

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 Monday and Tuesday, March 9 and 10, 1987, Senate Committee Room 24, State Capitol, Des Moines, Iowa. The meeting was convened at 7:40 a.m.

Members Present

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

PHARMACY BOARD

The following agenda was reviewed by Norman Johnson, Executive Secretary:

Licensure, 1.14(1) ARC 7378	.....	2/25/87
Pharmacy business licenses, 2.6 ARC 7379	.....	2/25/87
License fees, 4.2 ARC 7380	.....	2/25/87
Licensure by reciprocity, new ch 6 ARC 7381	.....	2/25/87
Minimum standards for the practice of pharmacy, 6.1, 6.5(7) ARC 7382	.....	2/25/87
Controlled substances, 8.13(9), 8.15, 8.19, rescind 620--ch 12 ARC 7383	.....	2/25/87
License reinstatement and surrender of license, 9.3, 9.4, ARC 7384	.....	2/25/87

No questions re 1.14(1), 2.6 and 4.2.

5.1

In re licensure by reciprocity, Doyle recalled his recommendation to retain a portion of the fee when application is denied--5.1. Johnson remarked that the screening process essentially states that once the application reaches the Board, it will not be denied. Screening is performed by the National Association of Boards of Pharmacy who sends to Iowa only applications which they believe will be acceptable.

In response to Doyle, Johnson admitted that rules were needed to cover licensing of pharmacists from Puerto Rico and the District of Columbia.

6.1(155)  
6.5(7)

In review of amendments to 6.1(155) and 6.5(7), Johnson said that most pharmacists still do the compounding for prescriptions. However, many capsules and tablets are dispensed. Priebe asked about liability and Johnson indicated that accuracy is the responsibility of the pharmacist. He added that state and federal laws prohibit refilling of controlled substances in schedules III, IV and V more than five times in six months.

ch 8

Discussion of amendments to chapter 8. Priebe questioned addition of a trade name--"Vicks Inhaler"--in 8.19(204). Johnson replied that it was a unique product in that no other inhalers contain desoxyephedrine.

ch 12

Johnson explained that chapter 12 was rescinded since marijuana is no longer being distributed by the National Cancer Institute for cancer treatment.

PHARMACY  
BOARD  
Continued

Clark inquired as to whether voluntary surrender of a license to practice pharmacy was a common occurrence-- 9.3 and 9.4. Johnson recalled that only one or two licenses had been surrendered but revocation had occurred with some frequency. No formal action.

CORRECTIONS  
DEPARTMENT

Fred Scaletta appeared for review of victim notification, 20.15, ARC 7395, filed, IAB 2/25/87. He pointed out that rule 20.15 reflects changes recommended by Doyle to coincide with the statute. No action taken.

SUBSTANCE  
ABUSE  
DIVISION

Janet Zwick represented the Division for consideration of licensure standards for correctional facilities, being new chapter 6, ARC 7362, filed, IAB 2/11/87. Also present: Clarence Key, Jr., Ombudsman's Office.

Zwick stated that the adopted rules reflect revisions requested by the ARRC as well as the Department of Corrections. Responding to Parker, Zwick said the rules had been drafted by the Substance Abuse Commission in cooperation with the Department of Corrections. A Task Force comprised of institutional people had been formed about 1½ years ago.

6.3(3)

In re 6.3(3), Tieden was told that the "...physical examination being conducted within 21 days of admission..." was to coordinate with other rules and to provide some leeway.

6.3(2)

Parker referred to 6.3(2)f(8) and asked how a review of personnel would be performed. Zwick explained that staff members are required to review federal confidentiality regulations with their supervisors. Documentation of this process would be included in staff personnel files. Royce noted that the broad definition of confidentiality in 6.3(4) did not comport with the definition used by the Corrections Department. Zwick pointed out that the subrule referenced federal confidentiality regulations which must be adhered to wherever substance abuse treatment is provided. In large institutions, information can be released as long as it is not relative to substance abuse. Basically, the content of individual or group therapy cannot be released without the inmate's specific consent.

6.3(4)

Royce advised that the subrule be clarified. Suggestion was made to add, by emergency amendment, the sentence: "All substance abuse records shall be kept confidential."

Doyle was interested in current policy since the rules were not in effect. Zwick said the treatment centers have six months in which to be licensed and the Division has relied on the proposed standards. Licenses will not be granted until the rules become effective. Zwick did not envision problems.

