

MINUTES OF THE SPECIAL MEETING  
of the  
ADMINISTRATIVE RULES REVIEW COMMITTEE

TIME OF MEETING: Monday, December 11, 1978, 10:10 a.m. in lieu of statutory date.

PLACE OF MEETING: Senate Committee Room 24, Statehouse, Des Moines, Iowa.

MEMBERS PRESENT: Senators Minnette F. Doderer, Acting Chairperson, Senator E. Kevin Kelly, Representatives Donald V. Doyle and Laverne W. Schroeder. Not present, Senator Berl E. Priebe, Chairman, on vacation, having notified the committee prior to the meeting, and Representative W. R. (Bill) Monroe, Jr., Vice Chairman.

Also present: Member-elect, Representative Betty J. Clark and Joseph Royce, Administrative Co-ordinator.

CONSERVATION  
COMMISSION

Marion Conover, Fishery Supervisor, and Roy L. Downing, Superintendent of Waters, were present for discussion of the following:

Trotlines, where permitted, 20.1.....	N.....	11/29/78
Dock management areas, 34.1, 34.3, 34.4, 34.7, amendments to 8/9/78 Notice	N.	11/15/78
Fishing regulations, ch 108 ..	N.....	11/29/78
Inland commercial fishing, 110.3, filed emergency	<del>FE</del>	11/29/78
Docks, 33.3(2), 33.3(8), 33.3(9) ..	F.....	11/29/78

The rules were acceptable as published. Kelly mentioned the problem addressed in the petition filed by the committee re Docks, chapter 34. Downing noted the Commission had not received the petition until December 5, 1978, thus the change had not been made.

REVENUE

Elliott Hibbs, Deputy and Carl Castelda, Exise Tax Division, reviewed Sales and Use Tax, amendments to chapters 18, 20, 26 and 32-34, IAB 11/29/78, under Notice of Intended Action. He indicated the rules were intended to reflect legislative changes mandated by 67GA, SF 2173, relating to exemption certificates for casual sales and 67GA, SF 2066, relating to exemptions in other categories.

INTRODUCTION

Doderer introduced Representative Betty J. Clark, member-elect of the Administrative Rules Review Committee.

15.3 (1) "b"

In re 15.3(1) "b", Schroeder inquired as to the basis for the language. Also, he stated it appears the

REVENUE  
(cont'd)

Revenue Department is asking businesses to participate in areas of buying and selling which are covered by a court of law. Castelda told the committee the law requires the seller be held responsible for tax under every condition, there being no authority to pursue the buyer. Clarification was the main reason for the department's rewriting the rule and used an Alabama court case, Merriweather. The basic reason for the legislation was to relieve the seller for the tax when a buyer has obtained the goods under an exemption certificate. Schroeder made mention of the counties being pursued and billed for sales tax. Castelda pointed out the law requires that the seller be pursued.

15.3 (1) "b"

In 15.3 (1) "b", 3rd paragraph, Kelly requested that the words "duty to know" be amended to read "to inquire". Castelda was amenable.

17.16

Schroeder pointed out in 17.16, sale of draft horses, that only four breeds are listed, which precludes all others. Castelda replied the language is statutory [422.45(5) and 423.4(4)] with the state veterinarian having been consulted. Schroeder suggested the department drop all names.

Doderer recommended the language "horses commonly known as but not limited to these breeds" and thought the Horse Breeders Association should be consulted. Castelda said that might be exceeding the statute.

Kelly recommended possibly setting up a waiver provision and Hibbs offered the wording "any other horses will not be considered draft horses unless the person can prove the horses are used for draft horses." Hibbs said that would serve to automatically consider the four listed breeds as draft horses. Department officials agreed to take the committee's recommendations under consideration and return with corrective language.

18.28(1)

Schroeder discussed casual sales relative to garage sales. Hibbs stated the interpretation has caused a few problems, but feels the new language will be corrective. Schroeder indicated garage sales, technically, should not cause jeopardy for sales tax permittees. Again, Castelda quoted from section 422.22 and Hibbs noted the Department has little time to create trouble for garage sales. No formal action taken.

REVENUE  
(cont'd)

Doyle called attention to examples "M" and "H", page 714 of the 11/29/78 IAB. Schroeder noted that "H" was the area causing problems for county courthouse sales of used office furniture. Castelda agreed there were problems.

10:40 a.m.  
26.8

Monroe arrived. Schroeder questioned why the action was taken in 26.8 re share drafts and definition of "bank". Castelda responded the rule stems from an Iowa Bankers' petition filed for declaratory ruling and interpretation of section 422.43 of the Code, which states there is a tax on bank service charges. The paragraph was inserted for purposes of clarity.

