

**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 Tuesday and Wednesday, August 15 and 16, 1995, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Senator Berl E. Priebe and Representative Janet Metcalf, Co-chairs; Senators John P. Kibbie, William Palmer and Sheldon Rittmer; Representatives Minnette Doderer, Roger Halvorson, and Keith Weigel. Senator H. Kay Hedge and Representative Horace Daggett were excused.

Also present: Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; Kimberly McKnight, Administrative Assistant; Caucus staff and other interested persons.

Convened: Co-chair Priebe convened the meeting at 10 a.m.

**LAW
ENFORCEMENT** Gene Shepard, Director, represented the Academy for the following:

LAW ENFORCEMENT ACADEMY[501]
Limited law enforcement officer certification for sheriffs, 3.1, Filed **ARC 5708A** 7/5/95
Extension of certification period, 3.1(3), Filed Emergency **ARC 5722A** 7/5/95

3.1 Metcalf asked about enrollment in classes and Shepard replied that there was a waiting list for the fall session. The Academy could enroll 40 students and there were 83 on the list but that had dropped to 7. Shepard expressed concern for the spring classes. He explained that the federal crime bill which did not include money for certification and training authorized 145 officers for the state. Approximately 53 agencies had requested seats for training which indicated that the bulk of officers had not requested a seat, had chosen not to participate in the program or requested training at the same time.

Metcalf was informed that the fees generated were insufficient to pay costs involved with training. Shepard further explained that the statute allowed the Academy to charge only one half of the cost of providing basic certification training and the Academy depended on general fund appropriation.

Priebe recalled legislation which did not pass and asked if this rule went beyond legislative intent. Shepard explained that it did not and the Academy had a letter of support from the Iowa State Sheriffs and Deputies Association.

In response to Doderer, Shepard summarized legislation last session which required sheriffs to become certified within one year of taking office except they did not have to meet the Academy's physical fitness standards. The Academy was concerned that a sheriff who moved to another law enforcement position would not meet the standards. This rule would allow the elected official to be certified and exempt only while they held the position they were elected to. The Academy used the Cooper Test for physical fitness.

3.1(3) In review of subrule 3.1(3), Shepard explained that six applications for extensions were pending for officers who could not be certified within the one-year period before the rule was proposed. The Academy promulgated the rule to grant the Council authority to extend the one-year period by 180 days.

LAW ENFORCEMENT (Cont.)

Kibbie opined that small cities often lack funds to pay the fees and the Academy needed the flexibility to complete the program for these officers. Shepard cautioned that city attorneys should be consulted before placing untrained officers on duty.

SECRETARY OF STATE

Sandy Steinbach was present for the following:

SECRETARY OF STATE[721]

Election forms, 4.3, Notice ARC 5744A 7/19/95

Voter identification documents, change of address, 21.3, 21.4, Filed ARC 5745A 7/19/95

4.3 Steinbach explained that these forms had been distributed to the printers as well as the county auditors and additional forms would be included in the final rules.

21.3 and 21.4 Steinbach stated that favorable comments had been received from the counties regarding amendments to Chapter 21.

Minutes Metcalf moved to approve the minutes of the July meeting and the motion carried.

September Meeting Royce stated that the Iowa Bar Association had formed a Task Force chaired by Professor Arthur Bonfield, University of Iowa law school, which, for the last 18 months, had been reviewing the Administrative Procedure Act for possible revision based on the 1981 Model Act. The Bar Association was willing to arrange for Bonfield to attend an ARRC meeting to discuss recommendations of the Task Force. The afternoon of the second day of the September meeting was suggested for Bonfield's appearance. No formal action taken.

ARTS

Mark Peitzman represented the Division for the following:

ARTS DIVISION[222]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Program changes, amend chs 2, 4, 6 to 8, 11 to 14, 21, 23, 25; adopt new chs 5, 10, 18, 24;

rescind chs 22 and 30. Filed ARC 5733A, see text IAB 3/15/95, page 1363 7/19/95

Ch 2 et al. No questions on Chapter 2 et al.

UTILITIES

Phyllis Finn, Vicki Place and Ed Schlack were present from the Division for the following:

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Quality of service --- telephone, 22.1(3), 22.3(1), 22.6(1), 22.6(2)"a" to "i,"

Notice ARC 5703A 7/15/95

22.1(3) et al. In response to Weigel, relative to treatment of expenses, Finn explained that under 22.3(1)"c," the amount requested by the Utilities Board could not be increased because of installation.

In response to Metcalf, Schlack stated that the telephone companies supported the spirit of the rules but not necessarily the letter of the rules. Finn explained there was opposition to 22.3(1) because companies felt these were burdensome in terms of recordkeeping. Opponents of 22.3(1)"c" contended not all companies could provide an alternative form of service to customers who do not receive service within a 30-day period. GTE opposed the 100-percent clearance requirement in 22.6(1) which did not allow for unforeseen or unavoidable circumstances. McCloud, a reseller of U.S. West service, saw a problem with providing service in a timely manner because they depended on U.S. West. The Iowa Telephone

UTILITIES (Cont.) Association commented that 100 percent as the target would ensure violation of the rules.

Kibbie asked what the current rule was for 22.3(1)"a" and Schlack replied that the current distinction was between residential customers and all other customers. Finn added that "30 days" was changed to "3 days" in Item 1 [22.1(3)] to bring it into conformity with requirements in Item 3 [22.6(1)].

DEAF SERVICES Diana Kautzky Leonard and Rosemary Roland represented the Division for the following:

DEAF SERVICES DIVISION[429]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Organization, services and procedures, 1.3(1), 1.3(2)"b" and "g," 2.3(12), 2.4(3)"b" and "d,"
Notice ARC 5702A 7/5/95

1.3(1) et al. In review of 1.3(2)"g," Priebe suggested including a date certain for Roberts' Rules of Order.

ECONOMIC DEVELOPMENT Melanie Johnson, Jeff Nall and Mike Miller were present from the Department for the following and after brief discussion there were no recommendations.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Reorganization of agency rules, amendments to chs 1 to 103,
Filed ARC 5727A, see text IAB 5/10/95, page 1644 7/19/95
High technology apprenticeship program, 17.1 to 17.7, Notice ARC 5413A
Terminated ARC 5730A 7/19/95
High technology apprenticeship program, 17.1, Filed Emergency ARC 5732A 7/19/95
High technology apprenticeship program, 17.2 to 17.7, Notice ARC 5731A 7/19/95
CEBA project review committee, 22.3, 22.10(1), Filed ARC 5728A 7/19/95
Entrepreneurs with disabilities program, ch 30, Filed ARC 5729A 7/19/95

NATURAL RESOURCE Steve Derman, Richard Bishop, Sonny Satre and Joe Griffith represented the Commission for the following:

NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Certification — volunteer bow and fur harvester education instructors, snowmobile and all-terrain vehicle safety instructors and boating safety instructors, 15.9, Notice ARC 5713A 7/5/95
All-terrain vehicle and snowmobile safety-education classes, 50.3, Notice ARC 5714A 7/5/95
Canada goose hunting within closed areas, 91.5, Notice ARC 5715A 7/5/95

15.9; 50.3 and 91.5 Derman summarized 15.9, 50.3 and 91.5 and there were no questions.

