

# MINUTES OF THE SPECIAL MEETING OF THE ADMINISTRATIVE RULES REVIEW COMMITTEE

## Time of Meeting

The special meeting of the Administrative Rules Review Committee (ARRC) was held on Monday, April 8, 1991, Senate Committee Room 22, State Capitol, Des Moines, Iowa. This meeting was held in lieu of the statutory date of April 9.

## Members Present

Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David Schrader and Ruhl Maulsby. Also present: Paula Dierenfeld, Governor's Administrative Rules Coordinator; Stephen Conway, Democratic Caucus Staff.

Staff present: Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; and Alice Gossett, Administrative Assistant.

## Convened

Chairman Priebe convened the meeting at 8 a.m. and called up the following:

## HUMAN SERVICES

Expansion of copayments and reductions to providers, 78.7(1)"e," "f," and "j," 78.14(7)"a," "b," and "d," 79.1(2), 79.1(13), Notice ARC 1807A, also Filed Emergency ARC 1808A ..... 3/20/91  
Nursing facilities — removal of special care payment, change in time frames for assessment, 81.3(1), 81.3(4), 81.4(16)"e," 81.10(4)"b," 81.13(9)"b"(3)"1," 81.20(4), Notice ARC 1805A, also Filed Emergency ARC 1806A ..... 3/20/91

Appearing for the Department were Mary Ann Walker, Gary Gesaman, and Kathy Ellithorpe.

## 78.7, 78.14, 79.1

Walker discussed the emergency amendments to 78.7, 78.14 and 79.1 which were also placed under Notice. The amendments roll back one-half of the July 1, 1990, increases afforded to Medicaid providers of noninstitutional services and expand recipient copayment to all medical services unless specifically exempted by federal law. The changes were mandated by the 1991 General Assembly in House File 173, sections 105 and 125.

Conway and Gesaman discussed the impact of the rules. It was noted that the legislation was passed because of a severe shortage of funds for Medicaid. Without change in reimbursement rates for the fiscal year 1992 dealing with that whole issue, the roll-back will remain the same.

Maulsby took the position that the rules should be more stringent with respect to emergencies. He heard complaints about doctors being called out at night for minor problems. Maulsby contended that 50 cents copayment on an X-ray was unrealistic, for example. Doctors will be inclined to pass on the costs to private pay patients rather than try to collect. Ellithorpe pointed out that a federally calculated formula must be followed.

Priebe thought it was important for the recipient to pay something even if it were a small amount. He suggested that the matter should be reviewed by both party caucuses and requested Tieden and Conway to follow up.

Walker discussed amendments to Chapter 81 which discontinue the \$2.50 per day special care payment for Medicaid-eligible residents of nursing facilities. The amendments also provide that nursing facilities have an additional ten days [total of 14 days] to complete their nursing comprehensive assessment of residents' needs.

## AGRICULTURE AND LAND STEWARDSHIP

The following rules of the Department of Agriculture were considered with Ronald Rowland, John J. Schiltz, Animal Welfare Unit; Dan Cooper and Camille Valley in attendance:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
Farmers market/WIC program, ch 60, Economic Impact Statement ..... 3/6/91  
Animal welfare — seizure, impoundment and disposition of animals, 67.7(3) to 67.7(6), Notice ARC 1822A ..... 3/20/91

**AGRICULTURE  
AND LAND  
STEWARDSHIP  
Contd.**

Rowland stated that amendments to rule 67.7 were filed in response to interested individuals who petitioned the Department to exercise its discretion under Code section 162.13 which provides for seizing and impounding dogs, cats or other domestic animals kept as pets when there are conditions of inadequate feed, water or shelter. The Attorney General advised that criteria and procedures would be needed to implement the statute. A public hearing had been scheduled for April 12 on this issue.

Priebe questioned use of "adequately house" with respect to public auction in 67.7(4)b. Rowland explained that public auction was one area where the law requires the Department to regulate the commercial sale and lease and exchange of animals. He added that food and water would be adequate if only a few hours were involved. Rowland emphasized that the rules were the Department's attempt to spell out standards for a very "general" statute. They plan to enforce them in a reasonable manner.

In response to Tieden, Rowland said that most unfavorable publicity has been focused on "puppy mills." No formal action.

Ch 50

There was review of the Economic Impact Statement prepared on Chapter 50 relative to the Farmers Market/WIC Program.

Priebe was interested in the training process for vendors to become certified. Cooper responded that the Department conducted 13 different training sessions around the state this year held in conjunction with the Iowa Fruit and Vegetables Growers Conference. Three temporary employees are employed during the summer to do monitoring—one in the east, one in the west and one to cover central Iowa.

