dogs and cats adopted from animal shelters and pounds, 67.2(1)"j," 67.2(3), 67.5(4), 67.7(2)"b" to "f,"

Notice ARC 4279A 9/15/93

The Department was represented by Dr. John Schiltz, Assistant State Veterinarian, and Ronald Rowland, Attorney.

67.2, 67.7

Priebe questioned 67.2(3)"a" relative to the number of adult animals allowed in an in-home kennel. It was his understanding that legislative intent was a limit of three dogs not six. Rowland responded that everyone with four or more adult animals would be required to be licensed. This rule was intended to accommodate those who have pets or show animals. He continued that the Department wanted a limit on the high end to prevent houses being overrun with dogs.

When Doderer was advised that "breeding" animal and "adult" animal had the same meaning in the rules she opined that use of one term would be less confusing.

Department officials emphasized that the rules created a classification for in-home kennels with modified regulation which would be less costly than having to meet requirements for an outdoor kennel.

Priebe recalled consensus during consideration of this legislation was that more than three animals in a home would not be considered a hobby and requirements for a kennel should be met.

Kibbie noted that a public hearing on this Notice was scheduled for October 8.

**SOIL CONSER-
VATION**

Jim Gulliford reviewed the following agenda:

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Organic nutrient management program, ch 13, Filed Emergency After Notice ARC 4267A 9/15/93

Ch 13

Responding to Schrader's inquiry on definition of "actively engaged in farming," Gulliford explained this was clarified with respect to the specification for an animal waste management system.

Daggett asked about inclusion of statutory definitions in the rules. Gulliford responded that since field offices do not have access to the Iowa Code, Code language was added to the rules for convenience.

**COLLEGE
STUDENT AID**

Laurie Wolf was present to review the following:

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Federal family education loan programs, ch 10, Filed ARC 4249A 9/15/93

Ch 10

There were no questions or recommendations by the ARRC.

**ECONOMIC
DEVELOPMENT**

Attending from the Department were Melanie Johnson and Roselyn Wazney for the following agenda:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Flood recovery fund — CDBG nonentitlement program, 23.6(8), 23.16, Notice ARC 4253A, also

Filed Emergency ARC 4254A 9/15/93

HOME program — supplemental flood recovery appropriation, 25.9(6), 25.12, Notice ARC 4251A, also

Filed Emergency ARC 4252A 9/15/93

23.6, 23.16

In review of amendments to Chapter 23 relative to the Flood Recovery Fund, Halvorson noted that no local match was required. He was advised that about \$22 million had been received so far—\$13.5 million of this from the Community Development Block Grant Program.

Wazny explained to Priebe that the rules followed federal law. If a program qualified under the urgent need category, it would not be necessary to qualify under the low- and moderate-income category. She added that copies of these proposed rules were mailed to every eligible county in the state. Legislators were also included in the general mailing.

Wazny stressed there was no duplication of services between their programs and HUD.

25.9, 25.12

No questions or recommendations on new provisions in 25.9 and 25.12.

Committee Business

Barry advised that the Christmas party was scheduled for December 14 and she would contact Noah's Ark when they reopen for business November 1.

Minutes

Upon motion by Kibbie, the minutes of the September meeting were approved.

January meeting

The January meeting was scheduled for the 4th and 5th, one week prior to convening of the Legislature.

Motion

There was brief discussion of the National Conference on Administrative Rules Review scheduled for December 3 in Phoenix, Arizona. Priebe reported that he and Senator John Plewa, Wisconsin, were appointed to consider forming an ongoing rules review group—possibly under the CSG umbrella. However, Priebe had just learned that Plewa has lung cancer and would probably be unable to attend the conference. He advised that a motion was needed to authorize Royce to attend the Phoenix meeting also. Doderer moved that Royce be authorized to attend the Phoenix meeting. Motion carried.

ED. EXAMINERS The following agenda was reviewed by Orrin Nearhoof.**EDUCATIONAL EXAMINERS BOARD[282]****EDUCATION DEPARTMENT[281]"umbrella"**

Alternative preparation program, 14.31, Notice ARC 3631A Terminated ARC 4266A 9/15/93
 Alternative preparation program, 14.31, Notice ARC 4265A 9/15/93
 NCATE accredited programs, 14.32, Notice ARC 4280A 9/15/93
 Occupational and postsecondary endorsements and licenses — removal of vocational competency
 test requirement, 16.2(1)"c," 16.5(1)"a"(3), 16.9(2)"a" and "b," Notice ARC 4256A,
 also Filed Without Notice ARC 4255A 9/15/93

No questions on the terminated rule in ARC 4266A.

14.31

The proposed new rule, 14.31, was discussed and at Metcalf's request, Nearhoof was willing to include the word "founded" before the words "child abuse" in 14.31(1)"c."

Nearhoof stressed that the Department wanted to maintain all safeguards and leave no loopholes in the system regarding felonies or child abuse.