EPC Pete Hamlin represented the Commission for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Air pollution — PM₁₀, 22.9, Notice ARC 5746A 7/19/95

22.9 Hamlin explained rule 22.9 would be used to determine whether a facility would have an adverse impact on human health and was a computer dispersion model that was nationally recognized and use. He pointed out that a portion defining an industrialized area was omitted and this portion would be renoticed with extended comment period.

In response to Priebe, Hamlin stated that he had received no calls from elevators on this rule but had calls on potential to emit.

EPC (Cont.) Metcalf wondered if this were a new particle being regulated and Hamlin replied that it was not. He explained it had been determined that if this size particulate were inhaled, the lungs could not expel it. There was no existing rule which established the background level needed for input into the computer dispersion model. This was a federal requirement and one of six criteria pollutants.

Priebe inquired about location of the monitors and Hamlin responded they were already established throughout the state. The proposed rule was for the computer model, not for the monitor. This model would gauge what the concentration would be outside of plant boundaries if it were built in a certain location. A federal standard based upon health had to be met and this was the best way to determine impact of emissions on surrounding areas.

Hamlin advised Metcalf that if tests determined a company was out of compliance, the Commission could ask them to run the model. In response to Rittmer, Hamlin stated that 10 microns were not visible. Royce was informed counts would fluctuate at certain times of the year or seasons, e.g., plowing and dry conditions would cause fluctuations. The Commission was taking an average.

Recess The Committee was recessed at 11:45 a.m. for lunch.

Reconvened Priebe reconvened the meeting at 1:30 p.m. and informed the Committee that Senator Palmer was excused for the remainder of the meeting because of an illness in his family.

REVENUE Carl Castelda, Coadministrator of the Compliance Division, represented the Department for the following:

REVENUE AND FINANCE DEPARTMENT[701]
Taxation of compensation of nonresident professional athletic team member, 40.46, 45.4, 46.1(1)"g," 48.1 to 48.4, 48.6, 48.7, Filed ARC 5772A, see text IAB 6/7/95, page 1827 8/2/95

40.46 et al. Castelda informed Halvorson these rules were compatible with rules in most states and were considered as more of a compliance issue.

Gambling Tax In an issue not formally before the Committee, Rittmer asked about Iowa's limit for reporting gambling winnings. Castelda replied that Iowa adopted the limit of \$1,200 because at the time the rule was promulgated, this was the federal standard. The rate of withholding for the federal government was 28 percent on anything above \$1,200. He was unsure if this limit had been raised but would investigate and possibly amend the rules.

INSURANCE Jerry J. Wickersham and Susan Voss were present from the Division for the following:

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Long-term care asset preservation program, 72.3, 72.4, 72.5(2)"e," 72.6(4)"b," 72.6(4)"c"(4), 72.6(6)"d," 72.7(1)"h"(2), 72.9(1) to 72.9(7), 72.10(6)"a"(2), 72.11(2), 72.13, Notice ARC 5716A 7/5/95

72.3 et al. No questions on 72.3 et al.

JOB SERVICE

Joseph Bervid represented the Division for the following:

JOB SERVICE DIVISION[345]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Employer's contributions and charges, claims and benefits, 3.13(2)"f," 3.15, 3.16, 3.26(14), 3.28(1)"b"(1), 3.28(4), 3.60(3), 4.2(1)"g," 4.23(39), 4.26(6)"b," 4.41, 4.42(2), implementation clauses in chs 3 and 4,

Filed ARC 5717A 7/5/95

3.13(2)"f" et al.

Bervid informed the committee of William Yost's recent death and noted all the work he had done on rules. There were no questions on 3.13(2)"f."

CRIMINAL AND JUVENILE

Lori A. Rinehart was present from the Division for the following:

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION[428]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Juvenile crime prevention community grant fund — contract extensions, 4.3(1), 4.3(6),

Notice ARC 5698A, also Filed Emergency ARC 5699A 7/5/95

4.3(1) and 4.3(6)

No questions on 4.3(1) and 4.3(6).

INSPECTIONS

Robert Haxton was present from the Department for the following:

INSPECTIONS AND APPEALS DEPARTMENT[481]

Egg handlers, 30.2, 30.4(9), 30.8(5), ch 36, Notice ARC 5704A 7/5/95

30.2 et al.

Rittmer asked if these rules differed from the Agriculture Department rules and Haxton believed they were more comprehensive. In response to Kibbie, Haxton stated the fee schedule was copied from the statute. Weigel was told the Department had not received any comments.

CORRECTIONS

Fred Scaletta represented the Department for the following:

CORRECTIONS DEPARTMENT[201]

Inmate telephone commissions, 20.20, Notice ARC 5773A,

also Filed Emergency ARC 5774A 8/2/95

20.20

Scaletta explained that the Department currently had an agreement with AT&T to provide an inmate telephone system based on toll and collect calls only. the person receiving the call must pay for it. In return for this service, AT&T gave the Department a commission on a monthly basis. In the last few years the auditors have questioned the Department's legal authority and this year the legislature passed a law giving the Department legal authority to deposit this money and spend it. These rules implement that statute.

Halvorson asked how much money was involved and Scaletta responded that each institution would have their own account. In fiscal year 1995 the total for the system was \$572,000. Funds would be used to benefit the inmates, e.g., library books or refinishing a gym floor.

Doderer asked what the money had been used for at Mitchellville and Scaletta was unsure but believed it was used to relocate the ceramics program.

According to Scaletta, the Department's administration director had sent a memo to all of the institutions asking for an accounting of this money.

**CORRECTIONS
(Cont.)**

Doderer questioned composition of the committee to approve expenditures of the fund—20.20(2). Scaletta indicated the director wished to remain on the committee to ensure that the money did go to benefit inmates.

Doderer pointed out that calls normally free for a private citizen were not free for the inmates. She emphasized the importance of inmates staying in touch with families. Doderer took the position an inmate should serve on the committee and the committee should not be overloaded with "high paid officials such as the assistant attorney general, the head of the institutions, the deputy, plus the warden."

Doderer asked about AT&T charges and Scaletta replied that AT&T was the only U.S. telephone company regulated in all of their services. He explained charges in general and noted the contract was currently out for bid and bid proposals had been submitted. This was the first time this contract had ever been bid. A specialist in the Utilities Division had been consulted about the wording in the RFP to ensure that no overcharging would be allowed. The Department had 30 days to award the contract and the Utilities Division would be involved in the final selection.

Priebe suggested that this subject be placed on the September Agenda. Scaletta pointed out the rule did not address the contract, only the rebate money.

Motion

Doderer moved to object to the makeup of the decision committee. Dierenfeld suggested that the composition of the board be looked at and the concerns addressed. Priebe suggested that Scaletta return to the September meeting with a report on the composition of the board. Doderer withdrew her motion.

Weigel asked if it were possible to track each person's charges and corresponding rebate. Scaletta explained why this would be extremely difficult.

Doderer requested that the Committee be informed of the bids and that the calls be as inexpensive as possible.

