

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 12 and 13, 1990, Committee Room 22, State Capitol, Des Moines, Iowa.

Members Present Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senator Dale L. Tieden; Representatives David Schrader and Betty Jean Clark. Senator Donald V. Doyle not present on March 12. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Alice Gossett, Administrative Assistant. Also present: Paula Dierenfeld, who replaced Barbara Burnett as Governor's Administrative Rules Coordinator; and Evelyn Hawthorne, Democratic Caucus.

Convened Chairman Priebe convened the meeting at 7:50 a.m.
Minutes and called for disposition of the February minutes. Tieden moved to approve the minutes as submitted. Motion carried.

April Meeting It was agreed that the next meeting should be scheduled for Wednesday and Thursday, April 11 and 12, 1990.

HUMAN SERVICES Priebe called on Human Services Department for the following:

HUMAN SERVICES DEPARTMENT[441]
ADC overpayment recovery, 7.5(6), ch 46 title, 46.3, 46.8. Filed ARC 628A. 2 7 90
PROMISE JOBS, 41.4(8), 41.8(3)"d." 93.2(3), 93.4(3), 93.6, 93.9 to 93.15, 93.19(7), 93.20(4), 93.20(6) to 93.20(9), 93.21(1), 93.21(9), 93.23, 93.25(2), 93.25(3), 93.27(1)"f" and "h." 93.28, 93.29, 93.33(1), 93.39, 93.41(1)"b." 2 7 90
93.41(8), 93.51. Notice ARC 692A. 2 21 90
Transitional child care assistance program, ch 49. Notice ARC 630A, also Filed Without Notice ARC 631A. 2 7 90
Conditions of eligibility, 71.1(11), 75.1(19), 75.1(31), 75.1(32). Filed ARC 629A. 2 7 90
Medicaid extension for families terminated from ADC or RCA due to spousal or child support, 75.1(21). Filed Emergency ARC 618A. 2 7 90
Presumptive Medicaid eligibility determinations for pregnant women, 75.1(30). Notice ARC 638A. 2 7 90
Medicaid patient management, 76.6(2), 78.3(12)"c." 79.1(5), 79.1(16), ch 88 preamble, 88.1, 88.2(1)"b." 88.4(4)"b." 88.21, 88.24(1)"b." 88.41 to 88.51. Filed ARC 632A. 2 7 90
Medicaid payment of dental services, 78.4, 78.28(2). Notice ARC 671A. 2 21 90
Nursing care coverage — prior hospitalization exception, 78.12(1)"b." Notice ARC 637A. 2 7 90
Medicaid waiver services, 83.2(1)"c." 83.3(3)"c." 83.41)"a" and "b." Notice ARC 636A. 2 7 90
Collections, 95.8, 95.10. Notice ARC 646A. 2 7 90

7.5(6) Appearing on behalf of the department were: Mary Ann Walker, Norma Hohlfield, Dan McKeever, Maya Krogman, Susan Bergwall, Nanette Foster Reilly, Janice Von Arb, Gary Gesaman, and Mike Baldwin. Walker reviewed 7.5(6) et al. and there were no questions.

41.4(8) et al. With respect to Promise Jobs, Walker described changes based on clarifications contained in the final Federal regulations and changes approved by the Welfare Reform Council. Three changes may evoke adverse comment relative to child care and client training.

Clark advised that an "exempt volunteer" would not be required to participate in a program.

HUMAN
SERVICES
Cont'd.
Ch 49

In explaining Chapter 49 which was filed emergency and Noticed, Walker said that it implements the federally mandated transitional childcare assistance program. She summarized changes from the state program.

71.1
et al.

According to Walker, amendments to 71.1 et al. will revise the eligibility criteria for the twelve months of extended Medicaid eligibility for persons who lose ADC on or after April 1, 1990, due to increased earnings or loss of the earned income disregards. Revisions from Noticed version include removal of the requirement that the household must include a dependent child because of a change in the Omnibus Budget Reconciliation Act.

In 75.1(3), the word "family" was changed to "eligible group" to clarify that the household must continue to include a child who is in the original ADC eligible group.

75.1(21)

Walker told the Committee that subrule 75.1(21) was filed emergency to comply with the Omnibus Budget Reconciliation Act of 1989. The Act reinstated the program which provides for four months of extended Medicaid to persons or families canceled from ADC or Refugee Cash Assistance due to the receipt of child or spousal support. She indicated that extensive rule making would be forthcoming to implement the Act. No comment re proposed 75.1(30).

