

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, November 11 and 12, 1986, in Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present Senator Berl E. Priebe, Chairman; Representative James D. O'Kane, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives Edward G. Parker and Betty Jean Clark. Staff present: Joseph Royce, Committee Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened Chairman Priebe convened the meeting at 10:05 a.m. He announced changes in the Wednesday agenda; Iowa Finance Authority, changed from 9:45 a.m. to 2 p.m.; Board of Regents, from 2 p.m. to 1 p.m.; and the Board of Medical Examiners, moved to the "no agency representative" category.

BOARD OF NURSING Ann Mowery, Lorinda Inman, and Pamela Triolo were present for review of:

License to practice—RN/LPN, 3.1(6)*d,* 3.2(1), 3.3(1)*b* ARC 7026 F. 10/8/86
Advanced registered nurse practitioners requirements, 7.2(5)*b*(2), 7.2(7) ARC 7029 N. 10/22/86
~~Nurse Education, ARC 6722 Special 8/13/86~~

3.1(6)d et al In re 3.1(6)d et al, Mowery pointed out that fees for license certification were reduced from \$30 to \$12 to be more commensurate with other states. The Board has heard numerous complaints about the higher fee. Mowery advised Doyle that the Board had decided against allowing payment of fees by personal checks and few complaints were received.
7.2 No recommendations offered for 7.2.

Special Review Nurse Education Mowery reported on the public hearing held September 17 on proposed nurse education rules. Of the eighty-seven who spoke at the hearing, all but nine favored the rules. Opponents were faculty and program heads. Written responses indicated that 404 out of 421 favor the rules. After considering the comments, the Board modified the rules--educational requirements were separated and decision was made to work with community colleges in an attempt to seek vehicle to upgrade faculty credentials. O'Kane and Priebe had received negative comments on the rules. Mowery indicated that every effort would be made to reach a compromise. Tieden spoke in support of the process being followed. No action taken.

ECONOMIC DEVELOPMENT Cynthia Lidgett, Roselyn McKee Wazny, and Jude Conway were present for the following agenda:

Regional economic development coordination plans, ch 11 ARC 7016 F. 10/8/86
Community development block grant nonentitlement program, ch 23, also rescinds 630—ch 23 ARC 7025 N. 10/8/86

ECONOMIC DEVELOPMENT
Continued

Lidgett, Administrator, Division of Community Progress, reported that a draft of chapter 11 was sent to each of the fifteen regional coordinating councils who support the plan. No one attended the September 2 public hearing.

Priebe was informed that proxy votes were allowed and that a majority of the total Committee plus one would be required to pass an issue. Although applications are not due until July 1987, Lidgett was hopeful they would be in by November.

ch 23

In reviewing chapter 23, Conway said the Economic Development Board was apprised of comments received at two public hearings. He briefed the ARRC with respect to the changes which will be made in the final rules, e.g., the imminent threat program will be kept but funded at a lower level. The plan is to return to the \$200,000 cap for cities under 500 population. The cap above that is \$300,000 for communities between 1000 and 2500 population; 2500 to 15,000--\$450,000. Priebe was informed that sewer construction could be funded under the program but application deadline is December 23.

In response to O'Kane, Conway said that use of community-wide points would be continued since opponents and proponents were evenly divided.

Brief discussion of process to figure unemployment rates and O'Kane took the position that the focus should be on communities where need is the greatest. Conway agreed to provide Priebe with copies of the forms to be used.

Tieden and Conway discussed the philosophy behind multi-year funding.

SHEEP & WOOL PROMOTION BOARD

Mark Truesdell, attorney, represented the Board for the following:

Organization and purpose, rules of practice, election of members, assessment on sheep and wool sales, chs 1 to 4 ARC 7061, also filed emergency ARC 7060..... M.F.F.E 10/22/86

Truesdell discussed legislation which created the Board and the March 1986 referendum which provided for a checkoff of 10 cents per head on animals sold for slaughter by a producer and two cents per pound of wool produced and marketed by a producer.

1.1

Priebe recommended that 741--1.1(182) be modified by inserting a period after "action" in the third line and deleting the words "whether or not all members eligible to vote are present at the meeting in question".

Doyle had received complaints from Pork Producers about the polls being closed at 4:30 p.m. According to Truesdell, the elections and referendums are held with cooperation of the County Extension Service and, normally, are conducted at an extension office. Truesdell agreed

SHEEP &
WOOL
PROMOTION
BOARD

to convey the concerns of Doyle. He was confident the problem could be resolved. Priebe referred to 3.2(5) and saw no need to wait seven days for election results. Truesdell said the elections would be held in April and an attempt would be made to shorten the time for certifying results.