26.35

Discussion of taxation of inside and outside parking lots. The court has defined "parking lots" and Castelda called attention to the statutory language defining "parking lots" as outdoor lots. Indoor facilities probably would not qualify as parking lots and legislation is being considered to change the definition.

26.42(4)

Schroeder indicated a possible problem with 26.42(4), raw agricultural products. He agreed to meet with Castelda in an attempt to resolve it.

26.42(1)

Kelly questioned 26.42(1) with Castelda commenting that the rule reflects the department's position prior to 7-1-78 and 26.42(2) sets out the position after that date. Kelly said the rule is confusing and Castelda was amenable to clarifying.

33.6(1)

Doyle questioned 33.6(1) with Castelda stating the area is very technical, thus the need for so many examples.

COMMERCE

Wallace Dick, Director, Warehouse Division, Art Zahller, Special Projects Engineer, James Maret, Commerce Counsel, and Daniel Fay, Assistant, Commerce Counsel were present for review of the following:

Temporary grain storage, 12.24, filed emergency. ~~FE~~ ..... 11/15/78

Electric utilities, 20.1(3), 20.2(4), 20.2(5), 20.4(10)"e", 20.4(11), 20.9 ..... 11/29/78

12.24

In re 12.24, temporary grain storage, the rule provides for licensing of temporary storage facilities with authorization from October 1, 1978 to March 15, 1979. Schroeder took issue with 24.12(4,6), temporary storage. Dick commented that Iowa is

24.12(4,6)

COMMERCE  
(cont'd)

the only state with any temporary grain storage facilities. Dick stated if complaints come in, the Commission will consider changing the rule. No formal action taken.

20.1(3), 20.2(4),  
20.2(5), 20.4(10)

In re electric utility rules, Doyle inquired if objections had been voiced. Maret replied in the affirmative. Discussion of the monthly billing cycles. Doyle raised a question as to individual meters for multiple-dwelling tenants.

Monroe wondered why the reserve account is available only for nuclear energy and not for coal burning. Zahller replied the energy cost for nuclear generated electricity is extremely low when compared to the average broad energy cost involved in the production of electric energy with coal. When a nuclear plant is shut down, Zahller continued the normal generation will be expected to be replaced by coal and possibly, oil-fired generation. Therefor, there is a drastic cost differential. Coal-fired plants would normally be replaced with comparable coal, so no major cost impact. The reserve would be collected during the time the nuclear plant would be generated and be used to offset the higher cost. Monroe opined that was a subsidy for nuclear generation. No action taken.

EMPLOYMENT  
SECURITY

Harold Keenan, legal counsel and Max K. Noe presented review of the following:

Employer's records and reports, 2.12(2).....	N	11/15/78
Employer's contribution and charges, 3.21(1)"b", 3.29(2), 3.47(3), 3.50, 3.51, 3.81(4)"c" N	N	11/15/78
Claims and benefits, 4.22(1)"f", "v", 4.28(5), 4.34(11), 4.39(10). N	N	11/15/78
Placement services, amendments to ch 7. N	N	11/15/78
Forms, 10.1-10.5, 10.7. N	N	11/15/78

2.12, 3.21, 4.22  
chapter 7

Keenan noted there were changes in the Job Insurance section supplementing federal regulations.

Schroeder initiated a discussion of percentage of contribution by employers, with Keenan advising that the amount is generally six percent at the maximum. Keenan said there is little the state can do since federal guidelines are followed in order to be certified. According to Keenan, a federal committee is going to recommend exempting substitute teachers for 45 days.

EMPLOYMENT  
SECURITY  
(cont'd)  
HEALTH DEPT.

Keenan noted the typing errors will be corrected.

Ronald Saf, Executive Director and Dr. John Rhodes, Chairman, Pocahontas, Iowa, reviewed the following:

Medical examiners, general, ch 135... *N*..... 11/29/78  
Physician's assistants, continuing education 136.101 *N*..... 11/29/78