Discussion focused on opposition to proposed rule 14.31 by ISEA and background was provided by Nearhoof. He also referenced a recent article regarding alternative methods being used in higher education.

General requirements for teaching certification were perused. Doderer took exception to some of the requirements—in particular 14.31(1)"b" which provided that candidates shall have been graduated for over five years prior to application for the program. She contended the rule would do nothing to attract qualified people into the teaching profession and she urged further study.

Responding to Priebe on 14.31(4)"a," Nearhoof said that mentor programs across the country involved local practitioners within a school district. It was pointed out that parochial school teachers or former teachers could not be mentors under the rule.

Rittmer questioned if there were a specific area in need of teachers. Nearhoof responded that the greatest need was in the field of special education and second need would be counselors or the health field.

Schrader pointed out the enabling legislation was adopted in 1990 yet the rule was before the ARRC in 1993. Nearhoof indicated that after confirmation hearings and other communications were received, the Board saw a mandate for the development of this program. The first Notice which was published in 1992 had expired. No Committee action.

14.32

In review of proposed 14.32, Daggett was advised that this rule would have no impact on teachers from Northwest Missouri State.

**ED. EXAMINERS
(Cont.) Ch 16**

No recommendations on amendments to Chapter 16 filed without Notice.

Co-chair Priebe announced that Inspections and Appeals would be moved to the end of the day because of added interest in this agenda.

EDUCATION

The following agenda was before the Committee:

EDUCATION DEPARTMENT[281]

Organization and operation — legislative changes incorporated and technical corrections, 1.1(1), 1.1(4)"c,"

1.1(5)"a" and "c," 1.3, 1.3(1), 1.3(1)"b" to "h," 1.3(3), 1.3(4), Notice ARC 4299A 9/29/93

Title for legal consultant, 3.3, 4.5(1), Notice ARC 4300A 9/29/93

Open enrollment, 17.3(1), 17.3(2), 17.5, 17.6(1), 17.6(2), 17.8(5) to 17.8(7), 17.8(10), 17.10(8), 17.11,
Notice ARC 4301A 9/29/93

Programs for students of limited English proficiency, ch 57, Notice ARC 4302A 9/29/93

School lunch program, 58.1, Notice ARC 4303A 9/29/93

Ch 1; 3.3, 4.5(1)

No one was present from the Department to explain the first two ARCs on the agenda so it was agreed they would be carried over to the November ARRC meeting.

Ch 17

Don Helvick reviewed proposed amendments to Chapter 17 pertaining to transportation as it relates to open enrollment. No recommendations.

Ch 57

Don Chavez explained that proposed Chapter 57 was a clarified revision of existing rules which will enable school districts to develop good programs within federal guidelines and regulations. No Committee recommendations.

Ch 58

It was noted that amendment to 58.1 was implementing a legislative mandate by adding nonpublic schools. No recommendations.

ELDER AFFAIRS

Jim Corbett, Administrative Rules Coordinator, and Jeanne Clawson, Dietary Consultant, reviewed the following:

ELDER AFFAIRS DEPARTMENT[321]

Definitions of "accessible" and "information and assistance," 1.7, Notice ARC 4259A 9/15/93

Department fiscal policy, 5.1(4)"j," 5.2(1)"b," Notice ARC 4257A 9/15/93

Nutrition services — individuals with disabilities, 6.8"20," 7.3(4)"b," Notice ARC 4260A 9/15/93

AAA service delivery — nutrition and information and referral services, 7.3(1), 7.3(2), 7.3(7)"a," 7.3(9)"a,"
7.3(9)"b," 7.3(9)"b"(2), 7.3(10) to 7.3(21), 7.4, Notice ARC 4258A 9/15/93

1.7; Ch 5

There were no questions or recommendations on amendments to rule 1.7 or Chapter 5 found in ARCs 4259A or 4257A.

6.8, 7.3

In review of ARC 4260A, Daggett was advised of the method followed in the 13 Area Agencies to ensure that menus meet the recommended minimum standard of dietary allowances.

Rittmer questioned the Department with respect to participation in these meals. Clawson stated there had been a decrease at some meal sites—particularly in the 60 to 70 years of age groups. Area agencies have concluded that it will be more cost effective if the number of meals served at a site can be increased. Many small communities have experienced a decrease in the number of sites.

Clawson clarified that Meals on Wheels was an entirely different program (a private program). Home-delivered meals are offered by volunteers in some rural areas.

**ELDER AFFAIRS
(Cont.)**

Halvorson brought up a problem in rural areas where the sites were inaccessible to handicapped and Clawson advised progress was being made in this area.

Ch 7

Amendments to Chapter 7 were addressed and Daggett asked if the AAAs were able to handle the additional duties being placed on them. Corbett was aware of stress because of cutbacks, etc. Clawson interjected that AAAs were required to submit overall plans (over 4 years). Some supply direct service, others may have contracts.