Doyle observed use of an individual's name in an address throughout the rules. He suggested provision of a post-office box. Truesdell pointed out that a Board office had not been established as yet but he would present Doyle's concern to the Board. Doyle noted that the address in 4.4(1) was incomplete.

BEEF
INDUSTRY
COUNCIL

The following amendments were also presented by Truesdell:

Composition, election of members, suspension of excise tax, 1.1, 3.4, ch 4 ARC 7019, also filed
emergency, ARC 7018.....FE 10/8/86

Truesdell discussed the state and federal beef checkoff programs and no questions were raised.

Commodity
Groups

Chairman Priebe recognized Barry who sought guidance with respect to placement of rules of various commodity groups in the IAC. Her recommendation was to arrange the groups alphabetically under a tab heading "Commodity Groups." The Committee and agriculture officials present concurred.

AGRICUL-
TURE &
LAND
STEWARD-
SHIP

Bette Duncan and Chuck Eckermann appeared for the Iowa Department of Agriculture and Land Stewardship for the following:

On-site containment of pesticides, ch 9 ARC 7020.....F 10/8/86

Also present: Sheila Lang, Manager, Environmental Affairs, Terra International, Inc.

According to Duncan, the rules had received favorable comments. Failure of the Department to provide for on-site containment of fertilizers and soil conditioners brought adverse remarks. Duncan pointed out a change in 9.10(2) was intended to clarify that no pesticide rinseates or wash water shall be disposed of through sanitary sewer systems.

Lang addressed the Committee concerning the rules. She had attended the July hearing and testified against portions of the rules, in particular 9.3 and 9.7. Terra International owns and operates seventeen retail and pesticide sales locations in Iowa. Lang contended the rules would restrict the method by which industry can protect the environment. She distributed copies of her written statement and displayed snapshots to support her argument that pre-engineered and pre-packaged containment methods are common and proven to be effective in industry. She asked for flexibility to include those methods. Duncan asked for an opportunity to review Lang's comments with Department officials and other industry representatives.

AGRICULTURE O'Kane moved to delay rules 9.3 and 9.7 for 70 days
 Motion to to allow more time for study. Motion carried.
 Delay Parker out of the room and not voting.

VETERINARY Dr. M. H. Lang, State Veterinarian, explained proposed
 MEDICINE revision of rule 2.2(169)--fee schedule--relative to
 BOARD licensure, IAB 10-22-86, ARC 7036. No committee
 recommendations.

Recessed Chairman Priebe recessed the meeting at 11:45 a.m.
 Reconvened and reconvened it at 1:35 p.m.

HUMAN The following Human Services Department rules were
 SERVICES reviewed by Mary Ann Walker, Lorena Griffith, Linda
 DEPARTMENT Foster, Dan McKeever, Don Bice, Kathleen Kellen,
 Vivian Thompson, Darlene Clark, and C. S. Ballinger:

- Interim assistance reimbursement, 57.1 ARC 7031 F. 10/22/86
- Food stamp program, administration of, 65.3, 65.8(4), 65.18, 65.19(20) ARC 7032 F. 10/22/86
- Skilled nursing homes, intermediate care facilities, intermediate care facilities for mentally retarded, case activity report, 78.12(18), 81.1(10), 81.5(2), 81.6(11)"j," 82.10(2) ARC 7034 F. 10/22/86
- Confidentiality and records, ADC, release of information, 9.1(5), 9.6, 40.7(4)"c" ARC 7008 N. 10/8/86
- ADC, application for aid, 40.1, 40.7(4)"f," portion of notice ARC 6462 terminated, ARC 7051 N.T. 10/22/86
- ADC, granting assistance, 41.5(6)"c," 41.6(8)"b," 41.7(1), 41.7(6)"o," 41.7(7)"i" ARC 7009 N. 10/8/86
- ADC, granting assistance, resources, 41.6(3) ARC 6999 N. 10/8/86
- Food stamp program, administration, 65.3, filed emergency ARC 7035 N+FE 10/22/86
- Food stamp program, monthly reporting, retrospective budgeting, 65.10, 65.19(6)"b" and "d," filed emergency after notice ARC 7033 FEAN 10/22/86
- Food stamp program, households monthly reporting, 65.19(6)"c"(4) ARC 7010 N. 10/8/86
- Intermediate care facilities, intermediate care facilities for mentally retarded, name change in chs 81 and 82, 81.1, 81.6(11)"h"(4), 81.9(1)"a," 81.10(4)"d," 81.10(5), 81.11(1), 81.13(1)"a," "b," "c," "f," "g," "j," "k"(2), 81.13(2), 81.13(2)"f" and (1), 81.13(4)"a"(2), 81.13(7)"a," "b," "f," 81.13(7)"i"(1)and(4), "k"(1) and (2), "l," 81.13(9)"l," 81.13(25)"a," 81.13(28), 81.14(2)"a," "b" and "f," 82.1, 82.2, 82.2(2)"e" and "f," 82.2(3)"a," 82.2(26)"e"(4), 82.3, 82.4, 82.5(11)"e"(4), 82.9(3), 82.9(3)"d" and "e," 82.13(1)"a," 82.17(2)"a," "b," and "c" ARC 7052 N. 10/22/86
- Intermediate care facilities for the mentally retarded, 82.3(1)"i," 82.14(1), 82.14(2) ARC 7000 N. 10/8/86
- Purchase of service, 150.1, 150.2(1), 150.10, notice ARC 6409 terminated, ARC 7001 N.T. 10/8/86
- Purchase of service, written approval, 150.3(5)"m"(3), 150.3(11) ARC 7030 N. 10/22/86

