

**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, March 7, 1994, 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, and Sheldon Rittmer; Representatives Horace Daggett, Roger Halvorson, Minnette Doderer and David Schrader. Senator William Palmer excused.

Also present Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; Mary Ann Scott, Administrative Assistant; Caucus staff and other interested persons.

Convened Representative Metcalf convened the meeting at 7 a.m. and recognized Orrin Nearhoof, Board of Educational Examiners, for the following agenda:

EDUCATIONAL EXAMINERS

EDUCATIONAL EXAMINERS BOARD[282]
EDUCATION DEPARTMENT[281]"umbrella"
Issuance of practitioner's licenses and endorsements, special education endorsements, 14.13, 14.17, 14.20(14), 14.24, 15.4, Notice ARC 4583A 2/2/94
NCATE accredited programs, occupational and postsecondary endorsements and licenses — removal of competency test requirement, 14.32, 16.2(1)"c," 16.5(1)"a"(3), 16.9(2)"a" and "b," Filed ARC 4582A 2/2/94

14.13 et al. Responding to Priebe's question in 14.17, Nearhoof advised that there was no specific time frame in which the teacher's license must be issued for qualification as a substitute teacher.

14.32 et al. No questions or recommendations on ARC 4582A.

EDUCATION

Kathy Lee Collins, Legal Consultant, Department of Education, reviewed the following agenda:

EDUCATION DEPARTMENT[281]
Appeal procedures, 6.2, 6.3(1), 6.3(6), 6.4(1), 6.4(2), 6.5, 6.6, 6.8(1)"b," 6.8(2)"a," "c," and "e," 6.8(3), 6.10(3)"e," 6.11(1), 6.11(5), 6.13, Notice ARC 4590A 2/2/94
Educational opportunities outside a student's resident district, rescind ch 16, Notice ARC 4592A 2/2/94
Tuition reimbursements and adjustments, 22.6, Filed ARC 4591A 2/2/94
Adult education, 23.1, 23.2, Filed ARC 4593A 2/2/94
Competent private instruction and dual enrollment, 31.3(2)"a," 31.4(1)"c," 31.4(2)"b," 31.4(4)"b" and "c," 31.5(3), 31.7(1) to 31.7(3), 31.7(4)"b," 31.9, Filed ARC 4602A 2/2/94
Gifted and talented programs, 59.1(1), Filed ARC 4601A 2/2/94
Programs for students of limited English proficiency, ch 60 title, 60.1 to 60.6, Filed ARC 4594A 2/2/94

6.2 et al.;Ch 16; 22.6; No questions or recommendations on ARCs 4590A, 4592A, 4591A or 4593A.
23.1, 23.2

Ch 31 Collins advised that significant changes had been made from the Noticed version of Chapter 31 and she recalled lengthy discussion in detail in the past of these rules when they were originally Noticed. Metcalf asked Collins to elaborate on Items 4, 7, 12 and 13 that were withdrawn following Notice (published in IAB 10/27/93). Collins indicated that Item 4 was deleted because some home schoolers opposed licensed teachers administering the tests. Item 7 was eliminated because some home schoolers were asking for more than allowed by

EDUCATION
(Cont.)

Point 1 funding—even postsecondary enrollment options at Iowa City and Ames. The Department felt this Item went beyond the scope of the statute. Items 12 and 13 were withdrawn because the Board decided to publish a list of available tests rather than update the rules whenever tests were updated. Collins responded to Metcalf that there would be funding problems if every child availed themselves of postsecondary education. She added that in the Department's prefiled bill, they proposed raising it to .5 and placing a limitation on the number of opportunities available to a child.

Mary Syversen, a home-schooling parent, asked the Committee to object to Item 14, which added a comma to the sentence. It was her interpretation that more material would have to be submitted by a student using portfolio to track academic progress. Syversen quoted the statute regarding requirements in a portfolio and felt the rule exceeded the law. She explained that home schoolers were not using the base line test option because it was so regulated. She then referenced the private instruction report to be filled out by portfolio evaluators. Syversen felt that the evaluator was just carrying out the mandates of the Department and it was not an assessment of the student's progress by the evaluator.

