

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, July 11 and 12, 1989, Committee Room 22, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representative David Schrader. Absent due to illness, Representative 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; Evelyn Hawthorne, Democratic Caucus.

Meeting Convened

Chairman Priebe convened the Committee at 10 a.m., Tuesday, July 11, 1989, Senate Committee Room 22. The following rules of Disaster Services were before the Committee:

PUBLIC DEFENSE DEPARTMENT

Disaster services - enhanced 911 telephone systems, ch 10, filed ARC 9960 6/28/89

Present for the discussion were Ellen Gordon, Director; David L. Miller and Jerry L. Ostendorf; Charles E. Hinkle, Humboldt County; Kenneth J. Hartman, Hartman and Associates, Boone.

Gordon explained that rules addressing enhanced 911 telephone systems were mandated by legislation. A hearing on the rules resulted in changes being made.

Chairman Priebe recognized Hartman, who was representing Humboldt, Mahaska, Washington, Dallas, Buchanan and Webster Counties. Hartman offered what he believed to be constructive criticism and referenced a critique which he had mailed to ARRC members. Areas of disagreement included 10.8(3) which requires approval of the plan modifications and addenda by the Division prior to implementation. He contended this would slow down the process and suggested addition of the words ",if such modification or addenda make changes in the 911 service area, number of PSAPS, or selective routing arrangements."

10.9(1)f

With respect to 10.9(1)f, Hartman viewed the requirement to provide two dedicated telephone operator ringdown circuits as excessive. He contended this would increase costs of the E911 system, particularly in rural areas. He explained the difference between telephone operator ringdown circuits and 1=FB lines. Hartman's research in the last two months revealed that the maximum number of operator assistance calls averaged two per year in counties. In metro areas, there were three to five calls per day. Hartman continued that emergency calls should be directed to the 7-digit emergency number. This would not increase county costs. He offered

PUBLIC
DEFENSE
Cont'd

estimates on cost per line, per month. Hartman voiced opposition to the requirement in 10.9(2)e to maintain 90 days of logging recorder tapes in communications centers. This was an increase from the industry standard of 30 days and was not cost effective for counties. He urged further study of this issue. Hartman referred to the quorum requirement of no less than 2/3 of the members eligible to vote--10.3(2)b. He pointed out the difficulty for compliance by the volunteer boards. Discussion followed and Royce advised that Code section 17A.2(1) mandates a 2/3 quorum for "state" agencies. The local volunteer boards would not be subject to that provision and could rely on a simple majority. There was Committee consensus that an emergency amendment would be acceptable.

In principle, Gordon agreed with Hartman with respect to the number of ringdown circuits--10.9(1)f. However, she did not want to rely on one line or circuit which could leave a community without 911 service. Hartman had no opposition to two dedicated circuits from each central office, but he interpreted the rules as requiring two additional circuits. Miller emphasized that an important issue was the difference between a circuit and a line and he thought confusion could be avoided by changing the definition of circuit.

Miller and Gordon defended the Division's position that tapes should be kept for at least 90 days, particularly if the recording were used as the sole means of logging a call. Hartman quoted additional costs and reasoned that pertinent information would be pulled immediately from a tape in emergency situations. Doyle wanted assurance that information would not be lost and he thought tapes covering emergencies should be stored at least 90 days. Hartman and Gordon agreed to draft compromise language.

Hinkle praised the 911 program but noted that a 25 cent surcharge would be insufficient to cover cost to counties. He suggested a higher surcharge and added that Humboldt County was subsidizing the program but might be forced to discontinue participation. He thought that recommendations by Hartman were very important. Gordon commented that it was important for the Division to monitor disposition of the surcharge fund.

Motion to
Delay

Pavich moved to impose a 70-day delay on 601--Chapter 10. Tieden expressed concern about increased costs. Gordon did not want the system to be jeopardized. Pavich motion was carried.

DEPARTMENT
OF ECONOMIC
DEVELOPMENT

Lane Palmer presented amendments to 261--23.6(3) and 23.14, relating to the special drought relief fund, published in 6/14/89 IAB as ARC 9926.

Priebe recommended additional language in 23.6(3): Insert after "the director," the words "in consultation with the representatives of the Farmers Home Administration."

INSPECTIONS AND APPEALS

Xenda Lindel-Prine reviewed the following agenda and there were no questions:

- Infection control in health care facilities, 57.11(3), 57.11(11), 57.11(12), 57.12(1)"c," 58.10(3), 58.10(8), 58.11(1)"c," 58.39(3)"b," 59.12(3), 59.12(11), 59.13(1)"c," 59.43(3)"b," 62.9(2)"a," 62.19(4), 62.19(5), 63.9(3), 63.9(10), 63.9(11), 63.11(1)"c," 64.12(14), 64.13(12), 64.13(15), 64.26(8)"b," notice ARC 9948 6/14/89
- Amend and transfer 491—chs 20 to 25 to 481—chs 100 to 105, filed emergency ARC 9947 6/14/89

Pavich in the Chair.