75.1(30)

76.6(2)
et al.

Reilly led the discussion on amendments pertaining to Medicaid patient management. She said that 1988 legislation mandated the department to implement "the Physician Case Management Program" as a managed health care option and a cost containment measure within the Medicaid program. The Department subsequently developed these policies and procedures and requested a federal freedom of choice waiver from the Health Care Financing Administration. The waiver was granted in late December of last year. Under patient management, it calls for the physician designated as the recipient's patient manager to provide or authorize services needed by the patient. Without proper authorization or referral from the patient manager, the other provider of medical services is not paid. The "gatekeeper approach" is intended to decrease duplication of services, such as medical tests and doctor shopping but also can improve health. The program has been implemented in a number of other states in an attempt to obtain cost containment without cutting eligibility or services.

Tieden was informed that Marshall County was not a mandatory enrollment county at this time. Eleven "more-urban counties" were selected. There is more potential for a Medicaid HMO in the next two years. Reilly said that public hearings were held last September and only one comment was received about the mandatory question. Most comments involved grievance processes and the Department has one in place. They are currently operating a hotline for Medicaid recipients with questions about patient management. This reduces the workload for local staff.

HUMAN
SERVICES
Cont'd.

In response to a question by Tieden, Reilly said the waiver would have to be renewed in two years.

Chairman Priebe recognized Betty Hoffmann-Bright and Carolyn Levine, representing the Community Medical Service of Muscatine County, who made presentations. Levine spoke from a handout and extolled their service as "one of the most efficient and cost-effective maternal and child health centers in the state." Muscatine County will be involved in the pilot program for Medicaid patient management, and Levine had concerns. ADC recipients will be asked to select one primary care physician to provide managed health care. Levine contended that low-income patients do not "shop for well child care." They usually under-utilize such care and these patients also under-utilize prenatal care. The Muscatine clinic is involved in "presumptive eligibility" and get the care started. Their operation is effective because of a broad range of services and quality care which is monitored by the State Department of Public Health.

Levine and Hoffmann-Bright suspected that the private sector would serve as a barrier to accessibility to public service. They cited examples of confusion to recipients. Clark asked about on-site physicians and was told that the University of Iowa residents provide prenatal care and the practitioner provides the child health care. Hoffmann-Bright estimated that 51 percent would not travel to a doctor for the essential enhanced services which the Muscatine clinic has been providing. She was hopeful that modification of the rules would prevent loss of continuity--possibly exempt maternal and child health centers.

Hohlfield advised Priebe that the "one doctor" concept was set out in the waiver. Levine explained that Family Planning Services were exempted from this kind of plan by federal regulations. Levine was unsure as to the reason that maternal health centers were unaware of MediPASS rules until January. Modification of the federal waiver would be needed before maternal child health care could be exempt.

Levine pointed out that the Muscatine center had appeared before the Council on Human Services in January to voice their concerns that doctors are not referring to maternal health centers. Clark wondered if someone from the University could be a patient manager and Levine cited 24-hour accessibility as a problem. Part of the contractual requirements under the program are that the physician in question, who is a patient manager, actually provides all care. It was her understanding that those two requirements could not be met. Levine mentioned that the Iowa Medical Society has offered to assist in educating physicians in the eleven project counties about the available services from maternal health centers. General discussion of patient referral based on the services that the patient manager determines are needed.

HUMAN
SERVICES
Cont'd

Clark reasoned that quality management was in place with the health centers and the rules merely add another layer of management. Hohlfield responded that the maternal health center was managing specific services. If the center provided all of the primary care and had an on-site physician to provide 24-hour care, they would be patient managers--those requirements cannot be met at this time.

There was discussion of committee options with respect to the rules. Priebe was interested in the governor's position on the issue. Dierenfeld favored a compromise by the Department and the Muscatine group.

Motion
to Delay

Senator Tieden moved that the amendments to Chapters 76, 78, 79 and 88 be delayed for 70 days from their effective date of April 1, 1990. Seconded by Clark.

Ch 78, 83
& 95

Walker reviewed the remaining agenda items and there were no questions.