Collins spoke of a basic misunderstanding of the function of rules as well as Syversen's interpretation of the statute. Collins offered background on placement of the comma in 31.7(4)"b." See minutes of November 9, 1992, page 5313. Collins responded to Doderer that without the comma, everything after the colon would be optional. With the comma, only the self-assessment is optional, which is what was intended.

Doderer questioned Syversen as to her opposition to self-assessments. She responded that the trend in education was to place the burden of proof of education on a child rather than the parent submitting what the child has accomplished during the year. She was opposed to asking very young children to assess their accomplishments and she contended this should not be part of a portfolio. Doderer reasoned that self-assessment at any age was good.

Kibbie was informed that this was the first year of annual assessment in the home-schooling process. He felt the process should have an opportunity to work and if excessive bureaucracy or regulation surfaces, the home-schoolers could ask for a special review at that time.

Metcalf brought to the Committee's attention that the portfolio was a compromise made when home schooling was highly debated a few years ago. She concurred with Kibbie and would not support an objection.

Doderer concurred with Metcalf and Kibbie.

Daggett had not heard from home schoolers in his area about the concerns brought up today. No formal action.

59.1(1); Ch 60

No recommendations on ARCs 4601A or 4594A.

With respect to the home school issue, Priebe suggested possible promulgation of a special rule for the special need child (handicapped, etc.).

**CAMPAIGN
FINANCE
Ch 11**

Kay Williams, Director, Iowa Ethics and Campaign Disclosures, and Lynette Donner, Assistant Attorney General, were present to review Chapter 11, Personal Financial Disclosure, a Noticed rule published in IAB 2/2/94 as ARC 4581A.

Williams stated that the adopted version of this rule will be changed substantially as a result of public hearing and comments.

Donner reported that the changes would affect the form used rather than the substance of the rule. With respect to 11.1(4) on income sources, there was discussion as to how this would affect a limited partnership.

Priebe commented on the lengthy list of state employees required to file with the Board and Williams responded that this was a statutory mandate. She added that it would have been less burdensome if legislation had said "department heads" rather than "significant discretionary authority."

Doderer asked for clarification in 11.1(2) with respect to candidate's filing date. Halvorson expressed concern about the volume of record keeping this rule would generate and also comments made by lobbyists. He suspected there was overreaction by the legislature. Halvorson reasoned that it was more important to have financial disclosure by the third house (lobbyists) than to know who had a \$1000 limited partnership. He declared the law should be rewritten.

Priebe suspected that soon every lobbyist would be a lawyer.

Williams explained that the executive branch personal disclosure forms differ from the legislative branch in that they ask for disclosure of gifts of over \$1000. This created a question of legislative authority but they felt it could be done by rule. Williams agreed with Halvorson that the real intent was not being attained.

Royce alluded to the advantage a lawyer would have because of lawyer-client privilege and its legal impact. He advised Doderer this was a common law practice but did not know if it was statutory.

Kibbie expressed concern that it would be difficult to find anyone willing to serve on boards of commissions. He opined that this legislation had some negative impact on candidates running for the legislature.

No Committee action.

**CORRECTIONS
40.5(10)**

Fred Scaletta gave a brief overview of 40.5(10), a Filed rule relating to pre-employment psychological and cognitive tests, background and criminal records checks, published in IAB 2/16/94 as ARC 4620A. No questions or recommendations.

**HUMAN
SERVICES**

Representatives of the Department included Mary Ann Walker, Sally Nadolsky, Kathy Ellithorpe, Gary Gesaman, Dee Conner, Lucinda Wonderlich, Elaine Monaghan and P. C. Keen. The following agenda was reviewed:

HUMAN SERVICES DEPARTMENT[441]