O'Kane in the Chair. Walker briefed the Committee with respect to 57.1 which was generated at the request of Worth County.

ch 65 After brief explanation of amendments to the food stamp program by Walker, O'Kane commented on the continuous changes in the program. Walker spoke of frustrations of the Department and added the federal government is presently trying to clear up areas that have been pending. No recommendations re 78.12 et al.

9.1(5) In re 9.1(5), Walker reported that agencies had not been notified of the new forms and Tieden was told there had been no comments on the subrules.

40.1, 40.7 No questions re 40.1 and 40.7. The Committee was interested in "income made available" in 41.5(6)c and Walker explained that the alien could receive money directly or their telephone, utility bills, or rent could be paid by a benefactor. The Department considers the latter as unearned income in-kind and it will be exempted. O'Kane viewed this as creating a "big loophole." Walker admitted there had been mixed feelings about the area. There are definite advantages for clients having relatives who can help. McKeever agreed that a loophole had always existed but saved money in federal sanctions.

HUMAN SERVICES Continued

Discussion of homestead definition in 41.6(3) with Griffith pointing out that it was taken from the Code. There is no federal definition.

65.3

In discussion of rule 65.3, Doyle and O'Kane raised questions concerning the \$700,000 penalty imposed against Iowa by the Federal Government. Walker explained that the charge was based on types of errors-- an error rating is determined after a one-year study. Foster interjected client errors as well as agency errors are considered. She estimated the percentage factor as 4 and 5 per cent. No recommendations for 65.10 et al.

chs 81 & 82

Walker stated that amendments to chapters 81 and 82 were basically "clean up." Amendments to 82.3(1) i and 82.14(1), (2) reflect the fact that eligibility for ICFMRs is not based on availability of county funding.

ch 150

According to Walker, proposed amendment to purchase of service rules had generated much comment following the March Notice. The Department lacked sufficient staff time to resolve the problems and adopt rules within the statutory time frame. That Notice was terminated. Walker explained that 150.3(11) was promulgated to provide for a voluntary prospective payment system family services. However, no agencies chose to implement this project and the subrule is being rescinded.

EMPLOYMENT SERVICES DEPT.

Joseph Bervid and Paul Moran discussed the following and no recommendations were offered:

Petitions for rulemaking, declaratory rulings, chs 3 and 4 ARC 7048, also filed emergency ARC 7047 ~~N.F.E.~~ 10/22/86

Job Services Division

The agenda for Job Service Division was before the Committee as follows:

Claims and benefits, appeals procedure, amendments to ch 4, 6.5, 6.8 ARC 7050, filed emergency ARC 7049 ~~F.E.~~ 10/22/86

Royce suggested that the Department review uniform rules published in the first volume of the Iowa Administrative Code. No action taken.

INSPECTIONS & APPEALS

Kim Schmidt briefly reviewed the following:

Administration, petitions for rulemaking, declaratory rulings, contested case hearings, investigations and hearings relating to professional licensure, Medicaid provider audits, investigations, chs 1 to 7 ARC 7024 ~~N.~~ 10/8/86
Rescinds certain administrative rules relating to activities conducted by department of public health (ARC 6750, 1.1B 7/16/86), filed emergency ARC 7022 ~~F.E.~~ 10/8/86

5.7(2)

Responding to Doyle's question re 5.7(2), Schmidt said that, due to the volume of decisions being issued, the agency frequently adopts the decision of the hearing officer for convenience. No other comments. Priebe resumed the Chair.

