

MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, Wednesday and Thursday, April 13, 14 and 15, 1982.

Place of Meeting: Committee Room 116, Statehouse, Des Moines, Iowa.

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Berl E. Priebe, Vice Chairman; Senators Dale Tieden and Edgar Holden; Representative Betty J. Clark and Ned F. Chiodo (not present 4-13-82).
Also present: Joseph Royce, Legal Counsel, Brice Oakley, Rules Coordinator; Phyllis Barry, Deputy Code Editor; Vivian Haag, Administrative Assistant.

Convened Chairman Schroeder convened the Committee at 7:10 a.m. in Committee Room 116, Statehouse.

COMMISSION ON AGING Lois R. Haecker and Mary Ann Olson represented the Commission on the Aging for review of the following:

AGING, COMMISSION ON[20]
Complete revision, chs 1 to 10 ARC 2770 ..X..... 3/17/82

According to Haecker, the Commission sought to write the rules to coincide with the federal regulations and tried to qualify the Commission's position on some of the issues. Schroeder asked Department to include the federal CFR dates.

2.4(6)a In re the governor's signature on the state plan, Priebe asked that 2.4(6)a be amended by adding phrase "for approval and" before "signature." In 2.4(4), with respect to meetings, Priebe thought the language too broad.

2.4(3) Clark was informed that 2.4(3) would be clarified. Responding to Clark's question re 2.4(6)d, Haecker agreed that "social services" was a poor choice of words. Clark thought 2.4(6)e was unclear and that 2.9(1) should be simplified. Haecker was willing to consider the possibility of including the language from 45 CFR 74.24, which was referred to in 2.9(1). Clark pointed out what she considered to be conflicting language in 2.5(2) and (3). Haecker said it would be further clarified.

3.1 Clark opined that 3.1 was redundant.

3.3 In 3.3, content of the state plan, Clark questioned meaning of "requirements" and Haecker remarked that elderly care was a state requirement. Rule 3.7, according to Haecker, was excerpted from federal law. It was noted by Clark that a comma should be inserted in 4.3(5), line 3, between objectives and contracts.

Chairman Schroeder inquired if Mr. Angrick wished to comment on Chapter 4. Angrick was willing to answer questions although he had made comments at the public hearing.

4-13-82

COMMISSION Clark raised question as to the focal point in 7.5(3)b.
ON AGING Haecker agreed to clarify the catchwords of 8.13. Clark was
Continued informed that 8.28(1) was federal regulation and that 8.32
was statutory. Clark recommended that 8.45(1)b be revised by
moving the words "will have an opportunity to participate"
to follow "eligible individuals" in line 3.

10.1 Clark compared 10.1(12) and 10.1(10) and questioned the need
for 10.1(12). Schroeder took the position that 5.3(1)d was
too broad and that concerned citizen groups could qualify.
Further, 8.51(1)b and 8.51(3)a(7) relative to food require-
ments were prohibitive in his estimation. Finally, Schroeder
questioned 9.3--expenditures in rural areas--as to the allot-
ment based on 105 percent of 1978 amounts. Haecker declared
the entire state was covered. Schroeder insisted that, in
9.3 1978, there could have been communities which were without
programs. In his opinion, 9.3 could block those communities.
Chairman Schroeder urged that extensive time be spent on the
rules before they are adopted.

Oakley praised the Commission for "a tremendous job of cleaning
up their rules."

LAW EN- Law enforcement representatives present were Jack Callaghan,
FORCEMENT Director, John Quinn, Legal Instructor, Billie B. Wallace,
ACADEMY Des Moines Chief of Police and Academy Council Member, Don
E. Knox, Jr., Iowa Assn. Chiefs of Police and Peace Officers,
and Rick Carson, Iowa State Policemens Assn. The following
rules were before the Committee

LAW ENFORCEMENT ACADEMY[550]

Instructor certification criteria for approved regional law enforcement training facilities, ch 3 ARC 2799... 3/31/82
Color vision standard, denial, suspension or revocation of certification, 1.1(9), ch 7 ARC 2798... 3/31/82

Instruc- Callaghan said the rules affect the approved and certified
tion instructors for the six regional facilities in the state.
certifi- Schroeder was interested in knowing if the rules would cause
cation problems for area schools or approved training centers.
criteria Callaghan indicated all had been contacted and problems were
ch 3 not anticipated. The only change was the addition of the para-
professional group, i.e., firearms instructors and defense
tactics instructors, etc. Schroeder interpreted the rules
as precluding a person holding a degree in physical fitness
from teaching. Callaghan denied this and cited 3.4(2)d.