- 135.1(21) Doderer expressed strong opposition to 135.1(21) wherein the statute re gender was repeated and questioned the necessity. Saf replied the language was gleaned from other rules. Doderer expressed interest in eliminating it from any rules. Doyle asked and received unanimous consent to recommend that 135.1(21) be deleted. Doderer called attention to 135.3(4) and requested quorum requirements be set out and requested the Medical Examiners insert the provision.
- 135.3(4) Saf said the 9-member board votes unanimously. In answer to Doderer, Saf stated the agenda of meetings is furnished the newspaper.
- 135.8(2) "d" "e" Doderer requested the language in 135.8(2) "d,e" be clarified. Saf was amenable.
- 135.5 Doyle requested a change in 135.5 in re office hours, by substituting "through" for "to". Barry pointed to 4.1(26) which provides: "If a statute refers to a series of numbers or letters, the first and last numbers or letters are included." Doyle requested the language "except holidays" be included in 135.5 Saf was amenable.
- 135.101(1) Monroe suggested a date certain be added to 135.101(1).
- 135.102(1) Doderer questioned the sixty-day requirement in 135.102(1) and Saf said time for processing is necessary.
- 135.10(11) Doyle took the position the Board, by virtue of 135.10(11) was binding itself as the rules were more stringent than they might want. Also, Doderer did not think the idea a good one. Saf said their concerns will be considered.
- 135.102(4) "b,c" Explanation of 135.102(4) "b,c" was requested by Doderer. Saf said the statute provides for a second examination to be given without fee, within 14 months. The third and all subsequent examinations

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HEALTH DEPT.  
MEDICAL EXAMINERS  
(cont'd)

are given at the discretion of the board. Some candidates want to take the exam as many as six times. History of the process was discussed with Saf indicating if a person does not pass within two testing time frames, the test is usually not passed.

OBJECTION  
135.102(4)b, c, d

After general discussion, Monroe moved the following objection:

The Committee objects to paragraphs 135.102(4)a, b, and c, of the licensing requirements promulgated by the board of medical examiners, on the grounds that the paragraphs are arbitrary and unreasonable. In essence the paragraphs provide that after the second examination, the applicant must score at least 70% to take a third examination and at least 72% to take a fourth; no more opportunities are allowed. It is the feeling of the Committee the public health is adequately protected by the stringent examination requirements and that allowing an applicant to take the examination only four times serves no useful purpose. The Committee does not feel that the examination requirements should in any way be lowered, however, applicants should be allowed to take the examination as often as they wish. These rules are under notice and appear in the 11-29-78 issue of the I.A.B., page 691.

\*  
Dear Mr. Saf:

Re: Error corrected on objection

The certified copy of the Committee objection to 470-135.102(4) contains an error. That copy cited the objectionable portion of the subrule as 135.102(4)a, b and c, while review of the tape recording and secretarial notes both reveal that the actual objection was to 135.102(4)b, c and d.

Please amend the certified copy dated December 12th, 1978 to read 135.102(4)b, c and d. I sincerely apologize for any inconvenience my error in recording this motion may have caused. Truly Yours,

*Joe Royce*  
(Joe Royce)  
staff

Dr. Rhodes indicated 40 percent of the last group of foreign students failed to pass the test. Passing grade is 75 percent.

Kelly was opposed to including "d" and moved to amend the Monroe objection by striking "d". The motion was defeated with a show of hands voting. Dr. Rhodes noted that the consumer members were very strongly favoring the rule. Doderer reminded that the Rules Review Committee was not asking the Board to pass candidates, but were interested in people having the right to take the examination.

VOTE

The Monroe motion was adopted with 4 aye votes by Doderer, Doyle, Monroe and Schroeder. Kelly voted "no".

HEALTH DEPT.  
 MEDICAL EXAMINERS  
 (cont'd)  
 135.102(4)

Doderer requested rewriting of 135.102(5) as to gender and Saf was amenable. Doderer raised the point that candidates should not be allowed to take the flex examination four times. Dr. Rhodes indicated the same exam is given throughout the country. Monroe reminded that, technically, Iowa does not participate in reciprocity. Doderer asked that the language be made consistent with the objection raised by the committee. Discussion of 135.103(7-9) in that it should conform with 135.102(4).

In answer to Doderer's question re temporary licensure, Saf said the language is statutory.

135.204(5)

Re 135.204(5), Doyle questioned use of "good morals" and Doderer stated the language had been removed from the Code, but she was advised it had not. She recommended the Medical Examiners peruse the rule and delete the words "good morals".

In 135.204, Doderer requested "any" be inserted in the last line of "grounds for discipline" after the word "of" and correcting of the gender in the rules.

135.301(29) "a"

Schroeder recommended, in 135.301(29) "a" inserting "shall" instead of "may".

Monroe challenged the wording of 135.401(4) "he should not voluntarily associate professionally with anyone who violates this principle" as being directed at chiropractors.

135.402(5)

Doyle brought up the question of "abandoning" in 135.402(5) and discussion followed.