**Report to ARRC
in September**

Priebe asked that a copy of the bids be forwarded to Doderer and that a report be given to the remainder of the Committee at the September meeting. Scaletta agreed to provide copies of the portion dealing with rates.

Priebe suggested referral to the legislature. Scaletta asked if a Department policy would satisfy Doderer's concerns and Doderer argued that this should be included in a rule.

Halvorson suspected it would be easier to give examples of how the money could not be used. Kibbie wondered why the use of the money could not be prioritized.

Motion to Refer

Halvorson moved to refer rule 20.20 to the Speaker of the House and the President of the Senate and the motion carried.

Metcalf in chair.

ETHICS

Lynette Donner and Kay Williams represented the Board for the following:

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Reporting requirements — use of goods and services by candidates and political committees,

4.5(12), 4.16, 4.23, 4.23(2), 4.23(3), Notice ARC 5603A Terminated ARC 5736A 7/19/95

Reporting requirements — out-of-state contributions, 4.13, Notice ARC 5735A 7/19/95

4.5(12) et al.

No questions on 4.5(12) et al.

4.13

Donner gave a brief overview of the rules and Williams explained that the Board had found contributors who had attempted to avoid Iowa's requirements and enter states with less requirements, set up a fund and contribute the money. If the other state did not require the name of the contributors or had a very high level of contributions, the source of the funds could not be located. Williams stressed that Iowa was not trying to prevent out-of-state contributions.

Williams estimated there were 130 out-of-state organizations that would make one or more contributions to Iowa candidates and committees. In an election year there were usually 180 Iowa PACs.

Williams stated that no comments had been received. Kibbie asked how interested parties were notified of these rules and Williams cited the IAB publication. She added that the majority of people know about these rules because they had retained counsel or lobbyists in Iowa who had subscribed to the IAB.

Donner did not foresee a burden or more paperwork for a treasurer of a candidate. Williams explained that when a contribution was received from out of state, the donor was required to send a copy of the VSR to the committee and a copy to the Board at the same time. The committee was no longer required to file a copy of the VSR with the report.

Priebe in Chair.

BANKING

Jeff Jungman represented the Division for the following:

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

General definition of bank, 8.9, Notice ARC 5740A 7/19/95

8.9

In response to Rittmer, Jungman stated that the rule was proposed because a large bank holding company had approached the superintendent to expand the definition of a bank to include savings and loans and other entities listed under 12 USC, the national bank Act. This would have opened the door to interstate branching because savings and loans could branch throughout the state. If this were allowed, national banks could branch interstate but state chartered banks could not, placing state chartered banks at a disadvantage.

Jungman explained federal statutes allowed savings and loans to use the name "federal savings bank." Jungman noted that currently there were no state-chartered savings and loans, only federally chartered.

UST BOARD

Pat Rounds was present from the Board for the following:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
 Financial responsibility coverage, 10.1(2)"i," 10.1(6)"a," 10.1(6)"d," Notice ARC 5737A, also
Filed Emergency ARC 5738A 7/19/95
 Environmental damage offset, rescind 11.5, Notice ARC 5724A 7/19/95
 Prioritization of remedial account claims, rescind 11.7, Notice ARC 5723A 7/19/95

10.1(2)"i" et al.

In response to Priebe regarding 10.1, Rounds stated that insurance was for the site and an individual could backdate insurance for any site. Rounds added that someone may be late in submitting documents or pay the wrong amount. Insurance may be lost for a short term but if the documents are filed soon thereafter, the Board would allow insurance from the previous date.

Rounds advised Kibbie the statute allowed for payment of a double premium along with a surcharge of \$800 instead of \$400.

11.5

No questions on 11.5.

11.7

Halvorson wondered when new language for title guarantees would be coming and Rounds replied that the Board was developing a package which would be implemented in stages. Provisions addressing innocent landowner benefits had been implemented. In addition, the Board had implemented the change in copayments for owners with one site and a net worth of less than \$100,000. The Board was working on a study of the privatization of the fund and had set up a guideline for allowing installment payments for insurance premiums that greatly increased. The property transfer program which would allow people to obtain insurance coverage after they get a "no further action or low-risk designation" could not be accomplished until the Board received the regulatory guidelines from the technical advisory committee. Rounds anticipated implementation of new rules in January.

The Board had redone the loan program under House File 508 which allowed nonsmall businesses to get a loan guarantee and obtain them for additional purposes. These purposes would be the purchase of an underground storage tank site or capital improvement on an underground storage tank site.

Report in January

Priebe wondered how to start an investigation of a site. Rounds reminded that the Board provided funding but was not a regulatory agency, DNR was responsible for investigations. At this time a person must have a regulated underground storage tank and have applied for benefits prior to October 26, 1990, in order to receive any assistance. However, under the innocent landowner fund created last year, the Board was required to locate people with problems but not currently eligible for funding. The Board would report to the Committee in January.

PERSONNEL

Clint Davis was present from the Department for the following:

PERSONNEL DEPARTMENT[581]
 Health insurance, 15.1, Filed Emergency ARC 5712A 7/5/95

15.1

Priebe asked how many organized delivery systems (ODS) were in place and Davis replied that Mercy Hospital was the only one. The agreement was between the state and this hospital to offer services under certain conditions.

**PERSONNEL
(Cont.)**

Doderer asked if the Department would write a contract so every employee would know what was covered and Davis replied that it was the same as any other coverage but was different in the method. In this case it was a hospital and the physicians associated with the hospital as opposed to a third party such as Blue Cross or other traditional entity.

Doderer wondered how the hours before discharge after birth would be determined and Davis agreed to provide information.

Recess

Priebe recessed the meeting at 3 p.m. until 8:45 a.m. Wednesday, August 16, 1995.

8-16-95

Reconvened

Priebe reconvened the meeting at 8:45 a.m. Senators Hedge and Palmer and Representative Daggett excused.

INSURANCE

Dennis Britson was present from the Division for the following:

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

SPECIAL REVIEW: House File 486, the regulation of perpetual care cemeteries

**Special Review
Cemeteries**

Britson spoke of confusion over regulation of perpetual care cemeteries as set out in House File 486. A number of exempt categories exist for religious, city, township and county nonperpetual care cemeteries and there had been a problem in determining where they fit with regard to the exemptions. The Division was sending out a large number of letters and Britson encouraged the ARRC to direct questions to the Division for response.

Priebe expressed frustration that a telephone number he was referred to in the Division was either busy or the person was too busy to talk and calls were not returned. Britson assured the Committee that the Division was responding to concerns and getting out the message. The largest number of questions raised were relative to perpetual care cemetery permits which had a \$20 fee. Britson explained that confusion had prevailed since many cemeteries do not come under the legal definition of perpetual care cemeteries. Britson stressed the only time that any significant fees come into play would be when a cemetery fit the legal definition of perpetual care.

Rittmer took the position that 100 percent of prepayment money should be put in trust. There was a discussion about the Merle Hay Cemetery situation.

Priebe questioned why this regulation was not placed under Inspections and Appeals rather than creating a new office. Britson clarified that a new office was not created—the Division was already regulating preneed funerals and one more person was added to the staff.