In re 3.4(2)j, Schroeder wasn't aware that General Services
certified communications personnel. Callaghan assured him
that was required. Schroeder envisioned trouble for the area
schools with the restrictive provision in 3.4(2)l. Callaghan
responded that many of the area schools utilize the state fire
marshal to teach the arson and bombing course because of the
element of danger involved. Instructors must be knowledgeable.

Oakley observed it would be helpful for the rule to be specific
with respect to defining a "recognized" arson school. Callag-
han responded that students generally check with the Academy
prior to attending a "recognized" school.

LAW ENFORCE-
MENT ACADEMY
Continued

Clark noted use of "he/she" in 3.2(5). Barry called attention to the fact that the legislative position on use of "he/she" had changed since the rules were originally drafted.

3.2(5)

Clark wanted assurance there was a right to appeal revocation of instructor certification in 3.2(5). She asked that 3.5(3) be amended by deleting "and in making such recommendation, the regional facility director shall" and inserting "who". Callaghan agreed. Priebe questioned who would be the regional director. Callaghan advised him that the director would be from the area school conducting the program. Priebe opposed use of "must" in 3.5(3) since a highly qualified person who was disliked by the regional director might not be considered. Callaghan did not recommend that the Council interfere with any facility.

Holden favored use of the more definitive term "instructor specialist" in lieu of "paraprofessional." He also suggested that the Council substitute other language for "professional area." He expressed opposition to requiring another certificate.

Vision
standards

Callaghan told the Committee that 1.1(9)--vision standards--was amended to correct a typographical error.

chapter 7

In the matter of decertification, chapter 7, Callaghan said pressure by law enforcement agencies prompted them to draft rules. Previously, officers who have been certified under 80B.11, The Code, retain their certification stamp even after they have been fired because of their involvement in crime during line of duty. There have been instances of these officers being hired by another department. By providing a method to decertify these individuals, problems could be avoided. The Council has taken the position that if an individual can be certified by the Academy, there is implied authority to decertify.

Schroeder was doubtful that decertification would be lawful and he cited taking away a high school diploma as an analogy. Callaghan disagreed.

Wallace spoke of an incident where a policeman was fired for overt and gross misconduct in the form of brutality. After appeal, the department action was sustained. Wallace was hopeful this Committee would endorse the concept of decertification.

Holden thought the hiring body should decide if applicants are qualified. Callaghan emphasized if the conditions which prevailed had been known, the individual would not have been hired.

Committee consensus was that the Academy could not decertify unless the statute was revised. Tieden estimated

LAW ENFORCEMENT ACADEMY - that 50 percent of the active police are replacements from other cities where, for various reasons, they did not succeed.

Royce questioned Wallace as to what role the certificate plays in the Des Moines Police Department's hiring under Civil Service. Wallace indicated the Department conducts thorough investigations. He continued there is "blind faith" in certification by the Law Enforcement Academy. A person who was discharged from one community could go to another and be hired, unless the reason for discharge were immediately known. Wallace admitted communities are obligated to check the reason. Callaghan explained the Academy certifies that students have met all of the hiring standards -- it is not just a diploma that the course has been completed.

Oakley pointed out that a public hearing was scheduled. He observed that criteria by which smaller enforcement units do their hiring could be needed. He was aware that some cities do not conduct accurate checks. Oakley stressed that these rules are not limited to those who are fired. He was interested in the impact on those who have rights under civil service. Finally, he thought there was a question with regard to legal authority since the rules make a substantial policy shift from local responsibility to a centralized authority in determining who will be a professional law enforcement officer throughout the state. Callaghan was opposed to the state having responsibility for the selection process.

Royce questioned whether the law as it is written creates a license that can be revoked. He disagreed that all officers must be certified. The Code is very vague on the role of the police officer and is silent on grounds for retention. "Minimum basic training requirements" is statutory -- not certification. Schroeder suggested the Law Enforcement Academy recommend a statutory change. Oakley concurred there was no mechanism for retrieving the certificate. No formal action taken.