Monroe thought 135.401(12) should read the same as 135.401(8). In re 135.402(12), the committee requested removing "and shall compensate the physician for services actually rendered" and inserting "unless request by the patient." After further discussion, the committee retracted their first recommendation and recommended deleting "and shall compensate the physician for services actually rendered" and inserting a period after the word "reasonable".

Doyle inquired if the Board allowed for self-study and Rhodes replied in the negative. He also wondered if physician's assistants are required, under law, to take continuing education and the response was in the affirmative.

HEALTH DEPARTMENT  
(cont'd)

Dana Petrosky, Director of Licensing, reviewed the following:

Care facilities, amendments to chs 57-61,63,  
64, IAB 11/29/78

57.3(2)"d"

In re 57.3(2)"d", Monroe questioned inclusion of bathrooms in floor plans. He was hesitant to require numbering of bathrooms. Petrosky said the intent of the rule was to allow the department to discuss rooms via the telephone.

58.14(8)  
Item 19

Monroe questioned authority to prohibit the Care Review Committee from having access to the financial records. Petrosky indicated generally, medical and financial records are considered confidential and the request had come from the Health Facilities Advisory Committee.

OBJECTION  
58.27(3)b

Monroe moved the following objection:

The Committee objects to paragraph 470-58.27(3)b, appearing in the November 29th issue of the IAB, page 735, on the grounds that it is beyond the authority of the department. In essence the paragraph denies the care review committees established by §135C.25, 1977 Code, any access to a patient's financial records. The committees are empowered by §135C.38, 1977 Code, to investigate complaints, no restrictions are imposed as to what complaints they may handle; nevertheless, the department's action would preclude the committees from investigating any alleged fiscal mismanagement or fraud. The statute contemplates care review committees which may operate independently of the department, and which have broad authority to investigate complaints. The department may not by rule narrow the scope of investigation.

Schroeder inquired if federal language is violated responded the question is complex and could be violation.

VOTE  
58.27(3)"b"

The motion carried with 4 aye votes. Kelly absent.

RECESS

The committee recessed for lunch at 12:50 p.m. to reconvene at 2:00 p.m.

RECONVENED

The committee reconvened at 2:05 p.m. Kelly not present.

AGRICULTURE

Betty Duncan, Legal Counsel, and Dr. Harry Lang, State Veterinarian, were present for review of Aujeszkys' disease, 16.147(12), 16.151(3), 16.152(3), and 16.152(4), filed emergency after notice, IAB 11/15/78.



AGRICULTURE  
(cont'd)

Duncan explained an update of the history re Aujeszky's disease rules. The rule was filed emergency 11/15/78 following a publication on 9/20/78, where the rule was filed emergency.

Duncan continued that a decision was made, after some suggestions, to hold a public hearing on the subject. This would provide opportunity for people to present their views. The department then filed a separate notice, which had the effect of transforming the emergency rule into an ordinary rule. The rule now is a filed rule--filed emergency after notice. The new program attempted by the department in regard to vaccination is the crux of the rule. A pseudorabies controlled vaccinated herd is defined.

Schroeder said the question has not been answered for purebred breeders re vaccinating animals at the sale barn. Dr. Lang requested deferment to Dr. Kluge, head of Pathology, Iowa State University. Schroeder made the point that the "little people" living on the edge of town would be those buying 5 or 10 sows and they would not purchase through a sale barn.

Dr. Lang asked if the Agriculture Department had responsibility to look after their welfare. Schroeder contended the Department was looking after their welfare so much, they could not even operate. Lang responded buyers need assurance that animals being purchased would not contract pseudorabies.

Schroeder reviewed with Dr. Klute pros and cons of vaccinating at the sale barn. Schroeder contended pseudorabies was not any worse than bloody scours and no action had been taken in that area. He said, "One segment of the industry is being harpooned. The Department is being very arbitrary."

Dr. Lang pointed out that the Department recognizes any directive from the USDA. Duncan stated the reason for so much emphasis on pseudorabies was the legislative mandate--67GA--to promulgate rules. No formal action taken.

Duncan had a tape available from Dr. James Downert, USDA, pertaining to the matter. The committee requested that the transcription of the tape become a part of these minutes.

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AGRICULTURE  
(cont'd)  
Downert

The following is the verbatim tape transcription:  
I am Dr. James Downert, Chief Veterinarian, Swine Diseases, Veterinary Services, Department of Agriculture.

Dr. Lang

Dr. Downert, I know that some federal regulations will be forthcoming in a very short period of time, maybe in 3 to 4 months. Is that correct?