Doyle was interested in current policy since the rules were not in effect. Zwick said the treatment centers have six months in which to be licensed and the Division has relied on the proposed standards. Licenses will not be granted until the rules become effective. Zwick did not envision problems.

SUBSTANCE  
ABUSE  
Concluded

Key raised question as to criteria for admission eligibility--6.3(7)b(12). He asked for clarification of "Any other relevant information...". Zwick indicated it could be anything not included in the history, e.g. a client might be asked to give permission for other centers to be contacted regarding previous treatment of the client. It was Zwick's understanding that a grievance program similar to the one implemented by the Corrections Department was in place now. No other comments.

AGRICULTURE  
& LAND  
STEWARDSHIP

The following was before the ARRC:

Participation in grain indemnity fund, ch 62 ARC 7398...F..... 2/25/87  
Registration of Iowa-foaled horses and Iowa-whelped dogs, 14.41 ARC 7391...N..... 2/25/87

The Department was represented by John D. Hinshaw and Teresa Hay. According to Hinshaw, amendment to rule 14.41(99D) was intended to clarify litter acknowledgment at the request of the Iowa Greyhound Association. Chapter 62 was deferred temporarily.

NATURAL  
RESOURCE  
COMMISSION

Mike Murphy and Arnold Sohn represented the Commission for the following:

Recreation/tourism: grants to county conservation boards, 24.1, 24.4(1), 24.4(3), 24.5(4), 24.6(1), 24.6(2), 24.6(5), 24.6(6), 24.7(1), 24.7(2), 24.8, 24.9, 24.10, 24.11, 24.12(1), 24.12(3), 24.15(1), 24.15(4), 24.15(5), 24.15(6), 24.16, 24.17(1), 24.18, 24.20(1), 24.20(2), 24.20(3) ARC 7402...F..... 2/25/87

ch 24

Sohn, Planning Bureau Chief, discussed amendments to chapter 24 which set out procedures for distribution of lottery funds for recreation/tourism to county conservation boards.

24.6(2)

Priebe questioned the month change from November to September in 24.6(2). Sohn responded that this would allow the Committee time to receive applications, score them, and make recommendations enabling an entity to make acquisition within two calendar years.

Sohn told Parker that there was no criteria for determining economic need. Counties having a greater share of 25 per cent available are eligible for extra points. The Committee looks at other merits aside from that.

24.11

Priebe questioned rescission of \$750,000 from 24.11 and Sohn replied that the figure was irrelevant since funds are unavailable.

Doyle was informed that the rules would not apply to the Loess Hills Project--it is another part of the Lottery funding program.

Loess Hills

Discussion as to whether or not rules were necessary for the Loess Hills Project. Royce was directed to peruse the law and consult with the Department on the question.

AGRICULTURE  
& LAND  
STEWARDSHIP  
Concluded

Chairman Priebe called on Stephen Moline to explain chapter 62 pertaining to the grain indemnity fund. The rules had been promulgated to implement the statutory definition of "grain sold." Tieden mentioned pending legislation in the House of Representatives which would impact the area of grain banks.

TREASURER  
OF STATE  
ch 7

Lawrence Thornton represented the Treasurer of State for chapter 7, reporting on State and Local Government Bonding Activities published under Notice as ARC 7361, IAB 2/11/87.

Thornton said the rules were intended to implement 1986 Acts, SF 1245, relative to collection of information on outstanding obligations by all political subdivisions. No one attended the hearing scheduled for March 3.

Form 655-0150 will be required annually to assist the Treasurer in developing data--7.3(2). In response to Doyle, Barry explained that, in most instances, forms are not reproduced in rules. Basically, forms are identified by number and brief description, and are available upon request through the agencies. No other questions.

RACING &  
GAMING

Mick Lura represented the Division for the following:

Greyhound rules. 7.9(1)"b" and "c." 7.9(2)"d" ARC 7344 *N*..... 2/11/87  
Mutuel departments. minimum wager and payoff. d.6. filed emergency ARC 7345 *FA*..... 2/11/87

7.9

Lura stated that rule 7.9 was being amended to coincide with the statute.

Priebe challenged the change of "shall" to "may" in 7.9(2)d and Lura said this had been requested by the trainers.

Discussion of the random method in which specimens are taken from a greyhound before each race. Lura pointed out that the dogs can be medicated as long as they are not being readied for a race.

8.6

According to Lura, amendment to 8.6(99D) corrects an inadvertent omission to allow a one-dollar minimum wager for the superfecta race. Lura was unable to provide answers to Priebe's question as to whether payout problems in Waterloo and Council Bluffs had been resolved. No action taken.

