MINUTES OF THE REGULAR MEETING
of the
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Monday, November 8, and 9, 1976, 9:00 a.m.

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

Members Present: Senator Berl E. Priebe, Chairman; Representative W. R. Monroe, Jr., Vice Chairman; Representatives Donald V. Doyle and Laverne Schroeder; Senators Minnette Doderer and E. Kevin Kelly.
Also present: David Charles, Research Assistant

HEALTH
Chs. 57-59, 61

The following persons were present for review of the rules of the Health Department: Rick Middleton, Director, and Dana Petrowsky, Assistant Director, Health Facilities Licensure Division, Department of Health; B. L. Donaldson, Home Administrator, Storm Lake; Dr. Keith Swanson, Atlantic physician; Rev. Russell Wilson, Jack Tharp and Lloyd Latta, representing South Iowa Methodist Retirement Homes; and Larry Breeding, member of the Advisory Committee, Don Iles, Administrator of Western Homes; John M. Lewis, Iowa Utility Association.

Middleton presented the amendments which were agreed to at their meeting in September. Said amendments were made as recommended by the Rules Committee, the Advisory Committee, as well as the public. It was noted the objection by Monroe concerning the Care Review Committee had not been overcome.

Middleton advised they had worked with Charles on some wording changes.

Donaldson offered a substitute amendment for 57.12(2)a which, in his opinion, would add clarity. It was as follows:

a. In a facility that is licensed for more than one level of care, where the building or buildings are contiguous, the department shall establish on an individual facility basis the numbers and qualifications of the staff required in a Residential Care facility, using as it's criteria the needs of the Resident.

In a facility licensed only for Residential care the facility shall provide the following minimum staffing ratio of personal care staff:

HEALTH (cont'd)

Schroeder stated after talking with some of the people in the Department, he is concerned with wording in 57.12, sub. 2, but they feel the proposed change would be acceptable. He suggested that the changes suggested in the amendment be made and the committee would not then file an objection.

Schroeder commented that the majority of homes do offer residential as well as skilled facilities.

Rick Middleton stated we are discussing people who have more than one level in the same facility.

Senator Doderer stated she was not sure this made all that much difference and feels the committee should be certain it does make a difference, and the committee knows what the difference is before the vote is taken.

Schroeder pursued a question concerning the last sentence, first paragraph "a", the words, "using as it's criteria" and asked why the words "services being offered" were left out. He felt these words should be included in the amendment.

Donaldson responded there wasn't any real analogy between the services offered and the needs of the residents. He feels if the nursing home wants to give more than the minimum requirement, they should be able to do so.

Schroeder stated what Donaldson was telling the committee is that the nursing home can get by with this reduced staff and meet the needs, and if this is true, then the few words need not be taken out. Schroeder felt, in fairness to the people that are there, the fact that the staff is not at 100% level is important. Feels those words "services being offered" should be included in the amendment.

Motion

Senator Doderer moved to drop the word "it's" under 57.12(2)a, first paragraph, last line because the word is ungrammatical. No action taken.

Kelly arrived at 9:20 a.m.

Middleton commented that with the amendment, the final decision would still be with the department.

HEALTH (cont'd)

Schroeder thought the appropriate committee should study this problem in depth.

Tharp and Latta also reiterated their concern as to the impact of the rules and the increased costs being passed on to consumers, who are basically independent.

Priebe questioned the wisdom of the legislature in removing the levels of care from 7 to 3. He thought consideration should be given to adding another level of care.

Discussion centered on problems of degree of services which can be given before a facility must be licensed and also on facilities with two levels of care as to staffing requirements.

The matter of meals on wheels was brought up and it was pointed out this service can be offered to persons in any of the facilities.

Middleton continued that the question as to what point a facility should be licensed is difficult to pinpoint. It is not something you can say yes-no to. The problem created is possibly three or four need some help with bathing, and three or four more need help with dressing; where do you stop and where do you start? This is certainly not a black-white subject. Our position is don't ask us to give you a license without having to meet criteria for that license.

Rep. Schroeder could see no problem in temporary services being provided, e.g. a week or ten days.

Mr. Latta stated some homes are inspected twice a year by many agencies.

Motion Ch. 57.12

Schroeder moved to recommend that the Health Department adopt the Donaldson proposal to 57.12(2)a after the following changes are made: "In the last sentence, strike the word 'it's' and insert the word 'the' and insert after the word 'the' the words 'services being offered and". If the amendment is adopted, he could see no need for an objection to be filed.

Discussion followed.

Monroe took the position that the amendment addressed itself to a facility licensed for more than one level of care, but was totally silent on a facility licensed

HEALTH
(cont'd)

for one level of care.

Middleton advised the next sentence in paragraph a relates to facilities licensed for only one level of care.

Mr. Wilson was uncertain the amendment would clarify the issue.

Schroeder took the position that persons affected by the rules are locked into mandatory rigid standards.

Doderer returned.

Middleton answered, "If what you are saying is we want a guarantee that we can do what we are talking about in every facility and we want a guarantee that we don't have to add any staff in any facility, the department is not going to say yes to that. We can't. The decision has to be left to the department. It is their job, it is their responsibility to implement those rules and operate under them, survey under them. The legislature was very specific about writing rules and regulations regarding staffing. Minimum numbers; it is right in the law. I think the language gives you something you didn't have and I think Rep. Schroeder hit on it. The legislature provided three levels versus seven to give the department some flexibility so everybody wouldn't get pinholed somewhere. This language starts to deal with the concerns."

Rep. Schroeder asked Middleton to comment with regard to the requirement for an R.N. or L.P.N. who works on the night duty staff in these facilities.

Mr. Middleton responded that the legislation recognizes residential care facility people are those who don't need services of an R.N. or L.P.N., except on an emergency basis.

Schroeder stated that some people have been told by the department that they had to have R.N.s or L.P.N.s.

Mr. Middleton replied the only time this is required is if you get into a situation where injectibles are being given and this gets into the Nurse Practice Act. There are some situations where this has occurred and they have been told they have to get qualified people.

Mr. Iles expressed his concern about 54 ambulatory people in his home who are getting assistance with baths and 59 who require medications. If these people

HEALTH
(cont'd)

are forced into another level of care, in his opinion, this could be dehumanizing, as well as adding unnecessary costs.

Kelly left.

