

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Monday, January 11, 1982 and Friday, January 15, 1982.

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

Members Present: Representative Laverne W. Schroeder, Chairman; Senators Edgar Holden and Dale Tieden; Representatives Betty J. Clark and Ned Chiodo. Excused due to inclement weather, Senator Berl E. Priebe, Vice Chairman.
Also present: Joseph Royce, Staff and Brice Oakley, Coordinator; Phyllis Barry, Deputy Code Editor; Vivian Haag, Administrative Assistant.

Convened Chairman Schroeder convened the meeting at 9:30 a.m

PUBLIC INSTRUCTION Charles Moench, Director, Area Schools and Giles J. Smith, Chief, Guidance Services, represented the Department of Public Instruction. The following rules were before the Committee:

5.24 PUBLIC INSTRUCTION DEPARTMENT(670)
Area school energy appropriation program, 5.20 to 5.24 ARC 2553 F 12/9/81
High school equivalency diploma, 5.1, 5.2, 5.5, 5.6 ARC 2554 F 12/9/81
Moench reminded ARRC that comments had been received relative to the due process (5.24) and changes were made in accordance with the request.

ch 8 Discussion moved to the high school equivalency diploma. Tieden questioned whether a date certain would be necessary in the first paragraph of 8.2. Smith called attention to the fact that the test was developed in 1946 and had been changed only once since then. Schroeder requested inclusion of a date certain to avoid any misunderstanding.

SOCIAL SERVICES The Department of Social Services was represented by Judith Welp, Rules and Manual Specialist, Will Miller, Administrative Assistant, Lois Berens, Eligibility Specialist, Cris Perkins and Miriam Turnbull, Childrens' Services, and Bob Lippman, WIN unit, for review of the following rules:

SOCIAL SERVICES DEPARTMENT(770)
ADC, work expense, 41.7(2)"a" ARC 2562 F 12/9/81
Supplementary assistance, dependent relatives, 51.4(4) ARC 2563 F 12/9/81
Burial benefits, 56.3(1)"a" ARC 2564 F 12/9/81
Food stamps, 65.1(2), 65.14, 65.15 ARC 2565 F 12/9/81
Intermediate care facilities, expenses, 81.6(1)"b"(4) to (6) ARC 2566 F 12/9/81
Intermediate care facilities for mentally retarded, expenses, 82.5(1)"c"(4) to (6) ARC 2567 F 12/9/81
Child foster care facilities, licensing, 112.2(2) to 112.2(4), 112.4(2), 112.6(2)"d", "e" and "e", 112.9 ARC 2568 F 12/9/81
Children in need of assistance, reimbursable expenses in juvenile justice county program, 141.5(2) and 141.5(3) ARC 2577 F 12/9/81
Homemaker-home health aide services, 144.3(1), 144.4, 144.5 ARC 2569 F 12/9/81

SOCIAL SERVICES DEPARTMENT(770)
ADC, unearned income, 41.7(1)"c" ARC 2558 N 12/9/81
Educational and training plans, 55.2 ARC 2559 N 12/9/81
Food stamps, 65.3, filed emergency ARC 2587 F.E. 12/23/81
Medical assistance, disposal of resources, 75.6 ARC 2560 N 12/9/81
Medical assistance, eliminations, 75.1(2), 75.1(7), 75.1(2), 75.2(1), 75.3, 75.4(1), 75.6, 75.7, 75.10, 75.12(16), 75.23, 75.1(4), 80.4(1), 81.10(4), 81.10(5), also rescinds, 77.5, 77.8, 77.10, 77.13 to 77.15, 77.17 to 77.19, 77.22, 78.5, 78.5, 79.10, 79.14 to 79.17, 79.19, 79.24 ARC 2561 N 12/9/81
Medical assistance-hospitals, 78.3(7), 78.3(13), 78.3(14), filed emergency ARC 2588 F.E. 12/23/81

41.7(2) Welp referred to 41.7(2) and explained several mandatory changes were required by the federal Omnibus Reconcilia-
- 1630 -

SOCIAL
SERVICES
Continued
41.7(2)

tion Act. Clark was intrigued by the one-dollar difference in exemptions between the full-time and part-time employee. It was noted that, previously, the work expense for part-time employees was \$46 and the Council, at the time child care standards were reviewed, raised the amount to \$74. No recommendations were offered for 51.4(4) which defines a dependent relative in the state supplementary assistance program. Welp agreed to provide Clark with information needed to report a fraud case.

56.3(1)a Amendment to 56.3(1)a removes reference to eligibility for burial benefits for an unborn child.

ch 65
141.5(2)c No substantive comments concerning amendment to chapter 65. In response to Clark, Welp explained reporting and reimbursement procedures in 141.5(2). Holden inquired if the amendments clarified the problem Linn County had presented to ARRC. Welp replied 141.5(3) addressed that area although the main problem still exists. The Department has asked that detention care reimbursement under 232.142, The Code, be increased to 25 percent of costs instead of $\frac{1}{2}$ of 1 percent presently. She continued that facilities are supporting the request. Perkins told Tieden the cost was estimated to be \$385,000. Clark called attention to an unnecessary preposition in 141.5(2)g. Barry was granted permission to delete editorially the "of" from the IAC.

ch 144 No questions posed re ch 144. Welp told the Committee that 41.7(1)g specifies that a person receiving ADC would be required to accept medical insurance supplied by an employer. She recalled that recipients have refused that coverage in favor of the superior Title XIX coverage. If a recipient must pay a portion of the insurance, DSS would not require he or she to subscribe to the coverage supplied by the employer. Schroeder favored requiring a recipient to pay an additional amount. Welp indicated it would be difficult to determine a set figure. Holden recognized a potential administrative problem and suggested inclusion of "a major portion." Schroeder recommended further review of the matter. Welp agreed that the word "accept" should be inserted before "those benefits" in line 2.

55.2 Welp stated the main reason for revision of 55.2 was for clarification. She pointed out the change rearranges the rules on plan approval to put them in a more logical order. It also clarifies how financial awards are to be used and eliminates the provision to consider plans with excessive costs.

Schroeder viewed 55.2(5)b(7) re summer school as being detrimental. He preferred to allow for extraordinary circumstances since it might be advantageous to enroll someone in a summer program. Lippman said the rule was aimed at short-term programs such as nurses aid training.

Welp continued that emergency amendment to 78.3(7)(13)(14) was result of the Omnibus Reconciliation Act. DSS will pay for inpatient hospital tests only when ordered by a doctor specifically for a patient. Standing group orders would not be honored. When remedial care is recommended for a patient, DSS would pay for

**SOCIAL
SERVICES
Continued**

the lower level of care. Responding to Tieden, Welp said the decision would be made by the Professional Standards Review Organization for the hospital. Berens explained the method of operation used by the Professional Standards Review Committee. Tieden did not wish to be critical but wanted assurance of cooperation by hospitals and Berens said, "We have to rely on the fact the Review Committee is performing its duty under the law." Clark interjected she had read that Iowa was "particularly good" in the PSRO area.