BOARD OF NURSING

Lynne Illes and Barbara Steen appeared on behalf of the Board of Nursing for review of the following:

NURSING, BOARD OF[590]

Nursing practice for registered nurses/licensed practical nurses, ch 6 ARC 2763 3/17/82
Registered nurses/licensed practical nurses, additional acts which may be performed, 6.4, 6.5 ARC 2764 ..N..... 3/17/82

Also present: Norene Jacobs, Iowa Hospital Assn.; Tina Prefkakes, Tim Gibson and Jim West, Iowa Medical Society; Ruth Wherry, RN, Iowa Nurses Association; Gene Kennedy, representing Licensed Practical Nurses; Suzanne Means, Iowa League of Nursing; Kay Montgomery, Ia. Chapter of American Society for Nursing Services Administrators.

Illes referred to changes made since the Notice. She read the Task Force proposal to define "Immediate area" which the Board plans to file under emergency provisions. Flexibility will be afforded rural hospitals and S.W. Iowa directors find the definition to be acceptable.

BOARD OF NURSING
Continued

Chairman Schroeder announced that interested individuals would be permitted time to speak. Means praised the Board for the compromise. She spoke of nurses' responsibility to protect the public and she affirmed the League's support of the minimum standards.

Responding to Tieden's question, Means emphasized that League membership is open to anyone in the state--nurses constitute the majority, although other health professions, including LPN's, are represented.

Montgomery explained that the membership in her chapter includes the directors of nursing from 111 hospitals in the state. Although the Chapter would prefer that minimum standards not be implemented they believe the Board has made a sincere effort to resolve most of the major issues raised by the Iowa Chapter. Montgomery concluded that the standards were workable.

Illes recalled the controversy created when two sets of rules including the "additional acts portion" were submitted. The Board then sought to resolve the minimum standards before proceeding.

Wherry remarked that the Iowa Nurses Association supports the minimum standards which provide "a clear differentiation between the practice of the RN and that of the LPN." In their opinion, Iowa has become an example to other states that are also attempting to define minimal standards of practice and the standards are in harmony with those set by the American Nurses' Association. She concluded the standards protect the public without imperiling the practitioner. West reiterated the position of the Iowa Medical Society which had two concerns. They had requested a concise statement on the rules but it had not been received. One concern was failure to differentiate between the different settings in which nurses are employed and the practice involved--more specifically--in the physician's office. A second area was in nurse compliance with executing a prescribed medical regimen. The rules seem to imply that nurses may substitute their judgment for the physician's. He cautioned against laxity in that respect.

Oakley and West discussed the concise statement and possible revision of chapter 17A. Royce was requested to research the court case on the matter.

Kennedy, speaking on behalf of LPN's, admitted progress had been made but contended objectionable areas exist. He denied there was "peace in the valley." Kennedy concluded that activity of LPN's is limited without justification.

Jacobs restated the position of the Iowa Hospital Association that it is not appropriate for a licensing board to define minimum standards of a professional practice. They supported definition of minimum entry standards into the practice and enforced discipline against licensees who fail to meet the minimum standards.

BOARD OF
NURSING
Continued

She continued that determining the accepted and prevailing standard of practice was something that is done by the practice itself. However, Jacobs added, "If this legislative body believes that it is in the public interest to regulate the profession in this manner, then hospitals have an interest to ensure that there is no negative impact on patient care." She mentioned the term "accepted and prevailing practice"-- and said, "The Board does recognize that there are different practice situations and studies in which the registered nurse, as well as practical nurse, is employed." Jacobs concluded the Iowa Hospital Assn. believes the rules reflect the accepted and prevailing standard practice and reiterated their position has always been that minimum standards should not be written as administrative rules.

Although Holden was not in total agreement with the rules, he disagreed with opponents of the rulemaking process. Schroeder announced a proposal before the legislature would hold in abeyance any additional rules until July, 1983 so that an interim study committee could be created to study the nursing issue. Holden noted the statutory authority is broad. Schroeder pointed out that any Committee action should be taken before April 20.

Oakley expressed reluctance to sanction an emergency filing of the definition of "immediate area." Illes saw no problem with a delay and declared, in the Board's opinion, they had responded to southwest Iowa on the emergency filing.

Tieden commended the Board for their progress.

Motion to
Delay
Chapter 6

Clark moved that the effective date of the Board of Nursing rules, chapter 6, be delayed 70 days.