Downert

Yes, the regulation is down OGC for their perusal and comment to be published within the near future, effective 90 days after publication.

Lang

Very good. Our state regulations have very closely tied in with federal regulations and many of the provisions as far as vaccinated animals and the movement of vaccinated animals. Would you comment just what the provisions are for vaccinated animals to move under the federal regulations? How will that be enacted?

Downert

The provision for movement of vaccinated swine under the federal regulations are these: All vaccinated swine will be controlled--the interstate movement will be controlled. They will be permitted to move interstate, with a permit, to a quarantined herd, or a quarantined feed lot, prior approval of the state veterinarian of the state of destination.

Lang

That is very similar to what we have been operating under within the state of Iowa. We said that animals that were vaccinated must move with a permit and under a quarantine. Now, we are proposing to allow vaccinated animals that are coming from non-quarantined herds to have some freedom of movement within the state of Iowa. Ah, not interstate, but just within our own state. We're proposing that these animals, before they are allowed to move, must have been vaccinated for at least two weeks and not over six months. Would you care to comment on that?

Downert

That would be a very prime consideration because we do not want to mask the infection--if somebody becomes infected and then vaccinates and then wants to move his animals right away. This is one thing we just cannot have happening because it will spread the disease rather than control the disease.

Lang

I think from our knowledge of the use of vaccine

AGRICULTURE  
(cont'd)  
Lang

that we definitely should, for the protection of the buyer and the liability involved with the auction markets, wherever these animals might move, that these animals should at least have the benefit of two weeks' period for the vaccine to become effective.

Downert

They need the period of time for the vaccine to become effective--give the animal a degree of immunity before he is moved and some resistance to the disease.

Lang

Thank you, Dr. Downert, I certainly appreciate your taking your time to give us these few comments.

Downert

Thank you, Dr. Lang.

End of verbatim tape transcription.

2:15 p.m.

Kelly arrived.

Monroe in chair. Doderer out of the meeting.

TRANSPORTATION

Charles Sinclair, Vehicle Registration, DOT, was present for the following review:

Vehicle registration and certificate of title [07,D], 11.1(5), 11.6, 11.43, 11.61 ..F.. 11/29/78

Committee objection-[07,D] 11.3(6)a(9), relating to weighing of vehicles 11/1/78

[07,D] 11.3(6)a(9) Sinclair spoke of the committee objection to a proposed rule concerning reconstructed vehicles. At the time of discussion, the DOT failed to mention there were two Code sections [321.159, 321.162] which they feel have impact on that type of vehicle as far as determining the weight. Section 321.159 provides that the department shall have the power to fix the registration fee on all models of cars which are not now being furnished or upon which the statement from the factory cannot be obtained. Section 321.162 provides for the method of fixing the value and weight--the criteria, as far as the weight is concerned, is that it shall be fixed at the next even 100 lbs. above the manufacturer's shipping weight or the actual weight of the vehicle fully equipped.

Doderer assumed the chair.

Sinclair continued that the DOT thought the above information would answer the concerns of the

## TRANSPORTATION

(cont'd)

[07,D] 11.3(6)a(9)

committee expressed in the objection. Sinclair suggested the department could include instructions suggesting persons not have vehicles weighed with full tanks of gas. He sought direction from the committee. Monroe reminded that when the motion to object was made, the cure was advised. Discussion followed.

Monroe suggested the Department spell out, in the rule, that the Code section will be relied upon, and that the vehicle will be weighed as is, whatever amount of gas the owner brings, thus making the owner aware the vehicle can weigh less with less gas. If the department adheres to this practice, then the committee objection would be met.

Sinclair was amenable.

11.61

Doyle asked if some manufacturers are giving incorrect figures on valuation. He suggested for future clarification that [07,D]11.61(1) and 11.61(2) be renumbered as numbered paragraphs 1. and 2. Also, the word "and" be inserted after the word "firm" in 11.61(1). Barry asked if that could be done editorially, with the record indicating committee approval. Permission granted.

## PHARMACY

Dennis Killian, Chairman, Board of Pharmacy, Red Oak, Iowa, and Norman Johnson, Secretary, reviewed the following:

Standards for evaluation, 3.2(3)d	11/15/78
Continuing education, 6.8(5-8)	11/15/78
Controlled substance, administration, 3.10(1)	11/15/78
Controlled substance inventory, 3.18	11/15/78
Continuing education, 6.8(9)	11/15/78
Nuclear pharmacy, 6.9	11/29/78

6.8, 6.9

Discussion of hazardous pharmaceutical substances and the possible need to amend Chapter 455B regarding storage. DEQ was willing to abide by Board of Pharmacy rules on the subject, according to Johnson.