PERSONNEL DEPARTMENT

Clinton P. Davis, Carol Swanson, and David Lundquist appeared on behalf of the Personnel Department to review

Affirmative action, ch 20, 240--ch 20 rescinded ARC 7015 ~~F.~~ 10/8/86
Revisions to reflect changes due to reorganization, chs 1 to 3, 4.1 to 4.6, 4.8, 4.11, 4.13 to 4.15, 5.1, 5.2(4), 5.5(4), 5.5(11), 5.6, 5.9, 6.1, 6.4, 6.5, 7.2, 7.3, 7.3(1), 7.6, chs 8 to 10, 11.1(1), 11.2, 11.3(1)"e" and "d," 11.3(2)"b" to "e," 11.3(3) to 11.3(7), chs 12 to 19 ~~F.~~ 11/5/86

PERSONNEL
DEPARTMENT

Also present: Edward Moses, IPMSSE

Davis said the rules of the system had been rewritten to implement provisions of SF 2175 as it pertains to changing from Merit System to a Personnel Department to cover all positions in the Executive Branch. Davis reviewed the changes made since the Notice, and he thanked ARRC for considering the rules one month early.

O'Kane inquired as to why definition of "eligible list" had been deleted and Davis responded that it was superfluous since Chapter 6 of their rules addresses eligible lists. O'Kane asked about 8.6(19A) and Davis stated that a person must have attained permanent status in order to be eligible for employment. He cited Code section 19A.9 as their broad authority for rulemaking on reinstatement. Previously, reinstatement was limited to the job classification held. The new rule expands it to a job for which the individual meets minimum qualifications.

- 19.2 Doyle observed the brevity of the rule on declaratory rulings--19.2--and he noted there was no provision for refusal to give a ruling. Davis said their intent was to use the uniform language. He added that their experience with requests for declaratory rulings was extremely limited and he knew of no instance when a ruling had been refused.
- 1.1 Doyle discussed his concern over the definition of "confidential employee" in 1.1. Davis explained that intent was for equal application for department heads across state government whether appointed or elected, the exceptions include the Auditor and the Attorney General. Statutory exemptions were reviewed and Royce mentioned the fact that the Treasurer, AG, and Auditor have exemptions for professional employees in the Department. He referred to SF 2175, which retained the words "confidential employee." [§205, subsection 16] Although the Department had no guidance on the subject, they felt the rule was compatible with legislative intent. To support that conclusion, Davis pointed out the omission of very specific language with respect to elected officials. He concurred with Royce with respect to professional employees supervised by certain elected officials. However, there is no specific reference to secretaries in the new law. Davis recalled Representative Doderer's position for Merit System support of secretarial staff to a greater extent than previously.
- Motion to Object Doyle moved that the ARRC object to the definition of "confidential employee" as being inconsistent with the law.

PERSONNEL The following was drafted by Royce:
DEPARTMENT

At its November meeting the administrative rules review committee voted to object to that portion of 581 IAC 1.1 which relates to the definition of a confidential employee. It is the opinion of the committee this definition is unreasonable in that it overly restricts the availability of confidential secretaries. These subrules appear as part of ARC 7103 and are published in IX IAB 10 (11-5-86).

This rule in pertinent part provides a confidential employee is the secretary of an elected official. All other secretaries are not defined as confidential and are protected by the merit provisions of Chapter 19A, Iowa Code. In the committee's opinion this definition is too narrow and should be broadened to include the secretary of the deputy official and the secretaries of the division heads.

The authority for this rule is found in Senate File 2175, section 205, which re-defined the exemptions from the merit system. Part of this re-definition included the elimination of the following language:

"3. Three principal assistants or deputies for each elective official and one stenographer or secretary for each elective official and each principal assistant or deputy thereof, also all supervisory employees and their confidential assistants."

While this specific exemption was deleted from Chapter 19A, S.F. 2175 added a generic exclusion for "all confidential employees". The committee believes that the deletion of

section 19A.3(3) did not mean that all division level or higher secretaries were to be covered by merit. The committee believes that the re-write of section 19A.3 was intended to reduce the number of automatic exemptions (from twenty-four to seventeen) and to vest in the Personnel Department authority to create exemptions as needed in particular situations.