Committee  
Business  
Minutes  
Meeting  
Dates

Parker moved approval of the minutes of the January and February meetings. Motion carried.

Next meeting was scheduled for Monday and Tuesday, April 13 and 14, 7:30 a.m. The May meeting was tentatively scheduled for the 19th.

HUMAN  
SERVICES  
DEPARTMENT

Mary Ann Walker, Norma Ryan, Linda Foster, Don Kearny, Gloria Conrad, Dan Gilbert, Harold Poore, Dan McKeever, Marg Corkery represented Human Services Department for the following:

Fair hearings and appeals. 7.1, 7.5(1), 7.5(3), 7.8(5), 7.10(4), 7.13(2), 7.16(6), 7.18(1)	ARC 7346 ..F.....	2/11/87
Unemployed parent workfare program. 59.5(4), 59.6(2)"f"	ARC 7347 ..F.....	2/11/87
Administration of food stamp program. 65.3, 65.27, 65.28	ARC 7348 ..F.....	2/11/87
Treatment of Medicaid qualifying trusts. 75.9, filed without Notice	ARC 7353 ..F.....	2/11/87
Child day care services. ch 170	ARC 7349 ..F.....	2/11/87
Transfer rules 498—chs 1 to 209 to 441—chs 1 to 209, also miscellaneous amendments.	filed	
Emergency	ARC 7350 ..F.....	2/11/87
ADC—granting assistance. 41.7(5)"b", 41.7(7)"z", 41.7(8)"c", 41.8(2)"b"(2).	filed emergency	ARC 7351 ..F.....
Unemployed parent. 42.4(3), 42.4(4)	ARC 7372 ..N.....	2/11/87
Food stamp program. 65.3, 65.29(3).	filed emergency	ARC 7352 ..F.....
Treatment of Medicaid qualifying trusts. 75.9	ARC 7354 (also filed without notice	ARC 7353) ..N. + F&N.....
Collection services center. ch 97	ARC 7373 ..N.....	2/11/87
Purchase of adoption services. 157.1, 157.2(3), 157.2(4), 157.3(5), 157.4, 157.5	ARC 7374 ..N.....	2/11/87

No questions re 7.1 et al, 59.5(4), 59.6(2) and 65.3 et al.

75.9 Walker said that 75.9 would be effective April 1 because the federal government had wanted it in place by December 1, 1986. The rule was also placed under Notice to allow for public comment.

ch 170 No questions re chapter 170.

Priebe mentioned telephone calls he had received from the Trinity Lutheran Church in Algona concerning pending revision of rules pertaining to infant care in day care centers. The Center was concerned that additional staff would be needed to document required information. Tabor commented that his son was cared for in a center where the documentation process has worked well. Walker agreed to contact the Algona church for Priebe. Transfer rules were briefly reviewed by Walker.

41.7(5)b  
et al Amendments to 41.7(5)b et al had been adopted under emergency provisions to benefit clients. Priebe asked if there were problems with 41.7(5)b(2) and McKeever responded in the negative.

78.16 At the request of Royce, there was brief discussion of amendment to 78.16 in ARC 7350. He asked why certain mental health professionals were not included with those eligible to receive direct payment for services, i.e., therapists. Walker agreed to provide an answer.

42.4(3) (4) Amendments relative to unemployed parent subrules 42.4(3) and 42.4(4) would place more emphasis on clients making more contacts for job search. Hearings had just been held and results were unavailable.

65.3 In review of 65.3 and 65.29(3), Walker reported that  
65.29(3) the dollar amount had increased to \$160 to coincide with federal guidelines.

ch 97 Re chapter 97, Walker told the Committee that comments on the Notice indicated opposition to the statute, not the contents of the rules. Four bills have been introduced to return the handling of support payments to the Clerks of District Court.

3-9-87

HUMAN  
SERVICES  
DEPARTMENT  
Continued

Tabor was informed that computer equipment was in place. There was discussion of the two-year requirement to hold unclaimed support payments in escrow--97.3(5). Ryan pointed out that all clerks of court are mandated to remit those funds to the state treasurer.

ch 157

No recommendations for amendments to chapter 157.

PUBLIC  
SAFETY  
DEPARTMENT

Chairman Priebe recognized Commissioner Gene W. Shepard and Connie White who had requested time to discuss recent legislative changes relevant to sale of certain firearms. White provided history on the law and rule making. The Department desired input from ARRC before initiating new rules.