Representative Wendell Pellet read a statement from the Board of Directors of the South Iowa Home, stating they feel these changes are unnecessary. They feel there are some advantages to being licensed but object to the $55 per person per month costs. He urged the committee to take action to keep some of these rules from going into effect. He asked "If you have a combination facility, where it is all in one building, and you have plenty of personnel in the health care facility, are we going to have to keep extra personnel in the other section of the building where it is just for residential?"

Rep. Schroeder stated that each facility is going to have to ask for a variance from the mandatory requirement under this proposal, which would allow the department to use its discretion.

In response to a question by Pellet, Schroeder thought there would be little chance for a variance.

Senator Doderer agreed both factions have a problem and commented there does seem to be a philosophical disagreement as to whether people who are ambulatory, who have gone to a residential care facility simply to have care in case of an emergency, should be transferred before they become nonambulatory. She favored necessary care but indicated opposition to unnecessary expenses--individual or state money.

Senator Priebe concurred and said the residents dislike being moved.

In response to Doderer, Middleton said "If it is residential only, the staff ratio stays at 1 to 25—days, 1 to 35—evenings and 1 to 45—nights.

It was noted that, for the most part, facilities with only residential care were operated by counties.

In response to an analogy presented by Senator Doderer, it was pointed out that the facility, not the individual, is licensed.

Discussion centered around licensing of beds or entire facilities.

HEALTH (cont'd)

Mr. Middleton stated the department is talking about 900 facilities and they cannot write 900 different sets of rules to fit. Nursing homes also are not just residential care facilities--there are people all the way from bedfast to ambulatory in the same facility, but with different needs.

There was discussion concerning certified aides and whether or not they are defined in the rules or in the Code. Also, discussion as to possible delay of the rules.

Senator Doderer asked about the economic impact and Middleton said he was not aware of a formal request for an economic impact statement concerning the rules.

Question on Motion

Rep. Schroeder called for the question on his motion (p. 212). Motion carried unanimously.

Doderer left the room.

Monroe indicated he did observe four or five areas in the rules where an amendment was still necessary, including typographical errors.

Monroe continued by challenging the validity of the rules re health care facilities and contended the department had not followed the statute when adopting them. [66GA, ch 119, §37]

He suggested that the matter should be turned over to the court and suggested that the committee object to the rules as being illegal and contrary to section 37 of the Act.

Middleton failed to see what would be accomplished by disregarding about one and one-half year's work. He said substantial changes in the new rules basically reflect staffing in residential care facilities, as well as providing classification of violations (I, II, III) by the residential, intermediate and skilled nursing facilities.

Breeding, speaking for the advisory committee, indicated they were responsible for much of the language in the rules. He noted that many changes were needed for them to conform to three levels of care rather than seven as previously provided. It was his opinion that the department had met the 3-31-76 deadline set out in §37 of the Act.

HEALTH (cont'd)

Schroeder stated he could not support the Monroe proposal.

In response to Doyle, it was noted that the rules effective date was delayed by this committee until 12-6-76, but the amendments were to become effective 11-24-76.

Motion

Monroe moved to object to all the rules relating to health care facilities since the department totally disregarded the law and submitted substance and classified violations in one set of rules.

Motion was deferred temporarily.

Monroe pointed out additional typos.

Discussion of 58.24(7) and the fact that it would preclude a facility resident from being employed in food preparation.

Middleton replied this matter was discussed at the September meeting and they did not feel a change was needed.

Monroe commented it is a Class III violation if the residents are in the food prep area and no exception is provided. He and Priebe concurred the language should be reworked.

Middleton stated this provision appears only in chapter 57 and he agreed to review the matter.

Objection

Monroe specifically objected to 57.24(4),(5) as going beyond the department's authority. He said, "While I concede the department can appoint Care Review Committees, in the event the care facility does not establish them, I find nothing in SF 525 that makes the Care Review Committee the servant of the department. And here, they can do nothing under their set of rules unless they first get permission from the department. The department does not have that much authority over care review."

Middleton indicated they could do nothing in regard to investigating complaints. It was determined after checking with the secretary that an objection had been filed to 57.24(4) but not 57.24(5).

Motion

Monroe moved to expand the objection adopted at the September meeting by objecting to 57.24(5), 58,27(5), 59.32(5).

HEALTH (cont'd)

Motion adopted with 4 ayes. Kelly and Doderer out of room.

Discussion covered chapter 61 of the rules and the recommendations offered by John Lewis, Iowa Utility Association at the September meeting of this committee concerning emergency electrical service. Their position was that the facility would be better served to have two leads to it rather than two generating sources from at least two major substations.

Kelly returned.

Middleton responded that it was his understanding the committee had not taken action on the Lewis proposal. Middleton had directed the matter to department engineers who preferred to leave the rule as written. He stated the rule contains a variance provision to permit this.

Lewis was hopeful the matter could be reviewed further. He thought it would cost $1000 per kilowatt to supply energy for the type generators which "kick in" automatically.

Priebe thought a 15 or 20 minute time variance should be allowed to switch on emergency power. He suggested battery operated lights for halls.

Lackner pointed out a main problem would be in having power to operate an elevator for an emergency exit situation.

Discussion centered around whether or not this could be deferred and committee was advised it could not.

Senator Priebe expressed opposition to forcing the purchase of automatic switches and he urged the adoption of a 20-minute variance.

Motion

Monroe restated his motion to object to all of the rules on the basis they exceeded their authority as provided in section 37 of SF 525.

Vote was taken and the motion failed.
Kelly and Schroeder voted "no".

Legislation

Priebe recommended that the Legislature be asked to provide another level of care. No objections were voiced.

Middleton wondered if it would be above or below residential care.

HEALTH (cont'd)

Priebe replied the concern is for persons subject to transfer frome one level of care to another.

Priebe recessed the meeting at 11:40 a.m.

RECONVENED

Meeting was reconvened at 1:20 p.m. with Monroe in the chair.

TRANSPORTATION

Mr. John McCoy, Director of Motor Vehicle Division, stated there were two sets of Rules--matter of photos on drivers' licenses and implementation of HF 1332; second, the request of the committee for review of rules concerning dealers. [07.D] ch 10. Karen Bellis, vehicle registration and John Kelly, chief investigator, were present to answer questions in that area.

The committee addressed itself to 07C, chapters 12 and 13, dealing with the subject of nonoperators' identification cards in chapter 12.

Doderer asked about a law passed last time which required the signature of only one parent and McCoy informed her that this was incorporated.

In chapter 13, the rule has been modified in terms of parent affidavit and married persons under age 18.

In response to Schroeder, McCoy informed the committee that the attorney general had ruled a person does not have to have a picture on the driver's license if he or she has valid religious grounds against this. This will be implemented by rule.

Priebe returned.

Doderer questioned the "s" in [07C] 12.1(1)b(3) and 13, p. 2 in the words "parents" as being unnecessary.

Priebe out of room.

Re 12.4(2), Schroeder commented if a person states his parents are unable to sign because they are away for sometime, the license will not be issued until the form is present. He questioned what happens if the family just abandoned the children.

McCoy replied there is a provision under the rules if the young person is on their own, then the legal guardian can sign for them or else the employer of the young person could sign.

Priebe returned.

TRANSPORTATION (cont'd)

Doyle and Schroeder questioned item 4 amending 13.4(1)d as to meaning of "certain restrictions." Schroeder questioned the authority for the rule. After brief discussion, department agreed to delete "d" before filing the rules.

Senator Priebe questioned the unfairness of a student out for football being allowed to drive on a school license after hours, but a son who is needed at home to plow is not allowed to drive on a school license. School permits are valid for attending school classes--and it is up to the school board to sign an affidavit attesting to the person's need.

Doderer inquired about 17 year olds who are married and learned they have to submit documentation that they are married.

Monroe questioned the authority for item 14 [07C]13.7(1) motorcyle tests and suggested it be deleted.

McCoy stated the committee had wanted to talk about dealer licensing requirements.

TRANSPORTATION

Discussion about showroom size re selling cars, mobile homes, trailers, etc. Doderer asked where the department found the authority in the Code to set the size of the vacant space.

Bellis replied that the rules were developed as a result of legislation passed in 1939--didn't know how long the rules had been in effect, but the rules as they read now in 10.1(7) simply provide that there be adequate space to display vehicles and she stated it was the presumption of the Transportation Department that this meant adequate space to display a car.

Schroeder said there should be some provision to waive showroom based on type of operation.

Discussion as to what is meant by "showroom."

Monroe thought chapter 322 of the Code needed revision.

Motion

Doderer moved that chapter 322 and [07D] ch 10 be referred to the proper legislative committee for review.

No vote taken.

Bellis agreed there are a number of problems.

Monroe asked how they were able to enforce 10.2(4)b(3).

John Kelly said it is based upon cycles and cars. Monroe reminded that auto dealers take Winnebagos on trade-in and the rule states "the largest type vehicle for sale." He asked if the dealer had to rebuild the showroom to accommodate the Winnebago taken in on trade.

Monroe asked if the showroom was mandated by Code. Ms. Bellis replied it is mandated by rule.

Bellis stated they have the rules under review and before they proposed any, they would like to hear what the committee input was. She feels this is a piece of special interest legislation.

Monroe asked about use of "registered" and "unregistered dealers" since they didn't appear in chapter 322.

John Kelly replied it is in 321 of the Code. You license dealers and their registration is their dealer plates.

Schroeder asked if they were willing to initiate proceedings and rewrite these particular rules to take into consideration the fact that there ought to be a different standard for "rebuildables" and used cars.

Bellis asked if this commitee would like these existing rules reviewed at this time or was there a committee going to look at the Code chapter itself.

Schroeder advised he felt they should look at the Code chapter and schedule these things for review.

Monroe asked them to see how far they could go with rule updating without changing the law and then inform the legislature if there are problems.

Discussion revolved around checking of showrooms and what the inspectors do. The department gives the minimum time for dealer to bring showroom up to standard and the maximum, if needed.

Monroe stated he felt they could be more specific--especially with respect to adequate tools.

Kelly commented this refers to adequate repair facilities.

TRANSPORTATION (cont'd)

Doderer motion was withdrawn.

Monroe excused for 15 minutes.

AGRICULTURE

Betty Duncan represented Agriculture for review of the following:

Pesticides, applicator's licensing, records, 10.22, 10.26	11/3/76
Reporting disease; 16.1	11/3/76
Livestock diseases, Ch 16 [amendments]	11/3/76
Identification of exposed cattle, 18.4(10)	11/3/76
S-branding of exposed cattle, 18.4(10), emergency (at Committee request)	10/20/76
Milk testing and sanitation, Ch 30, Notice terminated (9/12/76 Supp.)	10/20/76
Weight standards, federal regulations, 55.33, 55.43	11/3/76

Discussion of weight standards, rule 55.33, 55.43 (Schroeder asked to be reminded that the law concerning scale testing should be changed, because some people are really hostile over a $50 fee twice a year for 70,000 lb. scales when they could just drive up and drop the weights down. Schroeder feels this should be changed to $15 when no manual labor is involved.

One change brought to the committee's attention on the filed rule; notice indicated 5 quarts--1 and 1/4 gallon and as filed, that will read 5 quarts.

In regard to ch 30, there was some discussion of rule 30, 20(1). The department has terminated this notice and will contact members of the industry and, at a later time, submit a new rule.

Rule that was filed emergency was repealed.

In re 18.4(10), Dr. Hess, Federal Agriculture Department, and Dr. Edwin Osen were introduced to answer questions.

Schroeder asked what constitutes a "sealed truck," The seal is put on every tractor on the end gate and it cannot be broken and resealed.

In re 18.4(10) concerning identification of exposed cattle moved from a premises or origin to a livestock market for slaughter, Priebe said the minute they are in the market, theoretically, every animal in there has been exposed. There is no question that if they have been exposed in the pasture, they are imeediately exposed in the livestock market. He asked what the difference is.

Dr. Osen replied the only way to get away from that is to have all cattle tested before they are brought to market.

Priebe stated he couldn't see any place in the federal

AGRICULTURE (cont'd)

or state regs where you can brand cattle that were tested clean.

Duncan mentioned two exceptions -- exposed cattle returning from the livestock market to the herd of origin under quarantine pending further testing are exempt from this requirement and exposed cattle may move directly from herd of origin to slaughter in a sealed truck without permanent identification by an "S" brand.

Schroeder and Priebe expressed concern as to monetary loss to the farmer. Priebe agreed reactors should be branded.

Schroeder and Priebe took the position the federal government cannot police the "S" brand situation.

Dr. Osen replied the cattle must wait for a certain period of time and have another clean test before they could return to a herd.

Priebe voiced objections to the "S" brand being placed on a heifer and making it difficult to sell it even after the heifer tested clean.

Dr. Osen said there must be some way to identify these cattle.

Priebe commented farmers have expressed opposition to the rules and contend it will cost them $100 a head.

Schroeder asked if the federal government was pushing for this rule. Dr. Osen replied it was in existence for interstate traffic and the government was not pushing it. He stated they could talk to successful livestock dealers who feel the rule is important.

Priebe asked for a list of 10 livestock dealers who want the rule.

Priebe commented the department was proposing the dysentary to be placed under these rules and it had never been before and Dr. Osen agreed.

Dr. Osen responded they could quarantine any infectious diseased cattle. He said bloody scour was not a contagious or infectious disease.

Schroeder suggested using ear tags with numbers rather than the "S" brand.

AGRICULTURE (cont'd)

Dr. Osen replied that ear tags are not permanent.

Objection

Schroeder moved an objection to 18.4(10) based on the fact that it goes beyond the scope of authority which the department has and possibly, this objection could be overcome by using an ear tag method of identifying the exposed nonreactors of these herds rather than the "S" brand.

Priebe asked Schroeder if he would go with something that simply said the cattle be identified but not permanently or for longer than one year.

Schroeder suggested "or be identified by a means which can be removed on final clearance of test."

Dr. Osen said this would help.

Duncan pointed out that without the rule, federal funds will be in jeopardy.

Motion

Schroeder moved that the "S" brand be placed on the plastic ear tag.

Duncan agreed to take the committee recommendations to Mr. Lounsberry and Dr. Butler. A public hearing on the matter will be held November 29.

Schroeder withdrew his motions.

No recommendations were made for chapter 16.

Doderer out of the room.

Committee chairedby Representative Schroeder.

GENERAL SERVICES

Priebe out of room.

Doderer returned.

James Gay represented Purchasing Division of General Services to explain 1.3(7) published 11/3/76 regarding purchase of highly technical equipment. No recommendations were made by committee.

Priebe returned.

INSURANCE

Herbert Anderson, Insurance Commissioner, explained rules 15.80-15.83 promulgated under the Insurance Trade

INSURANCE (cont'd)

Practices Act, section 507B.4(7) which states that persons engaged in business of insurance may not unfairly discriminate against persons of the same class with respect to insurance matters. The purpose of this regulation is to state that persons shall not be considered to be of a class solely because they are blind, partially blind, or physically disabled.

Schroeder was concerned about discrimination in insurance coverage for any handicapped persons.

Anderson stated the insurer must have some reason other than the sole reason of blindness, or physical handicap, for discriminating.

He continued, if the insurer can show that the condition exposes the insurer to different underwriting conditions than other persons in the same class, then that discrimination would not be prohibited.

Monroe stated he thought the classic example would be the diabetic. Diabetes, quite often, results in blindness and if a person has diabetes, they have a whole different set of statistics than you or I.

Schroeder asked what the industry felt about this and Anderson pointed out their public hearing is scheduled for November 16 and, at that time, they expect the industry to take the position the impact is broader than the statute would permit.

Paul Brown, President of the Iowa Life Association, presented a letter wherein they urged careful study of the rule before its adoption.

No action taken by committee.

HIGHER EDCUATION

Willis Wulf, Director of Higher Education Facilities Commission appeared for review of chs 1 to 8, published 10/20/76 relating to the Iowa Vocational Technical Tuition Grant Program, the Osteopathic Subvention and Optometric Training Programs, which were authorized by the 66GA. In addition to the rules, a number of technical changes were made in the rules on other student aid programs.

Schroeder asked if tuition grants apply to fulltime and was told it applies to half time and full time.

Doderer asked Schroeder to make a mental note to add part time to that provision.

HIGHER EDUCATION (cont')

Wulf stated she thought that would be a good idea.

Under 2.1(3)c, they would like the following change: "Applicants who have fulfilled requirements for the freshmen year at college, either by advanced placement examinations or by entry into college prior to receipt of high school diploma, will be considered for awards on individual basis."

Doderer asked why not just use the word "freshmen" instead of all the words and Wulf felt this would open it up to anyone who came back to school in any year, and she wasn't sure the commission would want to do that.

Priebe took the chair.

In response to Doderer, Wulf stated in the past it has been limited to entering freshmen. She asked if it would be acceptable to state it for one or more years of college.

Doderer again suggested they delete the word "freshmen" or possibly use "undergraduate."

Wulf said they must be undergraduates since it is in the statute.

Doderer suggested they use "plan to enroll fulltime undergraduate student."

Wulf replied this would open it up to anybody who might come back many years after graduating from high school and take one or two years of college who come back as a junior and they would apply for a state scholarship. This would change the nature of the program. The limitations imposed on the program have been mainly because of limited funding.

Doderer responded that age of person should not be a factor.

Wulf asked for a change in 2.1(5)b(3)--honorary and monetary awards to read "If a recipient is dismissed, or withdraws from college before completion of the term, his or her award or portion thereof, shall be refunded to the state of Iowa in conformity with the institution's accepted policy on refunds." She stated the previous language could not be equitably administered for very technical reasons and would be unfair to the

HIGHER EDUCATION (cont'd)

person who had paid the small portion of the tuition as compared with the person who had had the full package of financial aid.

Kelly asked why a ratio of 6-4 was used in 2.1(4)a and Wulf replied they use this ratio because all of the experts at American College Testing Program and other testing programs tell us that class rank is the most indicative factor--the best single way to judge a student's potential for college.

Point was made that size of class could make a difference.

Wulf stated there is no perfect way.

Doderer was concerned because it is limited to the upper 15% in a class. She feels if a student is in the top 15% of ACT, they should be able to apply also. 2.1(1).

Wulf replied they established the cutoff very carefully.

Doderer asked the commission to consider rewriting 2.1(1). and if they disagree with committee recommendations, please advise.

Wulf said the Iowa Medical tuition loan plan is no longer in existence and rules were amended to reflect this.

Doyle said really in 2.11, you aren't going to have any new loan contracts. Wulf agreed.

Doyle asked if it wouldn't be better to say "existing contracts"? Wulf indicated a separate loan contract has been negotiated for each academic year, etc.

Doyle asked if you give two years' credit for military, this doesn't say when you are even.

Wulf commented if you have two years' credit for military, you come back to Iowa and you serve in a general practice for three years, then 50% of the loan is cancelled.

Doyle recommended that cancellation provisions be more explicit.

Doderer thought the signature of one parent would be sufficient on the financial statement--2.1(4).

HIGHER EDUCATION (cont'd)

She also wanted to know why they didn't have parents' affidavit for the osteopathic college.

It was noted Iowa residency in 7.1(1) is spelled out in accordance with the regents' rules.

Doderer made a suggestion that 8.4(4) be placed under 7.1(1) -- discrimination clause should be under the osteopathic section also--should apply to all three sections.

Doderer questioned Wulf as to composition of the Advisory Council and was told she would be provided a list with the names and the authority to pay expenses of council members who meet twice a year.

Monroe out of room--Schroeder also

NURSING HOME ADMINISTRATORS

Schroeder returned.

Dwight Fry, chairman, Nursing Home Administrators Board, appeared at request of the committee for selective review of their rules published under notice 9/22/76.

Monroe returned.

Monroe stated there were objections standing on some of the rules, e.g. 2.6(2)c on percentile.

Discussion of requirements to become a nursing home administrator.

Doderer brought up for discussion the problem confronted by a Swedish citizen, Lena Gilstrom, who had attempted to obtain information on necessary requirements to take the exam. Gilstrom has been unsuccessful in finding employment. Until 7-1-77, the Code requires a training program after one year of long-term health care. After that, it will be an Associate Arts program. Foust referred to §147.20 of the Code. He also pointed to 147.2 which lists qualifications.

Discussion concerning 23 persons who took a course at Marshalltown but were not permitted the exam because they had insufficient work experience. Doderer thought these should be permitted to take the test.

It was noted the 23 people were running county care facilties, not nursing home facilities.

Monroe stated he would feel more comfortable if the Department of Health had provided some places for these courses other than Ankeny. He was advised the

NURSING HOME ADMINISTRATORS

the University of Iowa is going to start a program.

Motion

Monroe moved that the committee inquire of the Department of Health as to costs involved and procedures involved to institute these training programs in the area schools -- geographically wide.

Motion carried unanimously.

Mr. Fry asked them to ask why these people could not be certified?

Recess

Committee recessed at 4:15 p.m.

Reconvened

Committee resumed meeting, Tuesday, November 9 at 9:17 a.m. All members present with the exception of Monroe.

PHARMACY

Paul Crews, Executive Secretary and Robert Osterhaus, Chairman of the Board of Pharmacy Examiners, were present for review of the following:

Generally, Chs 1, 3, 5, 9 [amendments]	10/20/76
Minimum standards, Ch 6	10/20/76
Controlled substances, Ch 8 [8.11(3), 8.15]	10/20/76

The rules were basically cleaned up according to Osterhaus and he stated they are using a National Testing Service now for giving board exams because the scoring is computerized and the complete test is not longer kept in their offices.

Schroeder felt one copy of the test should be in the files.

Discussion in re pharmacy advertising--6.5(1).

Doyle raised a question in 6.5(5) about the common practice of clinics filling prescriptions. It was noted that Iowa is one of 3 states that does not license hospital pharmacies.

Schroeder asked, under controlled substances, chapter 8, in identifying prescribers and institutions, is that just standard procedure?

Department officials responded that they have several problems in institutions first of all, there are lots of jokes about doctors' handwriting and when the prescription is written on a hospital blank, and the signature was done very hurriedly, especially in the

PHARMACY (cont'd)

larger institutions, the signature is illegible and the patient doesn't know which doctor they spoke to, the search becomes two or three days long in trying to run things down because the name is illegible. The department suggested the name be printed or stamped so it can be determined which physician has the responsibility for that prescription. They require the doctor's registry number.

9:40 a.m.

Monroe arrived.

Monroe approved of the stamp--but feels it does need to be legible.

Dr. Osterhaus stated they were not asking the doctor to carry the stamp.

Doderer does not object to 8.15 under controlled substances but it should apply to other drugs including "give-away drugs".

Monroe stated controlled substances have been recorded for two years or more.

Dr. Osterhaus feels this should be under the physicians guidelines.

Monroe requested them to review 6.5(4) one more time. The language would preclude the pharmacist from charging the physician for consulting that physician on drug usage. You do have some practitioners in some parts of the U.P. who bill physicians for consultation.

COMMERCE

Michael May and counsel reviewed the following:

Electric utility service area maps, 20.3(12)	11/3/76
Electric power generating facilities, Ch 24	11/3/76
Telephone utilities, 22.3, 22.5	11/3/76

Schroeder questioned re chapter 20 with respect to the scale on maps and inch per mile that if you have a grid system spanning the state, he feels it is ridiculous to have one inch to amile scaled map. It is unworkable.

Cavanaugh stated it was not physically possible to develop a map on one sheet and they do plan to have a map which is made up of more than one sheet.

Schroeder asked about the railroads within a particular service area and what bearing this had to electrical

COMMERCE (cont'd)

transmission lines.

Cavanaugh stated it is important to have identified the rights-of-way that are currently being used by railraods so they may provide possible corridors for transmission lines in the future.

Schroeder question re chapter 24.3(2), historical usage, "You asked for a ten year detailed data and at the end, you have a sentence 'industrial data shall be further classified according to a two digit standard industrial classification SIC Code'--are you sure that is available.

I understand many utilities have it down to 4 digit SIC classification.

Schroeder feels they are providing information on an assumption--not really a known fact--re the necessity to build a new line.

Priebe asked if they had had any inquiries since publishing the rules and was told they had had about 25.

In re ch 22, May stated the amendments essentially provide for upgraded class and grade of telephone service. For residential subscribers, it graded from 8 to 4 party and business from 2 to 1 and we also provide that business customers and residential subscribers cannot be served on the same line.

These were noticed a year ago September, had an oral presentation in April and they were adopted October 13.

Priebe asked about a person living within 1/4 mile of another telephone company and not being able to get on the other company's lines even though he desires to.

Doyle and Monroe left.

Kelly asked if commerce had the authority to review all rates and May stated there were certain exempt telephone companies.-- which is allowed by statute (basically mutual companies and cooperatives).

In response to Kelly, May stated Northwestern Bell is under their regulation.

Doderer left.

EMPLOYMENT SECURITY (JOB SERVICE)

Harold Keenan, Legal counsel, represented Job Service for the following:

Employer's contribution and charges, Ch 3	11/3/76
Claims and benefits, Ch 4	11/3/76
Old-age and survivorship insurance rescinds Ch 5	11/3/76
Appeals procedure, Ch 6	11/3/76
Forms, Ch 10	11/3/76

Said rules primarily conform to 66GA, HF 1593

Schroeder asked if there was a difference in the contributionsformulas and he was told there was not.

Chapter 3 would include a definition of agriculture labor.

The definition of "successor employer" was clarified,

In re 3.71, as to definition of "political subdivision" it was noted there was no Code definition and an attorney general's opinion had been sought on the matter.

ADMINISTRATIVE CO-
FOR COMMITTEE

Committee interviewed Joseph Royce for a second time and Monroe moved that Mr. Royce be employed as administrative co-ordiantor for this committee at a starting salary of $11,000 or the next closest range no less tha $11,000. Starting date November 29, 1976.

Carried unanimously.

REVENUE

John French, Vern Raile, and Michael Cox, represented the Department of Revenue for review of notice rules in re individual and corporation income taxes, published 9/22/76 and mobile home tax, 11/3/76.
Brief discussion of possible loophole in the penalty provisions Rule 12.9. No action taken by Committee.

Discussion of Chapter 74 concerning semiannual mobile home tax. It was noted a statutory change is needed to protect a surviving spouse whose name did not appear on property. Presently, there is a period of time when these persons can get no reimbursement. Cox agreed to work with the Service Bureau in drafting appropriate legislation to cover both real estate and mobile homes.

Doderer excused at 11:05 a.m.

Doyle called attention to a problem confronting county treasurers with respect to taxation of modular homes which are not going to be used as mobile homes.

Schroeder suggested a certificate to be signed by the

REVENUE Cont'd — deliverer when he removes the hitch, that the structure is no longer moveable.

Motion — Moved by Doyle that the appropriate committees of the Legislature be directed to study the matter of a modular home having to be licensed as a mobile home even though it is intended for real estate. Also, to study the problem of inequity in taxation of real estate and mobile homes. Carried unanimously.

Mobile and Modular Homes

Motion — Monroe moved that the following suggestion for a rule on ear tagging for certain cattle be forwarded to Robert Lounsberry-Secretary of Agriculture:
"Cattle being offered for sale which are suspect, (having come from a herd which did have a reactor to brucellosis) may be returned to a farm if these cattle are positively identified with an ear tag with an "S".
These cattle must be quarantined and segregated from all breeding cattle on the farm. These cattle may be commingled with breeding cattle and the "S" tag removed after these cattle have passed three clean tests for brucellosis at which time they will no longer be suspect."
Motion carried viva voce.

Recess — Meeting recessed for lunch at 11:15 a.m.
Reconvened at 2:05 p.m. Doyle not present-- attending another meeting.

BLIND — In re filed rules of the Blind Commission , 10/20/76, Committee recommended that the Commission initiate a policy to followed concerning grievances by employees.

CONSERVATION — Rule 30.59--Lake Icaria--was acceptable as filed.

AGING, COMMISSION ON — No recommendations were made for amendments (Chs 1-7) 11/3/76.

HEALTH Chiropractors — Rules of the Board of Chiropractic Examiners, being Chapter 141, were before the Committee. [10/20/76]
Dr. Ronald Masters, Chairman of the Board, was present to answer questions concerning the rules. Also appearing were Dr. Russell Brown, Boone chiropractor, Janet Dunn, Nolden Gentry, Attorney.

Discussion of 141.6(3)d which provided "The applicant shall have achieved diplomate status with the National Board of Chiropractic Examiners after July 1, 1973, or a Basic Science Certificate issued prior to July 1, 1973 and which after August 1, 1976 shall include the para-chiropractic therapeutic section of said National Board."

HEALTH (cont'd)

Dr. Brown and Dunn spoke briefly and asked for a definition of "para-chiropractic."

Masters said the term "para" means on the side--heat, cold, exercise and support.

In response to Kelly, Masters added that the term originated in CCE schools and other states are using it readily. Para-chiropractic is associated with "therapy" not "persons".

Discussion re 141.6(4) as to areas for which the board shall examine applicants. Rep. Monroe suggested that 141.6(4) be amended to read: "The board shall examine the applicant's practical, ~~political~~ clinical and technical abilities in the practice of chiropractic."

In his opinion, Kelly legislation did not mandate expansion of practice but the examination rules requirements would seem to mandate the expansion. He thought there should be a two-part test.

Masters said he did not feel the intent of the legislature was to require two licenses. We have that problem with chiropractors who were licensed previous to the passage of the law.

It was noted that §151.8 of the Code requires "a chiropractor shall not use in his practice the procedures otherwise authorized by law unless he has received training in their use by a college of chiropractic offering courses approved by the board."

Monroe suggested possible deferral of the rules. Kelly suggested the board certify chiropractors as to certain degree of specialty.

Monroe could see this need to change the law before certification process.

Schroeder suggested a compromise on language in the rules by removing various subjects necessary for licensing and setting out in detail what a chiropractor can do.

Objection

Monroe moved to object to 141.6 on the grounds they have exceeded the statutory authority.

Schroeder doubted that would "stand up".

In re 141.8(1) and 141.8(2), Monroe recommended they pick up the equivalent standards in (2) and add to the (1) and pick

HEALTH (cont'd)

up the date in (1) and move it to (2) since they were adopting by reference.

Brown asked that the rules be written so that another accredited standing agency could be recognized even if they didn't have the same standards as the CCE.

Monroe stated as long as they use the equivalent standards, that it would be acceptable.

Doderer returned.

Committee agreed that 141.6(4), 141.8(1), 141.8(2) and 141.6(2) should all be included in an objection.

Kelly commented they certify people to a certain degree.

Schroeder: "You get licensed as a chiropractor and you get certified for additional expansion of your basic structure."

Monroe suggested they make some legislative recognition of that certification capability.

Kelly advised this was not necessary.

Masters asked for interpretation of the law as it reads now.

Gentry stated the law requires those who are going to practice to take a certain amount of course work.

Dr. Brown stated he felt "therapeutic chiropractic" should be defined under definitions because he was not convinced it was the intent of the legislature to broaden the scope.

Monroe repeated his proposal for amendment to 141.6(4).

Masters asked for a copy of the above.

Kelly asked if rules are delayed if that would delay the time for authorized objection. Schroeder thought only the effective date would be delayed.

Monroe said they could object later.

Monroe thought it would be advantageous to research the functions of examining boards in setting criteria in the absence of law.

Motion

Schroeder moved objections to rules 141.6(4), 141.6(3)d and 141.8(1), 141.8(2) and 141.6(2) and those objections can be

HEALTH (cont'd)

removed by adopting language that is agreed upon.

Motion carried.

Kelly commented the CCE standards should not be higher than the law requires.

Masters said chiropractors had worked hard to upgrade their standards to control quality of care.

Priebe suggested possible use of "may" in lieu of "shall" in 141.6(4)

Charles pointed to §§151.3 and 151.4 as authority for the board to have discretion in setting criteria.

SOCIAL SERVICES

Judy Welp, Methods and Procedures, represented the Social Services for review of the following rules:

Records of the department, Ch 9	11/3/76
Assistance, definitions, Ch 50 [amendments]	11/3/76
Eligibility, Ch 51 [amendments]	11/3/76
Assistance standards, 52.1	11/3/76
Facility participation, 54.1	11/3/76
Care, mentally retarded, 75.1(10)	11/3/76
Time limit for submission of claims, 80.4	11/3/76
Intermediate care facilities for mentally retarded, Ch 82 [amendments]	11/3/76
Training school for girls, building and grounds, 102.8	11/3/76
Social service resources, generally, Ch 130[amendments]	11/3/76
Veterans home, admission, 134.1(5)	11/3/76
Adoption services, Ch 139	11/3/76
Interstate compact on juveniles, 143.4(3)	11/3/76
In-home health related care, Ch 148	11/3/76
In-home health related care from 11/1/76 to 4/29/77, Ch 148, emergency	11/3/76
Fair hearings and appeals, Ch 7	10/20/76
Penitentiary, visiting, 17.2(1)	10/20/76
Community based corrections, 25.1, 25.2	10/20/76
Parole and probation, 26.4, 26.11	10/20/76
Mental health institutes, 29.1	10/20/76
State hospital-schools, 30.1	10/20/76
Aid to dependent children, application, Ch 40 [Amendments]	10/20/76
Granting assistance, Ch 41	10/20/76
Alternate payees, Ch 43	10/20/76
Aid to dependent children foster care, Ch 44	10/20/76
Assistance standards, 52.1	10/20/76
Work and training programs, 55.2	10/20/76
Foster family homes, Ch 105 [Amendments]	10/20/76
Family life homes, Ch 111	10/20/76
Termination for nonpayment of fees, 130.5	10/20/76
Social Security Act—Title XX implemented, 131.2	10/20/76
Payments for foster care, Ch 137 [Amendments]	11/3/76
Family planning services, 140.1, 140.4	10/20/76

No recommendations were made for chapters 9 and 23.

Ch 50-54

Chs 50, 51, 52, and 54 are all changing references from "custodial homes" to residential care facilities" and sets up a new basis of payment that beds with 15 or less pay on a flat per diem rate of $6.90 a day and those with 15 or more beds--costs would be figured on a cost-related basis at a maximum of $11.00.

SOCIAL SERVICES (cont'd)

Priebe asked why the change was made at fifteen beds.

Welf said the $6.90 came from payments they were making to board and room as adult foster homes.

Priebe wanted to know why they felt someone with 15 or less beds could get by for at least $4 a day less than someone with 15 or more?

Welp stated the 15 came from the break they usually make as in the life safety code, the standards are lesser. There are greater standards for 15 or more and that is why they chose that figure.

Priebe made the point that someone could have 16 beds and on them, they would get $64 a day more than if they had 15.

Welp replied "If their costs were that high, they might be actually getting less."

Priebe thought the rules were discriminating against a small operation.

Schroeder asked if the custodial care units being discussed are strictly custodial care and not multiple licensed structures and could this apply under the provision the committee suggested yesterday about the multiple license facility--then petition to get a variance for the custodial.

Priebe asked Welf if she would object if they were all put on the same because the small operator has to have a cost basis to justify it.

Welf replied "When you get into filling out the forms and things related to cost, you almost have to have an accountant help you, which a small facility ordinarily does not have."

Sandy Scott, Department representative, responded "You are just saying you don't mind if we have the lower maximum per diem but if someone that falls below the 15 wants to go through the auditing procedures and prove that their costs are above that, they should be able to" and she asked if Priebe objected to the maximum for those who don't want to go through the auditing.

Priebe did not object.

Welp stated she would refer the matter to the Department, but she recalled idea had been rejected once before.

Monroe said if they continue to object, he would like them to send their rationale for the rejection.

SOCIAL SERVICES (cont'd)

No questions on 75.1.

80.4 sets time limit for a vendor to submit a claim to get paid for services rendered under the medical program.

Ch 82

Ch 82 sets out conditions of participation and all the standards for certification for intermediate care facilities for the mentally retarded which were previously filed. Most of these were taken directly from the federal regulations--worked on by an inter-departmental committee--health and social service The committee opted to go with the minimum requirement of federal regulations.

In re 102.8, Doderer asked why they rented for $15. Reply was it is a deposit for outside groups--such as community groups. Doderer stated for years there has not been a canteen at Mitchellville--and asked if it is the canteen being discussed. Scott stated there is no canteen at Mitchellville.

Welp commented the wording would have to be checked.

Doderer stated she would have to object until they find out what is going on.

Scott stated there is a canteen in the first cottage basement.

Doderer asked for a written statement as to how often this is used.

Ch 30

Ch 30 changes the definition of a family slightly--as a result of Title XX--and the option has been taken of counting a child who is living with a non-legally responsible relative as a one person household.

Schroeder inquired if this was the suggestion the committee had made.

Welp stated this is in determining eligibility for services.

Schroeder asked if the wording is the same with respect to operating hazardous equipment. Welp answered "no".

Schroeder asked her to make sure they get that done because it could cause a lot of problems.

Welp stated she knew it had been discussed but had not heard the outcome.

Monroe asked about the new definitions on residents and its being so wide-open that it says nothing.

SOCIAL SERVICES (cont'd)

Welp replied this was done in response to an attorney general's opinion that the law that said you had to have been a resident in Iowa for five years before being admitted to the Veterans' Home was unconstitutional.

These are the rules that came out as a result of chapter 1229 of HF 614. These are the requirements of the certification of an investigator for adoptions and the rules under which the department would charge fees.

Priebe asked why he or she has to be a resident of Iowa.

Kelly asked her to start with the first line in the book rather than the chapter. Law didn't require that a termination take place before the child can be placed in an adoptive home.

Welp replied they are saying the department isn't going to place the child first.

Kelly said the law was specifically written so that would not be the case. The department is going to say that we won't do it. They have the authority.

Scott replied because they tried to get the adoption law and failed and thought we ought to continue with what we (the department) thought was a good practice.

Priebe pointed out they are trying to do by rule what they couldn't get passed in the legislature.

Kelly commented the legislature put it as a minimum standard and the department could go above that. They are not exceeding their authority but they are being a little arbitrary.

Schroeder stated they are going contrary to the will of the legislature--that placements could be made prior to termination.

Priebe commented he felt they could not set a higher standard.

Kelly reiterated the department is not violating legislative intent or scope, and he does not agree with what they are doing.

Monroe asked if the law also required that the persons in this capacity have B.A. degrees?

Kelly answered it did not. They must be a resident, have two years' working experience, and possibly, pass a test.

Monroe asked if the law gave them authority to set the standards for an investigator.

SOCIAL SERVICES (cont'd)

Scott said the department shall write the standards for the investigator.

Schroeder raised question as to 139.2(3)c and two years' experience required. He wondered if a lawyer would be precluded from becoming an investigator.

Kelly replied that was right, they were cutting out private practice. They couldn't do it by Code, so they are going to do it by rule.

Discussion of placement and preplacement investigations.

It was noted a period had been omitted in 139.4(1), line 3.

In response to Schroeder concerning 139.4(1), Scott replied lawyers have their expertise and social workers have expertise in dealing with people and it is actually her feeling, during the discussion of the bill, that it was the intention of the lawyers who wanted to continue independent placements to do their own investigation. All the discussion she remembered was whether or not there were enough people in the department to do investigations to assure that where placements are made they are appropriate.

The bill was developed by an interim study committee.

Doderer wondered why it was necessary to be a resident of Iowa in order to be an investigator.

Scott quoted the statutory definition: "Investigator means a natural person who is certified or approved by the department as capable of conducting an investigation under 17 of this Act."

Doderer objected to limiting investigations to Iowa residents, and was willing to make a formal motion.

Motion

Kelly moved for a 70-delay on this. Schroeder seconded the motion.

Before the vote was taken, Priebe suggested the committee could ask for an economic impact.

Doderer asked if they were at the point where they had to do that right now?

Priebe advised the committee this was only under notice.

Kelly stated the law doesn't go into effect before January.

SOCIAL SERVICES (cont'd)

Department advised the rules could not go into effect before February 2 at the earliest.

Discussion returned to requirements for becoming an investigator. Department officials asked Doderer if she would like the kinds of degrees itemized in the rule. Doderer replied not necessarily. Doderer stated she did not like the limitations.

The committee was informed that the investigator does determine if the adoptive parents are qualified. There were 2500 adoptions last year and about 800 would have been investigated.

Committee agreed to allow time for Kelly to come up with something before next month, and if he doesn't, then, he may request the delay.

Scott informed them the old adoption law is to be repealed January 1, 1977 and the new one goes into effect.

Mrs. Barry asked if the committee was taking any final action and was informed the action would be taken next month.

Ch 143.4(3) Welp advised that this was a change requested by the committee dealing with the interstate compact on juveniles. It said that, except in cases of illness and funeral emergency, we would not send a child back to his home state without contacting the other state and the committee thought that was unclear and after the department looked into it, they were never sending back without notifying, so they just eliminated that wording.

Ch 148 These are the rules relating to in-home health related care. Basically, a type of nursing care in a person's own home; who would be eligible for them and the type of care that could be received.

Doyle asked if that would include mobile homes and he was informed it would.

This rule basically eliminates an institutional setting. The notice here is the same as the emergency rule filed.

Re ch 7, most of these were discussed a couple of months ago when they were under notice. No questions.

Ch 17.2 Had been filed under emergency to change the visiting hours. It increases the time allowed for visiting on week-ends and eliminates Tuesday.

Ch 25.1,25.2 Changing Code references.

SOCIAL SERVICES (cont'd)

Re 26.4, 26.111, all the changes that were requested by the committee except the one where the department had to limit the possession of firearms where not prohibited by federal statute.

Ch 29.1

Changes were made as requested by the committee about the visiting.

Ch 30.1

Again, changes were made as requested by the committee, making them all similar.

Ch 40

These changes were updating the rules on this first chapter on the application process for ADC

Ch 40,41, 43,44

40,41,44 are all updating.

Ch 52.1

Increasing the payments for state supplementary assistance. They were filed under emergency first of all.

Priebe asked what this did dollarwise and who approved it.

Answer was legislature approved it and this was a result of the increase in the budget for supplementary assistance. Around $800,000.

Ch 55.2

Changing the maximum that could be paid for tuition to make it consistent with the state university rather than an area community college.

Ch 106

Changes requested by the committee in the licensing rules for foster family homes.

Ch 111

Certification requirements for a family life home -- similar to a foster home for an adult.

Ch 131.2

Clarifications to the hardship factors that could be considered in non-payment of fees.

Ch 131.

Clarifications needed in our publications to Title XX plan.

Ch 137

It was increase in the foster payment rules plus we have added transportation expense, funeral expense.

Monroe asked in 137.11,(1),(2), is there anything to prevent facilities from getting a $50 per bed subsidy?

Answer was when a child is placed in the home, either on regular foster care or on this $10--you have two different options here. They can either get a $50 per month subsidy

SOCIAL SERVICES (cont'd)

and then be paid at the regular foster care rate or they cannot get a subsidy and get the $10.

Monroe felt this might be stated more clearly.

Priebe out of room.

Ch 140

Changes made were requested by the committee.

Schroeder moved the minutes of the previous meeting be approved. Doderer seconded and the motion carried.

Meeting adjourned at 5:10 p.m.

Respectfully submitted,

(Mrs) Phyllis Barry

Phyllis Barry, Secretary

Assistance of Vivian L. Haag