Medicaid reimbursement policy, 57.1, 75.8, 80.6, <u>Notice</u> ARC 4615A	2/16/94
Long-term care asset preservation, 75.5(5), <u>Notice</u> ARC 4574A	2/2/94
Increase in statewide average cost to private pay person for nursing care, 75.15(2)"b," <u>Notice</u> ARC 4616A	2/16/94
Time frames for completing automatic redetermination, 76.11, <u>Notice</u> ARC 4618A	2/16/94
Respite care, 77.30(5)"b," 77.34(5), 78.34(5)"c" and "d," 78.37(6)"c" and "d," 78.38(5)"c" and "d," 79.1(2), <u>Notice</u> ARC 4573A	2/2/94
Home health agencies, private duty nursing and personal care services for persons aged 20 and under, 78.9, 78.28(9), 79.1(2), <u>Filed</u> ARC 4577A	2/2/94
Ceiling rate for free-standing facilities for ventilator care, 79.1(9)"b," <u>Notice</u> ARC 4576A	2/2/94
Medically Needy reapplications and recertifications — face-to-face interview requirement, 86.3(5), <u>Notice</u> ARC 4619A	2/16/94
Debts due from transfers of assets, ch 89, <u>Filed</u> ARC 4578A	2/2/94
Licensing or approval of foster family home or adoptive home applicants with founded abuse report or criminal conviction, 108.8(1)"c"(13), 108.9(4)"d"(2)"2," <u>Filed</u> ARC 4579A	2/2/94
Family planning services, 173.1, 173.2(2), 173.4, <u>Filed</u> ARC 4580A	2/2/94

57.1, 75.89, 80.6 In review of ARC 4615A, Kibbie requested the Department to report on the costs involved and the Department agreed to comply.

75.5(5) Daggett was advised how an annuity would be considered by the Department when senior citizens enter a nursing home.

Halvorson asked if the Insurance Department had adopted the standards rule relating to this rulemaking. Jerry Wickersham, Insurance Division, referred him to Noticed ARC 4575A (Ch 72) under the Insurance agenda.

Keen responded to Halvorson that the dollar for dollar offset was the total potential insurance benefit.

Chs 75-79, 86.3(5) There were no questions or recommendations on the next six items on the agenda: ARCs 4616A, 4618A, 4573A, 4577A, 4576A and 4619A.

Ch 89 In discussing new Chapter 89, Debts Due From Transfers of Assets, Halvorson asked if the federal waiver on the asset transfer for Medicaid eligibility had been received. Walker advised that the Committee had been sent (through Royce) a handout outlining different types of transfer policies with a copy of the federal waiver attached. She informed Halvorson that the waiver was denied.

Chs 108; 173 No questions on the remainder of the agenda, ARCs 4579A or 4580A.

Priebe in the Chair.

PROMISE JOBS Priebe brought up the 12/17/93 objection placed on the PROMISE JOBS appeal
Objection to 7.5(8) rights, 441—7.5(8), and advised that this provision had been corrected.
lifted

Doderer asked unanimous consent to lift the objection. Clarification was made for Schrader that the objection was two-part but only 7.5(8) would be affected. So ordered.

Committee Business Hedge made reference to his concern on page 5593 of the 2/14/94 minutes relating to private day care rules and advised he had not received a reply.

Committee Business (Cont.) Doderer referred to page 5589 of the minutes and her concern with newspaper advertising and advised this had all been corrected. Every newspaper in the state had been notified.

Minutes Doderer moved that minutes of the February meeting be approved. Motion carried.

Metcalf in the Chair.

Supplemental Bulletin Metcalf brought up the supplemental agenda covering the March 2 Agenda. Royce advised that the following should be reviewed by the ARRC: General accreditation standards for the Department of Education, ARC 4628A; Wildlife habitat stamps under DNR (ARC 4639A) and endangered and threatened plant and animal species, (ARC 4642A). Kibbie requested input from Royce on the Filed rules on this agenda.

Barry requested that a tentative date be set for review of this Supplemental Agenda in order for her to publish it in the March 16 Bulletin.

A tentative date was set for March, 9 a.m.

Ombudsman Rules At the request of the Citizens Aide (Ombudsman), Barry requested Committee authorization under Iowa Code section 17A.6(1)"c" to include revised rules of the Ombudsman in the IAB. Iowa Code section 2C.9(5) exempts that office from the requirements of Code chapter 17A but mandates inclusion of their rules in the IAC. Cost was discussed and Metcalf asked for unanimous consent to authorize publication of the Ombudsman rules in the Bulletin. No objections. So ordered. [The rules will be published March 30, 1994.]

HISTORICAL DIVISION

David Crosson, Administrator, Cultural Affairs, was in attendance to review rules of the Historical Division relative to reorganization, filed as ARC 4612A.