75.6

Proposed rule 75.6 would implement SF 377[69GA,ch82] with respect to transfer of assets in order to become eligible for medical assistance. Periods of ineligibility are set and an eligibility penalty would be imposed on persons who transfer resources to become eligible for medical assistance. There was brief discussion

75.1(2)
et al

Further review of medical assistance amendments.[ARC2561] Welp noted the rules set out different options for the Medicaid Program. DSS has enumerated different money-saving methods. Two groups of recipients were removed -- those 18-21 years of age would no longer be eligible for ADC assistance while in school and the "300% group" in medical institutions.

Tieden was curious as to number of people who attended hearings but Welp had no information. Clark commented that about 30-35 people attended the hearing in her district. According to Welp, DSS was hopeful the legislature would provide guidance or mandates concerning the rules. Oakley indicated the governor would have recommendations regarding some of the areas. Welp called attention to the budget recommendations from the Social Services Council who did not want to accept all of the rules.

No further discussion re Social Services.

**REVENUE
DEPARTMENT**

Mel Hickman, Assistant Director, Exise Tax Division, and Jim Hamilton, Supervisor, Individual Income Tax Section, appeared on behalf of the Revenue Department for review of the following:

REVENUE DEPARTMENT[730]
Retail sales tax permit, reinstatement of revoked permit, 13.7 ARC 2606.....F..... 12/23/81
Indexation, WIN-credits, exclusion of interest or dividends, penalty and interest, 35.10, 40.9, 40.10, 44.3 to 44.6
ARC 2546.....F..... 12/9/81
Withholding, verified summary reports, 46.3(3) ARC 2547.....F..... 12/9/81
Capital gains, 52.5(2), 52.5(7) to 52.5(11), 53.3, 53.9, 54.4, 56.5(1), 58.5(6) to 58.5(10), 61.5(1) ARC 2548.....F..... 12/9/81
Motor fuel and special fuel, 63.13, 63.17(1), 63.25(1), 63.25(3), 64.1, 64.3, 64.4(3) to 64.4(5), 64.5, 64.7(3), 64.16, 64.18,
64.20, 64.22, 65.15 ARC 2607.....F..... 12/23/81
Tax lien, 9.6(3)"c" ARC 2605.....N..... 12/23/81

No questions were raised concerning 13.7 Amendments to chapters 63, 64 and 65 follow statutory requirements. Schroeder called attention to the Ag Industry concern about the blending of alcohol with regular gasoline. He was of the opinion that possible legislation was needed with respect to octane requirement for blending. Holden referred to 65.15 with respect to special fuel sold to the state and placed in storage. He indicated municipalities were interested in taking advantage of the tax-free status also. Schroeder questioned the necessity for the quarterly urban transit system report in 65.15(2), second paragraph. Hamilton declared that it would allow all urban transit systems which transport students to buy fuel tax free. Hamilton pointed out

1-11-82

REVENUE that the company pays the tax which is in turn refunded. Schroeder
DEPARTMENT favored elimination of "double bookwork." No recommendations were
Continued offered for the remaining amendments.

SUBSTANCE Randolph Ratliff represented Substance Abuse for review of the
ABUSE following:

DEPARTMENT SUBSTANCE ABUSE, DEPARTMENT OF[805]
Licensure standards for treatment programs, 3.7(2), 3.8, 3.10 ARC 2551 F 12/9/81
General standards for treatment programs, 3.22(15), 3.22(16) ARC 2552 F 12/9/81

ch 3 Ratliff made a brief statement as to the purpose of the amendments.
amendments With respect to a corrective action plan in 3.10, Tieden inquired
if it were a common practice and if requests were received for that
approval. Ratliff replied there are programs with a time-limited
license. Tieden wondered about the reliability of the programs--
Ratliff said the Management Information System provided a better
data base. Tieden asked about coordination among local, regional
and state drug abuse centers. Ratliff said the licensing would
provide follow-up of all the nonprofit private centers providing
services. Responding to Clark, Ratliff said the length of stay
in a center is determined by the clinical decision as to the needs
of the person. In response to question by Tieden, Ratliff com-
mented there are commitment laws--emergency and involuntary as
well as criminal justice system referral. General discussion that
an individual could voluntarily leave a center. Tieden viewed
that as a problem. Clark preferred a "crack-down on drunken
driving" declaring that if people cannot drive, that would be a
real motivation for not drinking. Discussion of deferred sentences.
Holden expressed his concern that follow-ups were not completed.
Ratliff responded that was the reason for the new language in 3.22.
Schroeder requested inclusion of a date in 3.22(16)b when the rules
are amended again.

Committee Due to inclement weather, the Legislature did not meet and the
Business Committee agreed to revise the agenda to include the agency rules
originally scheduled for Friday afternoon. Exceptions were those
rules which involve public participation. Royce reviewed the
matter with the Committee. It was agreed that if problems evolved
between Monday and Friday concerning the agenda, any matter could
be reconsidered on Friday.

Recess Chairman Schroeder recessed the Committee at 10:45 a.m. Recon-
vened at 11:20 p.m.

HEALTH Mark Wheeler, Hearing Officer; Mike Guely and Gloria Piatt,
DEPARTMENT Renal Disease Program; Ken Choquette and J. D. Eure represented
Health Department for the following:

Renal disease patients, ch 111 ARC 2540 N 12/9/81
Plumbing code, ch 25 ARC 2590 F 12/23/81

ch 111 Guely reviewed the impetus that led to the rules -- a result of
the Legislative Fiscal Bureau evaluation of the Renal program.
He commended the Bureau on the report and reminded members that
legislation had passed the Senate in 1981 and was pending in the
House. Copies of the proposed rules had been mailed to renal
disease patients, kidney foundation, dialysis and transplant
facilities in Iowa and social workers, nurses, etc. One person
attended the public hearing and four written comments were received.
Guely reported on portions of the rules which would be revised
before they are adopted.

HEALTH
DEPARTMENT
Continued
11:25 a.m.

Plumbing
Code

According to Guey, the Board of Health will meet Wednesday, January 13, and the proposed changes will be reviewed. Chiodo arrived.

Schroeder called attention to some questionable areas which he had overlooked when the plumbing code rules were under notice. It was also noted that the rules before the Committee were basically the same as those recently filed by the Building Code Commissioner.

Areas of concern: 25.2(a)Section 201(g) -- identical to that adopted by the state building code. Choquette reasoned that could be one disadvantage in a uniform code. Schroeder questioned deletion of the reference to "c". Choquette responded that the pipe was not available and had been found to be unacceptable. He assured Schroeder there would be no problems with existing systems.

Discussion of diameter of drains in 401(a)Exception 2 and possible need for brackets on pipes. Schroeder thought the 140 degree temperature in (c) to be unrealistic. Choquette opined the temperature related to combustible material. Committee members could envision problems with the restrictive temperature. Choquette added the rule pertains to space between walls.