Priebe opined that department inspectors could assume this responsibility. Cooper maintained that inspectors have a full-time load. It was noted that restaurant inspectors were under Inspections and Appeals Department. Valley discussed program administrative costs including monitors. She spoke of the extensive recordkeeping to meet federal requirements and the fact that the program is being expanded annually. No Committee action.

**ALCOHOLIC  
BEVERAGES**

Appearing for the Division were Lynn Walding, Richard Morrell and Janet Galloway. The following agenda was discussed:

**ALCOHOLIC BEVERAGES DIVISION[185]**

COMMERCE DEPARTMENT[181] "umbrella"

Liquor licenses — beer permits — wine permits; license and permit division; advertising; representatives of distillers, rectifiers, manufacturers, brewers and vintners; private wine sales; agency stores; trade practices; regulations; trade practices; class "E" liquor control licenses, 4.1(3) to 4.1(6), 4.2(1), 4.2(2), 4.5, 4.6, 4.7(5), 4.10, 5.5, 5.8(8), 5.9(5), 5.9(6), 5.13, ch 6, 7.2(1), 7.2(2), 7.2(4) to 7.2(6), 7.3(1), 7.3(1)"a," "b," "f," 14.3, 14.6, ch 15, ch 16, 17.1(2), 17.3, 17.6, 17.7. Notice ARC 1831A ..... 3/20/91

4.1(3) et al.

Morrell explained amendments to 4.1(3) et al. which will essentially incorporate substance of the federal trade regulations with respect to the relationship of the industry members, wholesalers, manufacturers, brewers, etc., with the retailers. He added that the Division had met with all segments of the industry to develop rules which will clear up many gray areas.

Royce called attention to pending legislation which would negate rule 16.6 relative to sale of disposable glassware to a retailer. No Committee action.

There was a brief recess.

Minutes

Pavich moved to approve the minutes of the March meeting. Motion carried.

May Meeting

It was agreed that the statutory meeting date of May 14 should be adhered to by the ARRC.

Schrader requested that a Representative from Professional Licensure Division be called to discuss the rules on mortuary science examiners. So ordered.

LIBRARY  
DIVISION

Mark Peitzman appeared for the Division and presented the following:

## LIBRARY DIVISION[224]

CULTURAL AFFAIRS DEPARTMENT[221] "umbrella"

Organization and operation, LSCA grant program, chs 1, 6, Notice ARC 1415A Terminated.also Notice ARC 1821A .....

3/20/91

Chs 1, 6

Peitzman provided an update on rule making which involved termination of a proposal published in 11/14/90 IAB. After public comment, the rules were redrafted and they have expanded on the LSCA Grants Program at the request of the ARRC. A public hearing was also scheduled for April 23.

Priebe recalled controversy surrounding cost of photocopying and Peitzman said they had received direction from the Education Appropriation Subcommittee as to the appropriate fees.

In response to Tieden, Royce advised that, in terms of the federal grants, the Division has basic standards that mirror the type of detail contained in grant programs of other agencies. He added that a number of other programs should have rules but immediate concerns had been addressed.

Peitzman reported that a schedule was being developed to accomplish that goal. No Committee action.

CORRECTIONS  
DEPARTMENT

Fred Scaletta was present for the following agenda:

## CORRECTIONS DEPARTMENT[201]

Amend and transfer 201—chs 1 to 61 to [201] and 635—ch 1 to 201—37.4, Notice ARC 1819A,also Filed Emergency ARC 1801A .....

3/20/91

Transfer and  
Amend

Scaletta told the Committee that the rule making transferred existing rules from agency number 291 to 201 to complete reorganization of the Department. The Prison Industries Advisory Board, 635--Chapter 1 was transferred to Corrections as rule 201--37.4(246). Significant revisions include liberalizing visiting privileges at the State Penitentiary.

Tieden and Scaletta discussed procedures of the eight judicial districts. Tieden wondered why there was no uniformity. Scaletta noted that only two districts were interested in allowing their correctional services employees to carry firearms.

Doyle called attention to an obsolete Code reference in 201--2.1 and suggested that "1983" be stricken. He also questioned use of "ex-employees" in 20.3(1) and Scaletta said these would be employees of the Department of Corrections or a Judicial District. He agreed to clarify the rule. No formal action.

ENVIRONMENTAL  
PROTECTION

The Commission was represented by Diana Hansen, Ralph Turkle, Michael Murphy and Gaye Wiekierak, who reviewed the following:

## ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561] "umbrella"

Pesticide application to waters, 60.2, ch 66, Notice ARC 1825A .....

3/20/91

Water quality standards revisions, phase III stream use designations, amendments to ch 61, Economic ImpactStatement .....

3/20/91

Storage, processing and disposal of waste tires, 100.1, 102.2(1), 102.15(4), 104.1, 110.1,

ch 117, Notice ARC 1760A .....