Shepard distributed a copy of 1985 Code section 691.9 under which existing rules were implemented. Subsection 691.9(5) offered protection from liability to the Department and the state for the sale of those firearms. Since some of the weapons are junk, the Department has a concern. Section 691.9 was repealed in its entirety in 1985 and another forfeiture statute was enacted but there was no provision for sale. New legislation in 1986[ch 1238, §33(802.21)] provided for the sale of ammunition and firearms but did not include a protection provision for the disclaimer of liability. Without this protection, the Department has been reticent to approach the ARRC with rules providing for sale of firearms.

Doyle suggested that Earl Willits, Assistant Attorney General, be requested to add necessary language to bill proposals from the AG's office. Doyle concluded that "junk guns" should be disposed of but there was no reason a good rifle or pistol should not be sold.

TRANSPOR-  
TATION  
DEPARTMENT

Carol Coates, Will Zitterich, Tom Jackson, Jerry Allen, and Walter McDonald were present on behalf of Transportation for the following:

Targeter, small business procurement, (01.B) 2.3(4), 2.4(1)"a." 2.4(8)"c"	ARC 7389	F.....	2/25/87
Signing manual, (06.K) 2.1	ARC 7388	.....F.....	2/25/87
Designated highway system, (07.A) 1.3, 1.4, 1.5	ARC 7357	.....F.....	2/11/87
Regulations applicable to carriers, (07.F) 8.1(1)"a" and "b"	ARC 7390	.....F.....	2/25/87

No recommendations for amendments to ]01,B]2.3(4) et al which were unchanged since the Notice.

[06,K]2.1

When describing amendment to [06,K]2.1, Zitterich reminded that the Iowa Code requires DOT to adopt a signing manual and the amendment adds Revision No. 4, published March 1986, to that manual.

Doyle reiterated his strong personal objection to the passing lanes marked "slow traffic keep right except to pass" and voiced preference for "keep right except to pass." Tieden was supportive of Doyle's position.

TRANSPOR-  
TATION  
DEPARTMENT  
Continued

Responding to Priebe concerning two different speed limits on the same stretch of a highway in his district, Zitterich said that a Commission Order authorized speed limits in certain locations. However, maintenance personnel placed the signs at the wrong locations. The situation is being corrected. Parker took the chair.

Zitterich stated that Doyle's recommendation had been studied but decision was made to maintain the existing system. He cited safety reasons, e.g., every time a moving car changes lanes, there is opportunity for an accident. Older climbing lanes are short for transition distances but practical when snow is plowed--the climbing lanes would be plowed last. The cost of replacing 750 signs was another factor. Zitterich stressed that the Department adheres closely to the signing manuals and deviation would create additional liability for the state.

Doyle contended that many mountain states direct slow traffic to keep right except to pass. He recalled a recent experience where a slow moving vehicle in front of him refused to move over to the right. He declared that the Department's arguments on accidents and liability were not valid. Doyle requested that the record show his personal objection to the system. Tieden concurred. Parker asked that the record show that the majority of the Committee concurred with Doyle's opposition. No formal action taken.

[07,A]1.3  
1.4 & 1.5

Jackson explained amendments to [07,A]1.3, 1.4 and 1.5 pertaining to access provisions for designated truck routes. No comments had been received. Doyle observed that Highway 59 north and south from Ida Grove to Highway 20 had not been included in the rule. Jackson said that request had been filed with the federal government. Also, Highway 175 east out of Ida Grove had been approved by the DOT Commission but must be approved by the Federal Highway Administration before big trucking companies are notified.

1.4(1)a

Tieden was interested in knowing if enforcement of access subrule 1.4(1)a was rigid. Jackson could not speak for enforcement, but pointed out the rule was intended to provide truckers the opportunity to drive to points of loading and unloading without being in violation. Tieden was hopeful that common sense would prevail. Parker and Jackson discussed the U. S. Supreme Court case which defined "reasonable access" as being five miles. Jackson indicated that the Department has not had problems in this area.

Allen reviewed [07,F]8.2(2)a and b and there were no questions.

ELDER  
AFFAIRS  
DEPARTMENT

Ron Beane and Mary Ann Olson were present for review of the following agenda:

Rescinds 20—chs 1 to 11. 321—ch 12. new chs 1 to 18 ARC 7403 ... 2/25/87

Beane explained that the proposed rule making rescinds rules of the Aging Commission and rewrites them to implement reorganization--1986 Acts, chapter 1245, sections 1001 to 1026, created the Department of Elder Affairs.