Schroeder noted that Section 50.32(c) allowed for exceptions -- "warranted by an engineer." He declared companies "warrant a product, not an engineer." Committee members supported Schroeder in his contention. Choquette contended that, in many cases, the manufacturer would have its own engineer to warrant the material.

Discussion of meaning of "common vent" in Section 613. Committee maintained "one size" was unnecessary. No formal action was taken. Choquette expressed appreciation for the Committee's constructive criticism.

No Repre-
sentatives

No agency representatives were requested to appear for the following

ACCOUNTANCY, BOARD OF(10)
Annual meeting, annual register, 2.3, 2.3 ARC 2541 N 12/9/81
Licenses, renewal, continuing education, 3.2, 6.1, 6.3(1), 6.4(1), 9.6(1), 9.9, 9.11(2), 10.3(1) to 10.3(3) ARC 2614 N 12/23/81
Specified forms, fees, 13.1, 14.1, 14.2 ARC 2543 N 12/9/81
AGRICULTURE DEPARTMENT(30)
Pitless scales for sand, limestone and coal, 55.12 ARC 2556 F 12/9/81
BANKING DEPARTMENT(140)
Home mortgage disclosure, rescinds ch 10, filed emergency ARC 2601 F.F. 12/23/81
DENTAL EXAMINERS, BOARD OF(320)
Dental assistants using dental radiography, ch 22 ARC 2598 F 12/23/81
Labeling, packages, dispensing of drugs, ch 16, notice terminated ARC 2591 12/23/81
ENERGY POLICY COUNCIL(380)
Purchasing fuel from alternate sources, ch 5 ARC 2602 F 12/23/81
ENGINEERING EXAMINERS, BOARD OF(390)
Surveys, 2.1(2), 2.3, notice terminated ARC 2539 12/9/81
HEALTH DEPARTMENT(470)
Phenylketonuria testing laboratories, ch 4 ARC 2589 N 12/23/81
Optometry examiners, license examinations, 143.5(3) ARC 2592 N 12/23/81
Optometry examiners, license renewal, continuing education, fees, 144.1(1), 144.1(2), 144.1(6), 144.2, 160.4(1), 160.4(3) ARC 2593 N 12/23/81
Cosmetology examiners, schools, continuing education, fees, 149.2(5), 151.2, 160.7(6), 160.7(10), 160.7(11), 160.7(14), 160.7(16) ARC 2595 N 12/23/81
Barber examiners, continuing education, fees, 152.101, 160.6(3), 160.6(5) to 160.6(8), 160.6(10), 160.6(13) ARC 2594 N 12/23/81
Vital records, 96.1, 96.4, 96.7, 96.8 ARC 2357 F 12/9/81
Psychologists, licensing, continuing education, 140.1(2), 140.9, 140.10, 140.101, 140.103(1), 140.105 ARC 2597 F 12/23/81
PAIROLE BOARD(615)
Description, meetings, 1.1, 2.1 ARC 2537 F 12/9/81
Termination and revocation of parole, 7.5(13), 7.9(1) ARC 2538 F 12/9/81
SECRETARY OF STATE(750)
Alternative voting systems, 10.4 ARC 2600 F 12/23/81
Temporary use of paper ballots in voting machine precincts, 10.5 ARC 2539 F 12/23/81
VOTER REGISTRATION COMMISSION(845)
Voter registration lists, 3.1(1) to 3.1(4), 3.1(6) ARC 2604 F 12/23/81
Voter registration, update policy, 7.1(4), 7.1(6) ARC 2603 F 12/23/81

Recess The Committee recessed for lunch at 11:55 a.m. and reconvened at 1:35 p.m.

CONSERVA- Larry Wilson, Director; Ross Harrison, Information Education;
TION and Richard Thornton, Commission Member, appeared for review of
COMMISSION the following:

CONSERVATION COMMISSION 2901
Migratory waterfowl stamp design, ownership and sale of art prints, ch 73 ARC 2612 N 12/23/81
Trout stamp and wildlife habitat stamp design contests, ownership and sale of art prints, ch 74 ARC 2613 N 12/23/81

ch 73 Wilson explained the Commission could realize revenue from the
ch 74 duck stamp contest and from the ultimate production of stamps
Duck and stamp prints. Since the early 1970's, the Commission re-
Stamp quired a duck stamp to be affixed to the Iowa waterfowl hunting
license. He discussed the history of the habitat wildlife and
trout stamps. Contests have been held for Iowa artists. In
Wilson's opinion, the state, and not just the artist, should share
in revenue from the sale of the stamps. Responding to Schroeder,
Wilson said an artist can realize up to \$60,000 to \$75,000.
Schroeder wondered why the Commission would not be satisfied with
half instead of all but \$2000--74.1(4). Wilson advised ARRC that
a broker had been consulted and it was believed the revenue would
be greater than in the past because of nationwide exposure. All
dealers of art work and artists have been invited to the public
hearing to be held January 12. Schroeder could foresee the proposal
would have a negative effect. He preferred a "50-50 split" rather
than an arbitrary figure. Wilson admitted it was he, not the staff,
who had initiated the proposal. He anticipated opposition but
was also aware of support.

In Holden's judgment, the Commission would be justified in re-
taining the design. Discussion of artists' brokers. Tieden in-
quired as to why the duck stamp contest would be held outside
the state. Wilson replied it would have the most appeal as a
collector's item. Tieden and Wilson recalled complaints about
the time limitations on the contest. Tieden suspected that Iowa
had too many stamps. He thought the habitat stamp could be printed
on the license.

Wilson announced that, prior to his appointment, the Commission had
taken a position in support of discontinuing habitat stamps.
There was considerable opposition from the artists so no action
was taken. General discussion.

Holden was hopeful the contest would not be limited to top artists.
Tieden was optimistic that the contest would be a means to recog-
nize Iowa's artists. Wilson concluded that adversity was not new
to the Commission.

Schroeder suggested Conservation officials provide Royce with a
resumé of the hearing so Royce could advise the Committee accord-
ingly. Wilson was amenable.

REAL Gene Johnson, Director, and Kenneth Smith, Administration, appeared
ESTATE on behalf of the Real Estate Commission for review of the following:
COMMISSION

REAL ESTATE COMMISSION 7001
Closing transactions, 1.28 ARC 2608 N 12/23/81
Brokers and salespersons, notification of status of partnerships, associations and corporations, 1.4 ARC 2610 F 12/23/81
Broker-associates, inactive licenses, continuing education, 1.32, 2.2(3), 3.6(5) ARC 2609 F 12/23/81
Licensees of other jurisdictions, 2.3 ARC 2611 F 12/23/81

REAL
ESTATE
COMMISSION
Continued
1.28

Johnson described the three objectives of 1.28. Responding to Schroeder, Johnson said that before revision, the rule had generated a great deal of static. Chiodo questioned the requirement that records be kept for seven years. According to Johnson, that was an arbitrary figure. Chiodo pointed out that income tax records are kept only five years. Johnson agreed to substituting 5 for 7. Holden questioned use of closing transactions and closing statement. In the last sentence of the first paragraph, Johnson noted that "closing statement" referred to a specific document which contains accounting of funds and was acceptable to the industry.