Substi-
tute
Motion

Priebe offered a substitute motion to delay the rules 45 days into the next General Assembly. [See p.1699]
The Priebe motion carried unanimously.

Recess

Priebe moved that the Committee rise. Recessed at 9:25 a.m. to be reconvened Wednesday, April 14, 1982.

Thursday
April 14

In the absence of Chairman Schroeder, Vice Chairman Priebe convened the Committee at 7:15 a.m. All other members present. Also present: Oakley, Royce, Barry and Haag.

NATURAL
RESOURCES
COUNCIL

Mike Smith represented Natural Resources Council for review of the following:

NATURAL RESOURCES COUNCIL[580]

Construction and modification of dams, storage of water in impoundments, 2.1(40), 2.1(23), 2.1(24), 2.1(32), 3.2(3)"c", 3.20, 5.3, 5.30(4), 5.52	ARC 2767	3/17/82
Diversion, storage and withdrawal of water, flood plain or floodway construction, 3.1(7), 3.1(8), 3.2, 3.3, 3.7(5), 3.11 to 3.13, 3.54(3)"d"	ARC 2769	3/17/82
Use, maintenance, removal, inspections, and safety of dams, ch 7	ARC 2763	3/17/82
Oil, gas, and metallic minerals, 12.1(20), 12.1(37), 12.2, 12.4, 12.5, 12.5(1), 12.6(2), 12.6(7) to 12.6(10), 12.15, 12.15(1)	ARC 2795	3/31/82

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NATURAL According to Smith, the general intent of the rulemaking action
RESOURCES was to adopt dam safety criteria--under pressure from the fed-
COUNCIL eral government.
Continued
7:20 a.m Schroeder arrived.

Smith alluded to the fact that Schroeder had requested the Council to consider two changes. Procedure for removing a dam was changed--7.11(2)d allows Council to waive requirements and approve removal of certain small dams. The 18-acre feet of storage provision has been in existence since 1958 and the Council chose not to change it. Section 427.1(33) provides a property tax exemption for the land occupied by an impoundment structure and, in order to qualify, the landowner must obtain a permit from the Resources Council. If the greater than 18-acre feet storage dams are deregulated, the Code would need amending. Although the Council had received no complaints about the existing policy, they were willing to study the matter. Smith reminded the Committee that 18-acre storage is not a "magic threshold." General discussion of construction costs involved.

Smith reminded Schroeder that farm ponds are designed and cost-shared by Soil Conservation Service provided there is compliance with their criteria, which are essentially the same as Natural Resources for a dam of this size.

In Tieden's opinion, there is no need for dual regulations of farm ponds--SCS and Natural Resources. Smith was confident the Council would revise their rules if SCS funds were cut. Smith pointed out that the Council regulates only a small percentage of farm ponds in the state.

No formal action on filed rules of Natural Resources Council.

Schroeder took the Chair.

REVENUE
DEPT.

Carl Castelda, Deputy Director, was present for review of the following rules:

. Protests, 7.8 ARC 2805.....F..... 3/31/82
Administration, assessments and refunds, 11.6(3), 43.2, 51.2(1)"h", 57.2(1)"h", 63.2, 61.6, 86.3(4), 103.2 ARC 2803 N..... 3/31/82
Withdrawal of permit, 13.8 ARC 2804 N..... 3/31/82
Retailer's use tax returns, penalties for late filing of use tax monthly deposits, income tax withheld, 30.4, 30.10, 46.3(3)"a"
to "c", filed emergency ARC 2791 F..... 3/31/82

Castelda told the Committee that 7.8 would allow protest of a refund claim. Chapter 17A provides that anyone can protest a final agency action. The Department, as a matter of policy, has allowed people to protest changes to refund claims and has adopted the same protest period for filing an assessment.

Although Priebe did not disagree with the concept, he questioned the authority. Castelda contended the Department's attorneys were of the opinion the Department was within their purview. Statute of limitation cannot run forever, especially because of recordkeeping requirements.

REVENUE
DEPT.
Cont'd

In response to Priebe, Royce agreed the Department could not let an action run forever. However, the other side of the coin was that a statute of limitation was generally statutorily created. Revenue was amenable to having a hearing on the matter. There was discussion that legislation might be needed--Royce and Castelda agreed to review the matter.

According to Castelda, amendments pertaining to administration, assessments and refunds were intended to provide protection to taxpayers. No recommendations were offered.