In response to Priebe, Britson was unaware that the bill was ever sent to local government—it was introduced through the Commerce Committee. In conclusion, Britson said the Division was moving with caution and will work to educate those affected by the law.

AGRICULTURE

Daryl Frey and Charles Eckermann were present from the Department and Arlo McDowell was present from the Iowa Pest Control Association for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Pesticides, wood-destroying insects, 45.1(1), 45.22(2)"d," Notice ARC 5758A 8/2/95
 Pesticide applications — prior notification requirements, 45.50(7)"c" and "d," 45.50(8), 45.50(9),
Notice ARC 5759A 8/2/95

45.1(1) and 45.22(2) No questions on 45.1(1) and 45.22(2)"d."

45.50(7)"c" et al. There was discussion of amendments relative to prior notification of pesticide application in urban areas. In reply to Weigel, Frey mentioned as an alternative, cities could form a registry which the commercial applicators would have to check.

EDUCATION

21.72 to 21.74

Don Wederquist and Charles Ullom attended from the Department for the following and there were no recommendations:

EDUCATION DEPARTMENT[28]

Community colleges — apprenticeship program, 21.72 to 21.74, Filed ARC 5748A 8/2/95

INDUSTRIAL SERVICES

Clair Cramer represented the Division for the following and there were no questions:

INDUSTRIAL SERVICES DIVISION[343]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

Payroll tax tables, 8.8, Filed Emergency ARC 5747A 8/2/95

PROFESSIONAL LICENSURE

Carolyn Adams, Mark Schoeberl, Marge Bledsoe, Lalah McGowen and Dick Harmon were present from the Agency; Frankie Winegardner, Bob Witt and bill Crews, Iowa Board of Physician Assistant Examiners; Jeanine Gazzo, Iowa Academy of Family Physicians; Keith Luchtel, Iowa Medical Society, Bill Case, Greg Kolberger and Lyle Krewson, Iowa Physician Assistant Society; Ed Friedmann and Carrie Flury, Redfield Clinic; Bery Engebretsen, Broadlawns Medical Center; Kevin de Regnier and Norman Pawlewski, Iowa Osteopathic Medical Association; Lois Churchill, Board of Nursing; and Ann Martino, Iowa Board of Medical Examiners, were present for the following:

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Chiropractic continuing education, 40.62(1), 40.62(6), 40.70(2)"b," 40.73(1)"d,"

Notice ARC 5743A 7/19/95

Mortuary science continuing education, 101.103(1), Notice ARC 5742A 7/19/95

Massage therapists, 130.6(1), Notice ARC 5769A 8/2/95

Podiatry, 220.1(2)"a" to "e," 220.3(2), Filed ARC 5768A 8/2/95

Social workers, 280.3(3)"b," 280.7(2), Filed ARC 5767A 8/2/95

Physician assistants, 325.2, 325.3(1), 325.3(2), 325.4(1) to 325.4(3), 325.4(5) to 325.4(9), 325.5 to 325.19,

Filed ARC 5771A 8/2/95

Athletic trainers, chs 350, 355 to 358, Notice ARC 5770A 8/2/95

40.62(1) et al. No questions on 40.62(1) et al.

101.103(1); 130.6 No questions on 101.103(1) or 130.6(1).

220.1(2)"a" et al. No questions on 220.1(2)"a."

280.3(3)"b" and 280.7(2) No questions on 280.3(3)"b" and 280.7(2).

PROFESSIONAL
LICENSURE
(Cont.)
Ch 350 et al.

In review of revisions to Chapter 350 et al., Bledsoe estimated there would be 300 athletic trainers. Trainers would be licensed to provide protection and legitimacy.

325.2 et al.

Priebe announced review of final amendments to chapter 325 and stated that a copy of the Attorney General's opinion had been given to the Committee members. Weigel asked if specific questions had been addressed and Royce explained that the opinion established that the Physician Assistant Board had authority to determine the supervisory requirements over PAs, to determine the eligibility of the physician to supervise and the PA Board's rules review group must approve the rules before they are published as a Notice of Intended Action.

Witt advised Weigel that the review board considered the rules on February 8. Crews stated the Board approved the rules as Noticed by a 3 to 2 vote. At that point the Board continued to review the objectionable portion and the reasons for a 3 to 2 vote. Language was proposed for the five areas of disagreement and returned to the rules review group. The group agreed to 2 of the 5 areas and the two areas were adopted by the PA Board and included in the final rules. The adopted rules had been approved by the rules review group.

Halvorson inquired as to how much interaction there had been. Crews recalled several meetings in an attempt to agree on these rules. Halvorson took the position the Attorney General's opinion failed to provide a clear answer. Crews interpreted the opinion that the Board of Medical Examiners determined eligibility or ineligibility and the PA Board did not contest this but tried to work with them in terms of reducing the paperwork burden. There must be a team effort between the PA and the physician.

Witt provided background on the rule making which was initially Noticed on October 26, 1994, and terminated in the March 1, 1995, IAB. The final draft of the new proposed rules was received from the Board approximately 8 days before the rules review group met on February 8. One of the board members met with the ME Board 2½ hours before the start of the meeting and went through the rules on a point-by-point basis. These rules were approved 3 to 2 in February and the next day the Board Noticed them. The PA Board had followed the statute in promulgating these rules and would continue to work with the ME Board. Witt pointed out that the PAs were dependent practitioners.

Kibbie felt there was the issue of minimum amount of PA requirements in which a PA served in a clinic before going on to a rural clinic and the other issue was the supervision by an M.D. and whether this was one week or two weeks.

Witt stated that before the PA Board existed, the Board of ME registered and certified PAs in the state and the PA was required to work in a physician's presence for up to three months. The PA Board had been more conservative and believed one year of experience was preferable before working alone in a remote setting but they compromised with six months. He added there were no federal rules with regard to including nurse practitioners who could work in a remote clinic immediately after graduation. Witt noted an instance when a remote clinic was closed until the physician could review charts. These rules would make it easier for the physician in allowing flexibility for the physician.

Kibbie opined that all factions should meet with a mediator and prepare a legislative package as opposed to rule making. There was discussion of the role of PAs in performing physicals for DOT employees.

**PROFESSIONAL
LICENSURE
(Cont.)**

Kibbie reiterated his concern about the minimum time period for supervision by a physician before transferring to a remote clinic.

Weigel reasoned it was the physician's choice whether supervision was six months or six years—the rules were setting a minimum guideline.

Witt pointed out supervision was a 100 percent ongoing process and did not necessarily mean physical presence. The physician must be available whenever the PA practices.

Martino presented the ME Board's position. The ME Board opposed a teleconference and favored a face-to-face meeting.

Martino pointed out the second sentence in 325.7(3)"a" beginning with "However, every chart need not be signed . . ." The ME Board wanted the language to read "The physician should make an effort to review every chart. . ." The PA Board would not agree to this. In 325.7(4)"a"(3), the last sentence beginning, "Visits may be less frequent . . ." The ME Board asked that a sentence be included stating "If that is the case, notify the Boards" and the PA Board refused.