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Amendments to reflect reorganization of the historical division of the department of cultural affairs; historic sites; collections committee; transfer of Terrace Hill Commission rules to department of general services, 1.2, 1.4(2), 1.5(1), 1.5(4), 1.5(6)"b" to "j," 1.6(2)"b," 1.6(5), 3.1, 3.2(2), 3.3(1), 4.10(2), 13.3, 13.4(1), 13.4(2)"a"(1), (6) and (10), 13.4(2)"d"(1) to (4), 13.5(1)"h" and "i," 13.5(2), 13.6(5)"a," 13.7(1)"a," 13.8(1), 13.8(1)"b" to "d," 13.8(2), 13.8(3), 14.1, 14.2, 14.5(8), 14.5(9), 15.6, 15.7(2), 21.2, 22.2, 23.3(1), 35.2, 35.3, 35.4(3), 35.5(1), 35.5(3), 35.5(4), 35.5(6), 35.5(7)"b," 35.6(1), 35.6(3), 35.6(4), 35.6(6)"b"(3), 35.6(6)"g"(6), 35.7, 35.7(1)"b"(1) and (5), 35.7(2)"b"(1) and (6), 35.7(3)"c"(1), (2) and (4) to (7), 35.7(3)"d"(1), 35.8(1), 35.8(4), 36.1, 36.2, 36.4, 36.6, 37.2, 37.4(5), 37.5(2), 37.6(1), 38.3, 38.4(1), 38.4(2), 38.5, ch 39 title, 39.1 to 39.3, 40.1 to 40.3, 41.3(1), 41.3(3) to 41.3(5), 41.4, 41.6, 41.7(4), 42.1 to 42.3, 43.2, 43.3, 47.1, 47.2, 47.3(1), 47.5(1), 47.5(2)"d," 47.5(3), 47.5(5), 49.2, 49.6(1)"b," transfer 223 — Chapters 55 to 57 to 401 — Chapters 14 to 16, Filed ARC 4612A 2/16/94

Crosson appreciated the amount of interest expressed in their Division and hoped it would continue when funding would be necessary for Library Archives and other areas. In summary, Crosson said these rules were an attempt to make operational the requirements in House File 2454 (Chapter 1220, 1992 Acts) and to ensure support and services to Iowans.

Crosson made reference to their five goals and objections contained in the lengthy packet distributed to the Committee which would reduce layers of management. He apologized for the emergency filing which had been rescinded. In response to Metcalf, Crosson indicated that delivery of service had been enhanced.

HISTORICAL DIV. (Cont.) Priebe found the rules to be very confusing in use of different administrative position titles. Crosson responded that some positions were federally defined. The titles of consulting architect and consulting historian were explained and Crosson was willing to work with Karen Baxter or others for clarifications.

Cross advised Daggett that a representative of the Iowa Library Association attended the hearing to express concern on the reorganization. This testimony is contained in their packet of material.

Kibbie had heard concerns relative to community programs and historic preservation. He took exception to Crosson's references in his letters to "cutbacks" but Crosson advised that increases went specifically to historic sites and the cuts were made in the library, historic preservation, state archives and education programs. Kibbie concluded that historic preservation was apparently a high priority.

George Lawson, representing the Iowa Library Association, introduced Ricardo Sauro, Association President, and Mandy Kirchner, representing the Metro Librarians' Group. Lawson spoke at the public hearing as well as to the Board and reiterated the Association's concerns that the Historical Division was returning to site-based management. Lawson maintained they were better served through the program-focused management structure. He added that the organizational structure recommended language was too loose and would preclude comments to future reorganization. Lawson found it disturbing to be informed by the Board that the organization of the Historical Society was outside the scope of their concern.

Crosson was pleased to report that a Library Users Council had been established with representation of the Iowa Library Association. He clarified that it was beyond the authority of the Board to make policy decisions. Metcalf encouraged the Library Association to continue to work with the legislature and the Division. No formal action.