AGRICUL-
TURE AND
LAND STEW-
ARDSHIP

Appearing for the Department were Daryl Frey, Ron Rowland and Lowell Anderson. The following agenda was considered:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]	
Pesticides, 45.22(2)"b." 45.50(6)"b"(2). Filed Emergency ARC 617A	2/7/90
Pesticide advisory committee, 48.1(1). Filed Emergency ARC 616A	2/7/90
Bottled water and ice manufacturing, ch 59. Notice ARC 682A	2/21/90
Infectious and contagious diseases -- horses and mules, 64.34(4). Notice ARC 703A	2/21/90

Frey described the emergency amendments to Chapters 45 and 48 as clarifying and correcting Code citations.

45.50(6)

Priebe referred to 45.50(6) and requested that lettering for notification signs be increased from 3/8" to 1 inch.

Ch 59

Discussion of proposed Chapter 59 pertaining to bottled water and ice manufacturing. Frey pointed out that lack of funds had precluded the Department from implementing the 1986 legislation. When funds are available, Department officials believe the statute can be implemented effectively under the proposed rules.

David Krieh, owner of Krieh Boys Packaged Ice Company of Dubuque, Iowa, one of nine Iowa manufacturers of ice for business, suggested that the definition of "Ice Plant" be expanded. He saw a need for labeling of industrial ice as inedible which, in his opinion, should not be sold. Tieden asked if that would affect the price of ice and Krieh responded in the negative. He said there were over 700 firms manufacturing packaged ice without controls.

Krieh referred to 59.23(3) which provided in part that, "Packaged ice products must be tightly sealed and clearly labeled to show the name, manufacturer, distributor..." and water supply source identified. He recommended that the rules address product retention, and provide a way to trace tainted ice. Krieh contended that more testing should occur for well water--monthly as a minimum. Ice should be tested daily for bacteria. Priebe was interested

AGRICUL-
TURE AND
LAND STEW-
ARDSHIP
Cont'd

in impact of the rules on Iowa ice manufacturers. Frey said that a substantial number of retail outlets which are manufacturing their own ice would be affected. Tieden asked about control for ice from out of state. Frey explained that the rules cover manufacture and distribution in Iowa. Since there are no license or permit procedures, Frey indicated there would be very limited control.

64.34

Anderson discussed amendment to 64.34 relative to exhibition of horses and mules. "Health certificate" will be changed to "certificate of veterinary inspection"; all 6 months of age or older originating from outside of Iowa must be tested for equine infectious anemia within twelve months of importation. The change will parallel 21-- Chapter 65 on importation of horses and mules. Anderson told Tieden that the significant change was addition of "six months of age or older." No committee action.

AGRICUL-
TURAL
DEVELOPMENT
AUTHORITY

The following was presented by William Greiner and there were no questions:

AGRICULTURAL DEVELOPMENT AUTHORITY[25]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"
Individual agricultural development bond program -- participating lender. 2.1.2.11.2.13. Filed ARC 681A..... 2/21/90

CREDIT
UNION
DIVISION

James Forney introduced Joan Bolin, former Assistant Attorney General, who developed the rules but has since accepted the position of Deputy Treasurer of State. Forney and Bolin described the following rules as essentially to provide a clear explanation of the process.

CREDIT UNION DIVISION[189]
COMMERCE DEPARTMENT[191]"umbrella"
Organization, chartering and field of membership of a credit union, ch 2; rescind ch 5. Filed ARC 700A..... 2/21/90
Accounts, ch 8. Filed ARC 701A 2/21/90
Examination reviews and investigations, ch 14. Filed ARC 702A..... 2/21/90

No questions.

ECONOMIC
DEVELOP-
MENT

Melanie Johnson appeared for the Department and the following agenda was considered:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Business incubator/technical assistance center program, ch 52 title, 52.1 to 52.4, 52.6 to 52.8, 52.10 to 52.12. Filed ARC 642A 2/7/90
Agency procedure for rule making, ch 101. Notice ARC 643A..... 2/7/90

Ch 52

Johnson pointed out that 52.11, relating to evaluation criteria and rating factor, was modified to the extent that "other items" would be evaluated during the request for proposal. Priebe and Johnson discussed the procedure for including the point totals. Johnson told Tieden that comment had been received about the local match and that the final rule was unchanged from the 25 percent requirement.

Ch 101

No committee action. No questions on Chapter 101.