13.8

Discussion of rule 13.8--Castelda explained that under the APA, the Department cannot cancel, withdraw or revoke a permit until the permitholder is notified. He cited situations where a business is abandoned for one reason or another without the Department's knowledge, and the permit is not canceled. This creates an administrative nightmare. At the request of the Department, Royce spoke with Bonfield who advised the Department could provide a notice and withdraw the permit. The option to reinstate it at no charge would be available. Letters will be sent to those involved. The Department is anxious to dispose of a backlog of nearly 1000 accounts.

Schroeder preferred legislation to back up the rule. Royce saw the rule as a solution to a "nagging" problem. No formal action taken.

chs 30,46 Revenue amendments to chapters 30 and 46 were filed emergency to implement provisions of SF 2080, 69GA, 1982 Session, and will speed-up remittance of withholding tax and retailer's use tax. Castelda discussed the procedure to be followed by the Department. Tieden thought it could be cumbersome.

Priebe in the Chair.

COLLEGE
AID
COMMISSION

Gary Nichols appeared for review of the following filed rules of the College Aid Commission:

COLLEGE AID COMMISSION[245]

Scholarship program, tuition grant program, vocational-technical tuition grant program, advisory council, due process.
2.1(4)"b"(1), 2.1(5)"b"(1) and (4), 2.1(7)"d", 2.1(8)"b", 4.1(4), 5.1(3), 6.1, ch 11 ARC 2792 3/31/82
Rulemaking and declaratory rulings, ch 13 ARC 2793 3/31/82

No recommendations were offered by the Committee.

SOCIAL
SERVICES

The following rules of Social Services Department were before the Committee:

SOCIAL SERVICES DEPARTMENT[770]

ADC, health or medical insurance, 41.7(1)"j" ARC 2774 3/17/82
Supplementary assistance, residential care facilities, 52.1(3)"a" ARC 2775 3/17/82
Medical assistance, psychologists participation requirements, 77.22 ARC 2776 3/17/82
Medical assistance, psychological services, 78.21 ARC 2777 3/17/82
County and multicounty juvenile detention homes and shelter care homes, 105.1(1), 105.1(2), 105.2, 105.3, 105.5(1)"b" and "d", 105.5(2) to 105.5(4), 105.6(2)"a" and "b", 105.8(1), 105.8(2), 105.8(4), 105.8(6) to 105.8(8), 105.9, 105.11 to 105.19 ARC 2778 3/17/82
Group living foster care facilities for children, 114.2(13), 114.2(14), 114.24 ARC 2779 3/17/82
Adult correctional institutions, 16.10(7)"b" and "e" ARC 2771 3/17/82
ADC, eligibility, payment based on income, foster care payment, 40.1(5) to 40.1(14), 40.2(5), 40.4(3), 40.7, 41.2(10)"h"(1), 41.5(5)"a", 41.7, 41.8(3)"b" and "c", 44.5, 46.4(3)"a" ARC 2772 3/17/82
Resources, general provisions, 130.1, 130.3(5) ARC 2773 3/17/82
Child day care services, 132.1(7), 132.1(9) to 132.1(12), 132.3(5), 132.4(3), 132.4(4) ARC 2794 3/31/82

SOCIAL
SERVICES

The Department was represented by Judith Welp, Rules and Manual Specialist, Harold Poore, Charles Ballinger, Dan Gilbert, Marie Theisen, Gloria Conrad, Lorena Griffith, and Herbert S. Roth, Iowa Psychological Assn. Also present: Patrick McClintock, Legal Services Corporation of Iowa, and Cathy Schuster, Senate Democratic Caucus Staff.

41.7(1) Discussion of 41.7(1) which requires ADC clients to accept private health insurance offered and paid for by an employer. Oakley thought the rule was unclear and Welp was willing to consider any proposal that he might recommend.

52.1(3)a No questions re 52.1(3)a.
Discussion of 77.22.

In response to Royce's question, Welp said the standards differ from licensing criteria in chapter 154B. According to Roth, Health Service Providers have somewhat tighter standards.

78.24 Rule 78.24 specifies the covered and excluded psychological services under the medical assistance program. Discussion revealed mileage payment to psychologists varied according to the locale. The Committee took the position it should be uniform and spelled out in the rule. Welp pointed out that the mileage affects several rules but she was willing to consider standardization.