## BUREAU OF LABOR

Walter Johnson, Deputy, Bureau of Labor, reviewed the following:

Guidelines in handling cases of alleged discrimination, ch 8	11/29/78
Access to records, 1.7(1), 4.7(2)	11/15/78
Occupational safety and health standards, amendments to 10.21, 26.1, 28.1	11/29/78

Doyle had a question about the injury log and Johnson responded that the rule will allow the employee to peruse the information contained in the log. Additional information, such as the doctor's report or the employer's first report of injury, may be bargained. The rule gives full access to the log of OSHA injuries.

BUREAU OF LABOR  
(cont'd)  
chapter 8

The Iowa Master Builders have requested a public hearing for January 23, 1979. Rules are almost verbatim adoption of the federal rules on the subject. Monroe questioned 8.4, re discriminatory action against an employee of another person and questioned the practice. Johnson cited a case of an employee filing a complaint against an employer, attempting to find other employment, but the employer "bad-mouths" the employee to the prospective employer.

8.5

Monroe asked how an applicant could be considered an employee. Johnson cited the previous example given. Johnson did agree the language was being broadened. No formal action.

Discussion of inspection of facilities by the Bureau with Johnson explaining employees are visited at slow-time or when leaving the job. Schroeder cited an instance of a meat packing plant having the operation stopped and Johnson asked to be informed should that happen again.

## SOCIAL SERVICES

Monroe in chair -- Doderer out of meeting.

Judith Welp, Hearing Officer, Social Services, Harold Poore, Program Manager, Child Care Centers, and George Keiser, Division of Corrections, were present for review of the following:

Organization, 1.2(3).....	N	11/29/78
Aid to dependent children, eligibility, 40.7(5).....	N	11/29/78
Aid to dependent children, granting assistance, 41.1(4), 41.1(5).....	N	11/29/78
Aid to dependent children, need standards, 41.8(2), 41.8(3), 41.8(5).....	N	11/19/78
Aid to dependent children, alternate payees, 43.1(2), 43.2(1), 43.2(6), 43.2(7), 43.3(4), 43.4.....	N	11/29/78
Aid to dependent children, payment, ch 45.....	N	11/29/78
Scope of medical assistance, optometrists and opticians, 78.6(13), 78.7(4).....	N	11/29/78
Training school for girls, 102.1(1).....	N	11/29/78
Training school for boys, 103.1(1).....	N	11/29/78
Child care centers, 109.1(1-4), 10, 11), 109.2, 109.3(1, 2, 6), 109.4(1-4), 109.5(2, 5-7), 109.6(2-6), 109.7(2-4), 109.8(2).....	N	11/29/78
Social Security Act--Title XX, 131.1(2).....	N	11/29/78
Economic impact statement, sheltered work/work activity services, ch 155.....		11/23/78
Mt. Pleasant medium security facility, ch 22.....	F	11/29/78
State supplementary assistance, reports and audits, 52.1(3)"g", 54.3(1), 54.3.....	F	11/29/78
Intermediate care facilities, 81.1(3), 81.6(11), 81.6(15), 81.6(16), 81.14.....	F	11/19/78
Eligibility for services, 130.3(3), filed without notice.....	F	11/29/78

Welp reviewed 1.2(8), 40.7(5), 41.1(4,5) and 41.8(2,3,5) and they were acceptable as published. In re loans for property repair--41.8(3) (Item 2), Doyle wondered if a person went to a very high interest finance company, would the Department repay the loan obtained at a high rate of interest. Welp replied in the affirmative. She said the

SOCIAL SERVICES  
(cont'd)  
41.8(3)

required bidding process would only pay for the lowest bid. Also, the Department has found that very few recipients obtain loans, and the loan is guaranteed only for the time the person is on ADC. Welp stated approval is given by the District Office.

43.1, 43.2, 43.3,  
43.4

Schroeder asked about conservatorship or guardianship for an adult and questioned why applicability of the rule was different for a child. Welp said the guardian for the child would necessarily have to be the payee. The child must be living with a specified relative in order to be eligible. A minor assigned to some other home would not receive ADC, according to Welp, but possibly could come under the foster care program.

Doderer assumed the chair. Doyle asked if there were problems with the "may" in 43.2(1) and Welp replied there was no choice in the matter.

chapter 45

Welp advised the rules relate to payment. They were acceptable.

78.6, 78.7

The limit for glasses frames is increased from \$9 to \$11. Doyle thought some of the items had been line-itemed in appropriations bills.

