

MINUTES OF THE SPECIAL MEETING  
of the  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, January 4, 1977, 10:15 a.m.

Place of Meeting: Senate Committee Room 24, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chairman, Senators Minnettee Doderer and E. Kevin Kelly; Representative W. R. Monroe, Jr. Vice Chairman, Representatives Donald V. Doyle and Laverne Schroeder.  
Also present: Joseph Royce, Administrative Co-ordinator.

GENERAL SERVICES  
Parking

Stanley McCausland, Director of General Services, was present for review of proposed rules in re parking of vehicles within the capitol complex, being Chapter 10, IAC Supplement 12/15/76.

McCausland explained the plan for parking which would include the installation of control gates later in the year. Monroe took the position that certain portions of the rules which would not be applicable for a time should be omitted before filing.

Kelly and Doderer raised question in 10.10(2)d as to a violation being considered a "public offense."

In response to Kelly's opposition to requiring that parking decals be "permanently affixed", McCausland said that multiple decals would be available upon request. He explained that the decals must be affixed permanently for aid in enforcement. [10.6(5)]

Monroe noted that "parking decal" was not defined and recommended that 10.6(4) be clarified by adding after the word "state" the words "capitol complex".

Monroe referred to 10.10(8)".... written instructions that describe the procedure consistent with chapter 17A...." It was his opinion the procedure should be set out in the rules.

McCausland responded that an appeal procedure had not been formulated as yet and tickets for violations would not be issued until this was done.

Discussion of possible fee schedule for wrecker service for towing. [10.10(7)] Schroeder suggested a reduced

GENERAL SERVICES  
Parking Cont'd

fee if a violator returned to the vehicle before the wrecker had towed it from the complex.

Kelly recommended clarification of 10.1(4) defining "employee". After brief discussion, Doderer suggested striking from line 1 the first word "regularly".

Discussion of procedure to be followed for parking during legislative sessions.  
No further recommendations.

EMPLOYMENT  
SECURITY  
6.2(5)a

Bob Bray, Omaha Attorney, representing the Council Bluffs Legal Aid Society, appeared before the Committee to call attention to what he considered a problem area in rules of Employment Security. He submitted the following proposal:

Amend Rule 6.2(5)a by adding the following: "The hearing officer shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing or at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence."

It was decided that the matter should be deferred until 1:45 p.m. when a representative from the Job Service Department would be present.

CONFIDENTIAL  
RECORDS COUNCIL

Carroll Bidler, Tracis Director, explained emergency amendments to 2.1(3) and 2.1(4) of rules of the Confidential Records Council which were published 12/15/76. Said amendments were necessary to conform with legislation which eliminated legislative members from the Council. No recommendations were made by the Committee.

CONSERVATION

The following rules of the Conservation Commission were before the Committee: Fishing--Ch. 103; Inland Commercial Fishing--Ch. 110; Wild Turkey Hunting--Ch 111 and Falconry--Ch. 18.

Bob Barrett represented the Commission and explained the minor changes in the rules.

Royce pointed out that Chapter 111 did not contain an expiration date and Committee members recommended that said rules be corrected and refiled.

## BANKING

Tom Houston, Superintendent of Banking, explained the following:

Interest on time deposits, 8.2(2)"b"	12/29/76
Interest on time deposits, 8.2(2)"b", emergency	12/29/76
Payment of time deposits, 8.5(4)	12/29/76
Payment of time deposits, 8.5(4), emergency	12/29/76

Houston said the rules would affect 557 state chartered banks and are intended to bring HR10 or Keogh plan into line with IRA plan. The rules were acceptable.

NURSING BOARD The following amendments by the Board of Nursing were considered:

Administrative hearings, 1.2	12/29/76
Temporary license, 4.1(4)	12/29/76
Felony applicants for licensure, 1.2(2)	12/29/76
Reinstatement of license, registered nurse, 3.3(3)	12/15/76
Reinstatement of license, practical nurse, 4.3(3)	12/15/76

In re 1.2(2), Doderer questioned Lynne Illes, Board Secretary, as to what types of felonies would be relative to nursing. An example given was illegal use of drugs. Illes said the Attorney General had advised them to eliminate specifics and review individual cases.

In response to further question by Doderer, Illes agreed to make sure that the \$50 license fee wasn't excessive.

PUBLIC  
INSTRUCTION

Larry Bartlett, Legal Counsel, represented Public Instruction, for review of the following:

Approved school, administration, 3.2(19,20), 3.3(9-11), 3.4(14)	12/15/76
Interscholastic athletics, 9.15(3)	12/15/76
Organizational rule, Ch 49	12/15/76
Adoption of rules, Ch 52, amendments	12/15/76

Bartlett indicated the amendments were basically for clarification and to further define who may give physical examinations. In re Item 8, amending 52.10 by striking "unnecessary", Royce pointed out that the amendment would be unnecessarily restrictive since "unnecessary" is still a rationale for filing rules on emergency basis.

## REVENUE

There was brief review of the following amendments to rules of the Revenue Department. Joe Booth and Verne Raile were present.