In response to Holden, Johnson stated the listing broker has the responsibility for the accounting to the parties of the transaction.

1.4 In re 1.4, Johnson pointed out a change which had been requested
3.6 by Holden. Also, 3.6(6) was eliminated after Notice. The pro-
2.3 vision pertained to the honor system in certifying continuing ed-
ucation. Discussion of 2.3 which was unchanged from the Noticed
version. Schroeder took the position that 2.3, "Salesperson:2"
was unduly restrictive. In response to Schroeder, Johnson said
that, by law, real estate licensees are prohibited from working
for two companies at the same time. Johnson cited 117.34(6), The
Code. There was general discussion. Schroeder insisted the re-
quirement was unfair to those living on the borders of Iowa.
Johnson failed to understand why anyone would want to work for
two different brokers. Smith admitted it would be difficult to
keep track of people who are licensed in another state--the problem
would be more conspicuous with broker associates than with sales-
people. Holden suggested providing: "If he is employed by a
broker that is licensed on both sides of the river, he cannot be
an employee of another broker." Holden could see no problem if
they were not licensed on both sides of the river. Johnson was
willing to rescind the questionable language.

Schroeder also questioned 2.3 "Broker:1." "actively licensed as
a broker for at least twenty-four consecutive months immediately
preceding the date of application." He did not believe working
24 months would improve an individual's ability to pass the real
estate test. Johnson responded it did not preclude Iowa from
entering into less restrictive reciprocity agreements. Iowa has
reciprocity agreements with six states. No formal action taken.

TRANSPOR-
TATION
DEPARTMENT

The following rules were before the Committee:

TRANSPORTATION DEPARTMENT OF [820]

Inter-state registration and operation of vehicles, [07.F] 1.3(1)e, 1.6, 1.7, 1.11	ARC 2583	.....F	12/23/81
Special permits for operation and movement of vehicles and loads of excess size and weight, [07.F] 2.2(1), 2.3(2)a(1) and (5)			
ARC 2584	.....F		12/23/81
Inter-state motor vehicle fuel permit and transport carriers registration, [07.F] 7.4(2), 7.4(4), 7.4(10), 7.5(2), 7.5(4), 7.5(5), 7.7(2), 7.7(5)	ARC 2585	.....F	12/23/81
Motor vehicle dealers, manufacturers and distributors, [07.D] 10.4(2)a and "c", 10.7(1) to 10.7(3)	ARC 2534	.....N	12/9/81
Motor vehicle lighting devices and other safety equipment, [07.E] 1.5	ARC 2535	.....N	12/9/81
Truck operators and contract carriers, fuel surcharge, [07.F] 3.8(14)	ARC 2570	.....N	12/9/81
Motor carriers and charter carriers, fuel surcharge, [07.F] 4.14(14)	ARC 2571	.....N	12/9/81
Long-haul transport carriers, fuel surcharge, [07.F] 13.11(12)	ARC 2572	.....N	12/9/81

The Department was represented by Candy Bakke, Director, Operating Authority; Carol Padgett, Administration, Vehicle Registration; Randall L. Nyberg, Director, and Jane Phillips, Counsel, Transportation Regulation Board. Bakke pointed out that a change requested by ARRC had been made in 1.3(1)e.

TRANSPORTATION
DEPARTMENT
Continued

Schroeder questioned new language in 1.7. Bakke said another provision in the rules covers application for duplicates. Department officials pointed out that no changes were made in [07,F]2.2(1), 2.3(2)a(1) and (5) after the Notice. Schroeder preferred extenuating circumstances be considered in the mileage limitation. Bakke was of the opinion the Code would permit issuance of a special permit for those situations. No questions were raised concerning ARC2585 and 10.4(2)a&e, 10.7(1) to 10.7(3).

1.5

Padgett reported that rule 1.5 was being amended to include the procedure for determining if a motor vehicle's center of gravity has been altered. There was discussion of exempt vehicles in 1.5(2), in particular, deviation from the original height of the vehicle's bumper. The Committee suggested clarification in 1.5(2)a-- subparagraph(7) re towing. Chiodo was of the opinion his auto would be exempt if he were to install a trailer hitch on it. Transportation officials were willing to address the exemption problem. Schroeder suggested addition of language "provided it is a 1½ ton unit" and that the trailer-tow provision be more specific on bumper height.

No recommendations were offered for [07F]4.14(14) and [07F] 13.11(12).

PUBLIC SAFETY

Connie White, Program Planner; Carroll Bidler, Director of Administration; and Robert Leber, Supervisor, State Fire Marshal's Office, Public Safety, were present for review of the following rules:

PUBLIC SAFETY DEPARTMENT(680)		
Weapons, collector's items, 4.7 to 4.12	ARC 2529	N 12/9/81
Arson, investigation, disclosure of information, 5.12 to 5.14	ARC 2530	N 12/9/81
Liquefied petroleum gases, 5.250	ARC 2531	N 12/9/81
Fire safety--child foster care facilities, 5.501 to 5.517	ARC 2532	N 12/9/81
Smoke detectors, 5.506 to 5.508	ARC 2533	N 12/9/81

4.7 to 4.12

Bidler stated that 4.7 to 4.12 covers weapons that have been determined to be curios or relics by the US Department of Treasury and provides procedure to petition for inclusion of additional weapons. Public hearing had been announced but no one attended and no written comments were received. Bidler told Schroeder the rule applies to offensive weapons under the statute, e.g. machine gun, sawed-off rifles, short-barreled rifles. Bidler was responsive to Holden's request to identify the lists by dates in Rule 4.9.

5.12 to 5.14

In re 5.12 to 5.14, Leber stated that arson investigation procedure had been clarified. Schroeder was unsure of the validity of 5.12(2)b. Discussion of necessity for insurance company verification of policy premium payment. Leber noted this would justify exchange of information. Chiodo recommended clarification of 5.12(2)b to ensure participation by the company. Leber was amenable.

Leber stated that rule 5.250 updates standards for liquefied petroleum gas to current National Fire Protection Association standards regarding Liquefied Petroleum Gases.

1-11-82

PUBLIC
SAFETY
Continued

5.503 to
5.517

Discussion of 5.503 to 5.517. Schroeder was doubtful that foster care homes in Iowa would be able to meet "ridiculous" criteria in 5.513(1). In response to Chiodo, Leber was unclear on explanation of 5.503(1) with respect to "design" of exits. White added that a hearing had been held and no comments were received. It was Tieden's opinion the rules could result in facilities being "put out of business."