The committee feels that deputy and division level secretaries are within those "particular situations" where the department should provide an exemption by rule. Agencies headed by elected officials are unique. The management of those agencies is based on agenda developed by a political as well as administrative process. The highest level managers and their immediate staff should be directly accountable to the official who campaigned on that agenda and they should be expected to have some loyalty for that agenda.

Tieden opposed the motion contending it would be an attempt to legislate language which was not the prerogative of this Committee. Parker viewed it to be strange that only certain departments would be covered. Discussion of possible referral to legislative committees. Doyle thought the objection should be brought to the attention of the Legislative Oversight Committee and appropriate committees of the House and Senate in 1987. No further discussion. The Doyle motion carried; Tieden voted "no."

Vote

Priebe was not critical of the Department but pointed out the problem of an elected official having to retain an opponent's secretary. No other discussion.

PERSONNEL Chairman Priebe recognized Moses who reiterated his
DEPARTMENT opposition to the fact that Personnel had adopted
Concluded policies which actually rewrite the laws. He referred ranking of promotional lists, for example. Davis responded that the ARRC had asked Royce and Burnett to study Moses' concerns and pointed out that this rulemaking did not address them. He would defer to their conclusions.

Royce commented that the problem was whether there was a difference in terms of treatment of the law between a promotion and an initial hiring. This is addressed in two different sections of the Personnel Act. O'Kane's perception of SF 2175 was that "it is a little more chief oriented" and he had no problems with that.

TRANSPOR- Roger Bierbaum and Larry Jesse represented DOT for the
TATION following:
DEPARTMENT

Lighting, (06.K) ch 4	ARC 7007	N.	10/8/86
Bikeways and walkways, (06.A) ch 2, rescinds (06.P) ch 4	ARC 6995	N.	10/8/86

06,K, ch4 Bierbaum advised ARRC that the proposal involved lighting of primary secondary intersections and destination lighting. He distributed a proposed amendment to the rule and Priebe had problems with it because of costs.

Clark reviewed the situation at Highway 65, primary road, and B60, secondary (minor) road. General discussion. Tieden was told that DOT is responsible for traffic counts. There was discussion re study being conducted as to safety on interstates after certain lights were turned off two years ago. Bierbaum indicated that long-range plans were being made for I-235 and I-29.

06,A, ch 2 Jesse gave brief overview of chapter 2 [06,A] which will allow motorized vehicles and carts or similar vehicles for handicapped to be used on the bikeways and walkways.

ARRC It was decided that notices would be sent to those who
Agenda are receiving ARRC agendas asking for verification to remain on the mailing list.

Recessed Chairman Priebe recessed the meeting at 4:25 p.m.

Reconvened Chairman Priebe reconvened the meeting at 9 a.m.,
Wednesday Wednesday, November 12, 1986, Senate Committee Room 24.
Member not present: O'Kane.

Committee There was brief discussion of proposed Committee rules
Rules of of procedure and decision was made to defer further
Procedure discussion.

Special Mark A. Peitzman, Executive Assistant, and Sandy Dixon,
Review CE consultant, appeared for special review--rules for
LIBRARY library certification.

LIBRARY
Continued

Royce asked if rules were being developed re accreditation process for libraries, certification of libraries, and was interested in the time frame. Peitzman replied that a proposal had been drafted prior to reorganization, and he would contact Royce when it was available.

BOARD OF
REGENTS

Gary Nichols presented the Iowa guaranteed student loan program, chapter 10, ARC 7070, filed, IAB 10-22-86 and noted that the rules were unchanged from the Notice. Also, public comment had been received.

Doyle recalled that the words "in collecting" were to have been added after "due diligence" in 10.69. Since "due diligence" is so narrowly defined as being the collector, Nichols said the Commission decided against any change.

TREASURER
OF STATE

Mike Tramontina and Karl C. Koch explained the following and no recommendations were offered:

Disclosure of information regarding open-end credit cards and financial services, ch 5 ARC 6998 F. 10/8/86

NATURAL
RESOURCES
Energy
Bureau

Roya Stanley, Diane Storms, and David Perret represented the Bureau for the following:

State energy conservation program and energy extension service, ch 18 ARC 6996 F. 10/8/86
Energy management program for school districts and merged area schools, ch 6 ARC 7071..... N. 10/22/86

Stanley cited examples of state energy programs--audits on automobiles in selected communities and targeted at fleet operators, Iowa's Ideal Homes, energy extension service 800 hot line.

Stanley said that chapter 6 addresses energy management for schools with funding by oil overcharge money. Tieden was told that gifts had not been received.

BLIND
COMMISSION

Available services, 2.4, ARC 7027, Notice, were reviewed by Catherine Ford--the practice of the last 25 years is documented in terms of the basis for providing transcription of print material into alternative media.