Martino stated the ME Board was not trying to usurp the PA Board's authority. The question about whether or not the PA Board had a legitimate authority to adopt rules that involve the issue of supervision was clearly decided in the AG opinion and they do have that authority. Martino continued they lack authority to enforce the rules and this would create a fundamental problem that would require legislation. A peer reviewer stated that once a week was the standard of care. When the ME Board went to prosecute the physician, what should they do if the standard of care established by the PA Board was fundamentally different. There was no mechanism for resolving these differences. Martino suggested the terms of ineligibility should be addressed. There was a rule that stated once someone was approved as eligible, they shall remain eligible until the MEs notify the Board. Otherwise the AG opinion was clear that however eligibility was determined, it was clearly within the ME Board's jurisdiction. Martino opined that the joint rules review group was not an effective mechanism for resolving differences.

Martino wondered how differences would be resolved when the standards of care set by the PA Board were fundamentally different than those received by the ME Board disciplinary process.

Priebe contended it was not the role of the ARRC to resolve differences between the Boards. He was concerned with the issue of a physician being physically present at each activity and he believed the ME Board wanted this.

According to Martino, it was the sense of the Board that 325.7(3)"a" was carte blanche authority not to take their responsibility seriously. She pointed out the ME Board was involved in a case in which a physician interpreted the rule to his own advantage. Weigel asked if the objectional portions were included in the rules in February and Martino replied in the affirmative.

Crews explained that the PA Board was adamant that physicians not be required to sign every chart because this would be a technicality and if the physician did not sign a chart, they would be open for discipline whether the supervision was adequate or not. It was suggested that language be included to encourage signing of every chart.

PROFESSIONAL
LICENSURE
(Cont.)

Doderer believed this could be resolved without the involvement of the ARRC.

In response to Priebe, Crews said review committee members were appointed by their Board. Metcalf opined the [statutory] makeup of the group seemed favorable to PAs.

There was further discussion of approval of rules by the review group.

Dr. de Regnier noted that a physician with four years of training could not be licensed in Iowa without an additional one year of training yet a PA with two years of training could have six months of field experience and be placed in an unsupervised situation in a remote clinic. He saw this as being inconsistent with good public policy. He was doubtful anyone would be notified if a physician did not appear at a remote clinic and it would not be possible to monitor.

Priebe was sympathetic to notification and contended the Board should be notified.

Dr. de Regnier explained there was a call for compromise and the Iowa Osteopathic Medical Association met with the president and president elect of the Iowa PA Society. A summit meeting was set for October among the IOMA, IMS, Iowa Medical Society, Iowa Association of Family Practitioners and the PA Society to discuss many of these issues for a consensus. He believed the root of the problem was in the Code which places the PA Board in the position of advocate for PAs while trying to license and regulate them.

Kibbie took the position the rules should be delayed to allow the two groups to compromise.

Gazzo stated that the Iowa Academy of Family Physicians had set a summit meeting for October 21 and 22 and was concerned about the 70-day delay because of this meeting. A mediator would be appointed and the PA Board had sent a letter stating they would be present.

Luchtel believed the group had received the "bum's rush." He felt the AG opinion stated the PA Board had very limited powers that indirectly affected the conduct of physicians as they regulate PAs. The opinion also stated that the PA Board had no authority over the eligibility issue of supervisory physicians. He believed that the system had worked well over the years. Luchtel's interest was to protect the public and he declared the issue could be resolved using common sense.

Priebe pointed out an objection would only shift the burden of proof to the agency and the rules would still be in effect.

Winegardner stated that these rules had been developed over a four-year period.

Friedmann, Chairman of steering committee for Iowa Association of Rural Health Clinics, noted there were approximately 100 rural health clinics in Iowa and most of these were staffed by PAs. His organization strongly supported the rules.

Case, president of the Iowa Physician Assistant Society, said the PA organization supported the rules.

Halvorson opined that the two Boards must work together to serve the public and he admonished them to remember that no group was a servant of another group and the law did not provide for this.

**PROFESSIONAL
LICENSURE
(Cont.)
Motion to Delay**

Kibbie moved to delay ARC 5771A for 70 days. Metcalf asked for the Committee's support on this motion because of the absence of three members and this would allow the Committee another opportunity for review.

Substitute Motion

Priebe moved a substitute motion to limit the 70-day delay to 325.7(4)"a"(3).

Halvorson and Kibbie voiced support for the substitute motion. Kibbie withdrew his motion.

In response to Metcalf, Crews stated that the six-month training period was required by statute but was a rule change. The companion requirement was that the PA must pass the national certifying examination.

Motion Addition

Metcalf requested to include 325.7(4)"a"(1) in the motion to delay for 70 days.

Motion Withdrawn

Priebe withdrew the substitute motion.

Motion

Metcalf moved to impose a 70-day delay on 325.7(3)"a," 325.7(4)"a"(1) and 325.7(4)"a"(3).

It was noted many physician assistants attending school on national scholarships were required to start working immediately in rural areas. The current rules state that one year of training was required and it took an average of six to seven months to receive Board scores before an individual could graduate.

In response to Luchtel, Priebe clarified that revisions in Chapter 325, except those included in the Metcalf motion, would go into effect on September 9, 1995.

Motion Carried

A vote was taken on the Metcalf motion and the motion carried.

PUBLIC HEALTH

Carolyn Adams, Gary Ireland, Mary Weaver and Michael Magnant represented the Department for the following:

PUBLIC HEALTH DEPARTMENT[641]

State plumbing code, ch 25, Notice ARC 5741A 7/19/95

Birth defects institute, ch 4, Filed Emergency After Notice ARC 5765A 8/2/95

Certificate of birth—registration fee, vital records, 95.5(2), 95.5(3), 95.8, 96.6(4), 96.6(5),

Notice ARC 5766A 8/2/95

Emergency medical services, ch 130 title, 130.1, 130.2(1), 130.2(2), 130.4, 130.5, 130.6(1) to 130.6(3),

130.7, 130.8(2), 130.8(10), Filed Emergency After Notice ARC 5761A 8/2/95

Basic emergency medical care, rescind ch 131, Notice ARC 5762A 8/2/95

Advanced emergency medical care services, ch 132 title, 132.1, 132.2(2), 132.2(2)"a," 132.2(3),

132.2(4), 132.2(6), 132.3(1), 132.4(1), 132.4(2), 132.4(3) Table 1, 132.4(4), 132.4(5), 132.4(9),

132.5(1), 132.5(2), 132.5(2)"d," 132.5(4)"c," 132.5(5), 132.5(11), 132.6(1), 132.7(1), 132.7(3)"b,"

132.7(4)"a," 132.7(5)"a" and "d," 132.7(6), 132.8(1) to 132.8(4), 132.8(7)"b," 132.8(10), 132.8(11),

132.9(4), 132.10, 132.10(1), 132.10(3) to 132.10(5), 132.10(13), 132.11, 132.11(1), 132.12,

132.12(1), 132.13(1) to 132.13(3), 132.13(5), 132.13(6), 132.13(14), 132.14(2)"f," 132.15(1),

132.15(2), Notice ARC 5763A 8/2/95

White flashing light authorization, 133.1, 133.3(1)"a" and "b," 133.3(5), 133.4(3), 133.5(2), 133.5(10),

Notice ARC 5764A 8/2/95

PUBLIC HEALTH
(Cont.) Ch 25

In response to Weigel, Magnant stated there was a public hearing and comments were received from the Iowa Association of Building Officials. The association requested a delay in implementation and a comment was received from the Des Moines City Building Inspectors who supported the rules. Fire Marshals also requested a delay. In discussions off the record at the hearing the Department agreed not to immediately pursue adoption of the rules. The Iowa Association of Building Officials and the Iowa Chapter of the International Association of Plumbing and Mechanical Officials were to do a comparative review between this model code and another model code which was published recently.