INSURANCE DIVISION

Kevin Howe appeared on behalf of the Insurance Division for review of life reinsurance agreements, 191--Chapter 17, Noticed in IAB 6-14-89 as ARC 9941. He explained that insurance companies cannot use a reinsurance contract to reduce their liability or establish a new asset on their financial statements unless the contract represents a substantive transfer of risk. The intent is to prevent a company from executing some illusory type of contract for the sole purpose of using it to their benefit on a financial statement when they haven't transferred a risk to the reinsurance company. Howe added that the Division routinely looks for this in examining insurance companies. No comments have been received. He provided an example of "creative bookkeeping" by an insurance company.

17.2-4

In response to question by Schrader, Howe stated that the rules were excerpted from a model rule of the National Association of Insurance Commissioners. However, he was willing to clarify the language. Howe thought that the scope in 17.2 would apply to the standards of accounting requirements in 17.3 and written agreements in 17.4.

Minutes

Priebe took the Chair and called for disposition of the minutes of the June meeting. Schrader requested deletion of the second sentence, last paragraph, on page 4106 and that the minutes be approved as amended. Carried.

PHARMACY EXAMINERS BOARD

Lloyd K. Jessen represented Pharmacy Board for the following:

- PUBLIC HEALTH DEPARTMENT(641)"umbrella"
Update Iowa Code references in chs 1 to 6, filed emergency ARC 9921 6/14/89
- General pharmacy licenses, hospital pharmacy licenses, correctional facility pharmacy licenses, 6.3"1," 7.3"1," 15.3"1," notice ARC 9922 6/14/89

Chs 1-6

No questions re amendments to Chapters 1 to 6 or 6.3(1) et al. Tieden was given brief explanation of the process followed for reinstatement of a pharmacist's license.

HUMAN SERVICES DEPARTMENT

Those in attendance for the Department of Human Services included: Mary Ann Walker, Cynthia Tracy, Anita Smith, Bob Miller, Larry Allen and Gary Gesaman. The agenda follows:

- Offset of county debts owed department, ch 14, notice ARC 9951 6/28/89
- Corporate guardians and corporate conservators, ch 23, notice ARC 9907 terminated, ARC 9966 6/28/89
- County maintenance of effort calculations and reporting, ch 26, notice ARC 9952 6/28/89
- Centralized registry for brain injured persons, domestic abuse, displaced homemaker, rescind chs 39, 160, and 161, filed emergency ARC 9956 6/28/89
- AIC schedule of basic needs and medically needy income levels increased, 41.8(2), 75.1(16)"a" and "b," 75.1(24), 75.1(26), 75.1(28)"b" and "d," 75.1(28), 75.1(30), 75.17, 75.18, 80.10(1), 86.10(2), 86.10(4), 86.12(1), notice ARC 9973, also filed emergency ARC 9972 6/28/89
- Medicaid and service provider rate changes, 52.1(3), 78.6(1)"k" to "m," 78.7(1)"e," "f," and "j," 78.11(2), 78.14(7)"a," "b," and "d," 79.1(2), 79.1(8)"a," 79.1(9)"b" and "d," 81.6(16)"e," 150.3(5)"p," 156.6(1), 156.9(1), 156.11(2), 177.4(3), 177.4(7), 177.4(8)"b," notice ARC 9971, also filed emergency ARC 9970 6/28/89
- Conditions of eligibility, 75.6, 75.6(1), 75.15, filed emergency after notice ARC 9975 6/28/89
- Amount, duration and scope of medical and remedial services; intermediate care facilities, 78.12, 81.3, filed emergency after notice ARC 9967 6/28/89
- Intermediate care facilities for the mentally retarded, 82.5(14), 82.5(16), filed ARC 9958 6/28/89
- Inpatient psychiatric services for individuals age 65 and over and under age 21, foster care services, 85.1(2)"b," 202.16, notice ARC 9960, also filed emergency ARC 9959 6/28/89