**EMPLOYMENT
APPEAL BOARD**

William C. Whitten, Counsel, reviewed proposed amendments to 3.1(3), 3.1(16), 4.30(5), regarding unemployment insurance appeals—FAX filings, published as Notice of Intended Action in IAB 9/29/93 as ARC 4292A.

No Committee action.

Recess

Co-chair Priebe recessed the ARRC for lunch at 11:50 a.m. and reconvened it at 1:30 p.m.

EPC

Anne Preziosi, Peter Hamlin, David Wornson and Diana Hansen represented the Environmental Protection Commission for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]**NATURAL RESOURCES DEPARTMENT[561]"umbrella"**

Emission standards for contaminants — training fire notification requirements, 23.2(3)"g,"

Notice ARC 4277A 9/15/93

Updating of federal effluent and pretreatment standards, 60.2, 62.4, 62.5,

Filed Without Notice ARC 4276A 9/15/93

Financial responsibility for underground storage tanks, 136.2(5), 136.3, 136.5(1), 136.13 to 136.24,

Filed ARC 4278A 9/15/93

23.2(3)

In review of amendments to 23.2(3)"g," Hamlin clarified for Daggett that a permit would not be required to burn an agriculture building (on a farm) but that asphalt and asbestos shingles must be removed before the building was burned. Appropriate disposal of these shingles was also discussed.

60.2

Hansen advised that amendments to 60.2 et al. were intended to comply with federal regulations. No questions.

Ch 136

Wornson explained Filed amendments to Chapter 136. He described the self-insuring mechanisms for local and non-local governments. Wornson also clarified that the insurance was designed to cover future releases from underground storage tanks from the date covered as well as the cleanup and third-party liability.

Rittmer was informed that the county was not considered a liable party and if there were money in the state fund, they would be eligible for 100 percent of the cost of cleanup.

Wornson concluded that the amendments were basically designed for counties and local governments with operational tanks — future releases of petroleum would be covered.

Priebe brought up the continuing problem of heavy pollution by hot-mix (asphalt) plants and the inaction by EPC.

JOB SERVICE

Joe Bervid briefed the Committee on the following Filed amendments and there were no recommendations.

JOB SERVICE DIVISION[345]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Claims and benefits — voice response, method of reporting and payment of benefits, eligibility review form, 4.1(25)"b"(22), 4.2(1)"b"(9) and (10), 4.2(1)"e," 4.2(1)"g," 4.2(1)"g"(2), (3), and (6), 4.23(39),

Filed ARC 4296A 9/29/93

STATE PUBLIC DEFENDER

Rebecca Walsh reviewed new Chapter 13, "Court-Appointed Counsel—Eligibility Guidelines and Repayment" adopted under emergency provisions and published in IAB 9/29/93 as ARC 4284A. She advised that William Wegman, State Public Defender, would answer questions.

Ch 13

Schrader questioned the forfeiture law and also the threshold in figuring assets, aside from a home and transportation. Wegman responded that the bottom line for this was the "substantial hardship" created for the person or family. Discussion focused on circumstances surrounding the case of an LSB employee.

Dierenfeld advised Daggett that if the state becomes aware of potential assets of an indigent, the state has authority to acquire those assets.

Royce was advised that the only confirmation of indigence was the person's signature made under oath.

No formal action.

NATURAL RESOURCE COMMISSION

Richard Bishop represented the Commission for the following agenda:

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Waterfowl and coot hunting, 91.1 to 91.3, 91.4(2)"g," Filed Emergency After Notice ARC 4294A 9/29/93

Pheasant, quail and gray (Hungarian) partridge hunting, 96.1(1), 96.2, 96.3, Filed Emergency After Notice

ARC 4293A 9/29/93

Wild turkey spring hunting, 98.2(3), 98.2(5), 98.3, 98.10(2), 98.14, Notice ARC 4295A 9/29/93

Ch 91

No questions or recommendations on ARC 4294A.

Ch 96

Emergency filed amendments to 96.1(1) et al. were reviewed. Bishop estimated a 30 percent decrease in pheasant population attributable to adverse weather conditions.

Ch 98

The elimination of Zone 5 and the shotgun license requirements for wild turkey spring hunting set out in ARC 4295A were briefly discussed.

UTILITIES

Lisa Chalstrom, Vicki place and Diane Munns attended from the Division for the following:

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Filing of revised revenue requirement in proposed settlements, 7.2(11)"a," Filed ARC 4263A 9/15/93

Clean air Act amendments — allowance transactions, 20.1(3), 20.9(2)"b," "e," and "f," 20.13(1)"d" to "k,"

20.13(2), 20.17(7)"c," 20.17(8), 20.17(9), 20.17(13), Notice ARC 4264A 9/15/93

7.2

No questions or recommendations on ARC 4263A.