Royce, on behalf of O'Kane, asked for a progress report with respect to a Vietnam veteran's request for transcription of 130 plus books. Ford replied that nine of 133 had been transcribed. The Commission continues to recruit volunteer readers.

COMMERCE
DEPT.
Insurance
Division

Fred Haskins and Sharon Henry appeared for the following:

Regulation of insurers--examination for admission, financial information, 5.2, 5.3 ARC 7068 F. 10/22/86
Administrative hearings of contested cases, 3.1 to 3.17 ARC 7064..... N. 10/22/86
Life insurance policies, 30.2, 30.5 to 30.7 ARC 7065 N. 10/22/86
Life insurance companies--variable annuities contracts, 31.4(4), 31.4(6), filed emergency ARC 7038 F.E. 10/22/86
Individual accident and health--minimum standards, 36.4(2)*b*(4) ARC 7039 N. 10/22/86
Health maintenance organizations, 40.4, 40.10(2), 40.11, 40.12(2), 40.12(3), 40.12(7), 40.15 to 40.18 ARC 7066 N. 10/22/86
Gender-blended minimum nonforfeiture standards for life insurance, 42.3 ARC 7067..... N. 10/22/86

Tieden in the Chair.

Insurance Discussion on new rules 5.2 and 5.3. Under 3.1 to
 Division 3.17, procedures for administrative hearings and
 contested case hearings were expanded. It was the
 Division's position that there was need for definite
 parameters to give more latitude to hearing officers.

3.9(1) It was pointed out that allowance in 3.9(1) was low
 in view of the fact that the state rate is 21 cents
 per mile.

3.2 It was Doyle's opinion that addition of "of the Depart-
 ment of Commerce." in definitions--3.2--would prevent
 confusion.

According to Henry, filing requirements--30.2 et al--
 have been added for life insurance to coordinate with
 other policies. She continued that the cover page
 will provide necessary information. Parker preferred
 the cover letter information remain as a department
 policy, not a rule. Henry indicated that it was seldom
 controversial in life insurance. Haskins commented that
 the Commissioner supported the rule. Further, chapter
 17A seemed to direct it.

30.6 In re 30.6, Doyle questioned backdating and Henry assured
 him it was a common practice in the sale of life insur-
 ance. Priebe resumed the Chair.

No questions re 31.4(4) and 31.4(6). Henry explained
 that the Division was aware of VA hospitals charging
 veterans for nonmilitary related services. Amendment
 to 36.4(2)b(4) will limit the exclusion for VA benefits.
 Division has received no comment on the proposal. Doyle
 wondered if a similar problem existed with auto insurance
 for veterans. Haskins admitted it was possible--authority
 for regulations addresses individual Accident and Health
 Insurance--however, there are statutory limitations.

40.4 With respect to 40.4 et al, Haskins said HMOs had pro-
 liferated in the last two years and "virtually anyone
 can start one." He viewed this as financially unsound.
 Haskins continued that many requirements are left to
 rulemaking. He discussed the \$100,000 minimum deposit
 as being "ridiculously low." The public hearing is
 scheduled for November 25.

Doyle was informed that the Insurance Division would
 not be involved in the Human Services contracts for
 HMOs. Tieden's constituent had expressed concern for
 the \$100,000 reserve. Haskins reported that the es-
 tablished HMOs had not been critical of the rule.
 No questions.

HEALTH
 DATA
 COMMISSION

The Commission was represented by Mary McGee and Pierce
 Wilson for the following:

11-12-86

HEALTH
DATA

Data accessibility and confidentiality, 7.1 to 7.6 ARC 7002F. 10/8/86
Organization and operation, definitions, 1.2 to 1.4, 5.1, 7.1 ARC 7056N. 10/22/86

Continued

Brief overview of the changes made since the Notice. No questions re 1.2 to 1.4, 5.1 and 7.1.

SUBSTANCE
ABUSE
Division

Substance Abuse Division was represented by Janet Zwick. The agenda follows.

Licensure standards for correctional facilities, ch 6 ARC 7054, also filed emergency ARC 7053N+FE 10/22/86

Also present: Fred Scaletta, Department of Corrections.

Zwick advised that the standards were a result of a year's work by the Task Force. Royce observed that the Division had adopted federal regulations for treatment of patient--6.3(4). Zwick spoke of this approach as being more open since inmates as well as patients are involved. In a substance abuse treatment program, federal regulations prevail if they are more stringent than the state's requirements. There was general discussion as to exchange of information among the parole board, community corrections, as well as the institution.

Royce had been contacted by the Freedom of Information Council, a consortium of newspapers, seeking access to this information as they have for prison inmates. The consortium believes they are entitled to the information. Scaletta said the Corrections Department's confidentiality law is very strict but pointed out that some inmate file information is public. Criminal record can only be listed by court order and it can be shared with other pertinent agencies for professional reasons. Royce wondered if they were being more restrictive here, but Scaletta was confident their policy would comply with federal regulations.

Zwick added that the federal regulations prohibit release of substance abuse treatment information. Scaletta said Corrections would need information from Substance Abuse as to which documents and types of information were confidential and which were public--that should be incorporated into policy. No action.

REAL
ESTATE
COMMISSION

K. Marie Thayer and Kenneth Smith were present for review of brokers and salespersons, closing transactions, 1.28, ARC 7003, Filed, IAB 10-8-86. No Committee recommendations.

Recess

Chairman Priebe recessed the Committee for lunch at 11:38 a.m. and reconvened it at 1:12 p.m.

REVENUE &
FINANCE

Carl Castelda, Deputy, briefed the Committee with respect to the following agenda:

Sales tax--people responsible for payment, 12.14 to 12.17, 15.3(2)"a" ARC 7058F. 10/22/86
Individual income tax--filing return and payment of tax, determination of net income, amendments to computed tax, assessments and refunds, 39.6(2)"a," 39.6(2)"f," 39.8, 40.27 to 40.30, 42.2(3)"a" to "c," 42.2(4), 43.4(2)"b" ARC 7059F. 10/22/86
Interest, 10.2(6) ARC 7057N. 10/22/86

Also present for the Department: Clair Cramer, Supervisor of Policy Section.

REVENUE &
FINANCE
DEPARTMENT

Also present: Robert Andersen, Iowa Sportsmen Federation.

No questions re 12.14 to 12.17, 15.3(2)a, 39.6(2) et al, or 10.2(6).

LAW
ENFORCE-
MENT
ACADEMY

B. R. Yarrington, Director, and William J. Callaghan, Counsel, appeared on behalf of the Law Enforcement Academy for the following:

Definitions, minimum standards, construction, i.1. 2.2. 2.2(8)"b," 2.2(9) ARC 7045.....*N* 10/22/86
Minimum standards, personality tests, 2.2(5)"a" ARC 7046.....*N* 10/22/86

No questions re 1.1 et al which were amended at the recommendation of the ARRC. Yarrington stated that 2.2(5)a was added primarily as a result of suggestion by the Iowa Psychological Association. No questions.

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Susan Osmann, Cheryl Brinkman, Marilyn Holland, Ronald D. Eckoff, Joyce Borgmeyer, John A. Eure and Donald Flater represented the Department for the following:

Medical examiners, examinations, 135.102(6) ARC 7037.....*F* 10/22/86
Name and address change, appeal procedures, amendments to chs 9, 56 to 59, 63, 64, 73, 74, 80, 111, 132 and 173,
filed emergency ARC 7023.....*FE* 10/8/86
Radiation machines and radioactive materials, 38.13(5), 38.18, 39.94, 40.24, 41.7, ch 42 ARC 6997.....*N* 10/8/86
Intermediate care facilities, skilled nursing facilities, intermediate care facilities for mentally retarded,
dietitians, 58.24(2)"d," 59.29(2)"d," 64.32(2)"d" ARC 7055.....*N* 10/22/86
Statewide indigent obstetrical patient care program, ch 75 ARC 7005, also filed emergency ARC 7004.....*N & FE* 10/8/86
Dietetic examiners, licensure requirements, 162.4(1)"a" and "b," 162.4(4) ARC 7006.....*N* 10/8/86

Minor amendments to chapter 9 et al were reviewed by Osmann. No questions.

38.13(5)b

Eure described the types of operators and fee categories in 38.13(5)b. Tieden was informed that radiographers in small hospitals would be required to take CE and meet testing requirements. During the public hearing process, no adverse comments were received.

58.24(2)

Osmann explained amendments to 58.24(2) et al which implement the new law which requires licensure of certain dietitians. She added that even though responsibility for licensing ICFs has transferred to Inspections and Appeals, the Health Department has rulemaking authority.

Priebe was concerned about the apparent dual role of the Health and Inspections and Appeals Departments in licensing hospitals and care facilities. Osmann admitted there had been many questions on this issue.

MOTION

After general discussion, Doyle moved that letters be sent to the Legislative Oversight Committee, Speaker of the House, and presiding office in the Senate relative to separation of licensing from rulemaking authority. Motion carried. Osmann agreed to submit a memorandum to Royce setting out detail on responsibilities of the two factions.

ch 75

Eckoff reported there was little testimony given at the public hearing held on chapter 75. Clark referred to 75.3(2)b(4) and (7) on the matter of resource limitation

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Continued

and reasoned that it was strange to allow homesteads, regardless of value, but only one vehicle not to exceed \$4500 value. In her opinion, it was a "backward step." She pondered, "Why, in our dealing with indigent people, do we force them deeper into the hole instead of helping them out?" Eckoff replied the legislation followed the federal supplemental security income program. He said that one vehicle could be excluded regardless of value and he agreed to clarify the provision.

Tieden and Eckoff discussed eligibility for the program and certifications for quota cases received.

ch 162

Brinkman reviewed clarifying amendments to chapter 162 as to licensure requirements for dietitians. Requirements for equivalency of education have been expanded for foreign graduates as well as for those with a current registration card from ADA. No other comments.

IOWA
FINANCE
AUTHORITY

Larry Tuel represented Iowa Finance Authority for their agenda.

Mortgage credit certificates, ch 10 ARC 6994F. 10/8/86
Title guaranty division, 9.8 to 9.30 ARC 7069N. 10/22/86

He reported that no changes had been made since Notice. Fifty Iowa lending institutions are participating and first-time home buyers will receive substantial income credit. Opposition has been voiced by the United States Treasury Department and although the rules are not affected, Tuel admitted there were problems to resolve. He continued that Iowa, Michigan, California, Texas, Idaho, and one or two other states are working with Congressional delegations for clarification in the form of a revenue release or ruling on the program.

9.8-9.30

In re proposed rules 9.8 to 9.30, Tuel said the Board was deliberating as to whether or not to require 40-year tracked index for the abstracting of title to real estate in the state. A public hearing on the proposal was in progress this afternoon. The Department was attempting to accommodate attorneys but saw the importance of "a middle ground." There are no licensing requirements for abstractors. The cost is borne by the party that purchases title guaranty except the lending institution, by statute, can pass that cost to the home buyer. Tuel explained charges in rule 9.19. Cost of the premium will be retained by lending institution, attorney, or abstract company. Tuel added that the Department wants to eliminate preferential treatment of a particular title company.

Parker asked if a reinsurance purchase agreement had been made and Tuel said that was in the process, and he anticipated a negotiated rate of 33 cents per thousand. An actuarial study had been made.

11-12-86

IOWA
FINANCE
AUTHORITY
Concluded

In Priebe's opinion, the state has had excellent ab-
stracts and he suspected with reinsurance, there would
be a tendency for carelessness. No formal action.

Minutes

Doyle moved approval of the October minutes. Motion
carried.

No
Agency
Reps

No agency representatives were requested to appear for
the following:

COMMERCE, DEPARTMENT OF[181]
 Organization and operation, ch 1 ARC 7028 F. 10/8/86
 DENTAL EXAMINERS, BOARD OF[320]
 Fees, 15.118, 15.119, 15.213, 15.214 ARC 7062 F. 10/22/86
 Minimum training standards for dental assistants engaging in dental radiography, 22.6 ARC 7063 F. 10/22/86
 ENVIRONMENTAL PROTECTION COMMISSION[567]
 Operation of environmental protection commission, ch 1, also rescinds 900—ch 2 ARC 7017 N. 10/8/86
 LABOR SERVICES, DIVISION OF[347]
 Occupational safety and health rules for general industry, 10.20 ARC 7040 F. 10/22/86
 Occupational safety and health rules for general industry, 10.20 ARC 7042, also filed emergency ARC 7041 N/A/F.E. 10/22/86
 Occupational safety and health rules for construction, 26.1 ARC 7044, also filed emergency ARC 7043 N/A/F.E. 10/22/86
 PHARMACY EXAMINERS, BOARD OF[620]
 Unit dose dispensing unit, return of drugs, 6.11167b ARC 7018 F. 10/8/86
 UTILITIES DIVISION[199]
 Name change, chs 1 to 11 and 15 to 29, filed emergency ARC 7012 F.E. 10/8/86

Adjourned

Doyle moved adjournment at 2:15 p.m.
Next regular meeting was scheduled for December 9 and
10, 1986.

Respectfully submitted,

Phyllis Barry

 Phyllis Barry, Secretary
 Assisted by Vivian Haag

APPROVED:

Burt E. Priebe

 CHAIRMAN