Individual and corporation income taxes, Chs 38 to 42, 44, 46, 48, 51 to 54, amendments	12/29/76
Games of skill, chance, bingo and raffles, Chs 91 to 96	12/29/76
Notice of appeal, motions, pleadings, 2.4, 2.5, 2.6, amendments	12/15/76

Committee made no recommendations.

In a matter not before the Committee, Doyle was told that special legislation would be required before baby-sitting costs could be used as a tax deduction.

HEALTH  
Pathology

Neal Verhoof, Chairman of the Board of Pathology Examiners, explained proposed rules of the Board [Ch 155] published 12/29/76 IAC Supplement.

Royce pointed out that 155.10(9)"c" should be corrected to comply with the statute by changing "90 days" to "30 days".

Schroeder cautioned that 155.7(2) in re renewal of license fees might be discriminatory. He suggested a provision of thirty days grace period.

Doderer noted that the last sentence of the subrule was poorly drafted. It provided: "Failure to submit a timely renewal may result in revocation of license."

Department agreed to amend the rules before filing them.

Schroeder questioned use of the word "substantially" in 155.3(5). There was brief discussion but no recommendation was made.

ENGINEERING  
EXAMINERS

Ronald Brown, Board Member, explained proposed amendments to Chapters 1 and 2 of rules of the Engineering Examiners published 12/29/76 under Notice.

Schroeder raised question with respect to location of markers in surveying.

Doyle was concerned as to 2.1(2) which would require that a specific rule be noted on the surveyor's plat..."

It was pointed out that legislation is needed for county surveyors.

RECESS  
RECONVENED

Chair recessed the meeting at 12:25 for lunch.

Meeting was reconvened at 1:40 p.m. Doderer out of the room.

DRUG ABUSE  
AUTHORITY

Aaron Martinez appeared in behalf of the Drug Abuse Authority to explain the following:

Organization, hearings, Chs 1 and 2, amendments	12/29/76
Standards for treatment programs, 1.14-1.16, amendments	12/29/76
Applications, licenses and certification, 1.6, 2.1(10,20,21), 2.6, 2.16(2-6)	12/29/76

Monroe took the position that 1.6 "favored the department" in re application review.

Schroeder suggested clarification of 2.6(3)"d"(2) by substituting "documents" for "protocols".

Monroe pointed out use of the meaningless expression "and/or" in 2.16(4)"a".

Doyle recommended a positive approach rather than a negative one in 2.16(5)--substitute "help improve" for "jeopardize."

ENVIRONMENTAL QUALITY The following rules were presented by David Bach, Hearing Officer, Environmental Quality Department:

Air quality commission	
Emission standards, amendments to Items 7, 8, 10 and 11 of 8/9/76 Notice	12/29/76
Water quality commission	
Laboratory technicians, certification, 21.6(2)	12/15/76
Air quality commission	
Emission standards, 4.1, 4.2, 4.4, amendments	12/15/76
Chemical technology commission	
Pests, Ch 38	12/15/76

Discussion of 4.2(3)"h" regarding disposal by open burning of pesticide containers.

Schroeder thought the distance from any inhabited building should be reduced from "at least one-fourth mile" to "three hundred feet."

Monroe recommended that future rules contain metric terms as well as other standards of measure.

Bach pointed out that the provision relating to foundries and metal processing [4.4(6)] had been revised.

Bach stated that the definition of "pests" [Ch 38] had been expanded to include the words "unduly injurious" in an attempt to overcome objections voiced by this Committee.

Bach noted that the public hearing date for proposed 21.6(2) was inadvertently typed as "January 26, 1976". Committee members found no objection to changing the year to "1977."

2:20 p.m. Doderer returned.

SOIL CON- Chapter 4 of rules of soil conservation which were published  
SERVATION 12/29/76 were acceptable to the Committee.

EMPLOYMENT Harold Keenan, Legal Department, Job Service of Iowa, and  
SECURITY Bob Bray, Omaha attorney, appeared before the Committee for review of the following:

•Employer records and reports, Ch 2	12/29/76
Employer's contribution and charges, Ch 3	12/29/76
Claims and benefits, Ch 4	12/29/76
Old-age and survivors' insurance, Ch 5 rescinded	12/29/76
Appeals procedure, Ch 6	12/29/76
Forms, Ch 10	12/29/76

Discussion centered on 6.2(5)a and Bray's proposal which had been submitted at the morning session of this meeting. Keenan stated that the district court had upheld the department's right to reject the Bray proposal and he explained the reasons. Copies of the court decision were distributed.

EMPLOYMENT  
SECURITY Cont'd  
Objection

Schroeder moved that the Committee object to 6.2(5) "a" as being arbitrary, capricious and unreasonable and that the objection can be overcome by adding the two sentences proposed by Bray. Carried viva voce.

Monroe asked for copies of all correspondence on the matter.

Doyle called attention to 4.23(4) pertaining to availability disqualifications which provided: "If an individual has no means of transportation from a residence to an area where work opportunities exist, such individual does not meet the availability requirements of section 96.4(3)." Committee members concurred that clarification was needed. Keenan agreed to study the matter.