102, 103

Welp informed the definition of resident is being desexed and Monroe questioned the Department's authority for doing so. Discussion of boys at the Mitchellville Girls Training School, with Welp advising sixteen are at the facility in a pilot project. Monroe called attention to \$242.6 and maintained the Department was exceeding their authority. Welp said final evaluation will be completed in April. General discussion of the intent of the Code, with Kelly contending the Code did not authorize boys being sent to Mitchville. B. J. Clark noted that if the project is successful, the names of the institutions will be changed.

Monroe quoted from Code section 242.14, which could be the flexibility which allows boys to be sent to Mitchellville. Doderer indicated the legislature keeps correcting after the fact. No action taken.

109

In re 109, child care centers, Welp said many technical changes have been made and certain rules

SOCIAL SERVICES  
(cont'd)

have been added to allow ease for licensing of smaller facilities.

109.7(2)

Schroeder took the position the stringent rules will force some facilities out of business. Discussion of transporting children and facility space for children, both inside and outside.

Harold Poore said the square footage requirements have been in the rules for some time. Discussion of prohibition on Franklin stoves, with Poore reporting the rule was considered to be for the safety of children. Schroeder contended it could be there for emergencies only. Discussion of pros and cons on appropriate means of disciplining children. Kelly suggested "no corporal punishment unless there is a release signed by the parent." Doderer said that was taking away rights with due process of law.

MOTION

Schroeder moved that the corporal punishment rule be written similar to that of foster care homes and suggested the Department find a way to say what the committee means. Welp said the Department has not re-stated from the old rule. Doderer made the point that many of the children are under six years of age. She could not see the need for using the same measures on young children which are used for children sixteen. Barry reminded the rules are under notice and the Schroeder motion could be a suggestion. No vote taken.

131.1(2)

In re 131.1(2), specific expenses for Title XX advisory committee, Schroeder inquired if there was authority and Welp quoted from the appropriations bill. No action.

chapter 155

Economic impact statement. Welp pointed out an error: "per day" should read "per month". Department found it very difficult to determine expenses to provide an adequate impact statement.

chapter 22

Rules re visiting guests, mail, etc. are similar rules for other correctional facilities. Only change was to clarify conventional shoes.

16

Committee pointed out that suggestive clothing is still undefined.

22.3(1)

Discussion of emergency visits for guests and whether or not female staff members are available to escort female guests. Doderer asked how many men visitors, and suggested the word "female" be stricken. Kaiser was amenable.



## SOCIAL SERVICES

(cont'd)

22.3(2) (3)

Committee recommended improving the language and presenting changes. Doderer requested changing to "guests shall be properly attired" and Welp though that was more permissive language.

22.3(5)

Schroeder questioned the amount of time given for notice of organizational meetings within the confines of the penal institutions. Welp said all of the guests are cleared by a committee and Schroeder inquired about a waiver provisions. Kaiser said they are not inflexible and emergency situations are considered.

52.1

Welp said the rule specifies the department would not pay a rate in a residential care facility that would exceed the average rate for private paying patients in the facility.

81.4-81.14

Chapters 54 and 81 are very similar--rules on computing cost-related reimbursement rates for the residential and intermediate care facilities. Several changes were made as a result of public comments and Welp said there is one more hearing scheduled. Also, a new rule may be needed.

William Thayer, Administrator, Madrid Home for the Aging, Madrid, Iowa, both an intermediate and residential care facility, appeared as representative for the Iowa Home for the Aging and treasurer of the American Association of Homes for the Aging. He expressed concern for the rule and said there is a severe quota on Title XIX people. The private paying person is being charged significantly more than the Title XIX.

Thayer said the legislature is allowing a 1 percent or less maximum increase in rates January 1, 1979, but the home is experiencing something greater than a 10 percent increase in costs, which are mandated because of minimum wage laws.

Doderer asked if that were not a one percent raise in patient care income and if the minimum wage increase is for a minimum number of employees. Thayer disagreed. He said the Madrid facility has 80 percent of the workers being paid minimum wage. He continued that with an inflationary economy, there is no choice but to burden the private pay patient in terms of charges or eliminate Title XIX patients. He contends Iowa had paid less attention to the minimum wage standards than any state. He urged rescission of the rule.

Doderer suggested he should approach the budget committees of the legislature to obtain more money.



SOCIAL SERVICES  
(cont'd)  
81.4-81.14

Schroeder recommended the industry devise a set of standards to present to the legislature.