HUMAN
SERVICES
DEPARTMENT
Continued

General provisions, child day care services, 130.3(1)"d"(2), 170.4(7), notice ARC 9962, also filed emergency ARC 9961	6/28/89
Child day care grants program, ch 168; rescind ch 154, notice ARC 9964, also filed emergency ARC 9963	6/28/89
Adolescent pregnancy prevention and services to pregnant and parenting adolescents program, ch 163 preamble, implementations, 163.1, 163.3, 163.4(1), 163.5(1), 163.5(2)"c", 163.6, 163.8, 163.9(3), 163.10, notice ARC 9974, filed emergency ARC 9978	6/28/89
Child day care services, ch 170 preamble, 170.1, 170.2(1), 170.2(3)"b", filed emergency after notice ARC 9965	6/28/89

Ch 14

In review of Chapter 14, Walker responded to question by Tieden that the Revenue and Finance Department has similar rules found in 701--Chapter 150. Tieden wondered how Human Services could attach funds appropriated for a specific purpose. He contended that surplus funds of a county should revert to the state and he used sewer grants as an example. Walker agreed to research this particular aspect before the rules are adopted and report to the ARRC at the August meeting.

41.8(2)
et al.

No questions re Chapters 23, 26, 39, 160 and 161. In re amendments to 41.8(2) et al., Tieden inquired as to fiscal impact. According to Walker, the ADC Schedule of Basic Needs will increase state expenditures by \$2,770,132, \$382,752 for Medicaid and \$42,000 for administrative costs bringing the total to \$3,194,902. Also, \$1,027,000 was appropriated to increase the income limit for participants in the MAC Program from 150 to 185 percent of the poverty level. Discussion of eligibility for pregnant women and time frames involved.

52.1(3)
et al.

According to Walker, amendments to 52.1(3) et al. implement mandate by the General Assembly with respect to rates for Medicaid and service providers. Provision was made for reimbursement to an ambulance service for transporting a recipient from a location other than a medical institution to a hospital regardless of whether or not it is medically necessary.

75.6 et al.

Walker summarized many changes reflected in amendments to 75.6 et al. Priebe had received complaints regarding transfer of resources for the purpose of establishing eligibility for Medicaid. General discussion.

78.12, 81.3

Walker described provisions in 78.12 and 81.3 as "controversial." All persons seeking admittance to a care or skilled facility, regardless of the source of payment, must be screened by the Iowa Foundation for Medical Care for mental illness, mental retardation, or developmental disability. Priebe indicated that private pay persons had questioned this requirement. Royce pointed out that the statute had been changed to add the screening requirement to comply with Congressional intent. Walker recalled that the State Health Care Association had filed suits on this issue in Texas, Idaho, Arkansas and Louisiana. Tieden observed that the guidelines were extremely broad.

Schrader referred to the third paragraph of each rule which provided that "final approval for initial admissions and continued stay of persons with mental illness, mental retardation, or a related condition is determined by the department of human services..." He asked if this

HUMAN
SERVICES
Continued

were transferring to the Department decisions on who would be admitted. Walker explained that "related condition" was defined but would not cover Alzheimer's disease or diseases which cause the patient to become abusive. Gesaman interjected that no organic-related syndrome would be included. He added that the "final word" had not been spoken on the issue--one school of thought is that it is not right to lock individuals into relationships which are not in their best interests. Unless the care facility can provide a program consistent with individual needs, the Iowa Foundation would not approve it. Gesaman continued that the Iowa Foundation for Medical Care acts as an agent for state mental health; they are not acting independently. He described the federally recognized peer review organization as one set up to review physicians' services and activities in the state. Also, they have become involved in hospital and nursing home review and the Department has contracted with them for the past 10 years. Walker agreed to provide the ARRC with additional information on the Foundation.

Schrader and Walker discussed screening costs and possible impact on private pay patients. According to officials, the Department will reimburse the Foundation--federal funds are available. Walker reminded that the Department was following federal mandate.

82.5

Walker explained that amendments to 82.5 provide for new ICFMRs to receive the weighted average cost per diem for all participating nonstate-owned ICFMR facilities for the first three months of operation. The per diem will be adjusted annually based on cost reports on file at the end of a fiscal year. Walker stated that amendments to Chapters 85 and 202 stipulate criteria the Department will use to assess need for specific psychiatric medical institutions for children. The rules are intended to implement 1989 Acts, SF 540, §7 and 36. No questions.

202.16

130.3

170.4

No recommendations were offered for amendments to 130.3 and 170.4(7) which raise income guidelines for child day care services from 125 to 150 percent of the federal poverty guidelines and allow for reimbursement to providers for up to four days per month for a child not in attendance. This was a legislative mandate in 1989 Acts, SF 540, §28 and SF 541, §6 and 30.

Ch 168

The new program set out in Chapter 168 replaces the Child Day Care Center Financial Assistance Program under Human Services and the Child Day Care Startup Program administered by Economic Development. [261--Ch 20] Walker agreed to supply names of the Day Care Grant Committee.