3/16/91

Temporary operator designation for sanitary landfills or solid waste incinerators,

102.13(12), Notice ARC 1824A .....

3/20/91

Also present: Joe Kelly, Iowa Tire Dealers Association.

Hansen stated that proposed Chapter 66 pertained to granting licenses for applicators to apply pesticides to certain designated water surfaces. Priebe observed an apparent duplication of jurisdiction by the Departments of Natural Resources and Agriculture.

60.2, Ch 66

EPC  
Contd.

Hansen pointed out that 1990 legislation placed the authority in Code chapter 455B.

Tieden suggested use of "shall" in lieu of "will" in subrule 66.1(4).

Priebe took the position that the President of the Senate and Speaker of the House should be apprised of the duplication of services.

Motion

Pavich so moved and added that the Committee found no fault with the rule making. Motion carried.

Ch 61  
Economic Impact  
Statement

According to Hansen, the Economic Impact Statement on Chapter 61 was prepared at the request of the Commission and it addresses the water quality standards revisions, Phase III--use designations for various streams in Iowa. The proposed rules under Phase III would reduce by approximately \$2.65 million the projected costs from those projected in the original Economic Impact Statement concerning water quality standards revisions in 1990. No questions.

100.1 et al.

Murphy described amendments to 100.1 et al. as intended to implement statutory changes made last session requiring environmentally safe storage, processing and disposal of waste tires. As a result of comments received during the hearing process, the rules will be revised and some will be renoticed.

Priebe questioned the limitation of 2500 waste tires allowed at any storage facility. He reasoned that 10 to 14 thousand tires could be processed daily and that a 20-day supply would be needed. Wiekierak referred to 117.5(1) which allows processors a 10-day supply. Priebe expressed his concern about inequity in application of the law.

Tieden commented on the plants in his area and Wiekierak stated that the Division considers the Clayton mine to be indoor storage and not covered by these rules.

Schrader asked for clarification as to which portions of the rules would be adopted. Murphy cited definitions of "tire" and "waste tire" which would be modified to include nonpneumatic as well as pneumatic as recommended by industry. Murphy pointed out that effective July 1, 1991, waste tires must be processed in a manner established by the Department of Natural Resources before they will be accepted at a landfill. Proposed subrule 102.15(4) provides different standards for passenger and larger tires. Commentors favored equal standards of peices or shreds no larger than 18 inches.

Schrader failed to see the need for the complicated processing for the landfill. It was his understanding that the problem resulted when gas collects in buried tires and they rise to the surface. He reasoned that cutting the tires in half around the centers would be sufficient. Murphy cited research from other states which revealed that this approach did not eliminate air space which traps the gas.

Priebe mentioned new processes being developed to reuse the shredded tires. Wiekierak spoke of studies which indicate leaching from buried tires under certain soil conditions. Schrader was not convinced that cost of time and energy for the processing would be justified.

Priebe pointed out that buried tires would gradually work to the top because of thawing and freezing.

Doyle recalled an effort in his area to use tires for fuel. Also, dealers are charging \$2 to the customer for a discarded tire. As a result the County Supervisors are finding more and more tires in ditches. He asked about possible separate storage areas for counties until arrangements are made to send tires to recyclers. Doyle envisioned a need for special rules for counties or cities to address the problem.

EPC  
Contd.

Priebe recommended that reporting on the number of tires processed should be made monthly rather than by fiscal year as required in 117.3(8). He also questioned the restrictions on stacking shredded tires to 10 times the average daily capacity at a processing facility--117.4(1) and 117.5(1). The two subrules seemed conflicting.

There was no formal action.

102.13

There were no recommendations for new subrule 102.13(12).

NATURAL  
RESOURCE

Appearing for the Commission were Steve Dermond, William Farris, Victor Kennedy and Richard Bishop.