EDUCATION

Dave Bechtel, John Hartung, Frank Vance, Bureau Chief, and Duane Toomsen appeared for the Education Department.

EDUCATION
Cont'd

The agenda follows:

EDUCATION DEPARTMENT[281]		
Open enrollment, ch 17. Filed ARC 693A		2/21/90
Area vocational schools and community colleges -- reporting contact hours of enrollment.		
21.15(2). Notice ARC 627A		2/7/90
Education of pupils requiring special education, administrative law judge, 41.33(1), 41.33(9).		
41.35(3). Notice ARC 624A		2/7/90
School buses 44.2(5)g. Notice ARC 634A, also Filed Emergency ARC 633A		2/7/90
Conservation education, ch 68. Notice ARC 625A, also Filed Emergency ARC 626A		2/7/90

In discussing rules to implement open enrollment, Bechtel predicted that 90 percent of them would need revision in the near future.

- 21.45 According to Hartung, amendment to 21.45(2) was merely an update of the fiscal year.
- 44.2 Voy informed the Committee that amendment to 44.2(5)g would allow districts to purchase up to a 66-passenger school bus without the more expensive air brake system. Manufacturers have assured them that the federal safety performance standards have been met by the hydraulic brake system. This would result in up to \$2400 savings per bus.
- Ch 68 Toomsen presented rules pertaining to innovative conservation education programs as provided in Iowa Code Supplement section 256.34. Funds have been appropriated for materials and instruction in the area of environmental awareness. Toomsen anticipated changes in the program. They hope to spread the grants geographically throughout the state.
- Ch 41 In reviewing proposed amendments to Chapter 41, Vance summarized the basic issues as addressing federal compliance, updating references and clarifying special education appeals procedures. There were no Committee recommendations for education rules.
- ELDER AFFAIRS The following agenda of Elder Affairs was presented by Ron Beane, Lois Haecker and Jeanne Clawson.

ELDER AFFAIRS DEPARTMENT[321]		
Long term care coordinating unit case management projects for the frail elderly, 1.7, 15.2, 16.2(1), 16.4, ch		
21. Notice ARC 698A		2/21/90
Food handling and inventory procedures, 6.8(19), 6.8(20), 7.3(9)7b(10), 7.3(16)a, 7.3(19)c,		
7.3(19)d. Notice ARC 697A		2/21/90
Long term care coordinating unit, 16.2(1), 16.6, Notice ARC 9997 Terminated ARC 699A		2/21/90

- 1.7 et al. Discussion of amendments to 1.7 et al. Priebe raised question in 15.2 with respect to award of funds. New language, "...or by criteria published by the department for individual programs...." seemed to be an attempt to circumvent the formula. Beane indicated that the language in question would have limited application when the General Assembly appropriated funds not intended for statewide implementation. Beane was willing to strike "but not limited to". Priebe favored addition of "temporary or pilot projects". No formal action.
- 6.8 et al. In review of amendments to 6.8 et al., Beane noted that new language in 6.8 would implement the Older Americans Act concerning nutrition. No questions.

ELDER
AFFAIRS
Cont'd

Beane stated that Notice to amend Chapter 16 had been terminated. A revised version will be renoticed.

ENVIRON-
MENTAL
PROTECTION

Mike Murphy, Darrell McAllister, Diana Hansen, Dennis Alt, Robert Craggs, Susan Miller, Eileen Bartlett, Berniece Hostetler and Victor Kennedy appeared for the Department of Natural Resources. The following rules were considered:

ENVIRONMENTAL PROTECTION COMMISSION[567]	
NATURAL RESOURCES DEPARTMENT[561] "amb...the"	
Controlling pollution, 22.4(1), Filed ARC 658A	2/7/90
Water supplies, 41.327d, 41.4(5), 41.4(7), 41.5(1) "c", 41.5(2) to 41.5(4), 41.7, 41.12(10) "a" to "c", Filed ARC 650A	2/7/90
Water quality standards, Economic Impact Statement ARC 661A	2/7/90
Removal and disposal of PCBs from white goods prior to processing, ch 118, Notice ARC 657A	2/7/90
Waste oil, ch 119, Notice ARC 659A	2/7/90

22.4(1) Priebe and Murphy discussed opacity standards which department staff follow in observing smoke emissions.

Ch 41 According to Hansen, modifications had been made in Chapter 41 in view of EPA comments.