Ch 163

Discussion of revisions in Chapter 163 which modify guidelines for awarding adolescent pregnancy funds and for administering the program. Legislation mandated that 75 percent of the funds shall be awarded to the seven counties with highest incidence of adolescent

HUMAN SERVICES Continued

pregnancy and to programs whose primary focus is on family planning and pregnancy prevention. Tieden thought the seven counties were Polk, Scott, Woodbury, Linn, Black Hawk, Johnson, and Story, but Walker was unsure and would provide that information. Walker advised Tieden that the Grant Selection Committee and the Grant Designation Committee were one and the same.

163.10

Tieden challenged use of "received" with respect to letter of appeal in 163.10. He favored consistency in the appeals process.

Ch 170 Recess

No questions on amendments to Chapter 170. Chairman Priebe recessed the Committee for lunch at 11:35 a.m. and reconvened them at 1:30 p.m. and called up the following:

NATURAL RESOURCES DEPARTMENT

ENVIRONMENTAL PROTECTION COMMISSION[567]	
NATURAL RESOURCES DEPARTMENT[661] "umbrella"	
Effluent and pretreatment standards, amendments to 62.4 and 62.5. <u>notice</u> ARC 9944	6/14/89
NATURAL RESOURCE COMMISSION[571]	
NATURAL RESOURCES DEPARTMENT[661] "umbrella"	
Nursery stock sale to the public, 71.3. <u>notice</u> ARC 9977	6/28/89
Commercial use of captive-reared waterfowl, ch 93. <u>notice</u> ARC 9945	6/14/89

Agency representatives present were Diana Hansen, William Farris, and Rick McGeough. Also present were Dale Seems, Sherman Nursery, and Shirley Peckosh, Iowa Nurserymen's Association.

62.4
62.5

Hansen presented amendments to Chapter 62 which reflected revisions in the federal Code of Regulations. Comment period on the proposal will be open until July 15.

71.3

Farris told the Committee that amendment to Chapter 71 sets prices for nursery stock as directed by 1989 Acts, HF 778. Previously, this decision was made by the Natural Resource Commission. Doyle was interested in comparison of prices with private industry and Farris quoted costs per hundred last year: Shrubs were \$11.75; hardwoods were \$12.00. Farris said that private nurseries buy conifers at about the same price, but the state was probably under cost of private nursery stock for hardwoods. He continued that over four million plants were sold last year at an estimated income of \$675,000. The budget for 1990 is \$610,000.

Priebe wondered if the change in minimum wage would have an impact. Department officials pointed out that they will not exceed their budget--estimated income is based on prior year sales. Both prices and sales have increased in the last three years.

Peckosh expressed concern that budgeting and pricing actually covered all expenses. Farris indicated that extra indirect costs were covered. Otherwise, stock could have been priced lower. Schrader recalled from the appropriations committee last year that the indirect cost was about 12 percent.

Peckosh addressed the question of the state being in competition with the private nursery industry. She

NATURAL
RESOURCES
DEPARTMENT

referenced recent legislation relevant to governmental competition with private enterprise. ['88 Acts, Ch 1230] It was her opinion that the state is competing with the private nursery industry. Peckosh wanted to review the budget since it was "impossible for private industry to compete unless they are on an even keel." Farris was willing to provide actual costs to the ARRC. Seems referenced a list of 30 individual cost items which were considered when setting the price of nursery stock. He would send a copy to Royce to forward to the Department.

Ch 93

McGeough stated that proposed Chapter 39 removes some restrictions by providing procedures for obtaining captive-reared waterfowl for shooting or for taxidermy purposes. Priebe was informed that an intact collection of stuffed birds or animals could be donated to the state or a county conservation board for exhibition but could not be sold. Also, the collection could be passed on to family members, but the state retains its authority. Pavich took the Chair.

Schrader and McGeough discussed frustration being expressed by purchasers of habitat stamps and county recorders. Legislation passed this year increased the stamp from \$3 to \$5 on July 1. This did not allow time to have new stamps printed. Schrader asked if there were a possibility that the Department could issue a new \$5 stamp soon. McGeough indicated that administrative costs would be increased considerably and he admitted that the Department was unprepared for the legislation. He thought the most cost-effective approach was to offer explanation to the public, but continue to use the old stamps.

There was brief discussion of the apparent lack of communication between the Department and the Legislature. No formal action.