# NATURAL RESOURCE COMMISSION[571]

## NATURAL RESOURCES DEPARTMENT[561] "umbrella"

Hunter safety and ethics course-hour requirement, 15.1(2), 15.1(2)"c,"	Filed ARC 1771A	3/6/91
Speed restrictions on the Greene Impoundment of the Shell Rock River, 40.35,	Filed ARC 1772A	3/6/91
Horsepower limitation — Beeda Lake, Franklin County, 45.4(1)"b,"	Notice ARC 1773A	3/6/91
Cottonwood Wildlife Area — firearm restriction, 51.3(1)"d,"	Filed ARC 1774A	3/6/91
Nursery stock prices, 71.3,	Notice ARC 1770A	3/6/91
Waterfowl and coot hunting seasons, 91.1 to 91.3, 91.4(2)"b" and "m,"	Notice ARC 1776A	3/6/91
Waterfowl and coot hunting zones, 91.4(2)"i" and "l,"	Filed ARC 1775A	3/6/91
Nonresident deer hunting, 94.1, 94.2, 94.6, 94.8,	Notice ARC 1777A	3/6/91
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 96.1(1), 96.2, 96.3,	Notice ARC 1778A	3/6/91
Common snipe, Virginia rail and sora, woodcock and ruffed grouse hunting seasons, 97.1 to 97.4,	Notice ARC 1779A	3/6/91
Wild turkey fall hunting, ch 99,	Notice ARC 1780A	3/6/91
Deer hunting regulations, 106.1, 106.2, 106.3(2), 106.4, 106.5(1), 106.5(2)"g," 106.5(3), 106.5(4), 106.6(1) to 106.6(3), 106.7(2), 106.8,	Notice ARC 1781A	3/6/91
Rabbit and squirrel hunting, 107.1 to 107.3,	Notice ARC 1782A	3/6/91
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, otter and spotted skunk seasons, 108.1, 108.1(2), 108.2 to 108.5,	Notice ARC 1783A	3/6/91

Chs 15, 40,  
45 and 51

Dermond presented amendments to 15.1(2), 40.35, 45.4(1) and 51.3(1). There were no questions.

Ch 71

Farris described amendments to 71.3 which will increase state nursery stock prices to cover the cost of operation of the nursery. Farris informed Priebe that a 50-cent increase was sufficient for conifers. Priebe asked if wildlife and songbird packets were available and Farris stated that they no longer plant honeysuckle because of a disease problem.

Maulsby was concerned about private industry since the state has an unfair advantage. Farris responded that the state costs are covered including an overhead expense for the state services provided out of Des Moines as well as for other services. He continued that general fund dollars were not used for the nursery operation and the Department was able to add an extra forester to provide additional services to landowners. Farris concluded that the state, through the bidding process, tried to involve nurserymen in growing the seedlings in Iowa. Only two bids were received--the low bid went to the operator who was currently growing seedlings.

Schrader commented that the wildlife packets had been very popular in his area and he wondered about cost. Farris stated they were around \$25 before the legislature asked for the price increase to recover costs. Farris clarified that many private nurseries sell seedlings in Iowa but many come from outside the state. No formal action.

Ch 91

*They will delete "and"*

Bishop explained amendments to Chapter 91. He informed Doyle that two comments were received from Onawa residents regarding zones. As a result, boundaries were redrawn. Bishop and Tieden discussed changes in shooting hours for geese. Bishop said that intent was to help the hunter to take more geese. He added that the snow geese population is the largest in history.

Chs 94, 96,  
97

There were no recommendations for amendments to Chapters 94, 96 and 97.

**NATURAL Ch 99** With respect to wild turkey fall hunting, Bishop stated that the turkey population was  
**RESOURCE** down in most areas. Permits would be limited to the Northeast Zone in an attempt to  
**Contd.** save the spring season.

**Ch 106**

There was brief review of Chapter 106. Bishop reminded that a second license would be allowed for antlerless deer only in the southern part of the state. The second permit is intended as a herd control option. Bishop spoke of concern from both landowners and sportsmen about over-harvest of deer in northeast Iowa and all across northern Iowa. He added that the Department does not believe that the herd is as low as some suspect. Priebe concurred.

In conclusion Bishop, mentioned complaints from landowners who live out-of-state and are prohibited from hunting on their own Iowa property. No Committee action.

**Chs 107, 108** There were no comments regarding Chapters 107 and 108.

# **INDUSTRIAL SERVICES**

Clair Cramer, Acting Director, was present for the following:

## **INDUSTRIAL SERVICES DIVISION[343]**

**EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"**

Contested cases, informal dispute resolution procedures, 4.9(7), 4.41 to 4.43, ch 10, Filed ARC 1759A ..... 3/6/91

**Chs 4, 10**

According to Cramer, amendments to Chapter 4 and new Chapter 10 were in response to 1990 legislation which directed the department to provide by rule for informal dispute resolution procedures and for expedited contested case hearings. As a result of a significant number of written comments technical corrections were made following the Notice.

In response to question by Tieden, Royce found no problem with the rules which were intended to lessen the backlog in the Division. Royce observed that the rules would not eliminate the need for an attorney for the average claimant.

In response to Doyle, Cramer indicated the normal evidentiary hearing that would be independent of these particular provisions still remains. In addition, subrule 4.41(4) provides that a party may offer additional exhibits if good cause is shown.

Cramer told Doyle that it was his opinion a statutory change would be needed before hearings could be conducted outside of Des Moines. He also cited revenue problems.