UTILITIES (Cont.)
Ch 20

According to Chalstrom, proposed amendments to Chapter 20 would address rate treatment as part of the Clean Air Act. The two-stage process requires lowering emissions of sulfur dioxide from what is currently in effect. For compliance, it may be necessary for electric utilities to buy allowances from another source, even outside the state. Chalstrom explained that wind currents and weather patterns cause emissions from Iowa to go into Canada and the New England area. Therefore, this is a regional problem and not state-specific.

Chalstrom advised Kibbie that the Uniform System of Account numbers was used for accounting and auditing purposes.

Motion

After lengthy discussion, Doderer moved that Royce be directed to draft a letter to Iowa's Congressional delegation expressing concerns and confusion regarding the Clean Air Act. Motion carried.

**INSPECTIONS
 AND APPEALS**

Rebecca Walsh, Pearl Johnson, Director of Health Facilities Division, and J. B. Bennett from the Department reviewed the following:

INSPECTIONS AND APPEALS DEPARTMENT[481]

Payment of witness fees for persons subpoenaed to attend formal hearing, 50.6(4), rescind 57.7, 58.6, 59.6, 63.6,

Notice ARC 4261A 9/15/93

Nursing facilities, rescind chs 58 and 59, new ch 58, Notice ARC 4262A 9/15/93

Also present were Helen Abbott, C.D.M. and Helen Klein, C.D.M., Dietary Managers Association; Betty Barton, Iowa Dietetic Association; and Nancy McGray, Registered Dietitian.

50.6 et al.

No questions on amendments to 50.6(4) et al.

Ch 58

Revised Chapter 58 was before the Committee. Johnson explained that the proposed Chapter would basically adopt most of the OBRA regulations which apply to nursing facilities certified under the Medicaid program and would implement Iowa Code chapter 135C. She pointed out the several modifications from federal language and added that comparison with the federal requirements was not complete due to an emergency involving the person making it.

Rittmer commented on inquiries he had received concerning lack of educational requirements for dietitians. Johnson stated that the previous rules had required 90 hours of training but since the federal regulations were silent on this issue the Department decided to delete their rule.

In 58.33(1), second paragraph, Rittmer questioned what was intended by use of "frequent" consultation from a dietitian. Johnson responded this would depend upon the facility —whatever time it would take.

Rittmer was sensitive to placing additional burden on a facility but also acknowledged that quality of diets was very important, especially for people who eat very little. Johnson agreed that these meals and their quality were very important and she recognized a need for training requirements. Johnson said a dietitian should be available to monitor the meals but this would leave the food service supervisor who may lack proper training responsible much of the time.

Daggett expressed his frustration in not knowing how the new rules differed from the previous version. Department officials indicated that a comparison was being made and Priebe requested that this be made available to the ARRC prior to

INSPECTIONS &
APPEALS (Cont.)

adoption of the rules. Rittmer wanted comparison of old to the new as well as new state to federal.

Kibbie inquired about the fiscal impact of these rules on a typical nursing home. Johnson responded that the Iowa Health Care Association had projected figures which might be obtained from the Association.

Chairman Priebe recognized Helen Abbott, Certified Dietary Manager, Ames, who represented 225 members of Dietary Managers Association (DMA) working in health care facilities in Iowa. She spoke in opposition to deletion of specific requirements which define "quality dietary supervisor," in long-term care facilities. The association contended that in facilities where there was no full-time registered dietitian, the Certified Dietary Manager could provide patients and residents with the best possible care at no additional cost to the health care system.

In 58.33(1), second unnumbered paragraph, the DMA recommended striking the word "person" and substituting "a Certified Dietary Manager, or someone with equal education and training credentials".

Complete text of Abbott's remarks are on file in the IAC Office.

Helen Klein, C.D.M., Pella, concurred with Abbott's remarks. She added that Certified Dietary Managers have completed a stringent course of study and practical experience and have passed a three-hour credential examination administered by the ACT. They must maintain 45 hours of continuing education over a three-year period. She added that DMA works closely with the dietitians.

Betty Barton, licensed dietitian, read her comments from a letter to the ARRC which is on file in the IAC Office. She voiced opposition to omission of qualifications for a person "designated" as the director of food service in the absence of a licensed dietitian. She maintained that recommendations made by an Ad Hoc Committee had been ignored and adoption of the rules would be a "step backward."

Barton stressed that the food service budget was the second costliest item of a health care facility, surpassed only by wages. She then outlined all the areas under Dietary service (58.33) and concluded this was a great deal of responsibility for someone with no previous training (as the proposed rules indicate).

Barton concluded that Iowa had been a leader in training of Dietary Managers, with publications marketed both nationally and internationally. If these training programs were not well attended, their need would be reevaluated.