REVENUE &
FINANCE
UNDERGROUND
STORAGE
TANK FUND

Gerald Bair, Director, and Darwin Clupper appeared for the following:

REVENUE AND FINANCE DEPARTMENT(701)	
Administration of environmental protection charge imposed upon petroleum diminution, 9.1"4," 9.1"5," 10.1(3), ch 37, notice ARC 9969, also filed without notice ARC 9989	6/28/89
Determination of net income, 59.5, filed ARC 9964	6/28/89
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE(591)	
General, petitions for rule making, declaratory rulings, board procedure for rule making, determination or adjustment of cost factor, chs 1 to 5, notice ARC 9992	6/28/89
Administration of the environmental protection charge imposed upon petroleum diminution, ch 6, notice ARC 9991, also filed without notice ARC 9990	6/28/89

Also present were David Lyons, Deputy, Insurance Division; David Dorff, Attorney General's office; Jeff Robinson, Legislative Fiscal Bureau; and Teresa Kehoe, Democratic Caucus.

59.5

Bair gave brief overview of 59.5. No questions.

Amendments to 701--9.1 et al. and 591--Chapter 6 were considered.

REVENUE &
FINANCE
UNDERGROUND
STORAGE
TANK FUND

Bair described new 701-Chapter 37 as being similar to the sales tax rules of Revenue and Finance with respect to enforcement and registration. They had experienced no problems so far with over 500 registrations--600 to 1000 were anticipated. Bair called attention to the definition of "depositor" which means any person holding title to petroleum who deposits or causes to be deposited petroleum into a tank subject to regulation under 1989 Acts, HF 447, Division VII. Some out-of-state people have questioned the provision and the Department plans to ask the Board to clarify that the depositor is the person who owns the fuel, not the tank wagon person who is actually filling the underground storage tank.

It was Priebe's recollection that the intent of the Senate was to place the responsibility on the tank wagon person similar to provisions governing underground water storage tank legislation. Kehoe concurred. Bair asked if this would be the case even though the tank wagon person does not hold title to the fuel. Priebe responded, "How would the guy owning the fuel know whether or not it is licensed?" Bair said that, many times, they are one and the same. Priebe pointed out that was not the situation with cooperatives in his area and they were distributing the fuel. According to Bair, the person receiving had to be licensed also. Schrader wondered about suppliers who will sell to an individual station operator. Priebe thought the intent was to cover all.

Lyons interpreted the depositor as the person who physically fills the tank--an issue of more "practical construction" than "legislative intent." He stressed the importance of working with the Department of Revenue and Finance to ensure that administrative costs and paper work are minimal. He envisioned a "generic depositor" as the person who physically fills the tank or the owner of the fuel, depending upon the contract. Bair was willing to cooperate.

37.12 Tieden expressed reservations regarding immediate successor liability, in particular, a long-term credit situation--37.12. Clupper said the language was almost verbatim from sales tax provisions and he had heard no complaints.

Chs 1-5 No questions on 591--Chapters 1 to 5.

Recess The Committee was recessed at 2:40 p.m.

Reconvened Vice Chairman Pavich reconvened the ARRC at 9:12 a.m., Wednesday, July 12, 1989. Senator Tieden and Representative Clark were absent due to illness. Other Committee members and staff were present.

HEALTH
DEPARTMENT
Special
Review
Renal
Disease

Pavich recognized Royce who brought up the matter of the Renal Disease Program and the fact that funding for hemodialysis services had been reduced by \$150,000. [HF 775, §5(2)] Pierce Wilson of the Health Department distributed rules needed to implement the reduction. He sought Committee guidance as to whether the rules should be filed emergency. Wilson said that approximately 71 individuals would be affected. Because rules will have a negative impact, Royce questioned an emergency filing. Wilson pointed out that legislative mandate reduced the level of payment from 100 to 80 percent. Eligibility level was reduced from 300 percent of the poverty level to 200 percent.

Responding to Schrader, Wilson said these recommendations were made by the Advisory Committee established by the Legislature. The cut from 100 to 80 percent will affect all renal dialysis patients.

Priebe wondered about the possibility of shifting funds from surpluses in other areas, e.g., ADC. He declared that it was regrettable to reduce funds for this very important program.

Doyle recommended sending a letter to the Fiscal Committee, advising them of the problem and asking if there would be recommendations to increase the appropriation or approve transfer of funds. Priebe asked that the letter also include a suggestion that the ADC Program be examined to determine if surplus funds could fully fund the Renal Disease Program.

Schrader reasoned that the medical bill would be the same regardless of income. He thought the Department should consider a mechanism whereby the 80-20 cost share might affect those between 100 and 200--the 20 percent for a family of four making \$23,000 might not be as burdensome as for a family of four making \$11,000. Wilson agreed to look into that possibility.

There was unanimous consent for Royce to draft the letter.