McAllister summarized the Economic Impact Statement, which had been prepared at the request of the ARRC, on water quality standards revisions [Chs 60, 61, 62], ARC 103A, 8/9/89 IAB. Construction costs of \$601.1 million dollars over a ten-year period were broken down into the average cost, depending on the size of each facility. Increased operation costs for those facilities were also estimated. Of the 40 facilities differing in sizes and categories, both municipal and industrial facilities, were included. The benefits of the water quality standards to the public were included in the report also. Priebe complimented the department for their effort on the Impact Statement.

McAllister pointed out that the following completion of the Statement, EPA asked them to meet with the League of Municipalities, the Water Pollution Control Association in Iowa, the Consulting Engineers Council, and the University Hygienic Laboratory. Changes in the ammonia criteria will be proposed to the Environmental Protection Commission at their meeting later this month. This should result in reduction of the 601 million dollars over ten years.

In response to Schrader, McAllister said the numerical criteria would not change for ammonia but they would take into account the size of the flow in the mixing zone. He discussed ratios of stream flow to discharge flow. McAllister continued that on streams where the dilution is 2 to 1 to 6 to 1, they will use 50 percent for mixing and where it is greater than 6 to 1, they will use 25 percent of the stream flow for the mixing zone. In response to a question by Tieden, McAllister said they would be using the "7-day, 10-year low flow" so hydrologic conditions would not be a concern. He pointed out that the mixing zone length would not change. By ensuring that water quality standards will be met from at least a point 2000 feet on downstream, the streams will be protected.

ENVIRON-
MENTAL
PROTECTION
Cont'd

McAllister spoke of the variables and mathematical model which they use. They take into account how much dilution there will be with the effluent in the stream, how much waste will be used by organisms, and how much will be lost in the atmosphere. The final test would be stream monitoring which dischargers are encouraged to do.

With respect to estimated costs, McAllister said that they wanted to identify what they believed maximum cost would be. They used conservative values as they developed the Statement. As treatment plants evaluate their facilities, some costs may be reduced.

McAllister noted that no estimates were made on secondary costs--only primary cost to the system, construction and operation. No Committee action.

Ch 118

Discussion of proposed rules to regulate removal and disposal of PCBs from white goods (appliances) prior to processing or metals recovery. Enabling legislation was intended to provide guidelines as an incentive to attract processors into the business. Three hearings were scheduled on these rules.

Ch 119

McAllister stated that 1989 legislation imposed requirements on retailers of oil to accept waste oil or post notice of where it might be accepted in the locale. These rules provide pertinent definitions, prohibit landfill disposal of waste oil, allow landfills to operate as collection and storage facilities for recycling, prescribe operational requirements for collection and storage waste oil, prescribe additional requirements on retailers, and provide standards for oil storage.

The rules also identify the duties of the Waste Management Authority Division of the department in this program and prescribes state procurement duties regarding use of recycled oil. In response to Tieden, McAllister said that 119.6 requires the retailer to cooperate with other retailers to identify a collection site. Failure to make a good faith effort would be considered a rule violation. However, at this point, they are encouraging a cooperative endeavor.

Craggs informed Tieden that the County Coordinators would work on a voluntary basis--119.7(2). No committee action.

NATURAL
RESOURCE
COMMISSION

Michael Murphy, Victor Kennedy and Berniece Hostetler presented the following:

NATURAL RESOURCE COMMISSION(571)
NATURAL RESOURCES DEPARTMENT(561) "umbrella"
Sand and gravel permits, amendments to ch 19. Filed ARC 684A 2/21/90
Lands and waters conservation fund program. 27.6(1), 27.6(3), 27.6(4). Filed Emergency After Notice
ARC 683A 2/21/90
Speed restrictions on the Mississippi River, Jackson County, at Spruce Creek County Park,
40.23. Filed ARC 686A 2/21/90

Ch 19

There were no Committee recommendations.

LAW EN-
FORCEMENT
ACADEMY

William Callaghan, explained the following agenda:

LAW ENFORCEMENT ACADEMY[701]

Reserve officer weapons certification, 11 Feb 10, Notice ARC 669A 2:21 PM

1.1,
Ch 10

According to Callaghan, Rule 1.1(80B) was amended to add a definition of "weapon." He stated that new Chapter 10 addresses reserve officers weapons certification. Intent is to ensure that these officers receive the same weapons training as a regular officer. Schrader asked if a reserve officer with a nonprofessional weapons permit could carry that weapon while serving as a reserve officer or sheriff's posse. Callaghan responded that they could only carry their weapons under the authorization of the permit or as a reserve, with the authority of their chief or sheriff. If they were going to carry the weapon as a law enforcing officer on the street, the 40-hour training for reserve officer certification would be required. No further questions.