It was noted that under Title XIX there is no limitation for physicians' services which would include psychiatrists.

ch 105 Priebe and Holden noted the variance in space requirements--105.2(2)c(2). With respect to Oakley's question concerning personnel policies pertaining to records--105.3, Department officials said chapter 237, The Code, requires DSS to verify that employees or operators have not been convicted of a crime involving mistreatment of children. Oakley was interested in the rights of privacy as well as the protection of the public. Poore interjected that SF 2268 which deals with this matter was awaiting the Governor's signature. Welp was amenable to working with Oakley.

114.2 In re 114.2, group foster care facilities, Welp said private and shelter detention homes are to be licensed under shelter detention standards rather than the foster care standards.
No questions.

No questions re 16.10(7).

ADC eligibility amendments deferred temporarily.

130.1 Clark questioned whether it was appropriate to define "family" as it appeared in 130.1 and 103.3. She reasoned the list included those eligible for assistance.

ch 132 Welp informed the Committee that amendments to chapter 132 were the second in a series of rules planned on all service programs. There will be more accountability as to what is purchased. In 132.1(12), it was the consensus of the Committee that the definition of "vehicle" should be spelled out.

4-14-82

SOCIAL In re 132.3(5)a, Level one, Clark pointed out "that provides
SERVICES stimulation" was misplaced in the sentence. Clark recommended
Continued rewriting 132.3(5) to eliminate verbage.

chs 40, 41 Discussion of amendments to chapters 40, 41, 44 and 46--ADC
44 & 46 eligibility. A four-page sample of ADC monthly report form
was distributed for Committee perusal. Chiodo opined it was
too complicated and wondered if it were a "make-work project."
Theisen stated the draft was a composite of forms from 30
other states. Clark reasoned that required information could
be contained on a post card. Committee was informed that the
final draft of the form would be available the last week in
April. Theisen explained the content of the form and indicated
the information received monthly will be evaluated. Responding
to Chiodo, Theisen said the target date to begin payments was
September 1.

Theisen reported that the forms would be screened by the fifth
day after receipt. Clark requested the primary questions
to be set out in bold-faced type. Welp agreed to supply ARRC
members with copies of the final draft before the rules are
filed.

Chiodo was informed that assistance would be available for
completion of the form.

Holden recalled that this subject was a continual source of
complaint to legislators and he supported the concept. However
he admitted the form was complex. Clark observed that two main
areas of criticism--"living in" and "side job"--will not be
resolved with the form. Discussion of crosscheck between employ-
ment and welfare records in an attempt to uncover ineligibles.

Oakley cautioned that the balance of convenience, access and
understanding might be better served by including the form
in the rule. Welp stated that contents of the form are in-
cluded in the rule. Committee was hopeful a middle ground
could be reached.

McClintock addressed other aspects of the rule of interest to
Legal Services Corporation. Subrule 40.7(4)--seven days is
not adequate time for the recipient to complete and return the
form which could result in loss of assistance. McClintock
mentioned that "in the real world", many lack skills to complete
complex forms. He declared the rules were narrow and restric-
tive in the area of the "desperate poor." The Corporation
prefers flexibility in the verification of income requirements.
He encouraged the Committee to ensure that intensive and com-
plete educational program is conducted.

Welp reported that three or more hearings would be held.
Theisen, responding to McClintock, indicated a client-agency
packet will include specific instructions. Priebe was inter-
ested in the fiscal impact. Holden contended it would be
balanced by obtaining better compliance adding that the limited
dollars should go to the truly deserving. Priebe was not con-
vinced the form would prevent "cheating". No formal action taken.

4-14-82

9:00a.m. Tieden excused.

Rules of the Insurance Department and Auditor were delayed until Thursday at 8:00 a.m.
Schroeder returned.

ENVIRON-
MENTAL
QUALITY

Odell McGhee, Hearing Officer, and Charlie Miller, Section Chief, Air Quality, were present for review of the following:

ENVIRONMENTAL QUALITY DEPARTMENT[400]

Compliance, controlling pollution, emission standards, 3.1, 3.2, 3.3, 3.4, 3.5(1)"c".