PETROLEUM UST FUND BOARD The Board was represented by Bob Galbraith, AG Office and General Counsel, and Pat Round, Williams & Company, Interim Administration for the Fund program. The following agenda was reviewed:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]	
Reporting date for claims for remedial account benefits, 11.1(3)"1,"	Filed ARC 4603A 2/16/94
Remedial or insurance claims — tank and piping upgrades and replacements, 11.4, 11.4(1), 11.4(5) to 11.4(11),	
Filed ARC 4607A	2/16/94
Guaranteed loan program, 12.2(1)"c," 12.4(6), 12.10(6),	Filed ARC 4617A 2/16/94
Installers and inspectors, ch 15,	Notice ARC 4182A Terminated, also Notice ARC 4604A 2/16/94

11.1(3)"1" In review of ARC 4603A, Galbraith explained the extension of the deadline for filing remedial account benefits claims. He advised Metcalf that 20 claimants were affected and she expressed concern that the extension was two years. Galbraith stated that the Board took the position that changing the deadline was fairer than individual waivers. This extension should encompass all the additional claims up to February 26, 1994. Metcalf suggested that the Board alert the ARRC before such action in the future.

11.4 In review of amendments filed in ARC 4607A, Kibbie was advised that the revisions would comply with federal law but would not exceed it.

Ch 12; 15 No questions or recommendations on the remainder of the Board's agenda.

MEDICAL EXAMINERS

Ann Martino represented the Board of Medical Examiners for the following agenda:

MEDICAL EXAMINERS BOARD[653]	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Medical examiners, 10.1 to 10.3, <u>Notice</u> ARC 4586A	2/2/94
Allied health committee, licensure requirements, 10.3(5)"1"(6), 11.1(1)"b"(2)"3," <u>Filed</u> ARC 4569A	2/2/94
Licensure requirements, 11.1 to 11.5, renumber 11.5 to 11.8 as 11.6 to 11.9, amend 11.8, 11.31, 11.31(10), 11.31(14), 11.32(2), <u>Notice</u> ARC 4585A	2/2/94
HIV and hepatitis B prevention; disciplinary hearings — fees and costs, 12.4(29), 12.51, <u>Notice</u> ARC 4571A	2/2/94
Registration of acupuncturists, ch 14, <u>Filed</u> ARC 4570A	2/2/94

10.1 - 10.3 Martino gave a brief overview of amendments to Chapter 10. Metcalf commented on use of "care provider" rather than "technician."

Brief discussion of treatment by an acupuncturist.

10.3 et al. Doderer inquired if gender balance statutory requirements were followed in making appointments to committees. Martino did not think this requirement was applicable for informal committees but Doderer disagreed. Doderer referred to Royce for interpretation and he would report his findings.

Ch 11 No questions on ARC 4585A.

12.3, 12.51 Referring to 12.51(3)"d," Metcalf asked if fee amounts should be specified. Martino responded that these were uniform rules suggested by the AG office who advised against setting a maximum or minimum amount. This rule was intended to fulfill a statutory requirement.

Ch 14 Martino explained the new technique of acupuncture to the Committee. Metcalf noted changes in the education requirements and Martino explained this would fulfill requirements for NCAA certification of acupuncturists.

Doderer was advised that it would be difficult to determine the number of acupuncture practitioners in the state because the law does not require a physician, chiropractor, podiatrist or dentist to register. Martino indicated there were many referrals from other providers.

English language requirements were briefly discussed.

NATURAL RE-SOURCE COMM. 77.2, Indiana bat

Mike Carrier, DNR, and Michael Smith, Attorney General's Office, were present for the special review regarding protection requirements for the Indiana bat, 77.2. Metcalf informed the Committee that this review was generated by a memorandum from DOT to county engineers regarding highway projects and removal of trees that might contain an Indiana bat colony.

In providing background, Carrier said that this bat had been listed as a federally endangered species for approximately 20 years and almost that long in Iowa. The bats hibernate in caves and mines in southern Illinois, Kentucky and southern Indiana but the species has continued to decline. Summer range for this bat includes the southern four tiers of Iowa counties where they establish colonies in a variety of tree species. As the Department reviews applications for federal permits, environmental assessments, or applications for federal funding, they routinely alert these entities of the summer habitat of the Indiana bat. In reviewing recommendations of other states, the Department has provided more

DNR (Cont.)

concise guidelines as to what constitutes suitable habitat and increased the tree diameter to 11 inches before a survey for presence of bats would be needed. Carrier suspected that the guidelines were misinterpreted as being strict requirements by DNR. Carrier pointed out that the federal government could intercede but generally they mirror procedures followed by the state DNR. Carrier noted that the Department's goal was to assist other public bodies from unintentionally affecting a threatened or endangered species but enforcement action was not intended.