PUBLIC
SAFETY

Chairman Priebe called up special review of Public Safety rule 661--5.655(2) relative to emergency rescue or ventilation via windows in school buildings. Department representatives in attendance were Roy Marshall, Fire Marshal and Mike Coveyou. Also present: Senator Richard Drake, Martin Huseman, Director of Operations and David Colban, Maintenance Director, Muscatine Community Schools. Huseman expressed interest in exit requirements for existing school buildings and those under new construction.

Muscatine officials were concerned about escalated costs to bring their older facilities into compliance by 1993. They have 12 buildings with approximately 775,000 square feet of space. Huseman commented that all buildings have some type of fire detection system and they are upgrading to current standards as funds are available. Priebe had wondered if there were a model growth for compromise.

Marshall pointed out that 5.655(2) had been amended by adding an exception to the July 1, 1993, deadline: "Exception No. 3: Buildings protected by an approved automatic fire detection system." He thought that they had made big compromises with this exception. Priebe suggested that the Department work with Dierenfeld and Royce on the matter.

Recess

The Committee was recessed at 10:45 a.m.

Reconvene

The meeting was reconvened at 7:50 a.m., Tuesday, March 13, 1990, by Chairman Priebe. All members were present. Chairman Priebe called up Revenue and Finance.

REVENUE
AND
FINANCE

The following was before the Committee:

REVENUE AND FINANCE DEPARTMENT[701]

Simultaneous late filing and late payment of tax counted as one delinquency, 11 1011'e," 37.1311'b," 38.911'b,"

63.2811'e," Notice ARC 680A 2:21 PM

Taxable moment, revision of 33 6, Filed Emergency ARC 679A 2:21 PM

Individual income tax -- drought relief provision, indexation of optional standard deduction for inflation, capital gains deduction, repeal of special refund for capital gains, nonrefundable earned income credit, 38 12, 39 10, 40.38, 41 4, 42.289, 43.7, Filed ARC 648A 2:7 PM

Alternative minimum tax credit, definition of corporations subject to Iowa tax expanded, apportionment of income by corporations which receive income without Iowa allowed, 42.8, 62.1, 62.111'e," 62.641, 61.1(4), 66.641, Filed ARC 647A 2:7 PM

PUBLIC
HEALTH
Cont'd

Ch 73

There were questions regarding amendments to Chapter 51 or new Chapter 21.

Bach said that the amendments to Chapter 73 basically address venue management, prompted in part by federal regulations to be published soon. The Department had contracted with a private consultant a year ago to review their venue management program and advise them on the schedule of violations. Priebe questioned allowing 30 days' written notice when the minimum review points are not met. He wondered why there was not immediate notification. Bach said that they tried to make a distinction between minor infractions and major violations warranting suspension. Rather than trying to suspend vendors in midcontract, they issue a new contract. An individual violator will be notified at the time of violation. Priebe did not interpret the language that way. Clark thought the rule provided for 30-day notification if a vendor's contract were in jeopardy which would differ from notification of minimum infraction. Bach reiterated that the Department sends the vendor a letter within a matter of days each time they incur a violation. He referred to 73.18(2) for the list of violations and points, the Department sought input from the Grocers Association of Iowa who were in agreement with them.

Priebe observed the ban on American cheese--73.8(2)c(2). Bach responded that the Department took that position because of high sodium and fat in American cheese. A natural cheese is more nutritional than a processed cheese. Bach advised Clark that the rules as proposed will be necessary regardless of whether or not additional federal regulations are forthcoming. No Committee action.

REGENTS
BOARD

Don Vohn, Roger Maxwell and Frank Gerry presented the following:

REGENTS BOARD(681)
Personnel administration, 3.26, 3.67(1)"h." Filed ARC 682A 2/7/90
Contracting opportunities for Iowa targeted small businesses, 7.7, 8.1(2), 8.6(5). Notice ARC 691A 2/21/90

3.26,
3.67

No questions on 3.26 or 3.67.