3.5(4)"d", 4.1(1) ARC 2785..... 3/17/82

Schroeder interpreted 3.1(1) and (2) to preclude repair of a facility. Chiodo was interested in the cost of the Prevention of Significant Deterioration (PSD) Program. According to Miller, Department officials intend to operate with the same staff. Iowa has issued 7 PSD permits since the program began. He admitted the procedure was complicated and time-consuming, but industry has demanded Iowa take it over to avoid costly delay.

Miller responded to question by Priebe that DEQ was taking a 20 percent cut in federal funds. In order to maintain the air quality program the last few years, they have not filled vacancies. He stressed that the staff in the program today is less than half what it was six years ago under Dr. Stanek. Priebe wanted assurance additional employees would not be requested.

Clark questioned the need for new language in 3.5(1)c and was informed it was copied from federal requirements. She asked McGhee to provide her with examples in support of the rule.

No further comments or questions.

Recess

Vice Chairman Priebe recessed the meeting at 9:15 a.m. to be reconvened Thursday, April 15, 1982.

Thursday
April 15

Chairman Schroeder reconvened the ARRC meeting at 8:05 a.m., Thursday, April 15, 1982, in Committee Room 116. Members present: Schroeder, Priebe, Tieden, Holden, Clark and Chiodo. Also present: Royce, Oakley, Barry and Haag.

BOARD OF
NURSING
Ch 6
Motion -
delay

Chairman Schroeder recognized Priebe, who moved to lift the 45-day delay into the General Assembly on the Board of Nursing rules, chapter 6, which delay was adopted at the April 13 meeting, [p.1694]and that the effective date of chapter 6 be delayed for 70 days. Motion carried with 5 ayes. Chiodo absent and not voting.

AUDITOR
OF STATE

John Pringle, Savings and Loan Division, appeared on behalf of the Auditor's Office for review of the following:

AUDITOR OF STATE[130]

Rules of auditor, Iowa Industrial Loan Corporation Thrift Guaranty Act, 1.28(4), 1.28(8), 1.28(12) to

1.28(16) ARC 2800..... 3/31/82

Also present: Richard Hileman, Iowa Consumer and Industrial Loan Association, and Steve Wagener, Industrial Loan Thrift Guaranty Corporation of Iowa.

AUDITOR
OF STATE

1.12(12)

Priebe asked if the Department had the power to demand that the company join the corporation and Pringle answered that, by law, if you issue thrift certificates, you must become a member.

1.28 (4) b

1.28 (13,
14)

1.28 (13)

1.28 (13)

INSURANCE The following rules were before the Committee
DEPT. Continuing education for insurance agents, ch 11 ARC 2781..F.....

Continuing education for insurance agents, ch 11	ARC 2781... <i>P</i>	3/17/82
Duplicate Medicare supplement coverage, 15.9, 36.10(4)"a", 36.5(6)"c",	ARC 2783... <i>N</i>	3/17/82
Duplicate Medicare supplement coverage, individual accident and health — minimum standards, 36.4(4), 36.7(11)"b"		
36.5(1), 36.5(10), 36.6, 36.6(1)"d", 36.6(8), 36.10(4), 15.9, <u>36.10(4)"c"</u>	ARC 2782... <i>P.F.</i>	3/17/82
Health maintenance organizations, 40.10(1)"e", 40.12, 40.11(10), 40.13, 40.14	ARC 2806	3/31/82

- 1700 -

INSURANCE Also present: Paul Brown, representing the Insurance Industry.

DEPARTMENT

Continued

15.9

No recommendations were made for chapter 11. In re 15.9, Griffin said a public hearing had been scheduled on the proposed changes made as a result of a February appearance before the ARRC. That hearing was held Friday, April 9, and the record is still being perused on the comments. Holden referred to 15.9 and questioned the advisability of holding a public hearing on Good Friday. However, Griffin said that 33 were in attendance

Brown thanked the Department for their cooperation.

Discussion of the 65-60 percent loss ratio. Holden suspected that Iowa was moving in the direction of greater efficiency with the 60 percent ratio.

chapter 36 No recommendations were offered for amendments to chapter 36. The Committee was informed that chapter 40 was based on model language of the National Association of Insurance Commissioners' Model Health Maintenance Organization. Responding to Priebe's question, Griffin said HMO's must furnish a surety bond in the amount of \$100,000, which could draw interest.