Nancy McGraw, Registered Licensed Dietitian, had also been a consultant to a long-term care facility and related a conversation with a cook who had recently completed the training course to become a supervisor. Through this training she became aware of the importance of cleanliness as it related to food safety as well as the many other responsibilities of the position.

Copies of remarks by representatives of DMA were furnished to Johnson.

Priebe concluded there were considerable changes from the previous rules and he stressed the importance of time for ARRC members to have an opportunity to study the comparison report.

INSPECTIONS &
APPEALS (Cont.)

In clarification for Daggett, Johnson explained that the proposed rules do not have a requirement for training of the food service supervisor based on the federal regulations. This was due partly to comments received from providers and other groups that state rules should not be more stringent than federal regulations. Since the late '70s, 90 hours of training were required. Johnson added that training was included for other positions in long-term care facilities, such as activity director, nurse aides, etc. She was not adverse to training for food service supervisors. The Department had heard from many dietitians, and similar groups from around the state.

Metcalf was advised that the staffing requirement in 58.33(1), first paragraph, was not changed.

In response to Daggett, Abbott clarified that DMA urged addition of the words "someone with equal education and training credentials" in 58.33(1), second paragraph. Her reasoning was that a number of dietetic technicians would fall in the same training category as certified dietary managers. Others who are qualified could take the credentialing examination for certified dietary managers and fit in as a food service supervisor if they had a consultant dietitian on a part-time basis.

Daggett was advised there are dietitians who supervise several nursing homes. Under the licensure law for a licensed dietitian, they are the only ones who can provide therapeutic nutrition education which would be involved in a modified diet, thus the need for a consulting dietitian.

Rittmer concluded that the cost factor enters in when state standards exceed federal requirements.

Numerous written statements by DMA members concerning the dietary issue are on file in the IAC Office.

Recess

Priebe recessed the Committee at 3:20 p.m. and reconvened it at 8:45 a.m., Tuesday, October 5.

REVENUE

Carl Castelda, Deputy Director, presented the following agenda:

REVENUE AND FINANCE DEPARTMENT[701]

Taxable and exempt sales — admission to amusements, athletic events, commercial amusement enterprises, fairs, and games; educational, religious, or charitable activities, 16.26 to 16.28, 16.31, 17.1(2),

Notice ARC 4268A 9/15/93

Individual income tax and withholding — minimum income requirements for filing, individual development accounts, child and dependent care credits, checkoffs, retirement plan withholding, 39.1(1), 39.1(2)"b" and "c," 39.1(3)"b" and "c," 39.1(5), 39.1(7), 40.44, 42.9(1), 42.9(2), 42.9(4), 43.4(3), 43.4(5), 43.4(6), 46.1(2)"f,"

Filed ARC 4304A 9/29/93

Composite returns, 48.3, Filed ARC 4269A 9/15/93

Ch 16, 17.1

Castelda advised Daggett that there would be no sales tax on entry fees to amusements if they were used for prizes. He continued that when there was no admission fee but only an entry fee, the entry fee would be subject to tax.

Metcalf asked for clarification of third unnumbered paragraph of 16.26(3) regarding educational, religious and charitable organizations and Castelda offered the same response provided to Daggett's question. He added that notice of this rule change was made through newsletters, state and county fairs, etc.

39.1 et al.

Tax on deferred compensation was discussed briefly. No recommendations on filed amendments to 39.1(1) et al.

48.3

No questions or recommendations on composite returns, 48.3.

GENERAL SERVICES

The 70-day delay placed on subrule 1.8(4)—ARC 4102A—in regard to state vehicle dispatcher, fuel economy, was before the Committee and was reviewed by Mike Carlstrom, Director, and Kathy Williams.

A proposed revision of rule 401—1.8(18) was distributed. Carlstrom noted that the concern was relative to temporary assignment of vehicles in 1.8(4). However, the following sentences would be added: "The state vehicle dispatcher, the director of the department of transportation, and the executive director of the board of regents shall submit biennial reports detailing the substitutions of larger vehicle classifications. The reports shall include a brief statement explaining the necessity for any substitution authorized by the respective fleets and shall be received by the director of the department of management no later than July 31, 1995, and by July 31 every other year thereafter."

There was no opposition to lifting the delay when the amendment was filed. [The Department submitted the change as a Notice of Intended Action 11/10/93 IAB]

HEALTH DATA

Pierce Wilson gave a brief overview of the following agenda:

HEALTH DATA COMMISSION[411]

Submission of data, posting and submission of hospital price information, health care utilization task force,

6.3(2), 6.3(8)"j," "l," and "u," 6.5(1), 6.5(2), rescind chs 8 and 9, Notice ARC 4271A 9/15/93

Ch 6, 8, 9

There was brief review of amendments but no Committee recommendations.

