

MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, August 23, 1977, 1:00 p.m.

Place of Meeting: Senate Committee Room 24, Statehouse, Des Moines, Iowa

Members Present: Senator Berl E. Priebe, Chairman, Representative W. R. Monroe, Jr., Vice Chairman; Senator E. Kevin Kelly; Representative Donald Doyle. Not present for roll call, Senator Minnette Doderer, Representative Laverne Schroeder. Also present: Joseph Royce, Administrative Co-ordinator.

MINUTES

Rep. Monroe noted that the minutes did not reflect an objection made by him under Public Defense, Office of Disaster Services, re rule 6.2, under state resources management plan. Mr. Royce advised the minutes would be corrected.

ENVIRONMENTAL  
QUALITY

Senator Priebe announced he called this special meeting to allow the Soybean Association to have some input into some of the rules of the Dept. of Environmental Quality on the water quality. The last meeting of rules review happened to fall on the same day as the National Soybean Convention. Senator Priebe apologized for the inconvenience to the committee members. He asked if there were objections to hearing from the Soybean Association and there were none. Mr. Les Rhoads, and Mr. Merlyn Grote, Manson, Iowa, members of the Iowa Soybean Association appeared before the committee. Mr. Grote stated it may appear the association is opposed to pollution controls and actually, nothing could be further from the truth. He feels the laws should be such that they are applied in a practical manner.

Mr. Grote stated that two different portions of the regulations were of concern to their association. One concern of his is that the rules and their intent would be understood by people ten or fifteen years from now. His second point pertained to how the farmer would be affected; in particular, the water quality standards section on definitions, best management practices, they feel there would be some confusion on this, i.e., by what is meant by best management practices, who would determine what is the best management practice or combination of practices, and how the pollution generated by non-point sources would be regarded as far as regulations are concerned. He also stated their feeling is that the term "best management practices" might be used in a way in which the government could enter into the individual management of farms. Broad authority does not set any limits.

Senator Doderer arrived, 1:20 p.m.

Mr. Grote advised they had testified before a hearing

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in Ankeny, March 23, involving section 16.3(1), "a", "b" "c" etc regarding general water quality criteria. They understood these regulations were supposed to apply to point pollution only. Verbally, they were told it does apply to both point and non-point pollution. The association thinks there would be less confusion in this section if the words "point pollution" were inserted in the regulation.

In section 16.3(1)"a", he discussed zero tolerance.

Senator Doderer left.

The association feels that a good deal of the thrust of Public Law 92-500 was aimed at municipal and industrial waste treatment.

Rep. Monroe commented that the Rules Review Committee had objected to 16.3(1)"b" and asked if that did not solve their problem. Mr. Grote said it did not solve it entirely. Feels zero tolerance should be more specifically spelled out.

General discussion about zero tolerance, who has the responsibility of burden of proof, filing of complaints, etc., and whether or not a person is guilty until proven innocent.

Mr. Grote also commented that the zero discharge requirement set for 1980 is unrealistic.

Rep. Monroe responded that you are innocent until proven guilty.

In response to a question by Senator Priebe, Mr. Bach stated they were things put in at the last minute. They used those terms in the body of the rules, 16.2(3) where they say these rules don't really establish perimeters. The amendments we are proposing weren't intended to cover non point pollution because we don't know enough about it. We will be looking at this in the continuing course of the plan.

Senator Priebe wanted to know why they took it out instead of putting it in and Mr. Bach replied they have in 16.3(1) the general water quality criteria. This has been there since 1967.

Doderer returned.

Mr. Rhoads reiterated that anytime you say "free from" this could be interpreted to mean "zero". This puts every farmer in the state of Iowa in violation under certain rain conditions. Discussion of the meaning of "agricultural practices".

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(continued)

In answer to Senator Priebe's question about changing the wording, Mr. Bach replied there was extensive discussion on this at the last meeting. They agreed that "b" should be reworded. They don't know if they will do this immediately, or publish the notice and wait a few years. DEQ does feel "c", "d" and "e" serve useful purposes and are not unusually restrictive.

General discussion of run-off, especially with regard to feedlots and Mr. Bach advised that violations are heard before the Water Quality Commission and the third party has to demonstrate there was a violation.

Discussion of feedlots, run-off and requirements.

Discussion of "other esthetically" wording and Senator Priebe asked if they would look at putting in the other language. He would like the language to be more specific.