Oakley inquired as to the Department's expense in this field. Griffin explained that the statute provides HMO's an exemption from a premium tax for the first five years of operation; exemption from a premium tax for 3 years; in the 4th year, a 2 percent premium tax is imposed which is deposited in the general fund. Griffin opined that additional staff would ultimately be needed. Griffin told Clark there was no formal appeal process at this time. Issues are reviewed with the Commissioner.

No further questions.

In a matter not officially before the Committee, Schroeder asked Insurance Department officials to address the Blue Cross reimbursement at "outpatient surgery centers." He wondered if legislative action was needed to correct some serious problems. Griffin recalled a Service Center had begun operation in Des Moines, across from Iowa Lutheran Hospital. The Center sought to receive direct reimbursement from Blue Cross for their service charge and they assessed their patients for outpatient surgery. On the basis there was no specific statute, the Department disapproved the contract which was submitted last January. However, Blue Cross and the Service Center opined they had adequate legal arguments to ask the Department to reconsider their position and they filed a petition for declaratory ruling. After consideration, the Commissioner ruled that without statutory change, such entities could not be permitted to contract with Blue Cross unless they were licensed as a hospital. In the meantime, the surgery center is being reimbursed indirectly for its fees for Blue Cross/Blue Shield.

Minutes

Priebe moved that the minutes of the March meeting be approved as submitted. Motion carried viva voce.

June
Meeting

The June meeting was tentatively scheduled for the statutory date of June 8 to begin at 1:00 p.m. and continue on June 9.

4-15-82

NO REPRESENTATIVES At Priebe's request, Agriculture rule 55.48 will be placed on the May agenda. There was no formal review of the following:

AGRICULTURE DEPARTMENT[30]

Food establishments, ch 38; hotels, sanitary requirements, 39.2(4) to 39.2(10) ARC 2780 ..N..... 3/17/82
Advertisement of the price of liquid petroleum products for retail use, 55.48 ARC 2796 ..N..... 3/31/82

ARCHITECTURAL EXAMINERS, BOARD OF[80]

Continuing education, ch 3 ARC 2788F..... 3/31/82

BLIND, COMMISSION FOR[160]

Personnel policies and procedures, 7.3, 7.6, 7.7(5), 7.7(6) ARC 2801 ..F..... 3/31/82

COMMERCE COMMISSION[250]

Notification to customers, 7.4(1)"f"(2), filed emergency after notice ARC 2766 ..FEAN..... 3/17/82

ENERGY POLICY COUNCIL[380]

Weatherization assistance program, ch 15, filed emergency ARC 2797 ..FE..... 3/31/82

HEALTH DEPARTMENT[470]

Economic impact statement, health care facilities resident's rights (amendments to chs 57, 58, 59, 63 and 64 — ARC 2578, IAB 12/23/81) ARC 2907..... 3/31/82

PHARMACY EXAMINERS, BOARD OF[620]

Medical assistance act participation, disciplinary actions, 6.10, 10.1 ARC 2784 ..N..... 3/17/82

REAL ESTATE COMMISSION[700]

License applicants, eliminates credit report, 1.22, filed without notice ARC 2787FWN..... 3/17/82

REAL ESTATE COMMISSION[700]

Application for examination, 1.3 ARC 2786N..... 3/17/82

RECORDS COMMISSION[710]

Availability of the manual, 2.4, filed emergency ARC 2789FE..... 3/31/82

REGENTS, BOARD OF[720]

Reduction in force, 3.104(4)"e" ARC 2802 ..N..... 3/31/82

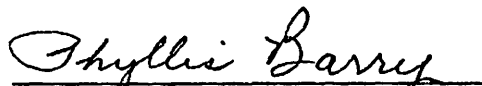
TRANSPORTATION, DEPARTMENT OF[820]

Public transit, financial assistance, (09,B) ch 1 ARC 2765 ..F..... 3/17/82

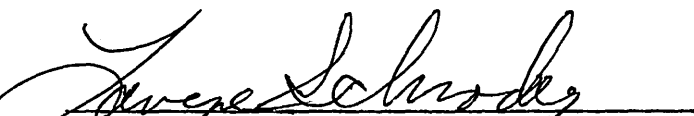
Royce announced a film on the practice of midwifery would be shown at 8:00 a.m., May 19, in room 116.

Adjourned Priebe moved the Committee rise--motion carried--adjourned at 8:55 a.m. Next meeting scheduled for May 11 and 12, 1982.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:


Chairman