At Vice Chairman Parker's request, Beane pointed out rules which were not directly related to reorganization. For example, designation of service areas in Area Agencies on Aging are more detailed; rule 4.20 changed the application process from an annual to two-year application; the state advisory council is eliminated; reporting is changed from monthly to quarterly; rule 6.6 sets preference standards for frail, minorities, low income, and rural elders. A long-term care resident's advocate program and care review committee rules are included. There will be a coordination of state and federal funds for elderly services.

Clark called attention to what she considered to be unnecessary language. She challenged usage of "collocation" throughout the rules, e.g., in the definition of "community focal point." Beane advised Clark that "fiscal year" was defined to avoid confusion with the federal fiscal year. Clark questioned definition of "functionally impaired" and paragraph 3 thereunder. Beane said that was copied from the federal definitions but the Department is not bound by it so he would pursue the matter. Clark considered "home delivered meals" to be unnecessary. She wondered if a "resident" could include someone "seeking admission." Department officials agreed to follow up.

- 2.7(1) Clark referred to 2.7(1) and recommended deletion of "other". Beane stated that intent was to offer specifics without restriction. Clark opined that would encourage filing of grievances. According to Beane, it was taken from the Older Americans Act and the Department would be required to follow the provisions regardless of whether they were set out by rule.

Parker recalled that Department of Human Services furnishes the ARRC with copies of federal requirements which are to substantiate mandate for rules. He wondered if this would be a good practice for Elder Affairs, also.

- 4.26(4) Clark thought use of "multiplan" in 4.26(4), last line, should be "multiyear" and Beane agreed. Priebe resumed the Chair.

- 7.1(3)d Clark saw no need for 7.1(3)d. She suggested use of "specific" in lieu of "emphatic" in 7.3(12).



ELDER  
AFFAIRS  
DEPT.  
Continued

In 16.5, Clark suggested placing a period after "subrule 2.1(2)." Tieden noted inconsistent references to the "Older Americans Act," e.g. 1.1 and 1.2(1)a.

6.5(2)a

Priebe inquired as to composition of the Area Agency on Aging Advisory Council in 6.5(2)a. He noted the possibility of there being no minorities in an area. Also, it was his opinion that representatives of elders could apply to anyone. Beane responded that each area agency determines the number of members to serve on their council--up to 25. Priebe voiced his opposition to large committees. Only three members were required under former rules. Beane contended that was inadequate for a larger facility. He agreed that a one to fifteen ratio would be more than adequate. Priebe preferred setting out a maximum number by rule. Clark observed that "these rules contain much that has been objected to previously."

6.6(1)b

Royce recalled that volunteer Care Review Committees have been functioning for over twenty years with virtually no rules which, in his opinion, was preferable. Beane advised Tieden that 6.6(1)b was an attempt to encourage inclusion of rural areas in programs. Royce was requested to give the rules careful perusal before they are adopted. There was discussion of time frame for implementing the rules.

Recess

Chairman Priebe recessed the Committee at 10:15 a.m.

Reconvened

Chairman Priebe reconvened the meeting at 7:35 a.m., Tuesday, March 10, 1987, Senate Committee Room 24, with all members and staff present.

REAL ESTATE  
COMMISSION

3.4(2)

K. Marie Thayer, Administrator, Professional Licensing, and Ken Smith, Real Estate Commission, appeared for review of prelicense education and continuing education, 3.4(2)"5", ARC 7355, Notice, IAB 2-11-87. After brief explanation of the subrule which would grant continuing education credit to Real Estate Commissioners for attendance at Commission meetings, Priebe questioned statutory authority for this action.

3.4(2)"5"

Royce admitted there was broad rule making authority but he questioned whether 3.4(2)"5" was proper and reasonable. Smith contended that a Commissioner performing the job properly would take ten to twelve hours of preparation for a meeting, and he elaborated. Tieden and Clark expressed their opposition to the CE program generally.

Royce noted that a problem existed because the three hours per meeting would satisfy requirements for their continuing education. He reasoned that the function

REAL ESTATE  
COMMISSION

of the Board was to administer the real estate licensing law and any educational benefit was incidental. Clark could foresee other commissions following the same procedure. She opined that those who serve on boards receive "an education" but that service should not satisfy all CE requirements. Committee members concurred that Real Estate Commission members would have an unfair advantage over other groups who are assessed a fee for their CE.

Refer to GA

Priebe urged revision of the rule to avoid formal objection. He suggested that the matter be referred to the Senate and House for review by the appropriate legislative committees and that they work with the Real Estate Commission. Doyle so moved. Motion carried.