PROFES-
SIONAL
LICENSURE
DIVISION

Priebe resumed the Chair and called up the following:

PUBLIC HEALTH DEPARTMENT (41) "umbrella"	
Cosmetology examiners, sanitary conditions for beauty salons and schools of cosmetology, continuing education, 60.1 to 60.14, 61.2, 62.2(6), 62.3(2), 62.3(3), 62.4(1), 62.6, 62.8, 62.11(2)"b," 62.12(1), 62.119, notice ARC 9939	8/14/89
Cosmetology continuing education, 62.2, filed ARC 9948	6/14/89
Board of optometry examiners, 180.10(2), filed ARC 9985	6/28/89
Board of psychology examiners, 240.6(10)"f" and "i," 240.6(9)"b," 240.6(11)"a" and "d," 240.8(4), 240.8(7), 240.8(8), 240.10, 240.10(2), 240.10(12), 240.11(2)"g" and "j," 240.11(4)"l," 240.103(2), 240.104, 240.105, 240.205, filed	
ARC 9986	6/28/89
Speech pathology and audiology continuing education and disciplinary procedures, 300.3, 301.9(2)"b," filed	
ARC 0084	6/28/89

Present for the discussion were Barbara Charls, Carol J. Barnhill, and Kathy Williams, Board Administrator.

PROFES-
SIONAL
LICENSURE
cont'd

Charls gave brief overview of amendments to Chapters 60 and 62.

Royce, speaking for Senator Tieden, suggested that the word "restrooms" be substituted for "toilets" in 60.4(1)e.

Priebe voiced opposition to new language in 62.3(2): "...and shall include such topics for instruction as prescribed by the board;..." Charls thought it was intended to address problems with continuing education programs which are not relevant to cosmetology.

In 61.2, Doyle asked that "the" be substituted for "his or her". No questions re filed 62.2 or 180.10(2).

Ch 240

There was discussion of the fact that the amendments to Chapter 240 prohibit reexamination when an applicant has failed the examination four times. Priebe wondered if an applicant could fail the test in Iowa, eventually pass it in Nebraska and through reciprocity return to practice in Iowa. Charls was doubtful this would occur and stated that the same test was given all over the world. Barnhill reviewed amendments to 300.3 et al. No questions.

PUBLIC
HEALTH
DEPARTMENT

The following agenda was before the ARRC:

Statewide indigent obstetrical and orthopedic patient care program, 82.2(1)"f," notice ARC 9983	6/28/89
Training and certification of and services performed by advanced emergency medical technicians and paramedics, 132.1 to 132.6, 132.7(1), 132.7(5), 132.7(6), 132.8(1)"b" and "l," 132.8(1)"o" and "p," 132.8(2), 132.8(4), 132.8(7), 132.8(8)"l" and "n," 132.9, 132.10(5), 132.10(6) to 132.10(10), 132.11(3), 132.11(7), 132.12(5), 132.14(7), 132.15, notice ARC 9976	6/28/89
Hospital protocol for donor requests, rescind ch 180, notice ARC 9982	6/28/89

Department representatives in attendance were Mike Guely, Don Kerns, Gerd Clabaugh, Carolyn S. Adams and Phyllis Blood.

No questions re 82.2(1)f.

Ch 132

Kerns explained that changes in Chapter 132 were the most significant since the law became effective. A public hearing will be held January 21. No questions.

Ch 180

Adams informed the Committee that 641--Chapter 180 was rescinded since the authority for the rules was repealed. Members were interested in knowing if another agency would be responsible for hospital protocol for donor requests, and research will be done on the matter.

NURSING
BOARD

Lorinda Inman presented the following and there were no questions:

PUBLIC HEALTH DEPARTMENT "umbrella"	
License to practice RN/LPN, 3.1, 3.2(1), 3.2(2)"d," filed ARC 9949	6/14/89
Continuing education, 5.2(2)"e"(2), filed ARC 9942	6/14/89

ATTORNEY
GENERAL

The following was before the ARRC:

Crime victim assistance program, ch 9, notice ARC 9987, also filed emergency ARC 9988	6/28/89
Regulation of physical exercise clubs, ch 26, notice ARC 9927	6/14/89

ATTORNEY
GENERAL
(Cont.)

Scott Newhard introduced Marti Anderson, Victim Services Program, Jackie McCann, Deputy Administrator of the Reparations Fund, who appeared on behalf of the Attorney General.

Newhard reported that 1989 Acts, House File 700, consolidated a number of existing victim services programs into the Department of Justice, and a Victim Assistance Board was created to set policy.

9.7(3)d Priebe was of the opinion that 9.7(3)d should be clarified, and Newhard responded that the Code language was followed.