7.7 et al.

Maxwell stated that amendments to 7.7 et al. outline procedures for awarding contracts to Iowa targeted small businesses. Intent is to move from specific percentage set asides to estimated goals. No action.

INSURANCE
DIVISION

The following rules were considered:

INSURANCE DIVISION(191)
COMMERCIAL DEPARTMENT(181) "umbrella"
Administrative hearings of contested cases, 3.5, 3.6. Filed ARC 645A 2/7/90
Surplus notes, nonadmitted assets, 5.4, 5.6(4). Notice ARC 640A 2/7/90
Unfair discrimination based on income, 15.82. Notice ARC 640A 2/7/90
Long-term care insurance, 39.6(1)"d." Filed ARC 644A 2/7/90

3.5, 3.6

Kevin Howe represented the Division. He explained amendments to Chapters 3 and 5. No questions.

15.82

According to Howe, new rule 15.82 would add income level as one of the reasons which an insurance company could not discriminate against an individual. Several comments have been received and a public hearing was requested.

INSURANCE
DIVISION
Cont'd

Priebe wondered about the legality of such a rule. Howe cited an industry concern as to the fact that certain types of policy were based entirely on income, e.g., disability policies. In addition, there was the civil rights issue as to whether insurance is a public accommodation and whether they can discriminate on these levels. Doyle was informed that as it read now, the rule covered all lines of insurance. The Division recognizes ensuing problems but believes that as long as premiums are paid, a company should not deny insurance. No further questions.

39.6

Howe said that amendment to 39.6 was unchanged from the Notice.

TRANSPOR-
TATION
DEPART-
MENT

Neil Vohn, Real property Acquisition and Sue Albright, Chief Relocation Agent for DOT, appeared for the following:

TRANSPORTATION DEPARTMENT[761]
Real property acquisition and relocation assistance, ch 111. Notice ARC 663A 2/7/90
Reporting of railroad accidents/incidents, railroad safety standards, guidelines for safety evaluation of rural
railroad highway grade crossings, highway grade crossing safety fund, 802.1, 810.1, ch 812 implementations.
820.383'a." Filed ARC 619A 2/7/90

Ch 111

Albright stated that rule 111.1(316) followed federal guidelines and would implement 1989 legislation which amended Code Chapter 316. There were no recommendations for Chapter 111 or amendments to 802.1 et al.

802.1
et al.

ARC 632A

With respect to Medicaid patient management rules, (ARC 632A) which were delayed 70 days, Clark expressed an interest in working with the Human Services Council in an attempt to resolve differences.

No Agency
Reps

No agency representatives requested to appear for the following:

BLIND, DEPARTMENT FOR THE[111]
Iowa Code citations updated, amendments to chs 1, 2, 6 and 9 to 13. Filed ARC 670A 2/21/90
CORRECTIONS DEPARTMENT[291]
Immediate family defined, 20.2. Notice ARC 695A 2/21/90
DEAF SERVICES DIVISION[429]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Regional offices renamed, new certificate title names incorporated, other clarifying amendments, 12(1),
1.2(3)"b", 1.3(3), 1.3(8), 2.1, 2.2(2)"d", 2.3(6)"b", 2.3(8), 2.4(1)"a", 4.1(1), 4.1(2)"g", 4.1(13). Notice ARC 696A 2/21/90
DISASTER SERVICES DIVISION[607]
PUBLIC DEFENSE DEPARTMENT[601]"umbrella"
Rescind 650--chs 5 to 8; adopt 607--chs 1 to 4 and 6 to 8; renumber 650--ch 9 as 607--ch 5, 601--ch 10 as 607--ch
10, and 650--chs 100 to 103 as 607--chs 100 to 103. Notice ARC 651A 2/7/90
Emergency response commission, transfer and rescind 659--chs 100 to 103, adopt 607--chs 100 to
103. Filed ARC 652A 2/7/90
EMPLOYMENT APPEAL BOARD[486]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"
Construction contractor registration appeals -- form and time of appeal, 7.1(1). Notice ARC 615A 2/7/90
INSPECTIONS AND APPEALS DEPARTMENT[481]
Psychiatric medical institutions for children (PMIC), ch 41. Filed ARC 668A 2/7/90
JOB SERVICE DIVISION[345]
EMPLOYMENT SERVICES DEPARTMENT[311]"umbrella"
Employer's contribution and charges, claims and benefits, benefit payment control, placement, 3.24(1), 3.71(3),
4.1(1), 4.1(3), 4.1(4), 4.1(6)"a", 5.8(1)"c" and "d", 5.8(2)"d", 7.1(1). Notice ARC 691A 2/21/90
LABOR SERVICES DIVISION[347]
EMPLOYMENT SERVICES DEPARTMENT[311]"umbrella"
OSHA rules for general industry, 10.20. Notice ARC 664A 2/7/90
OSHA rules for general industry, 10.20. Filed ARC 666A 2/7/90
OSHA rules for construction, 26.1. Notice ARC 665A 2/7/90
OSHA rules for construction, 26.1. Filed ARC 667A 2/7/90
PERSONNEL DEPARTMENT[581]
Classification; pay; recruitment, application, and examination; eligible lists; certification and selection;
appointments; probationary period; promotion; transfer; temporary assignment and voluntary demotion;
separations; disciplinary actions and reductions in force; grievances and appeals; leave; benefits; political
activity; general administration, 1PERS, 3.2(6), 4.5(1), 5.2(1)"a", 5.2(1)"b", 5.2(6), 6.5(2)"d", 7.7(3), 8.1, 8.13,
9.1, 10.2, 10.4, 11.1(1)"e", 11.2(3), 11.2(4), 11.3, 11.3(5)"a", 12.2(1), 12.2(4), 14.3(4), 14.8(1), 14.9(1), 14.9(5),
14.9(1), 14.12(3), 15.6(8)"b", 16.1(3), 16.1(4), 19.5(4), 21.6(9)"c"(2)"1". Filed ARC 672A 2/21/90

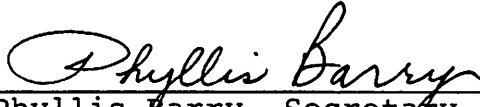
No Agency
Reps
Cont'd

PHARMACY EXAMINERS BOARD[657]	
PUBLIC HEALTH DEPARTMENT[661] umbrella	
Controlled substances — registration and reregistration fees, 10.3. Filed ARC 653A	2 7 90
PROFESSIONAL LICENSURE DIVISION[645]	
PUBLIC HEALTH DEPARTMENT[661] umbrella	
Cosmetology examiners, cosmetology continuing education, 60.7(1)"c" and "d" 60.8(11), 60.10(4) to 60.10(7), 62.1, 62.2(1), 62.2(5), 62.2(6), 62.4(1), 62.12(2), 62.10(1), 62.11(3)(4). Filed ARC 687A	2 21 90
Licensure of nursing home administrators, 141.4(2)"b", 141.6(4) to 141.6(9), 141.9. Notice ARC 688A	2 21 90
Optometry examiners, 180.12(1), 180.12(3)"c", 180.12(7), 180.12(8). Filed ARC 690A	2 21 90
Optometry examiners, 180.12(8). Amended Notice ARC 688A	2 21 90
SECRETARY OF STATE[721]	
Alternative voting systems — procedures for testing and examination of voting machines and electronic voting systems, new rules 22.1 to 22.18, existing rules renumbered. Notice ARC 685A	2 21 90
UTILITIES DIVISION[199]	
COMMERCE DEPARTMENT[191] umbrella	
Simultaneous filing of briefs, 7.7(12)"a". Notice ARC 676A	2 21 90
Pipeline safety standards, 10.12, 10.13, 10.16, 19.5(2), 19.8(3). Filed ARC 678A	2 21 90
Pipeline employee drug testing, 10.12, 19.5(2)"a". Notice ARC 677A	2 21 90
Class load data, 20.10(2)"c", 20.13(3)"c" (5). Notice ARC 673A	2 21 90
Alternative operator services, 22.1(4), 22.19. Filed ARC 649A	2 7 90
Access tariffs — mirroring, 22.14(2)"a" to "c". Filed ARC 655A	2 7 90
PUBLIC SAFETY DEPARTMENT[661]	
State of Iowa building code, table 705A. Filed Emergency ARC 635A	2 7 90

Next Meeting The next meeting was scheduled for Wednesday and Thursday, April 11 and 12, 1990.

Adjourned Chairman Priebe adjourned the meeting at 8:40 a.m.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Alice Gossett, Administrative Assistant

APPROVED:

CHAIRMAN