**SECRETARY OF
STATE**

Sandy Steinbach, Director of Elections, was in attendance for the following:

SECRETARY OF STATE[721]

Election forms and instructions, 21.1, 21.1(1) to 21.1(4), 21.1(11)"h" and "i," 21.2(1), 21.300, 21.300(1), 21.300(2), 21.800(3)"b"(1) and (2), 21.801, 21.801(1), 21.801(1)"a" to "j," 21.801(2), 21.810(1),

Notice ARC 4285A 9/29/93
Signature requirements for school director candidates, 21.17, Filed ARC 4286A 9/29/93

Ch 21

Proposed amendments to Chapter 21, Election Forms and Instructions, were reviewed.

In 21.1(1), definition of "extremely inclement weather," Priebe was of the opinion that "rainstorm" need not be included as an example. Steinbach responded that the polling place might not be functional because of a power outage, for example. She pointed out that this was not new language.

There was discussion about accessibility of satellite absentee voting stations to the elderly and disabled.

21.17

It was noted that the date for calculating signatures of the number of registered voters for school board election was changed from July to May 1 at request of the auditors—21.17. No Committee recommendations.

PUBLIC HEALTH

Carolyn Adams was present for the following:

PUBLIC HEALTH DEPARTMENT[641]

Volunteer physician program, ch 88, Notice ARC 4282A 9/29/93

Ch 88

No questions or comments.

**PROFESSIONAL
LICENSURE**

Carolyn Adams also presented the agenda for Professional Licensure:

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Mortuary science — educational requirements, national examination passing scores for embalming and funeral directing, passing score for practical examination, application fee, continuing education requirements, intern registration denial, 101.1(3), 101.2(5) to 101.2(8), 101.2(11), 101.98(1), 101.98(2), 101.102(4), 101.205, Filed ARC 4270A 9/15/93

Psychology examiners — educational requirements, 240.5(10), 240.5(10)"a," Filed ARC 4297A 9/29/93

Ch 101, 240

No questions or recommendations.

**SUBSTANCE
ABUSE**

The Commission was represented by G. Dean Austin and Jeff Gronstal for the following agenda:

SUBSTANCE ABUSE COMMISSION[643]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Substance abuse programs — methadone treatment centers, 3.35, Notice ARC 4298A 9/29/93

3.35

Proposed amendments to 3.35 relating to methadone treatment centers were reviewed.

Priebe inquired, in 3.35(2), about the duplication in approvals required by U. S. Food and Drug Administration, U. S. Drug Enforcement Administration, and the Iowa Board of Pharmacy Examiners. Austin replied that the pharmacy examiners

**SUBSTANCE
ABUSE (Cont.)**

were concerned about storage and maintenance of the methadone. However, Commission representatives agreed to pursue the matter.

Metcalf inquired about the function of the central registry system and if it were open during the same hours as the clinics. Austin agreed that more details were needed in this regard. He added that a patient could not be admitted to a methadone program until the registry check had been completed.

Austin advised Daggett that rules were not mandated by the legislature. Daggett also inquired if there would be cost involved in establishing rehabilitative services. Austin responded that the only cost might be for client fee but they see no other financial impact.

Department officials advised that three methadone treatment centers in Iowa serve Iowa clients—Des Moines, Cedar Falls and Davenport. The operation of these centers was touched on briefly.

Metcalf in the chair.

INSURANCE

Representing the Division was Jo Page who gave a brief overview of the following agenda:

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Health maintenance organizations, amendments to ch 40, Notice ARC 3498A, Terminated ARC 4290A .. 9/29/93

Health maintenance organizations, ch 40 preamble, 40.2, 40.4, 40.5(2), 40.5(9), 40.5(11), 40.5(11)"b"(1),

40.5(11)"d"(3) to (6), 40.11, 40.11"13," 40.14, Filed Emergency ARC 4291A 9/29/93

No questions or recommendations.

Co-chair Priebe excused.

Recess

Co-chair Metcalf called a five minutes recess and then recognized DOT.

**TRANSPORTA-
TION**

Shirley Andre, Motor Vehicle Division, and Terry Dillinger, Driver Services, were in attendance for the following:

TRANSPORTATION DEPARTMENT[761]

General information, license examination and issuance, sanctions, OWI and implied consent, 600.4(4), 604.13(4),

604.40(2), 604.50, 605.5(6)"c," 605.10, 605.11(2)"c," 605.25, 605.26, 615.11(2), 615.15, 615.29(3)"c,"

615.30, 615.38(1), 615.45(1)"j," 620.3(3)"c," 620.5(2), Notice ARC 4281A 9/29/93

600.4 et al.

Dillinger explained that the proposed amendments pertain to licensing of a driver who suffers from syncope of any cause including epilepsy; renewal of license by mail; vision standards; and implementation of legislative changes.

In regard to renewal by mail (605.26(2)"d"), Halvorson asked what percentage of drivers would not have a violation during the four-year period and Dillinger estimated 90 percent. Andre interjected that only moving violations were recorded.