Metcalf asked for copies of letters from opponents of the rules to be sent to the ARRC.

Ch 4

In review of Chapter 4, Doderer wondered about the time difference in 24-hour discharges from the hospital and the testing that was required at least 24 hours after birth. she inquired how this would be accomplished. Weaver replied that this was taken into consideration when the rules were promulgated. She pointed out 4.3 which provided "A second test shall be performed by 14 days of age when . . ." The technology was available to draw blood before the 24-hour discharge. Patients discharged in less than 24 hours might have home visits and follow-up visits.

Metcalf pointed out that in 4.5(9) the fee was to be determined annually and this was not something usually done. Weaver stated that normally insurance companies would pay this fee and there was a lengthy process that was undertaken before the fee was increased. A citizens' committee reviewed the increase.

95.5(2) et al.

In response to Doderer, Adams stated amendments to Chapter 95 would allow all birth certificates to be processed in the same manner.

Ch 130

According to Ireland, no one attended the public hearing on Chapter 130.

Ch 131

No questions on Chapter 131.

Ch 132

Ireland gave a brief overview of revisions in Chapter 132. A minimum standard for ambulance services had been included. Metcalf and Ireland discussed difficulties experienced by some rural areas in providing a basic level service. Ireland agreed that recruiting volunteers was always a problem and these rules would require more training to move to a higher level of care.

133.1 et al.

No questions on 133.1 et al.

PUBLIC SAFETY

Michael Coveyou, Roy Marshall, Fire Marshal, Cory Nootnagel, Steven Conlon and Tim McDonald were present from the Department for the following:

PUBLIC SAFETY DEPARTMENT[661]

Criminal justice information — Iowa sex offender registry, ch 8 title, 8.301 to 8.304,

Filed Emergency ARC 5739A 7/19/95

Fire marshal, 5.250, 5.252, 5.300, 5.301(9), 5.304(1), 5.304(1)"a," 5.304(2), 5.314, 5.350, 5.400, 5.450,

5.850, Notice ARC 5775A 8/2/95

Juvenile fingerprints and criminal histories, 11.11, 11.19, Notice ARC 5750A 8/2/95

Handicapped parking, 18.3(4), 18.5, Notice ARC 5749A 8/2/95

Metcalf in Chair.

SAFETY (Cont.) Ch 8	Metcalf had prepared comments on Chapter 8 and requested the Department to respond. Coveyou agreed.
5.250 et al.	Marshall informed Kibbie that costs would not be significantly increased and revisions in 5.250 et al. would be reflective of practices currently used. There would be some costs associated with freon and LP gas.
Building Proposals	In an issue not formally before the Committee, Weigel asked about turnaround time between the submission of a building proposal and receiving authorization from the Department. Marshall stated that it varied but was usually two months. However, earlier they had been behind by nearly eight months.
18.3(4) and 18.5	With respect to handicapped parking, Metcalf asked if the Department followed federal regulations and Coveyou explained that Iowa was more stringent in that federal allowed public entities to follow the old rules and not provide van accessible spaces. It was the Department's judgment that it was unreasonable to impose a duty on private providers not required of public providers. The only enforcement mechanism under federal law was civil action but noncompliance with the handicapped parking law in Iowa was a crime. The intent of the rule was to require providers to change designated spaces when their parking lots are repainted. Federal law does not allow for any waiting period and Iowa cannot override this but the Iowa penalties which are criminal penalties would not have effect until repainting. Metcalf was concerned with the number of spaces in some small retail business. Coveyou stated that with regard to private facilities, the state was less stringent than the federal government in regard to one handicapped parking space. Federal law required that one space always be provided and Iowa law stated one does not have to be provided until the tenth space. Coveyou explained to Doderer that if one handicapped parking space were provided, it must be van accessible but the next eight could be the normal width and then the ninth would have to be wide.
11.11 and 11.19	No questions on 11.11 and 11.19.
RACING	Beverly Zylstra represented the Commission for the following: RACING AND GAMING COMMISSION[491] INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella" Thoroughbred racing — locked claim box, 10.5(17)"b"(2), 10.5(17)"c"(1), <u>Notice</u> ARC 5706A, also <u>Filed Emergency</u> ARC 5707A 7/5/95
10.5(17) et al.	Zylstra explained that these rules would allow less time for a claim box to be locked allowing more time for filing claims. Priebe in Chair.
DOT	Dennis Ehlert, Director of Vehicle Services, Valerie Hunter and Tom Sever were present from the Department for the following: TRANSPORTATION DEPARTMENT[761] Abandoned vehicles, 480.2, 480.3(2)"a" and "c," <u>Filed</u> ARC 5734A 7/19/95 Regulations applicable to carriers, 520.1(1)"a" and "b," <u>Notice</u> ARC 5701A 7/5/95
480.2 et al.	No questions on 480.2 et al.
520.1(1)"a" and "b"	No questions on 520.1(1)"a" and "b."

HUMAN SERVICES

Mary Ann Walker, Jane Gaskill, Denise Middleswart and Norma Hohlfield appeared from the Department and Susan Osby, Polk County Health Services, Robert Ermer, Iowa Association of Counties, John Easter and Deb Westvold, ISAC, were also present for the following:

HUMAN SERVICES DEPARTMENT[441]

Transitional child care assistance, ch 49 division II preamble, 49.21, 49.24, 49.25, 49.35,
Filed ARC 5679A, see text IAB 4/12/95, page 1555 7/5/95
 Medicaid provider policy, 52.1(3), 79.1(2), 79.1(9)"d," 81.6(16)"e," 177.4(3), 177.4(7), 177.4(8)"b,"
Notice ARC 5680A, also Filed Emergency ARC 5681A 7/5/95
 Commodity distribution program, 73.4(3)"d"(2), Filed Emergency After Notice ARC 5682A 7/5/95
 Prior authorization for brand-name drugs for which a bioequivalent generic drug is available, 78.1(2)"a"(3),
 78.28(1)"d"(12), Filed ARC 5700A 7/5/95
 Payment for ambulance service, 78.11(5), Filed ARC 5683A 7/5/95
 Reimbursement rate for nursing facilities, 81.6(16)"e," Notice ARC 5556A
Terminated ARC 5725A 7/19/95
 Medicaid waiver services, 83.10, 83.70, Notice ARC 5684A,
 also Filed Emergency ARC 5685A 7/5/95
 Managed substance abuse care plan, ch 88 preamble, 88.81 to 88.93, Notice ARC 5686A, also
Filed Emergency ARC 5687A 7/5/95
 Support enforcement services, 95.16, 98.23, 98.24(2), 98.33(2), 98.36, 98.42(1), 98.42(2), 98.91 to 98.97,
Filed ARC 5688A 7/5/95
 Life skills service workers in child-placing agencies, 108.1, 108.4, 108.4(3), 108.4(5), 108.6(3),
Notice ARC 5545A Terminated ARC 5726A 7/19/95
 Income guidelines for child day care, fee schedule, eligibility of migrant farm workers, 130.3(1)"d"(2),
 130.4(3), 170.1, 170.2(1), Notice ARC 5689A 7/5/95
 Income guidelines for child day care, eligibility of migrant farm workers, 130.3(1)"d"(2), 170.1, 170.2(1),
Filed Emergency ARC 5690A 7/5/95
 Adolescent monitoring and outreach services, 133.1, 133.3(4)"f," ch 151 title, ch 151 preamble,
 151.21 to 151.30, Filed ARC 5691A 7/5/95
 Social service providers, rates, 150.3(5)"p"(2), 150.3(5)"p"(3), Notice ARC 5692A, also
Filed Emergency ARC 5693A 7/5/95
 Foster care and foster parent training, subsidized adoptions, foster care services, 156.6(1), 201.5(9),
 202.17(1)"a," "b," and "d," Notice ARC 5694A, also Filed Emergency ARC 5695A 7/5/95
 Rehabilitative treatment services, 185.106(2)"a," Notice ARC 5696A,
 also Filed Emergency ARC 5697A 7/5/95
 FIP eligibility — paternity, 41.8(1)"a"(2), 41.28(1)"a"(2), Filed ARC 5753A 8/2/95
 HCBS ill and handicapped, elderly, MR and AIDS/HIV waiver programs, 77.30, 77.30(3), 77.30(4),
 77.30(6), 77.33, 77.33(4), 77.33(8)"f" and "g," 77.34, 77.34(6), 78.34, 78.34(1), 78.34(4),
 78.34(5)"c" and "d," 78.34(6), 78.37, 78.37(1), 78.37(8), 78.38, 78.38(1), 78.38(2), 78.38(4),
 78.38(6), 79.1(2), 79.14(1)"e," "f" and "g," ch 83 preamble, ch 83 division I title, 83.1, 83.2(1)"a"
 and "e," 83.2(2)"a," 83.3(1) to 83.3(4), 83.4 to 83.7, 83.10, ch 83 division II title, 83.22(2)"a,"
 83.23(1), 83.23(2), ch 83 division III title, 83.41, 83.42(1)"f," 83.42(2)"a," 83.43(1) to 83.43(3),
 83.43(4)"a," "b" and "d," 83.44 to 83.47, Notice ARC 5751A 8/2/95
 PROMISE JOBS program, ch 93 division I preamble, 93.3, 93.6(1), 93.9(1)"d," 93.11, 93.11(1)"a"(2),
 93.11(1)"b"(2), 93.14(3)"d," "e" and "f," 93.14(9), 93.14(11)"a," 93.22(1), 93.22(2), 93.22(5),
 93.23, ch 93 division II preamble, 93.103, 93.106(1), 93.109(2)"a"(1), 93.111, 93.111(1)"a"(2),
 93.111(1)"b"(2), 93.114(3)"d," "e" and "f," 93.114(9), 93.114(11)"a," 93.122(1), 93.122(2),
 93.122(5), 93.123, Filed Emergency After Notice ARC 5754A 8/2/95
 Support establishment and enforcement services, 99.61 to 99.63, 99.64(3), 99.65, 99.65(1), 99.65(3),
 99.66, 99.67(2), 99.68, 99.69(1) to 99.69(3), 99.70(1), 99.71, Filed ARC 5755A 8/2/95
 Shelter care payment, 156.11(3), 156.11(3)"a," "b" and "c," Notice ARC 5756A, also
Filed Emergency ARC 5757A 8/2/95
 Eligibility for MR/DD respite care services, 180.1, 180.7(1)"b"(3), 182.1,
Notice ARC 5752A 8/2/95

Ch 49

In review of chapter 49, Walker stated Legal Services opposed the imposition of waiting lists and capped entitlements but the Department contended they must have some way of controlling costs. Legal Services also requested that transitional child care be made automatic but federal regulations required families to request this service—it could not be given automatically. No Committee action.

DHS (Cont.) 52.1(3) et al.	Walker noted that the nursing facility reimbursement was estimated to rise from \$60.87 to \$62.77 but the increase would be to \$61.63.
73.4(3)"d"(2)	No questions on 73.4(3)"d"(2).
78.1(2)"a"(3) et al.	Walker stated that comments were received from the Iowa Medical Association and the Iowa Osteopathic Medical Association. The Medical Society asked that the drug Ritalin be removed from the prior authorization list since HCFA had deleted it effective July 1 so the Department complied with this request. The Medical Society had voiced complaints about the form for evidence of treatment failure with generic drugs and the Society and Department would work to recommend a change to the federal government. A request by the Osteopathic Society to remove two other drugs from prior authorization list was denied.
78.11(5)	Walker stated it would cost an estimated \$340,000 total and \$120,000 state funds to add the paramedic service to the ambulance for this rule. This money will be requested in next year's budget.
81.6(16)"e"	No questions on 81.6(16)"e."
83.10 and 83.70	No recommendations for amendments to 83.10 and 83.70.
Ch 88	In response to Rittmer, Gaskill stated new rules in chapter 88 would provide broad continuous substance abuse care. Medicaid dollars not previously available would be provided to counties. The Department was in the final phases of contract negotiations with the National Council on Alcoholism, a Des Moines based agency.
95.16 et al.	No questions on 95.16 et al.
108.1 et al.	No questions on 108.1 et al.
130.3(1)"d"(2) et al.	Amendments to Chapter 130 generated discussion of the definition of "migrant worker." Walker noted language in the rules was taken from the statute.
130.3(1); 133.1 et al.	No questions on 130.3(1)"d"(2) et al. or 133.1 et al.
Ch 150; 156.6(1)	No questions on Chapter 150 or 156.6(1) et al.
185.106(2)"a"	No questions on 185.106(2)"a."
41.8(1)"a"(2) et al.	<p>Discussion of amendments to 41.8 and 41.28 which delete the requirement for the paternity of a biological father to be established by the court before he (not the legal father) can be eligible for FIP. The amendments were requested by the Attorney General's office. That office opined the legal father should go to court and the biological parent could prove he was the father either by going to court or by some other means. In most circumstances the legal father had not been living with the family. Paternity could be established by blood test or verification by family members.</p> <p>In response to Rittmer, Walker stated that this only applied for those eligible to receive benefits and did not change anything else. Walker stated that there was nothing in the rules specifying biological or legal. Walker added that Iowa law stated that the person you are married to was the legal father and responsible for the child.</p>

DHS (Cont.)
77.30 et al.

Kibbie had received comments from the Clay County General Assistance director who was concerned about a possible increase in costs to the counties as a result of 77.30 et al. The director also expressed opposition to nursing and counseling services and a 23 percent increase in respite care rates. Kibbie asked if an economic impact study was done on the rules.