# **RACING AND GAMING**

Appearing for the Commission was Lorenzo Creighton who presented the following:

Adjustments to racing rules after one year of enforcement; simulcasting, 1.2(3), 3.14(2), 4.1, 4.3, 4.3<sup>8</sup>, 4.10, 4.27, 5.16(6)<sup>d</sup> and "e," 7.2(13), 7.2(16), 7.2(17), 7.3(10), 7.3(18), 7.3(16)<sup>k</sup>, 7.3(17)<sup>g</sup>, "i," and "o," 7.3(18)<sup>j</sup>, 7.3(22), 7.5(6), 7.5(8), 7.5(1)<sup>a</sup>, 7.5(4)<sup>n</sup> and "x," 7.5(6)<sup>e</sup>, 7.14(12), 7.14(18), 7.16, 8.2(1), 9.2(7)<sup>a</sup>, 9.2(16)<sup>g</sup>, 9.3(27), 9.3(28), 9.4(13)<sup>b</sup>, 9.4(14), 9.4(15)<sup>b</sup>(3), 9.5(1)<sup>a</sup>, 9.6(1)<sup>d</sup>, 9.7, 10.2(7)<sup>a</sup>, 10.2(15)<sup>g</sup>, 10.3(25) to 10.3(27), 10.4(13)<sup>n</sup>, 10.4(14), 10.4(15)<sup>b</sup>(3), 10.4(17)<sup>b</sup>(5), 10.4(17)<sup>b</sup>(10), 10.4(19)<sup>a</sup>(6), 10.4(19)<sup>n</sup>(4), 10.5(1)<sup>x</sup> and "y," 10.6(1)<sup>d</sup>, 10.7, ch 12, 22.17(2), Filed ARC 1798A ..... 3/6/91

Riverboat operations, ch 25, Filed ARC 1794A ..... 3/6/91

**1.2 et al.**

Discussion focused on 4.27(1) which prohibits licensees or employees of a horse or dog track from having an alcohol level of .05% or, in some situations .10%.

Schrader interpreted the rule to preclude a horse owner from going into the paddock with the trainer to saddle the horse if the owner had an alcohol level of .05%. Creighton admitted that the owner would be subject to a violation. He stressed the safety aspect in that a paddock could be a dangerous place and anyone under the influence of alcohol could present a real problem.

Priebe voiced his opposition to the rule.

Doyle expressed concern as to the accuracy of the Breathalyzer testing equipment—4.27(1) and (2). Creighton emphasized that intent of the rule was clearly

**RACING AND  
GAMING  
Contd.**

not to penalize the owner or trainer who was merely attending the races but was for the protection, health and safety of the racing animal and jockey.

Schrader reiterated his problem with the .05% reading and declared people on the back stretch walking horses around the barn should not be held to a higher degree of responsibility than a motorist driving on the highway.

**Motion**

Schrader moved to object to rule 491-4.27(99D), in particular, the .05 percent level of alcohol as being unreasonable. Motion carried.

**Objection**

The following was prepared by Royce:

At its April 8, 1991 meeting the Administrative Rules Review Committee voted to object to the provisions of 491 IAC 4.27(99D), on the grounds this rule is unreasonable. In essence, the rule prohibits licensees or employees of a horse or dog track from having an alcohol level of .05, or in some cases .10. The committee's first concern is that it is unnecessary to limit consumption by licensees who are not actually working at the track; such as an owner who is present in a restricted area simply as an observer. Secondly, the committee believes that the level is unreasonably low for licensees who are not actually working. A .05 level can be achieved with as little as three beers; such a blood level would still allow the person to operate a motor vehicle, but the rule would prohibit that person from being in an unrestricted area of the track. The third problem is the accuracy of the test. The rule provides for the use of the "Breathalyzer". This device is used by police officers to get an initial reading, used only as justification to seek the more accurate blood or urine specimen. The Breathalyzer itself is not accurate enough to provide a reliable alcohol level.

**Ch 25**

Creighton told the Committee that Chapter 25 was intended to implement Code chapter 99F and would allow the Commission to recoup regulation costs for riverboat operations. The estimated cost of regulation is \$250,000 essentially for the law enforcement personnel and the gaming staff who regulate the functions on the boat.

Priebe wondered how the fee could be the same for every boat since they have different capacities. Creighton pointed out that boat operators had been advised of that problem. It was noted that the Department of Management is responsible for assigning the DCI agents.

Schrader asked Creighton to inform the Commission of the legislature's displeasure with this burden on the licensees. Creighton recalled that the original plan was to have gaming agents. Royce interjected that decision was made by the Department of Management to have DCI agents.

Doyle referred to 25.14(2) and asked about the meaning of "peace officer." Creighton said the commission wants to ensure law enforcement on all boats if the DCI agents were not available. Doyle made the point that the officers should be hired through a "28E agreement" so the Department could get reimbursed. Creighton responded that the commission has a 28E agreement that allows the peace officer on the boat and they are paid through the Racing and Gaming fund-\$2400 a week per agent.