Smith indicated that he would advise DNR that these recommendations, as defined in Iowa Code §17A.2 would not potentially affect the legal rights of the public or any segment and were not binding. He reminded that the DNR's authority under the state Endangered Species Act was narrow. The only enforcement provision in this Act was a criminal misdemeanor prosecution. There was no civil enforcement authority. Smith opined that an enforcement issue regarding the bat would involve a federal agency. However, DNR recommendations could play a role in federal permitting or cost sharing of a highway project.

Brian Morrissey, Madison County Engineer, spoke on behalf of the Iowa State Association of Counties. He indicated they were scheduled to begin construction projects May 1 and he was concerned about restrictive recommendations—including "no cutting between May 1 and August 31. . . ." Another concern was spending local and secondary road funds for potential clearances, which would include a habitat survey by a consultant.

In summary, Morrissey requested that the ISAC and the County Engineers Association have input if a more exact directive were forthcoming.

Royce advised that rule making was not necessary because recommendation had no force of law. He suggested that all factions work together for options.

Carrier clarified that clearance requirements were only recommendations by the DNR made only when asked to comment on an application for a permit or federally funded project. The "no cut policy" described in the DNR memo would apply only when recommendations were followed.

Halvorson encouraged utilization of County Conservation Boards rather than outside consultants but cautioned against an undue burden on counties.

Carrier explained how a colony of bats would be detected. No Committee action.

DOT

The Transportation Department was represented by Nancy Burns, Terry Dillinger, Brenda Schuman, and Dennis Tree for the following agenda:

TRANSPORTATION DEPARTMENT[761]	
Recreational trails program — revocation of funding, 165.33(2), Notice ARC 4568A	2/2/94
Renewal of driver's license by mail, 605.26(2), Filed Emergency ARC 4572A	2/2/94
State transit assistance — determination of amount reserved for special projects, 920.5(5), Notice ARC 4609A	2/16/94
Federal transit assistance, 922.1, Filed ARC 4608A	2/16/94

165.33(2)

In review of proposed 165.33(2)—revocation of funding for recreational trails, Schrader was advised this was a housekeeping item and no pending projects would be affected by this change.

DOT (Cont.) Driver's license renewal by mail was before the Committee and discussion
605.26(2) focused briefly on requirement of a social security number.

920.5(5) Schuman gave a brief overview of ARC 4572 and provided Kibbie with examples of special projects.

922.1 No questions or recommendations on ARC 4608A.

Priebe in the Chair.

INSURANCE The Division was represented by Susan Voss, Rosanne Mead, Jerry Wickersham, and Dennis Britson for the following:

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Credit life and credit accident and health insurance, 28.7(1)"a" to "c," 28.8(1)"a," Notice ARC 4477A
Terminated ARC 4589A 2/2/94
Credit life and credit accident and health insurance — prima facie rates, 28.10(3),
Filed Emergency ARC 4588A 2/2/94
Long-term care asset preservation program, ch 72, Notice ARC 4575A 2/2/94

Ch 28 Voss provided background on the notice, termination and emergency rule making in ARCs 4589A and 4588A.

Ch 72 The proposed new Chapter 72, "Long-term Care Asset Preservation Program," was before the ARRC and Wickersham briefly apprised the members of changes that would be made as a result of public hearing and input. The Committee was assured they would receive a list of these changes.

Metcalf in the Chair.

REAL ESTATE Roger Hansen and Marie Thayer represented the Commission for the following:

REAL ESTATE COMMISSION[193E]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Business conduct — seller property condition disclosure statement, release of earnest money, listings,
1.23, 1.27(7), 1.39, Notice ARC 4611A 2/16/94

1.23, 1.27, 1.39 Hansen explained the proposed amendments regarding seller property condition disclosure statement.

Responding to Metcalf, Hansen said that currently, written property disclosure by the seller was not required. He cited case law that governs the transaction. A disclosure statement had been used voluntarily for approximately 1 1/2 years.