PUBLIC  
HEALTH  
DEPARTMENT

Jack Kelly, David Fries, M. L. Rushenberg, Don Kerns, Susan Osmann, Nancy Riggs, Mike Guely, Joyce Borgmeyer, and Jim Krusor presented the following:

PUBLIC HEALTH DEPARTMENT(470)  
 Mass gatherings, 19.1(2), 19.4(1)"b," 19.4(3)"c" and "f," 19.4(8) ARC 7358 ..... F ..... 2/11/87  
 Hospitals separate license required, 51.3(1) ARC 7356 ..... F ..... 2/11/87  
 Health facilities, dietetic service supervisor, 58.24(2)"d," 59.24(2)"d," 64.32(2)"d" ARC 7396 ..... F ..... 2/25/87  
 Intermediate care facilities and skilled nursing facilities, 58.39(2), 59.44(2) ARC 7397 ..... F ..... 2/25/87  
 Statewide indigent obstetrical patient care, 75.1 ARC 7363 ..... F ..... 2/11/87  
 Financial assistance to end-stage renal disease patients, 111.1, 111.4(4), 111.5(1), 111.5(2), 111.5(5), 111.5(6), 111.6(1), 111.7(5), 111.7(6), 111.9(6), Table 1, Table 2, rescind 111.10 ARC 7340 ..... F ..... 2/11/87  
 Medical examiners, 135.108(1) ARC 7375 ..... F ..... 2/11/87  
 Barber examiners, inspection report, 153.17 ARC 7341 ..... F ..... 2/11/87  
 Venereal disease prophylactics, 6.1, 6.6 ARC 7392 ..... M ..... 2/25/87  
 Advanced emergency medical care, 132.15 ARC 7339 ..... N ..... 2/11/87  
 Chiropractic examiners—temporary certificate, utilization and cost control review, 141.18, 141.19 ARC 7393 ..... N ..... 2/25/87

19.1

Doyle in the Chair. Fries and Rushenberg said the rules re mass gathering had been revised to be consistent with the 10-state area surrounding Iowa. In 19.4(8), Doyle suggested substituting "to" for "of" before "disaster service" in line 1. Barry indicated she would make the change editorially.

51.3(1)

Priebe resumed the Chair. Osmann said that amendment to 51.3(1) would allow a hospital to include, under its license, services which are available at other sites. No questions.

58.24(2)d

Osmann advised that amendments to 58.24(2)d et al were necessary to conform to statutory requirements that dietitians be licensed. Tieden did not recall that was in the law. Riggs described a consultant dietitian as one who works on a periodic basis.

chs 58, 59,  
64

No recommendations were offered for amendments to chapter 58, 59 or 64.

Discussion of 75.1 was deferred awaiting arrival of the Department representative.

ch 111

Guely reported on minor changes from the Notice on rules pertaining to renal disease. According to Guely, the Renal Disease Advisory Committee needs additional time to study the issue of "direct" and "indirect" expenses as they pertain to end-stage renal disease

3/10/87

PUBLIC  
HEALTH  
DEPARTMENT  
Continued  
135.108

and financial assistance. As a result, the subrules dealing with that area will be amended at a later date.

Krusor explained that amendment to 135.108 will increase the fee to take the Federation Licensing Examination (FLEX) from \$240 to \$365. Responding to Doyle, Krusor said tests had already been given on one component. They discussed the retroactive factor.

153.17 No questions were raised with respect to 153.17 presented by Rankin. .

6.1 Kelly told the Committee that the Department had been  
6.6 petitioned by private groups to develop rules 6.1 and 6.6 because of the acquired immune deficiency syndrome (AIDS). The Department realized later that they lacked funds to implement the program and Kelly had recommended that the Notice be terminated. He emphasized that the Department will work with the groups to set priorities and a public hearing will be held for comment. Priebe had intended to raise question re statutory authority for the rules. Parker suspected that, in looking at alternatives, this program would be less costly. Kelly said that the use of condoms in disease prevention would be very effective. However, condoms are readily available but if counseling, providing serological follow up and educational activities are involved, it would be low on his list of priorities.

132.15 Guely gave brief overview of a proposed pilot study to allow use of paramedics in ambulance services which are not authorized as fully approved paramedic services. Of the twelve persons who attended the public hearing, many were supportive, but others expressed concerns about assurance of skilled paramedics who work on an intermittent basis--primarily in rural areas. Tieden favored the concept for his rural area.