Walker was unsure why the counties thought their costs would escalate. To receive this waiver an individual must be ineligible for SSI because of the deeming of a parent or a spouse. Of the 200 on waiver currently, 69 were MR children and only one was an adult. The legislature made the state responsible for those. The increase in caps should not affect the counties. At aged 18, they move to the MR waiver because the deeming would not be an issue. The expansion of the program, if there were more MR individuals, would most likely include children which would be the state's responsibility. Preference for the ill and handicapped waiver instead of the MR waiver was because it offered medical respite.

Walker explained that history had shown that the Department was utilizing only \$500 for the actual services part of the program. The main reason parents wanted the waiver was for access to the medical and they would receive the medical whether they were on the ill and handicapped or MR. The only projected increase was lifting the limit at a cost of \$500 a person for the service. The medical would balance out because all individuals must be qualified for nursing facility level of care and would be paying more in a nursing facility or in ICFMR than at home.

Ermer, Cerro Gordo County Supervisor and president of the Iowa Supervisors Association, and Osby, Polk County Health Services, presented positions. Ermer reasoned if the cap of \$200 on the ill and handicapped waiver was lifted, it would become open-ended. On the home/community based waiver, it was federal and county money and any increase would cause the county to pay 37 percent of that increase. When nursing services was added to the ill and handicapped waiver, this would increase the cost and adding counseling services would also add costs. When respite care rates were raised 23 percent, budgets would not allow this. Ermer continued that counties had not had an opportunity to determine the impact. He admonished the Committee to remember that bringing new dollars into the counties was not occurring because any influx of dollars coming from the state must reflect a dollar for dollar reduction in property tax. He urged that an economic impact be done and that the rules not be implemented.

Request for Impact

Kibbie moved to request an economic impact statement on ARC 5751A. Motion was seconded by Metcalf. Discussion followed. Royce explained that the Department could not adopt the amendments until the impact statement had been prepared, published in the Iowa Administrative Bulletin and 15 days had passed.

Osby recalled that when the waiver was first available in 1993 counties believed they would be providing the same amount of respite services and saving money. However, this did not happen and the county met with Department officials at least 15 times about this problem without resolution. Osby was critical of lack of fiscal oversight of the program.

Rittmer suspected that some county surpluses had been used for the program and budget problems would develop. Easter pointed out that no public hearing was scheduled but he would request one.

Royce quoted from Iowa Code Chapter 25B as to the requirements for a fiscal note when publishing a notice.

DHS (Cont.) Walker explained that the Department did not believe there would be an impact of \$100,000 or more to counties. The whole premise of getting a waiver approved by the federal government was that the waivers were supposed to be cost neutral and anyone on the waiver had to require ICFMR level of care and the idea would be not to spend more to keep people in their homes than would be spent at a facility. Osby projected that next year, if it were rolled back to the 1994 levels, the county would have to cut \$5 million from the budget.

Doderer was doubtful that an Economic Impact Statement would solve the problem and she favored an audit.

Investigation request Doderer moved to request the Fiscal Bureau to investigate the letter from Polk County and the charges contained in it. Motion carried.

Ch 93; 99.61 et al. No questions on Chapter 93 or 99.61 et al.

156.11(3) et al. No questions on 156.11(3) et al.

180.1 et al. Under proposed amendments to 180.1 et al., Walker said eligibility for respite care would be increased. The legislature had appropriated for these services and the Department allocated to regions to provide the respite care to avoid placing children in foster care. Costs would not increase since regions could not overspend the amount allocated for these services. Respite care was limited to two days per month. Priebe suspected there would be increase in costs.

NO REPS. No agency representative was requested to appear for the following:

ARCHITECTURAL EXAMINING BOARD[193b]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Description of organization — definitions, 1.5, Filed ARC 5705A 7/5/95

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Charitable gift annuity exemption, 50.14, Filed ARC 5718A 7/5/95

LABOR SERVICES DIVISION[347]
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
General industry — occupational exposure to asbestos, 10.20,
Filed Emergency After Notice ARC 5776A 8/2/95
Construction — occupational exposure to asbestos, 26.1,
Filed Emergency After Notice ARC 5777A 8/2/95

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193d]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Corrective amendments, December examination, 2.2, 2.5(4)"g," 4.8"6," Notice ARC 5760A 8/2/95

NURSING BOARD[655]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Nursing education programs — use of preceptors, employment data, 2.1, 2.2(2)"a"(3), 2.2(2)"g,"
2.3(1)"g"(1) to (6), 2.9, 2.10, Filed ARC 5711A, see text IAB 4/12/95, page 1545 7/5/95
Licensure to practice RN/LPN, 3.1, 3.4(3)"a"(3), 3.4(3)"b"(2), 3.4(3)"c"(1), (3), (6), and (7),
3.4(4)"a"(2), 3.4(4)"b"(3), (6) and (7), 3.4(5)"b"(3), (6) and (7), 3.4(6)"b"(10) and (11), 3.4(8)"e"(3)
and (4), 3.7(5)"d," 3.7(5)"d"(1), 3.7(5)"e," 3.7(5)"e"(1), 3.7(6)"b," 3.7(6)"b"(1), 3.7(8),
Filed ARC 5710A, see text IAB 4/12/95, page 1546 7/5/95
Licensure — graduation from program required, 3.3(1)"b," 3.4(5), Notice ARC 5709A 7/5/95

NO REP. (Cont.)

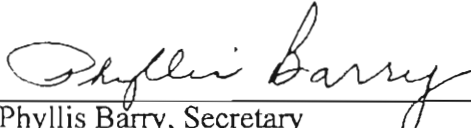
PERSONNEL DEPARTMENT[581]

IPERS, 21.1(2), 21.1(3), 21.2(2), 21.3(1), 21.4, 21.5(1), 21.5(7), 21.6, 21.8, 21.9(2), 21.10(1), 21.10(3),
 21.10(5), 21.10(8), 21.10(10), 21.10(12), 21.11(1), 21.11(2), 21.11(10), 21.12(1)"a." 21.12(10),
 21.13(2)"a," 21.13(6)"d," 21.13(8), 21.14(2), 21.16(1) to 21.16(4), 21.17(5), 21.18(2), 21.18(3), 21.18(5),
 21.18(6), 21.19(2), 21.19(4), 21.20(2), 21.22, 21.24(2), 21.24(5) to 21.24(7), 21.25 to 21.27,
Filed ARC 5719A, see text IAB 5/10/95, page 1672 7/5/95

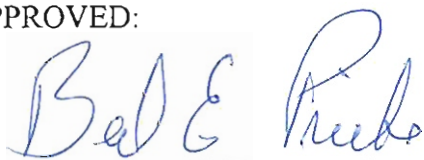
September Meeting It was the consensus of the Committee that the next meeting would be held
 Wednesday and Thursday, September 13 and 14, 1995.

Adjournment The meeting was adjourned at 12:30 p.m.

Respectfully submitted,


 Phyllis Barry, Secretary
 Assisted by Kimberly McKnight

APPROVED:



Senator Berl Priebe, Co-chair