9.4 Schrader referred to 9.4 relative to expenses for the Crime Victim Assistance Board. Since these members donate their time, he thought it was regrettable that they are only eligible for \$40 if their income level is 150 percent of poverty. Newhard commented that the Legislature did not authorize \$40 for the Board but he would research the matter. Newhard assured ARRC that all expenses will be paid out of the reparation fund.

Ch 26 Consideration of Chapter 26 was deferred temporarily. The Committee was in recess.

LABOR
SERVICES
DIVISION

Walter Johnson, Deputy, presented the following agenda and there were no recommendations.

EMPLOYMENT SERVICES DEPARTMENT(341) "umbrella"	
Bonding of out-of-state construction contractors, 1.64(3), 160.2, 150.10(1), 160.13, notice ARC 9979	6/28/89
OSHA rules for general industry, 10.20, notice ARC 9931	6/14/89
OSHA rules for general industry, 10.20, filed ARC 9932	6/14/89
OSHA rules for construction, 26.1, notice ARC 9930	6/14/89
OSHA rules for construction, 26.1, notice ARC 9980	6/28/89
Asbestos control procedures, licensing, certification, 81.1(2), 81.2(2), 81.4, 82.1, 82.2, 82.3, 82.3(1), 8.3(1)"a"(10), 82.3(2) to 82.3(4), 82.5 to 82.7, 82.9 to 82.11, notice ARC 9935, also filed emergency ARC 9933	6/14/89
Removal or encapsulation of asbestos training, 82.1, notice ARC 9934	6/14/89

SECRETARY
OF STATE

Sandy Steinbach and Allen Welsh were present for the following:

Election forms, 4.3, filed emergency ARC 9981	6/28/89
Election forms and instructions, 21.4(3)"b"(2), notice ARC 9968	6/28/89
Election forms and instructions, rescind 21.8, filed emergency ARC 9967	6/28/89
Notarial acts, ch 43, notice ARC 9955	6/28/89

4.3 Steinbach explained that amendments to 4.3 reflect legislation which removed that prohibition against signing more than one nomination petition. No questions.

Ch 21 In review of Chapter 21, Steinbach said rescission of 721--21.8 was filed emergency to implement 1989 Acts, House File 735, §7. The Act repealed mail ballot provisions of E911 surcharge referenda. No comments. No questions re 21.4 or 21.8.

Ch 43 Welsh summarized proposed Chapter 43 pertaining to the procedure for performing notarial acts. They also address reciprocity of recognizing notarial acts performed in other jurisdictions, other nations, other states, and include forms. The rules will implement 1989 Acts, S.F. 693 which is essentially the uniform Act on notarial acts adopted by the American Bar Association.

SECRETARY
OF STATE
(Cont.)

Doyle inquired if the law required the expiration date for the commission of office. Welsh responded that it was a feature of the uniform Act, not the law. The rule requires, if the notarial Act is performed by a notary public, that an expiration date is needed. Both the uniform Act and rule 43.1 specifically state if the information is omitted, it can be corrected later. Doyle failed to see the need for the date and suspected that to require it was exceeding the law. Welsh did not believe they had gone beyond the Act but concurred that the expiration date was unnecessary. Committee consensus was that the language "[My commission expires:-----]" should be deleted before final adoption. Also, Priebe called attention to use of the word "must" in 43.1 and cited ARRC preference for "shall". No other comments.

SOIL
CONSERVATION
DIVISION

Soil Conservation Division rules as follows were presented by Kenneth Tow. He explained that 1989 Acts, House Files 723 and 788 were implemented by 10.41 and 10.42. There were no questions.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT(21) "umbrella"
Iowa financial incentives program for soil erosion control. 10.41, 10.42, notice ARC 9946 6/14/89

TRANSPORTA-
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DEPARTMENT

David Little, Mary Jensen, Nancy Burns appeared on behalf of Department of Transportation for the following:

Improvements and maintenance on primary road extensions, 150.3(1)"e." 150.3(3)"a." filed ARC 9924 6/14/89
Recreational trails program, ch 166, filed ARC 9923 6/14/89
Train speed ordinances, 800.15, filed ARC 9925 6/14/89

Also present: E. Rees Hakanson and Donna Wallace.

Ch 150

DOT presented a position letter in response to ARRC request for a clarification of definition of the term "smaller cities." Amendments to Chapter 150 allow the Department flexibility in participating in the costs of local service roads or streets and in the costs of lighting on extensions of expressway, arterial and arterial connector highways. No formal action.

Ch 165

Priebe wondered if the problem of recreational trails running diagonally across farm property had been resolved. According to Jensen, those sections of the Department's appropriations bill addressing this issue by intent language were vetoed by the Governor. She agreed to apprise Priebe of the impact of the veto but pointed out that Chapter 165 was not affected. It was noted that evaluation points were added to 165.26(2) as recommended by the ARRC. Eight projects have been funded so far.