141.18(2) Dr. F. Dow Bates, Dr. R. Rasmussen, Dr. C. H. Lundahl, Chiropractic Examiners Board Members, Harriett Miller, Executive Secretary and Jerry Fitzgerald, Iowa Chiropractic Society were present for consideration of 141.18 and .19 pertaining to issue of a temporary certificate for a chiropractor.

Doyle questioned need for transcript of grades prior to July 1, 1973--141.18(2)c. According to Miller, prior to 1973, it was basic science testing, and after that, National Boards.

ARRC  
Business  
Utilities  
Division  
ch 30

Brief discussion of Utilities Division, chapter 30, relative to tax reform revenue adjustment which appeared on the "No agency representative requested to appear" portion of the agenda. Chairman Priebe requested that those rules be placed on the agenda for review when they are adopted after Notice.

3-10-87

PUBLIC  
HEALTH  
DEPARTMENT  
75.1

Chairman Priebe recognized Joyce Borgmeyer who presented amendment to rule 75.1 which had been temporarily deferred. Borgmeyer stated that three definitions relative to indigent obstetrical patient care were added in response to public comment. The definition of "family" was excerpted from federal poverty guidelines and was initiated to include pregnant women who are living alone. The "unit of one" could include individuals who are living with friends. They would not be considered "family" unless related. An adolescent living with an aunt would be considered a unit of one and the income resources of the aunt would not be used in determining eligibility for the adolescent. Parker in the Chair.

REVENUE &  
FINANCE  
DEPARTMENT

The Department of Revenue and Finance was represented by Carl Castelda, Deputy Director, for the following:

Sales and use tax, 12.10, 15.3(1), 15.3(2), 18.5(3), 18.25(3), 26.42(1), 26.45	ARC 7376	2/11/87
Delinquent cigarette, motor fuel, sales or use tax, revocation of license, 13.7, 13.17, 30.1, 63.25(4), 81.13(3)	ARC 7377	2/11/87
Practice and procedure, 7.1, 7.2, 7.6, 7.8, 7.14, 7.23(2), 7.25	ARC 7394	2/25/87

12.10  
13.7 et al

No questions re 12.10. In discussing 13.7 et al, Castelda indicated that "delinquency" was based on time periods, amounts, and filing history.

ch 7

Castelda summarized chapter 7 amendments, which provide for individuals or corporations to continue protest before the Department when the issue becomes a contested case. A bond equal to the amount of tax penalty and interest in dispute must be posted with the Department's hearing officer. These rules also set forth petitions or affidavits in situations when persons choose to request waiver of the bond. If bond is not posted when required, the protest can be dismissed. Castelda said that a protest through formal stages takes 12 months.

Doyle pointed out that some do not realize that a homestead is not liable to execution.

Priebe resumed the Chair. Parker referred to definition of "motion" as being the same as set out in RCP 109. He thought it would be helpful to include the language. Castelda responded that, in most cases, they are working with attorneys. However, the Department is very willing to assist the nonattorney with drafting and filing a protest.

Committee  
Business

Chairman Priebe called for discussion of a draft copy of a Notice and Questionnaire relative to use of the Iowa Administrative Code and how users could benefit from computerization of the rules. The reorganization Act required the Code Editor to study feasibility of computerization. Barry, Burnett and Royce are serving on the Task Force created to assist with the study.

Priebe voiced his skepticism of computerization, recalling problems and delays in publishing the statutes.

Committee  
Business  
Continued

Royce commented that the Notice was intended as a preliminary process to alert people of the idea and to seek input. There was discussion of the style and format for the Notice and Questionnaire to be published in the Iowa Administrative Bulletin. Barry suggested use of reverse type on the first page of the material. This was acceptable to the majority of the Committee. There was consensus that the Questionnaire should be signed by the person responding. Barry agreed to furnish a printed version of the documents prior to the April meeting where the matter would be reviewed again.