Maulsby asked if payment were being made to DCI agents rather than peace officers and Creighton explained that the agents were paid out of the admissions fees. The cost must be recouped for those agents, thus, the complicated admissions formula.

**RACING AND  
GAMING  
Contd.**

Schrader asked why it was necessary to have 30 DCI agents and Creighton explained that they have to cover every shift on all boats the hours liquor can be served. DCI agents are paid from portal to portal so when they leave home they are on the clock and receive overtime and various other benefits through the collective bargaining agreement.

There was committee consensus that they should meet with Management Department officials tomorrow and Priebe asked Conway to make the arrangements.

**ATTORNEY  
GENERAL**

Tim Benton and Peter Kochenburger represented the Attorney General for the following:

**ATTORNEY GENERAL[81]**

Iowa mediation program, ch 17, Filed ARC 1752A .....

Notification and fees, ch 22, Filed ARC 1820A .....

3/6/91  
3/21/91

Ch 17 and 22

There were no comments.

**AUDITOR OF  
STATE**

Appearing for the Auditor was Warren Jenkins who presented the following:

**AUDITOR OF STATE[81]**

Filing fees, rescind ch 20, now ch 21, Notice ARC 1828A .....

3/21/91

Also appearing were Keith Luchtel and Stan Bonta, Executive Director, Iowa Society of CPAs.

Ch 21

Chairman Priebe recognized Luchtel who commented on filing fee schedule. He declared that use of the maximum rate would triple costs. Luchtel pointed out that the Auditor's office would, in many instances, be in competition with private auditing firms in this endeavor.

Jenkins commented that prior to this year, the filing fees had been approved by the Executive Council. He emphasized that there was no intent to price CPAs out of business. The proposed structure is the same that has existed for the previous two years--various rates according to the size of the budget. The reason for the variances and the various strata is that the smaller the audit, the less time it takes to review. Jenkins added that a substantial number of firms have fees lower than the proposed fees. He recalled that during the past year, the Auditor had performed 3 significant reaudits: Lincoln High School, Charles City Community Schools, and Davenport Schools. These reaudits will vary from year to year as to complexity and cost involved but the office expects an increasing number of requests and they saw a need for flexibility.

Chairman Priebe asked the Department to withhold adoption of the rules until the Committee could review them at a subsequent meeting.

**PROFESSIONAL  
LICENSURE**

Susan Osmann and Marilyn<sup>were</sup> Ubaldo ~~was~~ in attendance to explain the following:

Board of mortuary science examiners, 101.1, 101.1(1), 101.1(2), 101.1(4), 101.2(3), 101.4(3)"c," 101.4(4), ~~X~~ 101.58(6), Notice ARC 1786A .....

3/6/91

Ch 101

Royce stated that questions had been raised regarding educational criteria. The requirements for a degree in mortuary science had been revised to eliminate the associate degree and Royce wondered if grandfather provisions would be provided for the student now working on an associate degree.

Osmann admitted there has been confusion about the rules. When the Board adopted the language in 101.1(4), they intended that an applicant receiving a bachelors in mortuary science or an AA degree in mortuary science, from an accredited college or university, shall have completed the education requirements in the 101.1(3)[premortuary college]. There was misinterpretation that if the person had the degree, they automatically met the laundry list of requirements in 101.1(3). In an attempt to clarify, the Board deleted the reference to an "associate degree." However,



**PROFESSIONAL  
LICENSURE  
Contd.**

after further consideration, the Board plans to rewrite 101.1(4) to read: "An applicant receiving a bachelor's degree with a major in mortuary science is deemed to have completed the educational requirements in 101.1(3)." A student with a bachelor's degree will be considered to have met all the 64-hour requirements in 101.1(3). Those with an associate degree will be required to complete that course breakdown.

There was Committee consensus that the subrule should be renoticed. Osmann was amenable but pointed out that the Attorney General had no problem with the provision since it was actually making it easier to come to the board with a bachelors degree and there was no negative effect on those with an associate degree.

The ARRC favored renotece and Osmann would make that recommendation to the Board. Doyle recommended that the date be changed to July 1, 1991, in 101.1(4).

No formal action.

**No Agency  
Representatives**

No agency representatives were requested to appear for the following:

<b>ARCHITECTURAL EXAMINING BOARD[193B]</b>	
Professional Licensing and Regulation Division[193]	
COMMERCE DEPARTMENT[191]"umbrella"	
Description of organization, registration, continuing education, rules of conduct, 1.1, 1.3, 1.4, 2.2, 2.4, 3.1(2), 3.1(3), 4.1, 4.1(3)"b," 4.1(4)"c,"	Filed ARC 1760A
	3/6/91
<b>CIVIL RIGHTS COMMISSION[161]</b>	
Complaint process, 3.15(1), 3.15(4),	Filed ARC 1747A
	3/6/91
<b>COMMUNITY ACTION AGENCIES DIVISION[427]</b>	
HUMAN RIGHTS DEPARTMENT[421]"umbrella"	
Community services block grant, 22.2, 22.15,	Notice ARC 1815A
	3/20/91
<b>CREDIT UNION DIVISION[189]</b>	
COMMERCE DEPARTMENT[191]"umbrella"	
Accounts, 8.5(3),	Filed ARC 1760A
	3/6/91
<b>CULTURAL AFFAIRS DEPARTMENT[221]</b>	
Informal and contested case appeals, ch 3,	Notice ARC 1811A
	3/20/91
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>	
Productivity and quality enhancement, ch 11,	Filed ARC 1804A
Emergency shelter grants program, 24.1"2," "3," "5," 24.5"3," 24.8, 24.11(9) to 24.11(11),	Notice ARC 1802A,
also Filed Emergency ARC 1803A	3/20/91
<b>EDUCATION DEPARTMENT[281]</b>	
Organization and operation, 1.1(1), 1.1(4)"c," 1.1(6)"c," 1.3, 1.3(1), 1.3(3) to 1.3(5),	Filed ARC 1762A
Child development coordinating council, 64.2, 64.9, 64.11, 64.18, 64.22 to 64.24,	Notice ARC 1799A,
also Filed Emergency ARC 1798A	3/6/91
Innovative programs for at-risk early elementary students, 65.2, 65.4 to 65.6, 65.8 to 65.10, 65.19 to 65.23,	Notice ARC 1622A Terminated ARC 1761A
Conservation education — grant deadlines, 68.6(3), 68.9(1),	Filed ARC 1810A
	3/20/91
<b>GENERAL SERVICES DEPARTMENT[401]</b>	
Establishment of shoe shine stand in basement of Capitol building, 1.7(1), 1.7(4),	Filed Emergency ARC 1800A
	3/20/91
<b>HEALTH DATA COMMISSION[411]</b>	
Hospital reporting of severity codes, 5.5,	Filed ARC 1823A
Data accessibility and confidentiality of public records and fair information practices, 7.1 to 7.3,	
7.5,	Notice ARC 1787A
	3/6/91
<b>HISTORICAL DIVISION[223]</b>	
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"	
Description of organization, collections policies, historical marker program, 1.3, 1.4, 1.5(6)"h," 13.4(2)"d," 13.6(4)"b," 13.6(6)"c," ch 23,	Notice ARC 1826A
	3/20/91
Historic property rehabilitation tax exemption, ch 47,	Filed ARC 1812A
	3/20/91
<b>HUMAN SERVICES DEPARTMENT[441]</b>	
Correction and update of Iowa Code references and department organizational references, amendments to chs 24 to 26, 28, 31, 33, 35, 36, 37,	Filed ARC 1768A
	3/6/91
PROMISE JOINS overpayments, 41.4(1)"d," 93.9, 93.10(8), 93.41(1)"a," 93.51, 93.51(1), 93.51(6),	Notice ARC 1809A
	3/20/91
Income exemption for comprehensive child development program, 41.7(7)"ac,"	Filed Emergency After Notice ARC 1767A
	3/6/91
State supplementary assistance policy, 51.1, 51.3(3) to 51.3(5), 52.1(3)"a" and "d,"	Notice ARC 1764A
	3/6/91
SSI cost-of-living adjustment increases, 51.4(1), 51.7, 52.1(1), 52.1(2), 52.1(3)"a"(2)"i,"	Filed ARC 1768A
	3/6/91
Treatment centers and group living arrangements, 65.9,	Notice ARC 1792A
	3/6/91
Medicaid — conditions of eligibility, 75.1(20), 75.1(20)"a"(3) and (4), 75.1(20)"b" and "c," 75.5(3), 75.5(3)"d," 75.16(2)"a," 75.16(2)"d"(3),	Filed ARC 1765A
	3/6/91
Drugs dispensed by podiatrist, 75.5(3),	Notice ARC 1791A
	3/6/91
Income guideline increases, 130.3(1)"d"(2),	Filed ARC 1789A
	3/6/91
Court-ordered care and treatment, 151.1(2)"c,"	Filed ARC 1790A
	3/6/91

No Agency  
Reps.  
Cont.d

<b>INSPECTIONS AND APPEALS DEPARTMENT[481]</b>	
Requirements for sinks in new or remodeled food establishments and food service establishments; vending machine licensure exemption; training cost recovery, 31.1"7" and "8," 32.1"8," 33.1,	
35.4(1), <u>Notice</u> ARC 1751A	3/6/91
Bingo — senior citizen organizations, 103.3(3), <u>Notice</u> ARC 1816A	3/20/91
<b>INSURANCE DIVISION[191]</b>	
COMMERCE DEPARTMENT[181]"umbrella"	
Surplus notes; artwork, 5.4, 5.6(4), <u>Notice</u> ARC 1796A	3/6/91
Surplus lines diskette affidavit, 21.3(2), 21.4"1," Filed ARC 1795A	3/6/91
Preferred provider arrangements, ch 27, <u>Notice</u> ARC 1797A	3/6/91
Long-term care insurance, ch 39, <u>Notice</u> ARC 1788A	3/6/91
<b>LABOR SERVICES DIVISION[347]</b>	
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"	
OSHA rules for general industry — air contaminants and exposure to asbestos, tremolite, anthophyllite and actinolite, 10.20, <u>Notice</u> ARC 1765A	3/6/91
OSHA rules for general industry — welding, cutting, brazing; access to medical records; electrical safety-related work practices; control of hazardous energy sources (lockout/tagout), 10.20, Filed ARC 1767A	3/6/91
OSHA rules for construction — stairways and ladders, exposure to asbestos, tremolite, anthophyllite and actinolite, 26.1, <u>Notice</u> ARC 1766A	3/6/91
OSHA rules for construction — concrete and masonry standards, lift slab construction operations, 26.1, Filed ARC 1768A	3/6/91
<b>PERSONNEL DEPARTMENT[681]</b>	
IPERS, 21.11(7), Filed ARC 1753A	3/6/91
<b>PHARMACY EXAMINERS BOARD[657]</b>	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Temporary designation of anabolic steroids as Schedule III nonnarcotic substances, 10.20(1)"7," Filed Emergency ARC 1818A	3/20/91
Anabolic steroids, ch 18, Filed Emergency ARC 1817A	3/20/91
<b>PROFESSIONAL LICENSURE DIVISION[645]</b>	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Board of optometry examiners, 180.8(4), 180.9, Filed ARC 1784A	3/6/91
Board of optometry examiners, 180.13(1), 180.13(5), 180.13(6), Filed ARC 1785A	3/6/91
<b>PUBLIC BROADCASTING DIVISION[225]</b>	
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"	
Iowa communications network site selection, ch 10, Filed Emergency ARC 1813A	3/20/91
<b>PUBLIC HEALTH DEPARTMENT[641]</b>	
Community water fluoridation grant program, ch 20, <u>Notice</u> ARC 1827A	3/20/91
<b>REAL ESTATE COMMISSION[193E]</b>	
Professional Licensing and Regulation Division[193]	
COMMERCE DEPARTMENT[181]"umbrella"	
Requirements for errors and omissions insurance, ch 6, <u>Notice</u> ARC 1833A	3/20/91
<b>REVENUE AND FINANCE DEPARTMENT[701]</b>	
Cigarette tax, 82.1(3), Filed ARC 1830A	3/20/91
<b>SOIL CONSERVATION DIVISION[27]</b>	
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"	
Contracts for public improvements and professional services, interest on retained funds, chs 6, 7, <u>Notice</u> ARC 1764A	3/6/91
Water protection practices — water protection fund, 12.51(4), 12.81(3), 12.82(6), 12.84, <u>Notice</u> ARC 1763A	3/6/91
<b>UTILITIES DIVISION[199]</b>	
COMMERCE DEPARTMENT[181]"umbrella"	
Pipeline permits — construction and safety, 9.1(1), 9.1(3)"c," 9.5, ch 10 title, 10.1(6), 10.1(10), 10.2(1), 10.2(2), 10.2(3)"a," 10.3, 10.3(4)"a," 10.3(6), 10.7, 10.9 to 10.12, 10.14, 10.15, 10.17 to 10.19, ch 12, Filed ARC 1748A	3/6/91
Utility audit workpaper documents, 16.9, <u>Notice</u> ARC 1497A <u>Terminated</u> ARC 1832A	3/20/91
Disposal of a public utility's assets, 32.2, <u>Notice</u> ARC 1749A	3/6/91
<b>VETERINARY MEDICINE BOARD[811]</b>	
Examinations, 7.1(1), Filed Emergency ARC 1814A	3/20/91

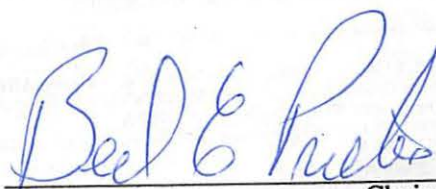
Next regular meeting will be held May 14 and 15, 1991.

Next Meeting

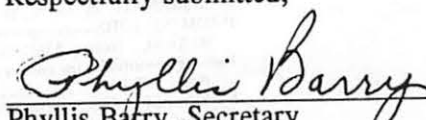
Adjourned

Chairman Priebe adjourned the meeting at 10:15 a.m.

Respectfully submitted,



Chairman



Phyllis Barry, Secretary  
Alice Gossett, Admin. Asst.