Leber said the intent was to provide a degree of flexibility re safety precautions. Chiodo questioned rationale for the limitation in 5.505(1). Leber was unsure but suspected it was because most foster care centers are wood frame construction. Schroeder referred to 5.513(3)b, oil furnaces, and questioned the requirement for an outside airflow. Leber responded that in energy efficient homes, there were problems with adequate combustion. He agreed a revision could improve 5.513(1) concerning the separation of central heating plants by a one-hour fire separation(wall). Discussion of extension cord use and fire hazards--5.512(3). Schroeder expressed his opposition re 5.517(3), storage of combustible materials. Leber asked for suggestions. Schroeder was dubious about the amendments in general. He was doubtful that providers were aware of the ramifications. Tieden concurred.

Leber reminded the Committee that the Department of Social Services had requested standards. Discussion continued. Chiodo wondered why laundry chutes were outlawed. Leber responded it was to prevent fire from spreading to another level through the opening. Clark referred to 5.506 which classified three types of facilities and to 5.504(1) containing definition. She thought the two should be coordinated. Holden wondered if the agency should be requested to mail the proposed rules to family foster care homes. Clark admitted there was a "delicate balance," but opined that DSS should assume some responsibility.

Motion - Clark moved that ARRC request an economic impact statement on
Economic Department of Public Safety rules ARC 2532 -- 5.503 to 5.517
Impact and a request for information regarding the number of units that
Statement would be affected.
Motion carried.

Smoke Discussion of smoke detector requirements. Clark thought "national-
Detectors ly recognized standards" -- 5.806(2) -- was vague. Leber was willing to delete 5.807(9) at Schroeder's request. Tieden maintained that the directives in 5.807(8) would resolve the problem.

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

AUDITOR OF STATE(130)
Trust powers, ch 10 ARC 2549N..... 12/9/81
Adjustable mortgage loans, 11.2(8), 11.3(1) ARC 2550.....N..... 12/9/81

Pringle discussed the fact the rules were required by statute and highlighted a document pertaining to the dual system of regulation of the savings and loan industry. He pointed out that 69GA, chapter 175 allows savings and loan associations to act as trustees in a fiduciary capacity when federally chartered associations operating in the state are granted similar authority.

AUDITOR The Board of Directors is responsible for overall operation of Continued the Department. Accounts are reviewed by the association which must have written policies. Pringle was unable to provide the state corporate fiduciary minimums for Chiodo. He pointed out that was a problem when federal language is adapted to our state institutions. He expressed a preference for legislation at the state level.

Holden took the position there could be justification for eliminating state charters for savings and loans institutions since they must basically conform to federal standards. Thornton briefly addressed the Committee re the position of the Iowa Banking Association. He urged that not only the ARRC but the entire Legislature scrutinize the "new powers" conferred upon S & L's. Holden wondered if S & L's had exceeded statutory authority. In Thornton's judgment, the language was broad.

Clark requested that the Banking Industry prepare a position statement on the elimination of state charter banks. There was general discussion and no formal action.

10.2(1) Pringle, responding to Tieden, explained "transfer and paying agent" in 10.2(1).

11.2(8), Discussion of 11.2(8) and 11.3(1) -- adjustable mortgage loans.
11.3(1) Pringle said 11.3(1) was amended to allow associations to place the initial index the same as those closed within a six-month period to aid the secondary market.

Tieden opined that left a great deal of variance. Pringle was willing to consider 60 to 90 days as a maximum. No further discussion.

Recess The Committee stood in recess until Friday, January 15, 1982, 8:00 a.m.

Reconvened

HEALTH
DEPARTMENT

Chairman Schroeder reconvened the meeting Friday, January 15, 1982, 8:05 a.m. in Committee Room 116, Statehouse, Des Moines, Iowa. Due to inclement weather, the Chairman recessed the Committee until 8:28 a.m. to allow members to arrive. The following Health Department Officials were present: Dana Petrowsky, Health Facilities Division, John Buckley and Mark Wheeler, Hearing Officer. Also present: Richard Shaffer, Calvin Manor; Edwin Thomas, South Iowa Methodist Homes, Inc.; Jon Buchholz and Sister M. Martina, Bishop Drumm Care Center; Marie Meariff, Wesley Acres, B. P. Donaldson, Storm Lake; Larry L. Breeding and Kermit H. Mehl, Iowa Health Care Association; Senator Julia Gentlemen; Representatives Dorothy Carpenter and Joseph Gross; Susan Brammen, Assistant Attorney General; Janet Carl, Health Resources; Ramona Zaleski, OASIS, Inc.; Arlene Shade, Luther Park Health Center; and Thomas J. Cannon, Jr., American Patients Association.

The following rules were before the Committee:

HEALTH DEPARTMENT[470]

Health care facilities-patients' rights, amendments to chs 57, 58, 59, 63 and 64	ARC 2578	N	12/23/81
Certificate of need, definition, 202.2(9)	ARC 2574	N	12/9/81
Certificate of need, appeals, 202.12(2)	ARC 2575	N	12/9/81
Certificate of need, extensions, 202.14(3)	ARC 2576	N	12/9/81
Funeral directors, disciplinary action, 147.212(14), 147.212(15)	ARC 2598		12/23/81

Petrowsky cited 69GA[ch60], HF 825 as authority for the Department of Health to establish residents' bill of rights and to incorporate the federal bill of rights by reference. The Act also mandated four additional matters--involuntary discharge or transfer from a facility; intrafacility transfer; involving care review committee in the claim investigation process, and required holding of a bed under designated circumstances. The Department made the decision to incorporate the federal bill of rights with the federal interpretative guidelines to amplify and clarify standards.

Schroeder questioned Department officials as to why they felt compelled to draft the voluminous rules to implement the one page Act. Petrowsky responded Health Department saw it as informational aid to enforce standards.

chs 57, 58, 59, 63, 64 The first speaker concerning amendments to chapters 57, 58, 59, 63 and 64 was Richard Shaffer. He emphasized he was not opposed to residents' rights but addressed several areas of concern; e.g public disclosure of inspection findings and posting of citations. In his opinion, the health care administrator should receive the inspection findings prior to the Care Review Committee. He did not envision that Committee as an enforcement agency, but rather an advocacy group. Shaffer expressed opposition to 135C.38, The Code--inspection upon complaints. In re 57.35(8)a,b, he opposed requiring the administrator to be responsible for certain actions of the residents' physicians. In his opinion, the responsibility should be in the hands of the Iowa Foundation for Medical Care or the Medical Society. Shaffer was particularly concerned for restraints under 57.36, involuntary discharge and transfer of residents. He could envision problems for continuing care retirement facilities since many are contractually obligated to provide nursing care to retirement community residents. He urged revision with regard to the transfer of patients.

HEALTH
DEPARTMENT
Continued

Shaffer contended 57.47 could create confusion for a facility re drug handling. In conclusion, he found it regrettable that the law required all violations to be classed either I or II. He favored reinstating a class III violation.

Priebe arrived.

57.36

Thomas basically concurred with Shaffer. He discussed procedures which would present difficulties for the continuing care facilities which he operates. He took the position that 57.36 could result in legal ramifications. Thomas saw no need for a signed statement by a resident each time he or she is transferred to another level in a multilevel facility. He referred to 57.36(1)m and voiced concern about the specific counseling criteria. Further, he opposed requirement to transfer from a private room to a semiprivate room -- 57.36(2)a(5). "Multiple occupancy" was preferable, in his opinion. He concluded the multitude of paperwork was upsetting to elderly residents.

Priebe took the position that an economic impact statement was needed to address specific areas; additional cost for LPN's and impact on various classes of facilities.

Chairman Schroeder recognized Buchholz who spoke on behalf of Madelevea Comiskey, Administrator for Bishop Drumm Center and for the record, he read her letter. Comiskey interpreted the new rules to remove the facility's right to offer priority placement to apartment residents. She pointed out that Class I and II status violations could constitute sizeable fines. Bishop Drumm Center has had Care Review Committees composed of consumers. The Center does not support the concept of an Ombudsman appointed by the Commission on Aging. In closing, Buckholz said "administrators will be expending resources and energy in order to follow minute regulations instead of using them to provide a quality home for residents."

Carpenter spoke of her personal involvement with elderly care in the city of Des Moines. She feared the effect of the rules would be less access to the "coveted" infirmaries at the multi-level care facilities. Although Carpenter understood the purpose of the legislation, she shared the sentiments expressed by previous spokesmen. Petrowsky admitted that the life care problem was very real but it must be dealt with at the statutory level. The Department has no discretion. The three specific reasons for involuntary discharge are: Medical, nonpayment of stay, and residents' welfare or other peoples' welfare. The significant issue should be debated.

Responding to Schroeder, Petrowsky said the Department had not drafted a proposal since the matter had just surfaced since the proposal was published and a value judgment must be made.

Clark opined the Department would have some ideas as to how to address the matter. Petrowsky wasn't sure an individual could sign away his or her rights. She informed Tieden that the language states that Health Department "shall" implement a federal bill of rights.

1-15-82

HEALTH
DEPARTMENT
Continued

Clark indicated the Human Resources Committee was willing to attempt to resolve the matter statutorily. Schroeder asked if the matter of signed contractual agreements would be overriding. Oakley stressed this was a difficult area -- a facility is placed at a great disadvantage. Petrowsky informed Holden that federal regulations had been in effect four years. In response to Oakley, Petrowsky said the Department has kept a record of complaints relative to the rules and there have been none with which they have been unable to deal. She pointed out that no involuntary discharge hearings had been requested.

Economic
Impact
Statement

There was discussion with respect to the history of the legislation which was generated by the Older Iowans Legislature. Hearings were held and "horror stories" were presented. After further discussion, Priebe moved that the Administrative Rules Review Committee request the Health Department to submit an economic impact statement re 57.35(6)(8), 57.36(1)d, 57.40(3), 57.45(3), 58.47 to 57 & 58 and 58.13, and at the same time, notify Human Resources Committees of some of the problems.

Chiodo was dubious that, timewise, the problem could be resolved legislatively this year. Royce, in discussing a possible 45-day delay into the next GA, said it would have the effect of delaying the entire statute--the statute cannot go forward without the rules. He asked Brannen to explain what was happening in federal court. She replied that two class action suits had been filed against the Health Department alleging that Title XIX residents have a constitutional right to many of the things the rules address. State agencies involved have urged the court to delay a ruling until the rules are in effect. The court wants a full report March 1 on the status of the rules. Petrowsky anticipates the federal court will dictate if Iowa fails to adopt rules for another year. General discussion.

Vote

Question was called on the Priebe motion. Motion carried viva voce.

Recess

Chairman Schroeder declared a recess at 9:45 a.m.
Reconvened at 10:00 a.m.

HEALTH
DEPARTMENT
ch 202

Peter Fox, Hearing and Compliance and Jeanine Freeman appeared on behalf of Health Department. Also present: Gene Siegert, Board of Mortuary Science. Freeman reviewed amendment to chapter 202 with respect to certificate of need. No formal action taken.

Mortuary
Science

Siegert introduced Linda Schuller, public member of the Board of Mortuary Science and Irene Howard, State Director of Professional Licensure. Siegert recalled the intended action pertaining to grounds for disciplinary action re mandatory disclosure and unauthorized embalming was published in IAB 6/10/81. The public hearing was held in July. At the time the rules were noticed, Holden had raised a point that the Board, in the solicitation area, had exceeded their authority. After advice from the Attorney General, the Board concurred. Amendments were made following the Notice. However, their position on matters of the pre-need sale has not changed. Schuller reemphasized that there is a demand for pre-need funeral services and it is imperative that credentials of solicitors be approved. Schuller took the position that the

HEALTH
DEPARTMENT
Continued
Mortuary
Science

law should be clarified. Siegert commented that chapter 156, The Code, was ambiguous. In Priebe's opinion, embalming authority was too broad and he requested the Board to consider tightening that language. He recommended obtaining permission from the local medical authority within the county and perhaps mandating that the county medical examiner be notified. Siegert agreed the point was well taken.

The Committee recommended that the Board initiate minimum requirements for that particular area.

BOARD OF
PHARMACY

Norman Johnson, Executive Secretary, Board of Pharmacy, was present for discussion of legislation dealing with prescriptions under medical assistance programs. He recalled that he had met with ARRC on September 8 for review of rules implementing SF 566, §3, last paragraph of subsection 2. At the request of the Committee, the Board drafted a recommendation for amendment to the paragraph which, in their judgment, would enable them to carry out legislative intent. They pointed out additional legislation was needed to focus on disparities in reimbursement rates for pharmacy services between the third party program and private pay consumers. Johnson distributed copies of the recommendation. Schroeder agreed to pursue corrective legislation.

COMMERCE
COMMISSION

The following Commerce Commission rules were before the Committee:

Gas and electric utilities. 19.4(10), 19.4(15)"h", 19.4(15)"i", 20.4(11), 20.4(15)"h", 20.4(15)"i". filed emergency
after notice ARC 2536 F.F. 12/9/81

Appearing on behalf of Commerce were Andrew Varley, Chairman of the Commission, and Alice Hyde, Counsel.

Chiodo noted language "disconnection shall be delayed thirty days.....as provided for in the offered agreement." in several of the amendments and wondered what would occur after "sixty" days. Varley explained that was time allowed for the individual to appeal to the Commission. The Commission will make a decision within 60 days. Chiodo inquired as to the possibility of the utility prolonging an appeal until time is exhausted in order to circumvent the Commerce Commission. Varley did not believe that to be a possibility.

19.4

Holden contended it was unfortunate the whole rule had been re-written giving the impression there was new language when in fact that was not the case. Chiodo pointed to use of "shall" in 19.4 (15)h(4), 3rd paragraph and thought it should be "may." Hyde replied that was being changed and was printed in the 1/6/82 IAB, which would be before the ARRC at a future meeting. Holden questioned use of "normalized" in 19.4(10). It was his judgment that "equalized" would be more appropriate. Commerce was willing to comply. Tieden was concerned that public members might be present and wish to comment. None were.

EMPLOYMENT
SECURITY

Joseph Bervid and Paul Moran represented Job Service for review of the following:

EMPLOYMENT SECURITY[370]
Employer's contribution and charges. 3.27(1), 3.27(2), 3.27(7). filed emergency ARC 2579 F.F. 12/23/81

Bervid briefly explained that for a time the Department of Labor required Job Service to cover nonprofit church-related schools by FUTA.

EMPLOYMENT
SECURITY
Continued

He reviewed the history of the ruling of the Secretary of Labor and the US Supreme Court which generated amendments before the Committee. Responding to Chiodo, Bervid thought most parochial schools would not be covered. It would take an Iowa law change to enable that. Notification letters are being mailed to the schools and they can voluntarily elect coverage. According to Schroeder, the teacher would need to request the schools to petition for coverage. He did not envision that schools would drop that coverage.

No further discussion.

Minutes Chairman Schroeder called for disposition of the December minutes. Reading was dispensed and they were adopted viva voce.

Recess Committee was recessed for 10 minutes and reconvened at 10:40 a.m.

AGRICUL-
TURE

Bette Duncan, Counsel, and Carl Carlson, State Entomologist, appeared for review of proposed chapter 26--crop pests--IAB 12/9/81, ARC 2555. The industry participated in drafting the rules and a public hearing was held. While involved in the process of changing fees, it was agreed to revise and update the rules in general. Priebe could envision problems with application of 26.14 (177A) in noncommercial movement of plants for border counties. Carlson admitted that portion of the law was almost unenforceable.

26.14

There was discussion of transplanting of trees, inspection and time involved if the rule were followed. Carlson emphasized the law does not allow movement of trees unless they are inspected and found to be free of insect pests and diseases. The rule does not change that law which has been in effect many years and is uniform throughout the states. Committee was interested in learning if the industry would support statutory revision. Duncan was unaware of any enforcement. Committee members preferred an exemption for gifts of trees.

Motion - refer to Legislature Priebe moved to alert the respective Agriculture Committees of the Legislature of the potential problem with respect to interstate and intrastate movement of certain nursery stock where no remuneration is involved.

Carlson encouraged the Committee to peruse 177A.9 of the Iowa Crop and Pest Act.

26.8

Tieden questioned use of "apparently" in 26.8 and Carlson replied, "You cannot deal with absolutes in biological science." Schroeder asked if stores which hold spring sales in front of their buildings would be affected by 26.10. Carlson noted similar provision appeared in previous rule 26.15.

Clark posed the question, "What are you protecting people from?" According to Carlson, the intent was to ensure the buyer of pest and disease-free plants.

Motion
Carried

Schroeder restated Priebe's motion to refer the matter to the Legislative Agriculture Committees. The motion carried. Tieden took the position that rules 26.10 to 26.15 exceeded statutory authority.

RESOURCES The following Natural Resources Council rules were before the
COUNCIL Committee:

NATURAL RESOURCES COUNCIL [580]

Dams, construction, modification, use, maintenance, transfer of ownership and abandonment, 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 2544 N 12/9/81

Dams, use, maintenance, removal, inspections and safety of, ch 7 ARC 2545 N 12/9/81

5.52 Mike Smith, Staff Coordinator, and Wayne Gieselman, Chief Engineer, represented the Council. Smith called attention to the preamble as a summary of the action taken on the rules. Public hearings were held on the draft, comments were received, and changes were made. No comments had been received on the Notice. Schroeder questioned provision in 5.52(2)b(5). Smith said there were 3 hazard classes for dams. Chiodo queried if the Council would allow dams which would fail to hold water. Schroeder was unsure of the breaking points and, possibly, they were so low that there could be problems in the Agriculture industry. General discussion re control of land downstream from a dam and when regulatory authority is established. Gieselman pointed out each dam would have different circumstances.

Chiodo favored inclusion of the calculation method for criteria regarding the breaking point for dams. Gieselman said a dam break computer analysis would be required and he doubted that would be appropriate in the stated rules. Chiodo suggested "control over land downstream as calculated by the standard dam break analysis." Smith interjected that the technical area would probably be addressed. However, there are four pages of references for all technical texts and designs. Priebe thought it was unlikely anyone would go to the expense of building an inferior dam. There was discussion of situations where mobile home parks were located below a dam and inherent problems. Gieselman cited that as an instance where small dams could generate problems.

After further discussion, Committee requested the Council to include a waiver for low hazard dams. Smith was amenable.

ch 7 There was discussion of chapter 7. Schroeder raised question re 7.11--removal of dams. Smith thought a waiver could be included. Gieselman said if the state does not have a dam safety program, SCS building funds would be jeopardized. Responding to Schroeder, Smith said the Council does not commence contested cases until negotiations are completed. Schroeder requested a higher level on pond size and removal criteria--that should be elevated or a waiver provision included. Responding to Tieden, Gieselman explained method used in determining if dams are safe.

No further discussion.

Recess Chairman Schroeder recessed the Committee for 10 minutes.

BOARD OF Lynne Illes, Executive Secretary, and Barbara Steen, Chairperson,
NURSING Merle Fleming, Counsel, appeared on behalf of the Board of Nursing for review of the following:

NURSING, BOARD OF [590]

Registered nurses/licensed practical nurses, rescinds ch 6, filed emergency ARC 2580 F.F. 12/23/81

Registered nurses/licensed practical nurses, ch 6 ARC 2581 N 12/23/81

Also present: Larry Breeding, Executive Vice President, Iowa Health Care Assn.; Margaret Wilson, Ringgold County Hospital; Norene Jacobs,

BOARD OF Vice President and Legal Counsel, Iowa Hospital Assn; Jim West,
 NURSING Iowa Medical Society; Gene Kennedy, Licensed Practical Nurses;
 Continued Marcin Moran, Iowa Nurses Association; Kay Myers, Iowa Nurses
 Assn.

Illes introduced members of the Board of Nursing -- Elizabeth Kinney, LPN, Ruth Turnis, JoAnn Erickson, Donna Heald, and public members, Molly Scott and Mark Zimmerman. As a matter of record, Illes apologized for the error in announcement of the public hearing date of January 13 rather than 14. She assured the Committee that the message had reached everyone. The public hearing was held January 14. Existing rules (under delay into GA) were rescinded by emergency provisions of chapter 17A.

Steen presented an update on the new proposed rules -- efforts of the Board and the Nursing Profession, both RN's and LPN's. The Board of Nursing will consider the extended function of the LPN in the long-term care setting at its January 16 meeting.

6.3(1)

Breeding spoke on behalf of the 300 long-term care facilities in Iowa--with emphasis on the perspective of management and operation of the facility--not the practice of nursing. He found substantial conflict between the rule and statute governing long-term care facilities. He referred to the lucid definition of "supervision" in 6.3(1) and "direction" in 135C.1(2), last sentence, The Code. He recommended the rules be expanded to give a broader definition of "supervision" or "direction." He called attention to the fact there is a critical shortage of registered nurses, especially in rural Iowa.

Illes reminded the Committee that the Board of Nursing supports those concerns. She added the first rules which were before ARRC contained a provision recognizing the situation. She recalled the public outcry was that the supervision was not at the minimum level and, based on that, those rules were withdrawn. Illes cited chapter 135C governing health facilities as containing definition of "supervision". The Board saw no need to repeat it in the rules. According to Illes, the Board would support a change of that definition in the Code by the legislative body.

Wilson read a statement from Mary Sue Fountain, Administrator of Ringgold County Hospital, contending the proposed rules on minimum standards do not consider the effect on rural, small hospitals, which are more numerous than large hospitals in Iowa.

Jacobs stated the new rules would alleviate some concerns of the Association but others did not appear to have been resolved. She referred to correspondence addressed to Illes wherein they critiqued portions of 6.1-6.3 and distributed copies. Jacobs pointed out an error in 6.1(1) "to one's acts" should be "for one's acts". Two issues of interest regarding LPN's were administration of IV's and blood components. and supervision. The Association continues to object to mandating the nursing process as a legal minimum standard of practice. The expanded potential for liability on the part of a nurse and time to be taken from patient care, and the additional administrative burdens were concerns. The association could better accept the rules if the Board of Nursing were willing to stipulate that it recognizes a need for flexibility.

BOARD OF NURSING
Continued Schroeder asked if the Association had received complaints that LPN's had been placed in critical situations and, to her knowledge, Jacobs knew of none. Most hospitals handling critical situations are staffed by registered nurses.

Holden interjected, "We are attacking a problem we don't have!" West addressed the Committee on behalf of the Medical Society. It was their position that two areas require additional modification and clarification. It should be clear that the rules are not applicable to the nurse employed by a physician in his or her office when performing acts delegated by the physician and assisting the physician in the practice of medicine. Subrule 6.2(5)d, in re compliance with the medical regime as prescribed by the physician, seems to imply much more, i.e., that nurses are to routinely substitute their judgment for the physician's.

Kennedy, representing the Federation of Licensed Practical Nurses, contended the Board was attempting to enhance one segment of the profession at the suffrage of the other. He was confident the ARRC would be concerned for the well being of all Iowa citizens who need competent health care. They urged the legislature to evaluate the issues. Kennedy called attention to House File 2044 pertaining to the subject and urged consideration be given to it.

Moran, representing the Professional Association of Nurses in Iowa, supported the minimum standards in direct accordance with the American Nursing Association. Clark inquired whether the organization would be willing to change the word "supervision" to "direction." Illes was of the opinion the Board would grant that support and it would be considered on Saturday.

Myers read a brief statement from Dorie Ervin, First Vice President, Iowa Nurses Association. Ervin supported the Board of Nursing and it was her belief the revisions show a collaborative effort between nurses and others at all levels. Myers spoke in support of the Board. She maintained they had not been parochial in their judgment.

Holden found it unbelievable that we have an examining board which is able to "create so much turmoil within the very group that they are licensing" and that the problem could not be approached on a more rational basis. He asked for comparison between active RN's and active LPN's. Illes replied there were approximately 37,000 licensed nurses (4000 are out of state) and 9000 LPN's. Illes was puzzled by Holden's statement. She stated, "The legislature has charged licensing boards with the duty to protect the public first and that was the reason the Nursing Board was created." She added that three excellent groups worked toward a compromise and this was reflected today. She concluded that "Our professional associations represent the professions."

Holden admitted he might have made a poor choice of words but, in his opinion, the fact remains that those directly involved in serving people do seem to disagree. Illes stressed that the Board was not opposing long-term care.

Chiodo viewed the rules as being somewhat more stringent than the normal hospital procedure. He did not believe that, currently,

BOARD OF NURSING Continued there were problems in this area. Of major interest to Chiodo was the nurse working in a doctor's office setting. He took the position the responsibility should rest with the doctor. Oakley shared Chiodo's interest re the physician's office.

Although Illes recognized this was a question for the Board, she took exception to the inference that the nurse in a doctor's office was "operating under the license of the physician." She pondered "Are the nurses supposed to put their licenses on inactive status?" Illes referred to chapter 152--Practice of Nursing--as being very clear. Oakley agreed the area ought to be resolved. However, Holden viewed it as "Much ado about nothing--squabbling among yourselves."

Tieden was disturbed that there could be instances of illegal practices by LPN's. He asked if they were abusing the rules in their present practice.

Steen emphasized that recently licensed LPN's were placed in a position of performing duties for which they have little preparation and they want protection. Tieden could recall no other profession which had "minimum" standards.

Illes stressed that the Board does its job. She recalled the major practice revision in 1976. She concluded that nursing is the only profession that uses "failure to perform to minimum standards of nursing practice" as grounds for revocation of a license--a progressive change in the law.

Clark could foresee promulgation of minimum standards as an invitation to legal action. Illes disagreed--the nursing process is current day practice. According to Illes, a great portion of her job is related to licensure discipline. Her exposure and participation in this process has documented that the nurse who is charged and the legal counsel representing that nurse will look for specific standards that have been violated and expect an answer.

West contended that under chapter 147, The Code, each licensing board has authority to prescribe standards. He observed that most boards have dealt with this on an ad hoc basis.

Discussion of the three options available to the Committee when the rules are adopted: Delay effective date for 70 days for further study; object on the grounds the rules are arbitrary, capricious or beyond the agency's authority or unreasonable; or delay into the 1983 GA. Priebe opined an objection would be difficult to justify.

Kinney reaffirmed Steen's remarks that LPN's are not sufficiently educated to work alone in a critical care setting. She continued that would not preclude them from working in those areas or in expanded roles. However, the expanded roles must be identified. Kinney favored legislation with respect to IV therapy. In closing, she voiced dissatisfaction with the definition of "supervision."

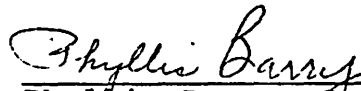
BOARD OF Merle W. Fleming, Assistant Attorney General, offered clarification.
 NURSING When a nurse works in a doctor's office as an employee of the
 Continued doctor, that nurse has an employer-employee relationship. If
 the doctor is displeased with the nurse's performance, he has two
 recourses--discharge the nurse or complain to the Board of Nursing.
 He cannot go to the Board of Medical Examiners with his complaint.

No further discussion.


The next meeting will be held Tuesday, February 9, at 1:30 p.m.

Adjourned Chairman Schroeder adjourned the meeting at 12:42 p.m.

Respectfully submitted,


 Phyllis Barry, Secretary
 Assisted by Vivian Haag

APPROVED:


 Chairman

Date _____