Priebe questioned the requirement for a listing broker to maintain complete disclosure for five years. Hansen advised that this ties in with the requirement that all items and documents with a transaction be retained in a broker's record for five years.

**REAL ESTATE
(Cont.)**

Halvorson asked how brokers would be informed that an entire real estate transaction could be voided if a copy had not been delivered to a buyer. Hansen hoped this would be accomplished through a mass mailing or newsletter item. Halvorson felt this was an important aspect. Hansen added that the Bar Association would be informing lawyers as well.

Kibbie commented on the large number of items listed under minimum disclosure statement contents (1.39(6)). Hansen emphasized that disclosure does not relieve the seller from liabilities for providing false information.

**INSPECTIONS &
APPEALS**

Nancy Ruzcka, Inspections and Appeals Department, reviewed amendments to Chapter 51, Hospitals, Noticed in IAB 2/2/94 as ARC 4584A. There were no questions.

NO REPS

No agency representative requested to appeal for the following:

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

NCARB publication dates, record of training experience, description of seal, self-study course, sales of goods and services, petition for rule making and for declaratory ruling, 2.2(1), 2.2(2), 3.1(3)"g," 4.1(6)"b," chs 7, 8,

Filed ARC 4600A 2/2/94

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Special licenses — dental hygiene programs, 13.1(4), 13.2, 13.2(1), 13.2(2), 13.2(5), Filed ARC 4605A 2/16/94

Discipline — civil penalty, 30.2"9," 30.4, Filed ARC 4606A 2/16/94

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Energy bank program, ch 6, Filed ARC 4595A 2/2/94

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physical therapy and physical therapist assistant examinations, 200.2(3), 202.2(3), Filed ARC 4614A 2/16/94

Physician assistants — HIV and hepatitis B virus, 325.10(3)"x," Notice ARC 4613A 2/16/94

PUBLIC HEALTH DEPARTMENT[641]

WIC program, 73.2, 73.5(5) to 73.5(7), 73.7(2)"c," 73.7(4)"a"(3) and (4), 73.7(4)"b"(2), 73.8(2)"a,"

73.8(3), 73.15, 73.22, Filed ARC 4596A 2/2/94

Local substitute medical decision-making boards, 85.3(5), 85.5, 85.6(2), 85.11, Filed ARC 4597A 2/2/94

Volunteer physician program, ch 88, Notice ARC 4282A Terminated, also Notice ARC 4587A 2/2/94

Basic emergency medical care, 131.1, 131.4(3)"c," 131.4(6), 131.4(9)"d," 131.7(1)"n" and "o," 131.7(2) to

131.7(4), 131.9, 131.9(2), 131.9(4), 131.10(1) to 131.10(3), 131.10(8), 131.10(12), Filed ARC 4598A .. 2/2/94

Advanced emergency medical care, 132.1, 132.2(2)"b"(1), 132.2(5), 132.2(6),

132.4(1) "a," "b," "d," "f" to "h," and "k," 132.4(2), 132.4(3)"c," "d"(3), and "f," 132.4(4)"b,"

132.4(5)"a," 132.4(6), 132.4(8), 132.4(9), 132.4(9)"a," "d," and "f," 132.4(10), 132.5(1)"a,"

132.5(2), 132.5(7), 132.5(11)"a," "d" to "g," and "i," 132.6(2), 132.6(3), 132.8(1)"d" and "k,"

132.8(4)"a" to "j," 132.8(9), 132.8(10), 132.10(15), 132.11 to 132.13, Filed ARC 4599A 2/2/94

(For text, see IAB 10/13/93, ARC 4353A, page 893)

SECRETARY OF STATE[721]

Alternative voting systems — printing of optical scan ballots, 22.53(2), 22.53(6)"e," Notice ARC 4610A 2/16/94

Next meeting A special meeting was tentatively scheduled for 9 a.m. Monday, March 21. Members were encouraged to review the March 2 Bulletin for rules which should be included on the agenda.

Adjournment Upon motion by Priebe, Metcalf adjourned the meeting at 10 a.m.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Mary Ann Scott

APPROVED:


Representative Janet Metcalf