HEALTH DEPT.  
CARE FACILITIES

Senator Doderer suggested the committee start with chapter 63--agreed. In chapter 63.1(16), Senator Doderer is concerned about the last line "having one year's experience in working with the mentally retarded." She wanted to know where the person got their experience. In particular, a person coming out of school. Mr. Wiley advised they would get it by working. Doderer stated they did not have a description of the job. She stated Helen Henderson has an amendment which makes sense to her which would add the words "or specialized training in mental retardation as approved by the Dept. of Mental Health." Doderer was advised the language came from the federal government. Mr. Wiley agreed to take a look at the wording.

Discussion of wording of facilities licensed for over fifteen beds. Also, discussion about administrators.

Priebe left, 2:15 p.m.  
Kelly left.

Mr. Wiley feels this language should be clarified. The Dept. feels that two hours of time spent in a facility by an administrator are awfully minimal. Senator Doderer replied the administrator has an assistant which should be qualified to run the facility.

Kelly returned.

Rep. Monroe commented he would like to see some reference to the amount of time an administrator pays per patient. Discussion followed about whether or not a patient and administrator should have contact.

Senator Doderer stated that if the two departments can

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agree, the committee will go along.

Mr. John Wild and Ms. Leona Ringgenberg appeared for the Health Dept.

Under "g", 11.1, Mr. Wild is concerned with the amendment which took out the last sentence. This was taken out because it is covered in "f".

✓ Senator Doderer questioned the procedure for giving insulin to mentally retarded. Helen Henderson, Association of Mentally Retarded, stated there are a few mentally retarded who are diabetic and insulin had been given by the parents. Insulin is not a prescription drug and they feel that insulin could be administered by a person certified by the physician.

✓ Mr. Wild advised that the rule is based on accepted federal standards. They recognize some of the problems. The reason they have it this way is because it is accepted standards from HEW and it is also a position the Board of Nursing has acted on. The objectionable aspect of insulin is what the Board is concerned with. Mr. Wild would like the Rules Review committee to bear the onus with the Board of Nursing.

✓ Rep. Monroe suggested they probably don't need the underlined words "with the exception of insulin". Mr. Wild feels this is opening the door, however slight.

Ms. Petrosky, Board of Nursing, feels if you change chapter 63, you should change chapter 57 as well.

Senator Priebe and Rep. Doyle left.

Committee agreed to object to this if correction is not made--ch. 63.18(2) and (3) and Mr. Wild reiterated this should show that this is a committee request for change.

Ms. Petrosky stated the Board of Nursing may take objections to this to the point they might revoke a nursing license if any person teaches a non-licensed person to do this.

Senator Priebe returned.

Rep. Doyle returned.

Again, there was a discussion of spacing for beds in homes for the mentally retarded.

OBJECTION

Rep. Monroe reminded the committee that on November 17, 1976, objections were posted on chapters 57, 58 and 59, and here in chapter 63, the committee has the same opportunity to object. Rep. Monroe moved the same ob-

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(continued)

OBJECTION

jection as follows:

The Committee objects to the provisions in 63.22(4), 64.35(4) and 64.35(5) that require the Care Review Committee to notify the department before proceeding with a complaint on the basis that this requirement is beyond the statutory authority granted in Code section 135C.37 and 38. This section contemplates a Care Review Committee that could and would act independently of the department, if it so desired. The above subrules reduce the Care Review Committee to a subservient role. The objection may be cured by removing the prior notice provisions.

Motion adopted unanimously.

Senator Doderer questioned the logic of item 12, dealing with consanguinity. She does not want to prohibit 16 and 17 year olds from working in the summer months. She asked that this be checked.

Mr. Wild said there would be some kind of specification of age. He commented the rules are built on the straight residential care rules.

Doyle left 3:10 p.m. Kelly left.

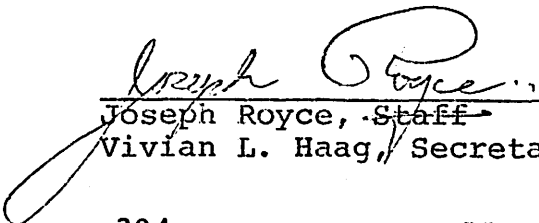
Kelly returned.

Chapter 64. Ms. Henderson commented that one of the things everybody has been striving for is a handbook for providers which includes the certification and licensing. An ICFMR Handbook has been submitted. The two departments worked very closely together and have already approved the handbook. Senator Doderer asked about handbooks and approval of same and the general discussion revealed that the Rules Review Committee had not looked at any of the handbooks. Senator Priebe suggested the committee could ask for an item review. Representative Doyle returned. Rep. Monroe left 3:17 p.m.

Senator Doderer requested they look at Item 6 re children the same as they will in Item 12.

Joseph Royce announced the agenda for September will include chapters 57, 58, 59 and 61.

Respectfully submitted,

  
Joseph Royce, Staff  
Vivian L. Haag, Secretary

APPROVED