TRANSPORTATION

The following rules of the Department of Transportation were acceptable to the Committee as published:

Administrative services, amends [03,E] Ch 1, Without Notice	12/29/76
Highway-railroad crossing projects, [06,C] Ch 3	12/15/76
Highway-railroad crossing projects, [06,C] Ch 3, emergency	12/15/76
Traffic engineering, amends [06,K], Without Notice	12/15/76
Identification devices for handicapped persons, [07,D] Ch 1	12/15/76
Interstate registration and operation of vehicles, [07,F] Ch 1, amendments	12/15/76
Truck operators and contract carriers, [07,F] Ch 3, amendments	12/15/76
Motor carriers and charter carriers, [07,F] Ch 4, amendments	12/15/76

APPEAL BOARD

Francis Larew represented the Appeal Board and pointed out the minor changes in Chapter 2 of their rules.

In re 2.4, Committee concurred it would be advisable to specify that a declaratory ruling shall be issued within thirty days.

NURSING HOME  
ADMINISTRATORS

Blain Donaldson, Storm Lake Care Facility administrator, represented the Department regarding filed rules--Chapters 1 and 2, published 12/15/76. Also present were Peter Fox, Health Department, and Larry Blumberg, Assistant Attorney General.

Doderer brought up the question of whether or not a person should be permitted to take the test for administrator prior to meeting educational and experience requirements. Monroe requested that the Board provide him with any suggestions they might offer on the matter.

PHARMACY

The following amendments to Pharmacy rules were explained by Max Eggleston:

Generally, Chs 1, 3, 5, 9, amendments	12/15/76
Unethical conduct, advertising, pricing, Ch 6 (6.5 to 6.7)	12/15/76
Controlled substances, Ch 8 (8.11(3) and 8.15)	12/15/76

PHARMACY  
Cont'd

Monroe brought up the matter of instructions which are provided to the investigators and suggested they should be submitted as rules.

Thomas McGrane, Assistant Attorney General, commented that it was his opinion this would be an internal procedure and would not be considered rules.

SOCIAL  
SERVICES

Judith Welp, Methods and Procedures, represented the Social Services Department for review of the following:

Time limit for submission of medical claims, 80.4	12/29/76
Training school for girls, buildings and grounds, 102.8	12/29/76
Resources, general provisions, Ch 130, amendments	12/29/76
Veterans home, 1.34.1(5)	12/29/76
Interstate compact on juveniles, 143.4(3)	12/29/76
Penitentiary, mail and packages, 17.4(4), emergency	12/29/76
Men's reformatory, mail and packages, 18.4(6), emergency	12/29/76

Doderer raised question as the unfairness of including vinegar as a contraband item in the women's reformatory.

No recommendations were offered by the Committee.

AGING,  
COMMISSION  
ON

An amendment to rules of the Commission on Aging filed without notice 12/29/76 IAC Supplement [1.2] was acceptable.

Lund  
Letter

There was brief discussion of correspondence from H. Ernest Lund, Washington County Assessor, wherein he raised question concerning Rule 72.4(441) of the Revenue Department. Lund recalled that the Department had been willing to recognize professional associations for appraisal-related experience for county assessors.

Motion

Kelly moved that the Lund letter be acknowledged and that he be apprised of the avenues to follow under Chapter 17A. Carried viva voce.

MINUTES

Moved by Schroeder to dispense with reading of minutes of the December meeting and that they stand approved. Carried.

RECESS

The Chairman recessed the meeting at 4:00 p.m. to be reconvened Tuesday, January 11, 1977 at 9:00 a.m.

1-11-77

RECONVENED Chairman Priebe reconvened the meeting Tuesday, January 11, 1977, 9:15 a.m., Senate Committee Room 24. All six members were present.

ADJOURNMENT There being no further business, Kelly moved adjournment. Carried unanimously.

Next regular meeting to be held Tuesday, February 8, 1977, at 7:30 a.m., Senate Committee Room 24.

Respectfully submitted,

Phyllis Barry  
(Mrs.) Phyllis Barry

APPROVED

---

---

ACTIONS OF THE ADMINISTRATIVE RULES REVIEW COMMITTEE MEETINGS  
July 1975 through December 1976

Agency	Appearances before Comm	Rules Objected to	Refer to Leg	70 Day Delay	Economic Impact
Agriculture	13	12	1		
Campaign Finan	8	1			
Conservation	14	1			
Crime Comm	5	2			
Health	14	9		2	
Insurance	12	2			
Law Enforcement	2	1			
Libraries	1	1			
Merit	10	3	1		
Nursing Home	4	5			
Parole	3	1			
Public Inst.	9	8	2		
Public Safety	8	1		1	1
D E Q	18	7			
Real Estate	3	1			
Regents	14	2	1		
Revenue	8	1	1		
Social Services	16	10			1
Voter Reg.	3	1			
	—	—	—	—	—
TOTALS	---	74	6	3	2