No Agency  
Reps

No agency representatives were requested to appear for the following:

BANKING DIVISION[187]  
Amendments, transfer rules 140—chs 1 to 4, 8, 9 and 21 and 130—ch 1 to agency number 187, renumber 140—ch 21 as 187—ch 15 and 130—ch 1 as 187—ch 16, new chs 5 and 6 ARC 7399...N..... 2/25/87

COLLEGE AID COMMISSION[245]  
Iowa guaranteed student loan program, amendment to preamble, 10.2(1), 10.2(3), 10.3, 10.24, 10.59, 10.62 ARC 7360...also filed emergency (except 10.2(3)) ARC 7359...N.F.F..... 2/11/87  
Rule making and declaratory rules, rescinds 13.3 ARC 7343...N..... 2/11/87  
Tuition grant review, 4.2(1), 4.2(5)"a" ARC 7342...F..... 2/11/87

DENTAL EXAMINERS, BOARD OF[320]  
Prescribing, administering, and dispensing drugs, ch 16 ARC 7367...F..... 2/11/87  
Nitrous oxide inhalation analgesia, 29.6(2) ARC 7368...F..... 2/11/87  
Grounds for discipline, 30.4 ARC 7369...F..... 2/11/87

ENVIRONMENTAL PROTECTION COMMISSION[567]  
Public and confidential information, ch 2, rescinds 900—4.1 to 4.4 ARC 7365...F..... 2/11/87  
Submission of information and complaints—investigations, ch 3, rescinds 900—4.5 ARC 7366...F..... 2/11/87

ENVIRONMENTAL PROTECTION COMMISSION[567]  
Declaratory rulings, ch 6 ARC 7364...N..... 2/11/87

INDUSTRIAL SERVICES, DIVISION OF[343]  
Petition for declaratory rulings and rule making, chs 5 and 7 ARC 7370...F..... 2/11/87

INSPECTIONS AND APPEALS, DEPARTMENT OF[481]  
Administration, rule making, declaratory rulings, contested case hearings, investigations, Medicaid provider audits, chs 1 to 7 ARC 7401...F..... 2/25/87

INSURANCE DIVISION[191]  
Declaratory rulings and rule making, chs 2 and 4, (existing rules renumbered — 2.1 to 15.94, 2.2—2.5 to 4.5—4.7, 2.2 and 2.6 rescinded) ARC 7371...F..... 2/11/87

NURSING, BOARD OF[590]  
Nursing practice for registered nurses/licensed practical nurses, 6.3(3)"d", 6.7 ARC 7386...F..... 2/25/87  
Administrative and regulatory authority, 1.1, 1.3, 1.4, 1.5 ARC 7385...N..... 2/25/87  
License to practice—Registered nurse/licensed practical nurse, 3.5(3)"b"(4) ARC 7387...N..... 2/25/87

UTILITIES DIVISION[199]  
Tax reform revenue adjustment, ch 30, filed without Notice ARC 7405...F.W.N..... 2/25/87  
Purchased gas adjustments, annual review of gas procurement practices, 19.10, 19.11, 19.24)"b," amended notice, ARC 7404...N..... 2/25/87  
Tax reform revenue adjustment, ch 30 ARC 7406...N..... 2/25/87

Recess

Committee in recess at 8:30 a.m. until the call of the Chair.

3-16-87

Reconvened Vice Chairman Parker reconvened the Committee Monday, March 16, 1987, 9:50 a.m., in Committee Room 116. Senator Priebe and Representative Tabor were excused. Staff present.

The following persons were also present: Mike Smith, Assistant Attorney General, Arnold Sohn, Natural Resources, and Bob Fagerland, Natural Resource Commission.

ch 24 Parker recognized Royce who reported that an interested person had asked to appear before this Committee to voice his concern with respect to amendments to chapter 24 of Natural Resource Commission rules. There was a misunderstanding as to the date of the review and it was Committee consensus that the individual be afforded an opportunity to appear before the ARRC.

70-day Delay Doyle moved a 70-day delay on chapter 24 amendments to rules of Natural Resource Commission for further study. It was agreed that the rules would be reviewed on April 13 and that the interested person should be apprised of this time. Motion carried.

Vote

Barry sought Committee advice as to her authority to remove from the IAC rules of the Inmate Transfer Hearing Board. Doyle requested that a representative from Corrections Department be asked to attend the April 13 ARRC meeting to discuss the matter.

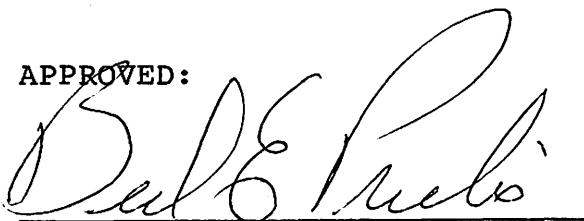
Adjourned The meeting was adjourned at 10 a.m. Next regular meeting scheduled for Monday and Tuesday, April 13 and 14, 1987.

Respectfully submitted,

*Phyllis Barry*

Phyllis Barry, Deputy Code Editor  
Assisted by Vivian Haag

APPROVED:

  
CHAIRMAN