Dillinger commented that renewal by mail would not result in a savings because the processing was being shifted from the field staff to the central office staff. This would be a convenience for the driver. Dillinger explained an on-line data program that was being considered whereby renewal could be made by touch-tone telephone.

DOT (Cont.)

Schrader questioned the rationale for prohibition of renewal by mail with only one moving violation. Dillinger advised that the model legislation of the Uniform Vehicle Code includes the requirement for a licensee to renew in person every four years. He continued that renewal by mail was a fairly radical departure from current practice and the Department decided to maintain stringent requirements. After close monitoring of this program for a period of time, decision could be made to broaden the rules.

Andre added that states already implementing renewal by mail have indicated that a clean driving record was one of the incentives for this privilege. She also recalled lack of enthusiasm by some legislators for this type of renewal which resulted in the Department's cautious approach. Schrader stressed that he was not one of those legislators and he reasoned the rules were too strict.

Kibbie and Rittmer concurred with Schrader.

Dillinger clarified for Hedge that under the rules, the Department would require every other license renewal to be made in person. Hedge took the position that the Department's approach was fair.

Halvorson concluded that close monitoring of the various license groups was necessary before rules were broadened.

Dillinger further explained that anyone eligible to renew by mail would be notified by the Department, probably during their birth month. Halvorson recommended that such notification be mailed at least 30 or possibly 45 days prior to the birthday. The Department agreed to consider this recommendation.

It was Doderer's opinion that the age limit of 55 to renew by mail was too low.

PERSONNEL

Greg Cusack and Betsy Sanders were present to review the following:

PERSONNEL DEPARTMENT[581]

IPERS — coverage elections, quorum of IPERS investment board, investments in South Africa, 21.1(5)"f,"

21.5(1)"c," 21.25, Notice ARC 4250A 9/15/93

Ch 21

With respect to election of IPERS coverage—21.5(1)"c," Cusack advised Hedge that this change would affect less than 12 people in the state.

Kibbie questioned the quorum change from six to five members of the Investment Board. After discussion, there was Committee consensus that there should be a majority of the full statutory voting membership to make decisions. The Committee had no problem with the change to five but recommended that existing language be amended as suggested.

Sanders responded to Doderer that they had been advised by their auditor that rules had not been adopted to implement Iowa Code chapter 12A relating to South Africa restrictions—these amendments respond to that concern.

HUMAN SERVICES

The Department was represented by Mary Ann Walker, Harold Templeman, Ruth Schanke, Gary Gesaman, and Marge Corkery. The following agenda was reviewed:

DHS (CONT.)**HUMAN SERVICES DEPARTMENT[441]**

Standards for providers of services to persons with mental illness, mental retardation, and developmental disabilities, rescind chs 24, 25, 33, 35, and 36; new ch 24, Filed ARC 4289A 9/29/93

Pregnant women Medicaid coverage, 76.7 Notice ARC 4287A 9/29/93

Provision of services by certified addiction counselors, addition of day treatment and partial hospitalization for persons aged 20 and under to general prior authorization reference, 78.16(7)"b"(1)"5," 78.28(8), Notice ARC 4274A 9/15/93

Skilled nursing facility (SNF) rates, percentile cap on free-standing facilities, Medicaid eligibles on ventilators — \$50 a day incentive, 79.1(9)"a," "b," "d," "e," and "i," Notice ARC 4288A 9/29/93

Licensing of psychiatric institution for children, 85.21, Notice ARC 4275A 9/15/93

Eligibility for group care and foster care — unaccompanied refugee minors aged 18 and older, 156.20(1)"b"(3), Notice ARC 4273A 9/15/93

Adoption services, ch 200, Notice ARC 4272A 9/15/93

Madrid Home Letter — transferring assets for Title XIX coverage

Ch 24

Schanke gave a brief overview of filed Chapter 24 and noted changes from the Noticed version. The portion on quality improvement was greatly simplified (24.6–24.8) and the IQ score for people with mental retardation will be consistent with the national definition. Language in the case management segment which stated, "Nothing in this chapter shall be construed to create an entitlement to case management services." was stricken because case management is a Medicaid service. Consumer rights were also addressed. Accreditation will be the same for all the services—every three years.

Daggett referred to a letter from Linda Rouse, Decatur County Board of Supervisors, to the ARRC and Department which expressed her concerns with the new Chapter. He highlighted her comments on the matter of the bill of rights. Templeman explained that the legislature divided the 10 or 11 rights into two parts. The legislation today includes four rights. The remaining original rights became service standards—they appear in the legislation as guides to the Department.

Schanke assured Daggett that fiscal impact to the counties under these rules would not differ from the rules currently in effect. Savings should be realized with these more efficient rules.

Templeman referenced Rouse's assessment that having rules defining services would confer a right to that service. These rules set out the standards to be followed by service providers who seek public funding. The decision as to who would pay and how much was a decision aside from these rules.

Schanke advised that four county supervisors serve on the 15-member Commission and all the concerns mentioned have been discussed at length.

**Motion
Session Delay**

Daggett then moved to delay ARC 4289A until adjournment of the 1994 General Assembly to be referred to the appropriate committees.

Schanke commented that these rules had been in draft form since 1989 and the Commission had devoted a great deal of time and effort to reach the present form.

Schrader stated that Rouse's letter was the only opposition he had received on these rules. It was his understanding Rouse had cast the only dissenting vote on the rules. He intent was to support the rules and vote against the motion to delay.

Halvorson noted his concerns in the area of sexual preference but opined that Daggett's motion was too broad.

**DHS (Cont.)
Substitute Motion**

Halvorson moved a substitute motion to delay ARC 4289A for 70 days to allow time for additional study. Daggett agreed to the substitute motion.

Doderer inquired as to reasons for delay in developing the rules. Schanke responded that all the various groups, boards of supervisors, etc. were involved and the drafts were reviewed in great detail. Walker added that these rules were Noticed in April 1993 and public hearings were held throughout the state. No comments were received on the sexual preference portion of the rules. Doderer was not in support of the motion.

It was clarified that if the 70-day delay (from 12-1-93) carried, these rules would be before the ARRC in January 1994 where other formal action could be taken.

Schrader pointed out several areas of the rules that he did not completely understand. He again declared there was no objection heard on these rules between the time of Notice and the Filing dates.

Motion

Because no opposition had been voiced during the Notice process, Schrader offered a substitute motion, to take into account the concerns expressed by the ARRC, to refer the rules to the Speaker and President of the Senate for review by the appropriate committees.

Metcalf reminded the ARRC that it takes a two-thirds majority to pass the delay motions.

Royce noted that, in a procedural manner, these motions have become very complicated. He agreed with Metcalf but advised that the motion to the second degree would require only a simple majority.

Discussion of the motion.

Daggett declined to withdraw his motion.

Halvorson withdrew his motion.

Metcalf then explained that an amendment (general referral) to the Daggett motion was before the Committee. Daggett stated that he apparently lacked the necessary two-thirds vote for his motion, and having made a commitment to his constituency to do what he could, he withdrew his motion.

Metcalf reminded that the ARRC has the option of a special review of any rule at any time.

Motion carried

The Schrader motion for a general referral passed unanimously.

78.16, 78.28

Consideration of the remaining DHS agenda was resumed. There were no questions or comments on ARC 4274A.

79.1(9)

Amendments to 79.1(9) were discussed and Daggett inquired about the economic impact. Walker responded that payments to hospital-based facilities would be increased by \$519,000 and payments to free-standing facilities would be decreased by \$37,000 for an additional total cost of \$481,971, of which the state share is \$178,329. The addition of ventilators would increase the cost by \$182,500, the state share being \$67,525. Doderer asked that these figures be submitted in writing to the ARRC members.

DHS (Cont.) Gesaman informed Rittmer there were three providers who meet the disproportionate share (79.1(9)"e," second paragraph). They are Children's Rehabilitation Center, The Madrid Home, and a skilled facility in Burlington Medical Center.

85.21 No questions on ARC 4275A.

156.20 In amendments to 156.20(1)"b"(3), Metcalf asked for clarification on what constituted an Iowa resident and Department officials agreed to research and respond.

Ch 200 Proposed new Chapter 200 pertaining to adoption services was reviewed. Daggett was advised that these rules would have no impact on the concerns raised at the September meeting regarding foster parents.

There was discussion of a letter from William Thayer, President, the Madrid Home care facility, which was carried over from the previous meeting. In the letter Thayer expressed opposition to ARC 4067A [7/7/93 IAB, 75.15(2)] as being an overestimation of weighted average cost for all nursing homes. He contended this would result in higher Medicaid costs. Thayer thought a more accurate average would be determined if it were weighted on the number of beds or number of residents in each of the classes.

Gesaman explained how the weighted average charge for nursing homes was computed. The Department interpreted the statute as asking for the weighted average facility charge and they believe their method has met statutory requirement and it has been accepted by federal officials.

Gesaman responded to Daggett that their method was similar to that of other states but federal officials advised the Department that Iowa's method was fairly sophisticated and superior to most states.

Discussion focused on the illegal transfer of assets, length of time of ineligibility, and recovery of money by the state. Gesaman estimated 500 cases a year are determined ineligible for assistance because of illegal transfer of assets. When a family has absconded with the money, the state considers these cases as adult abuse.

No Committee recommendations.

Adjournment Upon motion by Halvorson, the ARRC adjourned at 12:15 P.M. The next meeting was scheduled for November 9 and 10.

Respectfully submitted,

Berl Priebe, Co-chair

Phyllis Barry, Secretary
Assisted by Mary Ann Scott