800.15

Hakanson said they had received no comments on new rule 800.15 pertaining to train speed ordinances. In response to Priebe, regarding factors in 800.15(4), Halvorson said that each case is reviewed on its own merit. These are some areas that definitely will be considered along with any extenuating circumstances. Priebe questioned inclusion of "...but are not limited to,..." and the

TRANSPORTA-
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reply was that the Department Director asked for the language. Discussion of the fact that the statute allows ordinance or resolution to regulate train speeds. Doyle advised that a resolution would not have effect of law but an ordinance carries a penalty. Halvorson indicated they defer to the Department of Inspections and Appeals for a fair hearing and they could impose penalties. An appeal would be returned to the Department for review and they have the authority to impose a "section 1 or schedule 1 penalty" on the railroad for each violation. Doyle thought ordinance should be required if there were a penalty section. He asked about differences in speed laws for Amtraks and freight trains. Hakanson replied that passenger trains can operate at a faster speed on a certain class of track. Class 1 is a low speed track and limits a freight train operation to a maximum of 10 mph. In rural areas, the speed would be limited by track class. Top speed in Iowa for passenger trains is about 60 mph. No formal action.

UTILITIES
DIVISION

Vicki place, Anne Presiasi and Ray Vawter were present for the following:

COMMERCE DEPARTMENT (181) "umbrella"
Disconnection rules, 19.4(16)"c," 20.4(16)"c," filed ARC 9928 6/14/89
Natural gas flexible rates, 19.12(2)"a," 19.12(3)"d," filed ARC 9929 6/14/89

After brief overview by Place, there were no questions.

REGENTS
BOARD

Betty Volm represented the Board for the following:

Appropriate hearing, administrative law judge, procedures, 9.1(3)"a," 9.3(3), 11.5(2), 11.5(3), 12.5(2), 12.5(4), 12.5(5), 13.5(2), 13.5(4), 13.5(5), 15.5(2), 15.5(4), 15.5(5), 16.5(2), 16.5(4), 16.5(5), filed ARC 9936 6/14/89
Policy on telecommunications, 9.5, filed ARC 9937 6/14/89

Volm briefed ARRC with respect to the policy on telecommunications and minor changes made since the Notice of 9.5. No Committee recommendations.

ATTORNEY
GENERAL
cont'd

Ch 26

In presenting proposed revision of Chapter 26 on regulation of physical exercise clubs, Cynthia Forsythe told the Committee that the Attorney General had been contacted by the Iowa Banker's Association. Banks were concerned about their liability with respect to escrow accounts being established by these clubs without knowledge of the bank. Under the rules, an exercise club that accepts prepayment will be required to submit certain material to the Attorney General when they establish an escrow account. The Consumer Protection Division will then notify the financial institution of appropriate release procedures. Priebe wondered about the necessity for the rules and Forsythe responded that the statute requires all defined physical exercise clubs to register with the Consumer Protection Division. However, most are exempt for the registration because of payment systems. Burnett spoke of the "racket" of clubs that collect membership fees and then go out of business. No Committee action.

NO AGENCY
REPS

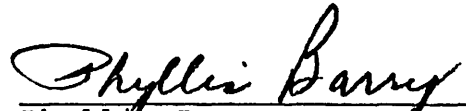
No agency representatives were requested to appear
for the following:

- ENGINEERING AND LAND SURVEYING EXAMINING BOARD(193C)
Professional Licensing and Regulation Division(193C)
- COMMERCE DEPARTMENT(181) "umbrella"
Requirements for examination. 1.4"3." filed ARC 9953 ... F..... 6/28/89
- CIVIL RIGHTS COMMISSION(161)
Public records and fair information practices. ch 11. also notice ARC 8825 terminated. notice ARC 9949 6/14/89.
- EDUCATION DEPARTMENT(281)
Issuance of certificates and endorsements. renewal of certificates. requirements for special education
endorsements. occupational and postsecondary certification and endorsements. 73.11"5." 73.12"3." 73.15"3."
"5." and "6." 73.17. 74.4. 74.11. 81.3. 81.4. 82.9(2)"a" and "b." 82.11. 82.13. notice ARC 9940 6/14/89.

Adjourned

Chairman Priebe adjourned the meeting at 1 p.m. Next meeting was scheduled for Thursday and Friday, August 3 and 4, 1989. The September meeting will be held on Tuesday and Wednesday, September 12 and 13, 1989.

Respectfully submitted,



 Phyllis Barry, Secretary
 Assisted by Vivian Haag

APPROVED:

 CHAIRMAN