Francis Lackner comments: This is the first opportunity to discuss the 74th percentile in public. They have made suggestions and the 74th percentile had remained. The programs are more and more expensive because more and more people are admitted. Lackner made reference to people, who have assets of their own or have family able to support them, yet they are in homes for the aging.

Schroeder said the law was changed several years ago and Lackner said the law should be changed again. Doderer noted that the honest people were being penalized under the old law.

Doderer said with the amount of money granted by the legislature with the laws passed making people eligible, the Department has to live with the 74th percentile.

Schroeder inquired if elderly are being treated differently than the ADC children. Thayer chose not to become involved in a discussion of that issue.

Monroe thought the 74th percentile was unreasonably low and that 90 percent would be more reasonable. Lackner stated that at a meeting of the Medical Assistance Advisory Council, the Department mentioned there were excess funds in this category. Welp did not have knowledge of excess funds.

The committee suggested Lackner and Thayer contact Representative Horace Daggett and Senator Lucas DeKoster. Thayer replied the committee does have jurisdiction over the rule, even though the committee may be right in asking him to approach the budget committee.

54.3(1)

Monroe expressed interest in objecting to 54.3(1) adding bad debts were not being allowed in the computation. Welp said it is specified in the federal regulations, and the language was in the proposed rules. Monroe contended debts could not be treated as income. Doderer made the point that not all debts are "bad debts". Lackner said the reason for excluding bad debts was they are only considering paying for Medicaid recipients. No action taken.

130.3(3)

Revision of CETA law--acceptable as published.

NATURAL RESOURCES

Mike Smith, Hearing Officer, and Wayne Geselman, Chief Engineer, reviewed the following:

Public information, amendments to ch 1.....11/29/78  
Flood plain or floodways construction, amendments to ch 5 .....11/29/78  
Milldams and races--performance bond, 6.7 .....11/29/78  
Unauthorized activities, amendments to 11.4, 11.5.....11/29/78

NATURAL RESOURCES  
(cont'd)  
5.12(1)

Schroeder asked why rural areas and urban areas were being treated differently and wanted to know why the same rules wouldn't apply. Smith indicated the rule is the criteria when someone has to contact the council for approval.

Smith, responding to Schroeder, said "flood plain" is defined by the Corps of Engineers. Smith noted Council Bluffs has a levee, but said the flood plain is 3 or 4 miles beyond that levee.

MOTION

Schroeder made the motion that the rule is arbitrary in the way it is presented and objection could be cured by using the identical wording in 5.12(2) and 5.12(1) so the entire state is being treated in the same manner.

Smaller streams receive more scrutiny because of the potential for more damage in the urban areas. Discussion of federal flood insurance. Smith stated local communities would be subjected to federal flood insurance program whether or not the rule is in effect. Cities would be required to abide by these rules.

Smith commented that the Natural Resources Council lacks personnel to go out and review each rural project. Doderer asked Schroeder if the reverse of his motion, i.e., making the rural more strict. Schroeder was not amenable.

VOTE

The Schroeder motion was defeated--the vote being two ayes, Schroeder and Kelly; two nays, Doderer and Monroe; one pass, Doyle.

MINUTES

Kelly moved the approval of the last minutes. Motion carried.

NEXT MEETING

Discussion of date for the January meeting, after which Doyle moved the committee meet January 5, 1979, 9:00 a.m. After discussion, unanimous consent was granted to withdraw the motion. Kelly excused. Schroeder moved that the special meeting be scheduled for January 4 and 5 in lieu of the regular statutory meeting, Tuesday, January 9. The motion was adopted with 4 aye votes. Kelly absent.

Doyle moved that Representative Clark and new Senate members, if known, be authorized to attend and that they be paid expenses. Motion carried with four aye votes. Kelly absent.

The following rules were acceptable as published:

LANDSCAPE ARCHITECTURAL EXAMINERS[540]

Continuing education, ch 3 .....	11/29/73
Disciplinary action, ch 4 .....	11/29/73

12-11-78

BANKING[140]  
Credit union share drafts, ch 27 .. *F* ..... 11/15/78  
LIBRARY DEPARTMENT[560]  
Depositories, 1.12-1.14 ..... *N* ..... 11/15/78  
MERIT EMPLOYMENT[570]  
Vacation and leave, 14.3(4), 14.8 ..... *F* ..... 11/15/78

The next meeting will be held Thursday and  
Friday, January 4 and 5, 1979.

Respectfully submitted,

*(Mrs) Phyllis Barry*  
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(Mrs.) Phyllis Barry  
Assistance of Vivan L. Haag

APPROVED \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN