

MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday and Wednesday, August 3 and 4, 1982, in lieu of regular meeting scheduled August 10 and 11, 1982.

Place of Meeting: Senate Committee Room 22 and Legislative Dining Room, Des Moines, Iowa.

Members Present: Representative Laverne W. Schroeder, Chairman; Senator Berl E. Priebe, Vice Chairman; Senators Edgar Holden and Dale Tieden; Representatives Ned Chiodo and Betty J. Clark.

Also present: Joseph Royce, Legal Counsel; Brice Oakley, Rules Coordinator; Phyllis Barry, Deputy Code Editor, and Vivian Haag, Administrative Assistant.

Vice Chairman Priebe was in the chair to allow Chairman Schroeder opportunity to attend another meeting.

CONSERVATION  
COMMISSION

Richard A. Bishop, Wildlife Supervisor, and Roy Downing, Superintendent of Parks, appeared on behalf of the Conservation Commission. The following rules were before the Committee:

CONSERVATION COMMISSION[290]

Common snipe, Virginia rail, sora, woodcock and ruffed grouse hunting regulations, amendments to ch 109 ARC 3067 *F*: 7/21/82  
Docks, construction, 33.1, 33.3, 33.5 ARC 3041...*N*.....7/7/82

ch 109

No questions were raised concerning amendments to chapter 109. Rules re alternative methods for construction of boat docks were reviewed. According to Downing, complaints had been received that docks were not wide enough. Permits will be issued at 5-year intervals.

33.5(111)

Priebe asked Royce to comment on the exemption from liability in 33.5(111). Downing indicated it was intended as a basic guide to the staff. Royce addressed the legal aspects with Downing explaining Conservation's position on the matter. No formal action.

AGING COMMISSION

Lois R. Haecker, Mary Ann Olson, Paula Ritter-Gooder, and Carl M. McPherson, Nursing Home Ombudsman, were present for review of:

AGING COMMISSION ON[20]

Long-term care ombudsman, 4.2 ARC 3074 *N*..... 7/21/82  
Nutrition services, 8.45 to 8.53 ARC 3075 *N*..... 7/21/82

Haecker recalled that Aging Commission had adopted 10 chapters of rules after considering public comments which resulted in changes. Priebe questioned why the ombudsman would train volunteers and he was informed that was included in duties of the Care Review Committee. Three thousand volunteers are required for the nursing homes. Royce inquired as to how the program interacted with the Nursing Home Bill of Rights. McPherson explained that Care Review members who are in the facilities can more easily obtain information.

AGING  
COMMISSION

Holden opposed use of the term "administrative" in 4.2(2). He declared it was all-inclusive and preferred substituting "facility action."

10:25 a.m

Schroeder excused.

4.2(2) "b"

Holden questioned whether 4.2(2)b could include a private home. McPherson responded it would apply only when a resident is paying to receive care. Also, Holden was of the opinion the ombudsman could not enter a private home without some authority -- warrant, etc. McPherson saw no conflict.

4.2(5)

Priebe expressed concern with access requirements in 4.2(5).

Royce saw the matter as an investigatory proceeding and the question being, "Do nursing homes say you do not have the right to come in--you need a search warrant." McPherson emphasized the rule does not cover private homes.

Haecker pointed out that when foster care facilities accept state funds for providing a service, they cease to be "private homes" as provided in the Social Security Act of 1976.

McPherson advised ARRC that under the law, the Commission on Aging appoints the Care Review Committee which will become more responsive to the needs of residents and the facilities.

Tieden was interested in knowing how many complaints had been received and if the present system was working. He was hopeful the purpose of the rules would not be defeated by excessive expense. McPherson said complaints would be referred to Health Department.

Royce could envision problems since many residents have diminished mental capacity but have not been adjudicated mentally incompetent under process of law. He asked who would sign the release form or give access to the records. McPherson said they would have to determine the avenues that were open within state law. Clark wondered how group living situations would be affected. She could envision problems.

Holden favored rules that were more limiting and opined that clarification was needed.

4.2(4)

Holden envisioned 4.2(4) as duplication contending "We don't need another layer of bureaucracy." He raised question as to statutory authority for the ombudsman to name the Care Review Committee. McPherson noted that was a delegation by the Commission--the Executive Director makes the determination. Royce saw the question as being, "Can the Commission delegate the responsibility to someone else?"

There was discussion concerning the statutory authority for Care Review Committee appointments. Holden reiterated his concern that the access and clinical records be clarified with respect to resident signature for consent. He recommended that 4.2(5)d be amended to substitute "shall" for "will" after "observe". This should include any relative,

AGING  
COMMISSION  
Continued

guardian, or whatever. In his opinion, caution should be exercised in obtaining the resident's permission. Holden referred to 4.2(5)f pertaining to the ombudsman's visit with a resident and suggested that the word "proof" be substituted for "information" in line 5. He asked Royce to peruse 4.2(7) on confidentiality and disclosure. Holden concluded there was not sufficient "handle" on the ombudsman program and that "We are headed for problems." McPherson emphasized the intent was to avoid duplication.

McPherson informed Oakley that he had appointed the Care Review Committees for the past two years. A questionnaire is used to determine guidelines for appointees and Health Department rules help with criteria. Holden wondered why the ombudsman program was not under the Citizens' Aide/Ombudsman office. McPherson thought this had been considered but they saw no duplication since their program deals with institutionalized residents. Holden declared, "We don't need an ombudsman in every agency."

Motion

Holden moved to refer the matter of the ombudsman program to the appropriate legislative committees. Oakley requested the Committee to ask for "a definition of the relationship, both created by statute and by rule, between the Department of Health and the Commission on Aging, particularly, in the area of Care Review Committee responsibility." Holden thought the point was well taken and it was included in his motion. Olson reminded the ARRC that the Commission has a responsibility to meet federal regulations which require an ombudsman.

Vote

Holden's motion carried viva voce.

8.49

Discussion of rules addressing nutrition services, 8.49. Haecker advised Tieden that there were no charges for meals, only voluntary contributions. Tieden recalled that, although many have the means to pay, they do not contribute.

8.52(1)

Clark observed that the agency could be tying its hands in 8.52(1)c in prohibiting use of certain foods. She questioned need for certified menus in 8.52(3)b. Haecker informed Tieden that the physicians order special diet menus and the area agency plans accordingly-8.52(4). No further questions.

Agriculture

Vice Chairman Priebe announced that Agriculture Department, originally scheduled for this morning, would be rescheduled for 1:15 p.m. today.

AUDITOR OF STATE

John Pringle, Director, Financial Institutions Division, appeared on behalf of the Auditor for review of:

AUDITOR OF STATE[130] .  
Conversion from mutual to capital stock ownership, ch 6 ARC 3071 .N..... 7/21/82

ch 6

Pringle stated that proposed chapter 6 pertains to conversion of mutual ownership to capital stock ownership intended to implement SF 2300[69GA]. Applications to convert to stock charter would be scrutinized at the Washington level and by

AUDITOR the Auditor of State. Following the conversion approval, an offering circular would be sent to potential members. A "pecking" OF STATE order would determine how stock would be issued--first, to Continued members of the association. Stock must be sold within a specific time period.

6.7(2) Chiodo had been bothered by the ease with which heads of organizations obtain proxies and asked if vote by proxy had to be allowed. Pringle indicated that would be the case with most votes. Chiodo referred to 6.7(2) re costs for forwarding information to voting members. He wanted to ensure that these would not become prohibitive and that the auditor would have some regulatory authority in that area.

At the request of Pringle, pros and cons were reviewed as to possible emergency implementation of chapter 6 following the hearing on August 12.

Oakley questioned whether there was sufficient reason for emergency adoption under §17A.5. He cautioned against action which would allow opportunity for challenge of legal authority. Committee agreed the point was well taken. No formal action taken at this time.

BANKING Discussion moved to Banking Department. Banking Department DEPT. officials present were: Thomas H. Huston, Superintendent of CREDIT Banking, Dean Rowland and Howard K. Hall. Also present: UNION Wes Ehrecke, Iowa Bankers Association; Ted O. Yanecek and Jerry AUDITOR Shipler, Iowa Farm Bureau; Peter Coniglio, Senate Republican Staff; Jim Brody and Betty Minor, Credit Union Department; John Sullivan, Iowa Credit Union League; John Pringle and Ed McQuown, Auditor's Office.

The following related agenda items were considered:

BANKING DEPARTMENT[140]  
Loans on real property. 9.2 ARC 3068...N..... 7/21/82

CREDIT UNION DEPARTMENT[295]  
Membership voting by mail ballot. ch 12. filed emergency ARC 3049 ...FE..... 7/21/82  
Merger voting by mail ballot. ch 13. filed emergency ARC 3050 .....FE..... 7/21/82

Advance Review of Chapter 10, real estate loans, ARC 3099 IAB 8/4/82  
Advance Review of Chapter 12, real estate loans, ARC 2105, IAB 8/4/82

Real Estate Loans

Oakley asked to make an opening statement with respect to background on the proposed rules of the three agencies governing real estate loans, which were before the Committee. He quoted from a letter which he had sent to agencies on June 28 requesting them to cooperate in drafting rules to implement SF 2300. He continued that the new law, in effect, removes some restrictions on the financial institutions. The agencies may promulgate rules but the statutory provisions will remain in effect until July 1, 1983 allowing time for the rules to be implemented. He explained that he had not anticipated the earlier Committee meeting date in August and he apologized for the preliminary review of Credit Union and Savings and Loans rules. Oakley reasoned that timing was important but he had requested that agencies refrain from emergency filings prior to public comment.

There was discussion of similarity of the rules of the three agencies.  
- 1767 -

CORRECTED  
BANKING  
DEPT.  
CREDIT  
UNION  
DEPT.  
AUDITOR

Holden assumed that passage of SF 2300 would generate rules encompassing the present procedure. In response to Holden, Huston explained several changes in the Banking rules: Requirement of amortization would be eliminated along with the requirement of forcing a principal payment. Second mortgages would be allowed. The rules require disclosure and would allow a greater percentage of the loan against the appraised value if it is covered by MGIC insurance. The intent was to provide more flexibility in working out a plan between the borrower and lender with full disclosure of that plan. According to Hall, banks could be more creative in mortgage lending.

Huston informed Tieden that 9 or 10 suggestions had been received concerning the rules. Many contend the Banking Department requirements for disclosure are excessive and duplicate federal regulation. Pringle remarked that savings and loan institutions, due to the nature of their loans, have been more liberal than banks.

According to Minor, Credit Union Department rules were changed very little. An amortization amendment changed the maximum amount for first mortgage real estate loans but caused little comment. Minor noted that very few Credit Unions make real estate loans. However, some loans have been on the books for a number of years. Minor contended that CU's have been more restrictive as far as disclosure. She emphasized the importance of the applicant's awareness of the kind of instrument being signed for that loan. Holden thought the agencies were following the intent of the law. In his opinion, basic concern should be whether or not safe loans are being made.

Minor, in response to Chiodo, estimated 80 out of 340 credit unions have assets over \$500,000, and there will be no exceptions for those under \$500,000.

Tieden referenced Royce's memo that banking loans are "limited to Iowa and adjoining states." Banking Department officials explained that requirement had been in the law but was repealed. However, for the sake of safety, they decided that the restriction should be included in the rules. Huston defended their action by saying that "property close to you creates less problems with loans." In addition, money is kept in Iowa. It was noted that credit unions list bordering counties in their rules. There was discussion as to whether the Banking Department could legally implement the rules on an emergency basis.

Real  
Estate  
Loans -  
Deferred

The Committee agreed to defer final action until Oakley was present and these rules were deferred until afternoon.

BEER &  
LIQUOR

William Armstrong appeared to answer questions concerning the Department's termination of verification of eligibility form, 4.32, notice ARC 2436 terminated, ARC 3046, IAB 7/21/82. There were no questions.

Recess -  
Lunch

Vice Chairman Priebe recessed the Committee at 12:10 p.m. for lunch to be reconvened at 1:15 p.m.

Recon-  
vened

Committee was reconvened at 1:28 p.m. Bette Duncan, Legal Counsel and Dr. M H. Lang, State Veterinarian, appeared on behalf of the Department of Agriculture for review of the following:

AGRICULTURE  
DEPARTMENT  
Continued

AGRICULTURE DEPARTMENT[30]  
Food standard, dairy, 34.5, 30.27 ARC 3027 .....F.....7/7/82  
Swine brucellosis, 16.67, 16.68, 16.71 ARC 3025 .....N.....7/7/82  
Cattle brucellosis, 17.5 ARC 3026 .....N.....7/7/82

Also present: S. S. VanderWoude, Licensing and Certification, Health Department.

Duncan distributed copies of a letter from Mark Truesdell on behalf of Iowa Dairy Producers Association and Iowa Dairy Foods Association indicating support of ARC 3027.

- 16.67,  
16.68      The Committee considered swine brucellosis amendments in 16.67, 16.68 and 16.71 and learned that the public hearing was not well attended. Iowa Pork Producers Association and Farm Bureau supported both sets of brucellosis rules.
- 16.71 (1)      Priebe expressed opposition to the 50% increase in fees in 16.71 (1). Lang emphasized they had tried to set an average since fees had not been changed in 4 years. The Veterinary profession supported the increase. There was general discussion. Priebe questioned statutory authority and Duncan cited Code §163.1 However, Duncan agreed to prepare a detailed written response. History of the fee was reviewed by Lang. Clark opined that if the fee were not established by rule, it could be higher.
- 1:40 p.m.      Chairman Schroeder returned.
- 17.5(2)b      Lang said requirements for importation of cattle were changed to comply with federal regulations. He distributed a diagram of the new brucellosis classification system that became effective May 1. There was discussion of movement of cattle from surrounding states into Iowa. In response to Schroeder, Lang said the rule would not affect "feeding heifers." Duncan called attention to an error in 17.5(2)b--third line--"more" should read "less". It will be corrected when the amendments are adopted.
- CREDIT UNION DEPT.      Jim Brody, Betty Minor and John Sullivan returned for review of chapters 12 and 13 of the Credit Union rules. Committee members questioned Minor as to why the rules were filed emergency. Minor stated that four mergers in process waited until the law became effective July 1 to avoid costly mailings. Minor pointed out rules were also placed under Notice.
- 13.3(3)      Tieden was advised there was no penalty provision for 13.3(3). Holden wanted to ensure that no question could be raised on legality of a merger. No formal action taken.
- JOB SERVICE      James Hunsaker III and Joseph Bervid were present on behalf of Employment Security (Job Service). The following rules were before the Committee:

EMPLOYMENT SECURITY[370]  
Temporary emergency tax, 3.40(7) ARC 3069 .....N.....7/21/82  
Claims and benefits, 4.41, 4.42, 1.59 ARC 3970 .....N.....7/21/82

No formal action taken on the rules which had been agreed to by the Department of Social Services.

BANKING  
DEPT.  
CREDIT  
UNION  
DEPT.  
AUDITOR

Holden assumed that passage of SF 2300 would generate rules encompassing the present procedure. In response to Holden, Huston explained several changes in the Banking rules: Requirement of amortization would be eliminated along with the requirement of forcing a principal payment. Second mortgages would be allowed. The rules require disclosure and would allow a greater percentage of the loan against the appraised value if it is covered by MGIC insurance. The intent was to provide more flexibility in working out a plan between the borrower and lender with full disclosure of that plan. According to Hall, banks could be more creative in mortgage lending.

Huston informed Tieden that 9 or 10 suggestions had been received concerning the rules. Many contend the Banking Department requirements for disclosure are excessive and duplicate federal regulation. Pringle remarked that savings and loan institutions, due to the nature of their loans, have been more liberal than banks.

According to Minor, Credit Union Department rules were changed very little. An amortization amendment changed the maximum amount for first mortgage real estate loans but caused little comment. Minor noted that very few Credit Unions make real estate loans. However, some loans have been on the books for a number of years. Minor contended that CU's have been more restrictive as far as disclosure. She emphasized the importance of the applicant's awareness of the kind of instrument being signed for that loan. Holden thought the agencies were following the intent of the law. In his opinion, basic concern should be whether or not safe loans are being made.

Minor, in response to Chiodo, estimated 80 out of 340 credit unions have assets over \$500,000, and there will be no exceptions for those under \$500,000.

Tieden referenced Royce's memo that banking loans are "limited to Iowa and adjoining states." Banking Department officials explained that requirement had been in the law but was repealed. However, for the sake of safety, they decided that the restriction should be included in the rules. Huston defended their action by saying that "property close to you creates less problems with loans." In addition, money is kept in Iowa. It was noted that credit unions list bordering counties in their rules. There was discussion as to whether the Banking Department could legally implement the rules on an emergency basis.

Real  
Estate  
Loans -  
Deferred

The Committee agreed to defer final action until Oakley was present and these rules were deferred until afternoon.

*Should have Loans*  
Recess -  
Lunch

Vice Chairman Priebe recessed the Committee at 12:10 p.m. for lunch to be reconvened at 1:15 p.m.

Recon-  
vened

Committee was reconvened at 1:28 p.m. Bette Duncan, Legal Counsel and Dr. M H. Lang, State Veterinarian, appeared on behalf of the Department of Agriculture for review of the following:

AGRICULTURE  
DEPARTMENT  
Continued

AGRICULTURE DEPARTMENT(30)  
Food standard, dairy, 34.5, 30.27 ARC 3027 .....F.....7/7/82  
Swine brucellosis, 16.67, 16.68, 16.71 ARC 3025 N.....7/7/82  
Cattle brucellosis, 17.5 ARC 3026 .....N.....5/7/82

Also present: S. S. VanderWoude, Licensing and Certification, Health Department.

Duncan distributed copies of a letter from Mark Truesdell on behalf of Iowa Dairy Producers Association and Iowa Dairy Foods Association indicating support of ARC 3027.

16.67, 16.68 The Committee considered swine brucellosis amendments in 16.67, 16.68 and 16.71 and learned that the public hearing was not well attended. Iowa Pork Producers Association and Farm Bureau supported both sets of brucellosis rules.

16.71(1) Priebe expressed opposition to the 50% increase in fees in 16.71(1). Lang emphasized they had tried to set an average since fees had not been changed in 4 years. The Veterinary profession supported the increase. There was general discussion. Priebe questioned statutory authority and Duncan cited Code §163.1 However, Duncan agreed to prepare a detailed written response. History of the fee was reviewed by Lang. Clark opined that if the fee were not established by rule, it could be higher.

1:40 p.m. Chairman Schroeder returned.

17.5(2)b Lang said requirements for importation of cattle were changed to comply with federal regulations. He distributed a diagram of the new brucellosis classification system that became effective May 1. There was discussion of movement of cattle from surrounding states into Iowa. In response to Schroeder, Lang said the rule would not affect "feeding heifers." Duncan called attention to an error in 17.5(2)b--third line--"more" should read "less". It will be corrected when the amendments are adopted.

CREDIT UNION DEPT. Jim Brody, Betty Minor and John Sullivan returned for review of chapters 12 and 13 of the Credit Union rules. Committee members questioned Minor as to why the rules were filed emergency. Minor stated that four mergers in process waited until the law became effective July 1 to avoid costly mailings. Minor pointed out rules were also placed under Notice.  
13.3(3) Tieden was advised there was no penalty provision for 13.3(3). Holden wanted to ensure that no question could be raised on legality of a merger. No formal action taken.

JOB SERVICE James Hunsaker III and Joseph Bervid were present on behalf of Employment Security (Job Service). The following rules were before the Committee:

EMPLOYMENT SECURITY(370)  
Temporary emergency tax, 3.40(7) ARC 3069 .....N.....7/21/82  
Claims and benefits, 4.41, 4.42, 4.59 ARC 3070 .....N.....7/21/82

No formal action taken on the rules which had been agreed to by the Department of Social Services.

FAIR BOARD

Jerry Coughlan appeared for review of the following Fair Board rules:

FAIR BOARD[430]  
Clarifying amendments, 1.5, 2.2(2)F, 2.5, 6.14 ARC 3053 ..... 7/21/82  
Landlord tenant remedy, 4.8, notice ARC 2437 terminated ARC 3052..... 7/21/82

6.14 In 6.14 (173), Schroeder took the position that the amendment to 6.14 on judges was "ridiculous." Other members viewed it as too strict and favored the previous language. After further discussion, Coughlan agreed to retain the existing language. He was requested to explain the matter in the preamble of the adopted rules.

2.2, 2.5 Subrules 2.2(2)b and 2.5 were discussed briefly. The Committee noted that towing and impoundment were different and suggested that the amendments be clarified in that respect.

In re 2.5, Coughlan said the rule was more for the benefit of vendors at the fair. Holden observed the rule could be misinterpreted and favored deletion of it since the law covers this area. Coughlan disagreed since the Fair is considered as a municipality in the Code.

1.5 Holden noted that 1.5 had been amended to substitute the words "issued document" for "check" but catchwords still contained the words "returned checks." He thought that the rule change should be reflected in the catchwords and suggested "issued documents." Coughlan pointed out that the documents received by the agency include checks as well as instruments from financial institutions. After brief discussion, Holden agreed that, perhaps, consideration should be given to including the word "checks" but it was the consensus of the ARRC that the Department should work with Royce on appropriate language before the rules are adopted.

2:25 p.m. Oakley arrived.

HOUSING FINANCE AUTHORITY

George Cosson, General Counsel, appeared on behalf of the Iowa Housing Finance Authority for review of:

HOUSING FINANCE AUTHORITY[495]  
Low or moderate income family, 1.8(1), 1.8(11) ARC 3007, also filed emergency ARC 3008, ARC 3009 ..... Page 8..... 7/7/82

1.8(1) Subrule 1.8(1) recognizes that families with young children who are incurring job-related child care expenses should be entitled to a deduction when determining adjusted income.  
1.8(11) Subrule 1.8(11) established a new definition of "low or moderate income family" to be commensurate with the statute.

Cosson explained that a "qualified family" would be one whose adjusted income is less than the amount which Housing Finance Authority determines would be necessary to buy a single family residence at conventional rates if the house is priced at 90 percent or less of the average purchase price. Also, the family must not own other real estate at a market value of \$10,000 or greater.

HOUSING FINANCE AUTHORITY Continued  
 Cosson told Priebe that a maximum for job-related child care expenses had not been identified but averages were \$57.00 to \$60.00 a week. Priebe was of the opinion that 1.8(1)g was "wide-open" and he urged ceiling criteria. Holden reasoned that although it would be easier to qualify for loans, it would not be easier to pay. There was discussion of the high interest rates. Cosson cited the disqualification area of the rule re new mortgages. He was hopeful the Authority would be able to sell bonds in the very near future. Priebe recommended that the Authority include specifics and a date certain.

Holden expressed disapproval of policies which are not set out in "black and white."

Royce advised that the APA requires hard and fast criteria-- "People are entitled to know what is expected of them." After further discussion, ARRC requested Cosson to work with Royce in setting out specific eligibility criteria before the rules are adopted.

ENVIRONMENTAL QUALITY  
 William Anderson, Mike Murphy, Mark Johnson, Joseph E. Obr and Patty Allen were present for Department of Environmental Quality. The following rules were before the Committee:

ENVIRONMENTAL QUALITY DEPARTMENT[400]	
Public water supplies, 22.2(1), 22.4(3)"d", 22.4(4)"c", 22.4(5)"d", 22.5(2)"a", 22.5(3)"d", 22.6, 22.7	ARC 3024 ..F.....7/7/82
Sulfur dioxide emissions, 4.3(3), notice ARC 2637, 2741 terminated	ARC 3023 ..N.....7/7/82
Anaerobic lagoons, 4.5(4), filed emergency	ARC 3023 ..F.....7/7/82
Waste water construction and operation permits, 19.2(12)"b"	ARC 3077 ..N.....7/21/82

4.5(4)b(1) According to Murphy, ARRC requests had been met. No questions. Murphy informed Clark that 4.5(4)b(1) set a limit on sulfate content of water that goes into the lagoon as provided by statute. Clark was not supportive of the rule even though she understood the problems.

19.2(12)b Allen, compliance officer, said 19.2(12)b provides for a new priority system for construction grants program required by the Clean Water Act.

Oakley requested a copy of the comments from the public hearing. No Committee action taken.

INDUSTRIAL COMMISSIONER  
 Robert C. Landess, Industrial Commissioner, and Mary Weibel, legal analyst, represented the Commission for review of the following:

INDUSTRIAL COMMISSIONER[500]	
Purpose and function, 1.1, 1.2, filed emergency	ARC 3035 ..F.F.....7/7/82
General provisions, 2.2, 2.3, filed emergency	ARC 3036 ..F.F.....7/7/82
Forms, 3.1, filed emergency	ARC 3037 ..F.....7/7/82
Contested cases, 4.1, 4.29, 4.30, 4.35, filed emergency	ARC 3038 ..F.F.....7/7/82
Settlements and commutations, 6.3(2), filed emergency	ARC 3039 ..F.F.....7/7/82
Substantive and interpretive rules, 8.3, 8.5, 8.8, filed emergency	ARC 3040 ..F.F.....7/7/82

Landess summarized the agency's emergency filed amendments which he considered to be noncontroversial. No action taken by the Committee.

NATURAL RESOURCES  
 Mike Smith, Staff Rulemaking Coordinator, was present for discussion of permits to divert, store or withdraw water, floodway construction, 3.1(4), 3.2(3)"c", 5.60(2)"c", delayed at June meeting, ARC 2866, IAB 5/12/82. Also present: Ken McNichols and Floyd Millen, Iowa Limestone Producers Association.

NATURAL  
RESOURCES  
COUNCIL  
Cont'd

Smith referred to Items 2 and 3 which Limestone Producers and INRC refer to as the "berm requirement." Under certain circumstances, the Council would attempt to require a quarry operator to control surface drainage from going into a quarry. Smith had nothing new to report since the ARRC delayed the effective date of ARC 2866 for 70 days.

McNichols reiterated the position of the Iowa Limestone Producers that an extreme financial burden would be imposed as a result of rules which were unnecessary. Holden referenced a copy of a geological survey, which had been mailed to Committee members by INRC. He did not believe the survey, which addressed the numerous sinkholes in Iowa, substantiated the position of the Resources Council. Holden concluded that requiring use of berms by the limestone quarries was possibly just "scratching the surface."

Smith agreed that, in some areas, Holden's point might very well be valid but he called attention to the areas where soil covers the limestone and it is not pock-marked with sinkholes. Smith contended, "If a quarry is excavated into an aquifer, it is the same thing as a big sinkhole." He suggested that the Committee consider Item 1 -- 3.1(4) -- separately from Items 2 & 3. He continued that Item 1 applies only to direct intentional diversion into a quarry or sinkhole by tile or ditch. Items 2 and 3 address the situation where quarries are opened.

Holden asked McNichols to discuss the usual practice in operating a quarry. McNichols responded that, in limestone operations, the quarry has to be de-watered and under no circumstance does the operator allow the water to run into the quarry. He argued there was no problem. However, the rules could make it necessary for quarry operators to spend literally thousands of dollars for legal expenses to answer complaints. McNichols expressed respect for Smith who has "a tough job, but is working with some bad information." McNichols failed to understand why a rule was needed to "correct a problem that doesn't exist."

Smith pointed to the problem of pumping water and noted McNichols had failed to mention that some operations do not run 24 hours a day--they operate by market demand. If there is no way to divert surface water during the idle period, that is when pollutants wash into the surface and spread out to the aquifer. Smith said that under normal nonpumping conditions, the hole is 20 feet deep with 10 feet of water -- the level of ground water. Polluted surface water would take the level of the ground water and pollutants would spread out into that ground water system.

Millen declared the rules were entirely discriminatory against limestone quarries since the INRC had ignored other types of mining, e.g., coal, gypsum. Smith emphasized that those arguments were carefully considered, but water travels through cracks, crevices and fissures, not through tiny pores as it does in sand and gravel. He reiterated that sand and gravel are better purifiers. Although it won't filter out dissolved pollutants, it is a better natural filter for suspended pollutants. There was lengthy discussion on aquifers--quality of water, contamination, pollutants and runoff.

8-3-82, 8-4-82

NATURAL  
RESOURCES  
COUNCIL  
Cont'd

Schroeder observed that "We are embarking on a new horizon and questions remain." He moved to delay the effective date of Items 1, 2 and 3 -- ARC 2866 -- 45 calendar days into the 1983 General Assembly to allow the legislature to address the issue.

45-day  
delay

Priebe assumed the appropriate committees to review the rules would be Natural Resources and Commerce. Tieden inquired if berms would be built this year. Smith was not aware of documented evidence of pollution of a quarry site-- only the potential. Tieden reasoned that delay of the rules would have little impact if berms won't be constructed this year. Smith could not be sure but he did not foresee an immediate problem. He was more alarmed about the delay of Item 1 than he was about Items 2 and 3.

Vote

The Schroeder motion carried unanimously.

It was Oakley's observation that no one involved in water resources thinks the rules are unreasonable. His office had considered them very carefully. Oakley indicated he would recommend "For whatever it is worth, that Natural Resources Council raise the question as to whether they wish to proceed with the enforcement of the rule they promulgated, which would, of course, raise in that context the question of the 45-day delay." He contended the "issue is so clear -- one within the discretion of the agency and a rational rule the courts would support." He made it clear that "We cannot stand aside on this kind of rule that has that kind of support except for a few people who find it objectionable without at least being of assistance to the agency pursuing what they think is a very good policy decision."

Recess

Priebe recessed the meeting at 3:30 p.m. to be reconvened Wednesday, August 4, 1982.

Reconvened

Chairman Schroeder reconvened the Committee at 9:05 a.m. in Room 22. All members were present.

COMMERCE  
COMMISSION

Ben Stead, Counsel, was present for review of the following Commerce Commission rules:

COMMERCE COMMISSION[250]  
 Technical corrections, 1.5, 1.7, 7.4, 15.10, 20.5, 21.5, 21.7, 22.5, 24.1, 24.2, 24.3, filed emergency ARC 3048 .F.F. .... 7/21/82  
 Telephone utilities, inside wiring, amended notice, 16.5, 22.11 ARC 3056 ..... N ..... 7/21/82  
 Telephone utilities, terminal equipment, ch 22 ARC 3057 ..... N ..... 7/21/82  
 Telephone utilities, unpaid deposit, 22.4(5)h(1), filed emergency ARC 3042 .F.F. .... 7/7/82

No questions were posed re ARC 3048.

The amended notice, pertaining to inside telephone wiring, was considered. Stead anticipated there would be comments from the Commission staff on the boundary line situation between two different telephone utilities. The Commission takes the position that territorial boundaries, even though not codified, are still important. Holden and Schroeder could envision problems. Mention was made that metered service might be a solution to controlling costs.

COMMERCE  
COMMISSION  
Continued

Schroeder questioned if the industry was satisfied and Stead replied one area will be addressed to prohibit a customer from setting up his own system.

Holden observed that rates can no longer be based on equipment. Oakley was interested in knowing if Commerce had prepared information as to the general impact from the consumer's standpoint. Stead informed him that the Department will request that information from the five rate-regulated companies. As far as existing inside wiring, that will be determined by the transition date. As of that date, all inside wiring presently on premises will be considered existing. Rules clearly state that accounts that include existing inside wiring will be capped and there will be a maximum of a 10-year amortization period of that amount included. Prospectively, it will all be a nonutility function with no rate impact. There was discussion that unregulated companies will have the same problems.

Stead continued that they anticipate that nonregulated companies will follow the regulated in the practice.

In Holden's opinion, the small companies will "walk away" from it and depreciate it out. Oakley reasoned that would trigger a substantial rate impact. Holden disagreed with the contention there would be no rate impact.

Stead said he was making a distinction between the rate regulated where you have the account capped as of a date certain and it is amortized over 10 years. For the non-rate regulated, since they establish their own charges, it can be done in a number of different ways. They are not bound by these rules. He anticipated that most would want to follow.

Chiodo asked what the cost, for a typical home, would be for inside wiring. Stead did not have the information. A lobbyist for the industry estimated from \$75.00 to \$100.00. Chiodo did not envision a greater impact on the customer. Stead pointed out the proceeding resulted from an FCC rating.

ch 22

22.4(5)h(1)

Responding to Oakley, Stead believed the Commission would move quite rapidly to complete rules on terminal equipment. Amendment to 22.4(5)h(1) clarifies that customers have 12 days from the date of mailing within which to comply with request for a new or additional deposit.

Real  
Estate  
Loans -  
Discussion  
resumed

[See also  
page 1767]

Discussion of Real Estate Loans was resumed. The pending question being whether Auditor, Banking and Credit Union Departments' rules should be adopted under emergency provisions of chapter 17A. Oakley took the position that a decision on the matter should depend upon the nature of public comment. Barring adverse reaction, he thought it would be advisable to allow the emergency implementation. This would get the financial institutions on "equal footing 45-50 days sooner." He did not envision a problem from the legal standpoint. He emphasized this would not be done before consulting with ARRC.

Royce opined the rules would benefit the industry and he did not anticipate a great deal of public comment. However, he

AUDITOR  
BANKING  
CREDIT  
UNION

wondered why the three sets of rules were not more uniform in nature. Oakley observed they were consistent with respect to concern about soundness of the institutions and, operationally, they will be similar. He concluded if there should be disagreement among the 3 agencies, possible legislation could clarify the matter.

No formal action taken.

SOCIAL  
SERVICES  
DEPARTMENT

Judith Welp, Rules and Manual Specialist, Elizabeth Hagerty, Income Maintenance, and Gary Gesaman, Manager, Long Term Care, appeared on behalf of the Department of Social Services for review of:

SOCIAL SERVICES DEPARTMENT[770]

Fair hearings and appeals, 7.1(15), 7.5, 7.7, 7.9	ARC 3064	FA	7/21/82	
Fair hearings and appeals, 7.22	ARC 3063	FA	7/21/82	
ADC, 40.1, 40.2(5), 40.4, 40.5, 40.7, 41.2(10)"h", 41.5(5)"a", 41.6(1), 41.6(2), 41.7, 44.5, 46.4(3)"a"	ARC 3014	FA	7/7/82	
ADC, 40.2, 40.3	ARC 3065	FA	7/21/82	
Intermediate care facilities, intermediate care facilities for mentally retarded, 81.6(11), 82.5(11)	ARC 3066	FA	7/21/82	
Prison population, 16.10, filed emergency	ARC 3015	FA	7/7/82	
ADC, eligibility, 40.1, 41.7, 41.8, filed emergency	ARC 3058	FA	7/21/82	
ADC, need standards, 41.8(2)	ARC 3013	N	7/7/82	
ADC, unemployed parent program, ch 42	ARC 3062, also filed emergency	ARC 3059	FA	7/21/82
Supplementary assistance, 52.1(1), filed emergency	ARC 3060	FA	7/21/82	
Food stamp program, 65.3, filed emergency	ARC 3061	FA	7/21/82	

ch 7

No recommendations were offered for chapter 7 amendments.

7.22

Welp explained that several changes were made in 7.22 as a result of public comment. Persons may request in-person hearings in place of a teleconference. Intent is to use teleconferences for situations where the policy is being challenged rather than facts of their own situation.

In discussing time limits, Schroeder requested DSS to add a provision that once a teleconference has been agreed upon, but is canceled at the last minute by the client, the Department would have discretionary rescheduling.

In response to Royce, Welp said they expected the cost of the conference to be less than the travel cost for an in-person hearing. She did not have figures on the cost of equipment.

ARC 3014

In re ARC 3014, ADC monthly reporting, Welp announced several changes had been made as a result of public comment. A major change was an attempt to provide a waiver for monthly reporting for certain recipients--e.g., those with no income, those with social security and no recent work history.

40.7(1)

Discussion of status of waivers and problems involved in the process of obtaining more documentation to substantiate them. Clark, looking at it from a common sense point of view, reasoned that basically, government requires excessive documentation. She referred to 40.7(1)b, c and asked if it were a federal requirement for ADC foster care cases to be reviewed every 6 months and unemployed parent cases to be reviewed monthly. She had been informed that the Department does not keep within the time frame. Welp contended cases have to be reviewed at least every six months and face-to-face interviews are required annually. She added that many are "desk reviews." There was brief discussion as to how DSS investigates authenticity of job searches.

SOCIAL  
SERVICES  
Cont'd

Hager cited lack of staff as a handicap. Welp said quality control picks up a certain portion of the cases -- workers go by the prudent person concept. Schroeder thought a random check would be a good idea.

Welp distributed the monthly reporting form and the client instruction booklet for Committee perusal. There were no questions concerning ARC 3065, 3066, and 3015.

ARC 3058 -- ADC eligibility -- Welp explained that the rule increases the schedule of basic needs by 15 percent. The eligibility test will contain three parts. Schroeder questioned the end result of the changes and Welp responded that more families would qualify for ADC--statewide, 286 families could be added.

- 41.7(9)a The definition of "countable gross income" was discussed.
- 41.8(3) Re subrule 41.8(3), Welp stated that DSS has defined needs to include special needs--from the law. Welp continued that 41.8(2) defines the components that make up basic needs and has been in the DSS manual for years. She said the chart is based on the proportion of the income; percentage of the grant would be for shelter. It is used to determine the amount of income in kind. Royce observed the actual cost was not reflected. Welp spoke of the administrative problems. General discussion.
- Welp informed the Committee that chapter 42 would be a tighter program due to legislative intent and newer federal regulations. In response to Chiodo question of 42.6(239), Welp pointed out that the law excluded the nonqualifying parent from ADC eligibility. However, if the parent had income or resources, a certain amount of that would have to be counted as being available to the rest of the family. Clark suggested the word "offer" be added following "bona fide" in 42.1(4).
- 42.1(4)
- 42.5 Schroeder inquired if provision of 42.4(5)c presented problems. Welp advised that DSS must accept Job Service's determination. She added that WIN II programs seem to be decreasing.
- 52.1(1) No questions with respect to 52.1(1).
- 65.3 Welp said, in re 65.3, that 3 mandatory federal regulations were adopted. There was discussion of food stamps and drug and alcohol treatment programs for Indians. According to Welp, Iowa doesn't fund drug treatment programs for Indians. Priebe mentioned the problem of alcohol use by food stamp recipients and the fact that the state cannot require treatment for program participation. Welp reminded him that a change would have to be made at the federal level.

Holden referenced material from Welp re billing by hearing aid dealers. It was his opinion the information was obscure. He asked if the Department required more specifics but Welp was not sure how that claim was filled out. Holden thought the state, as third party payer, had the right to demand better records. Welp noted this would be addressed in the 8/18/82 IAB.

8-4-82

Recess

Schroeder recessed the Committee for five minutes. Meeting was reconvened at 10:25 a.m.

TRANSPORTATION DEPT.

Jane Phillips, Counsel, Transportation Regulation Authority, Bob Ewald, Assistant Attorney General, Beverly Allen, Administrative Assistant, Railroad Division, represented the Department of Transportation for review of the following:

TRANSPORTATION DEPARTMENT[820]	
Contested cases. [01.B] 3.1, 3.2, 3.15 ARC 3045	N..... 7/21/82
Contested cases. [01.B] 3.14 ARC 3045, also filed emergency	ARC 3044 .. FE..... 7/21/82
Railroad-highway grade crossings. [06.A] ch 1; [06.C] ch 3	ARC 3029 .. N..... 7/7/82
Motor carrier-application. [07.F] 4.5(2), 4.5(3)	ARC 3034 .. N..... 7/7/82
Liquid transport carrier application. [07.F] 13.4(2), 13.4(3)	ARC 3033 .. N..... 7/7/82
Railroad transportation division reorganization. [10.A] to [10.F]	ARC 3030 .. N..... 7/7/82

Ewald briefly reviewed the four items contained in ARC 3045. Rule 3.14 was necessitated by the new OMVUI law and additional paralegals have been hired. He anticipated there would be additional contested cases.

4.5(3)a

Clark referred to 4.5(3)a and took exception to the words "The department reserves the right to require additional amounts as it may deem necessary." Phillips indicated DOT would expect to substantiate any additional amounts required. Research had been done and \$350 seemed to be a reliable average. Clark preferred clarification. Responding to Tieden's question as to previous hearing fee, Phillips stated it was a \$400 deposit. Tieden called attention to an identical problem in 13.4(3)a. Phillips was amenable to clarifying the two subrules.

13.4(3)a

There was brief review of railroad transportation division reorganization and railroad highway grade crossings. Allen commented the rules were rewritten to coincide with state and federal amendments.

Members questioned department officials with respect to [10B]--3.3(3)--rumble strip designs. Schroeder wondered if that would create problems for contractors. Allen said the bike path would be on the outside edge of the highway.

Holden wondered if the grooved rumble strips would hasten highway deterioration since water would not drain away. Allen was willing to research the matter and sent a written response to Holden.

No further questions.

REVENUE DEPARTMENT

Carl Castelda, Deputy Director, Mel Hickman, Assistant Director, Excise, and Brian Bruner, Equalization Supervisor appeared on behalf of the Revenue Department. The following agenda was reviewed:

REVENUE DEPARTMENT[730]	
Real estate tax and value. 79.2, 79.5	ARC 3076 .. F..... 7/21/82
Filing returns, payment of tax, penalty and interest. ch 12; determination of sale and sale price. ch 15;	sales and use tax on services. ch 26; vehicles subject to registration. ch 34
Administration. 63.8, 63.27; motor fuel. 64.4(3), 64.4(4), 64.8; special fuel. 65.8, 65.20	ARC 3031 .. N..... 7/7/82
	ARC 3032 .. N..... 7/7/82

Also present: Jim West, representing Iowa Automobile Dealers Association.

No questions with respect to ARC 3076, real estate tax and value.

REVENUE DEPARTMENT Continued

Amendments to chapters 12, 15, 26 and 34 were as a result of legislative change re penalties for overdue taxes. Discussion centered on 15.19.

15.19

Chairman Schroeder recognized West who contended the purpose of the legislation was not to impose a new tax. He had no problem with the rule as written only with the department's interpretation and he referred to Example 5 in 15.19(2)b-- trade allowance for battery. Many traded-in automotive parts are broken down into component parts and used to assembly remanufactured items--e.g., carburetors, fuel pumps, alternators, water pumps, brake shoes etc. West continued that the rule did not address the situation when a part is sold to a third party for remanufacturing. However, the Department maintains that the trade-in exemption would not apply in these instances. West emphasized there could be long range ramifications into other areas where parts and appliances are remanufactured. The question was posed to the Department because the Association must advise dealers. General discussion of the matter.

Castelda told Holden that exchanges were subject to sales tax under the old law. Castelda gave a detailed history of the law. The "trade-in" rule had been rewritten to address concerns of the ARRC. The criteria which were included in the tangible personal property portion of the rule--vehicles are separate because they are covered in chapter 423--were at the direct request of the Administrative Rules Review Committee.--that was the like-trade, like-property issue and the fact that tax would ultimately be collected on the transaction. Castelda emphasized if the part can be traced, then the Department may allow it as a trade-in exemption. He acknowledged that the automobile dealers could petition the Department for a declaratory ruling. In the exemption statute, the burden of proof is on the person claiming the exemption. Castelda concluded that if the transaction does not fit the statute, the Department has no recourse.

After further discussion, Castelda agreed to provide Schroeder with proposed legislation on the issue. However, it would not be submitted as part of the Department's legislation package.

Motion

Priebe moved that the ARRC notify the legislative Ways and Means Committees of the controversy and that the Revenue Department work with them.

Motion carried viva voce. No questions re ARC 3032.

HEALTH DEPARTMENT deferred

It was decided that Health Department rules would be deferred until the afternoon session of this Committee.

REAL ESTATE COMMISSION

Ken Smith, Administrative Officer, and Gene Johnson, Director, represented Real Estate Commission for review of the following:

- REAL ESTATE COMMISSION[700]
- Branch offices, 1.25(2) ARC 3072 ... *N*..... 7/21/82
- Broker's responsibility, 1.30, filed emergency ARC 3073 ... *FE*..... 7/21/82

1.25(2)

Johnson recalled that the Code has provided for duplicate licenses in branch offices since 1935 but there have been no rules.

REAL ESTATE In answer to Priebe as to how many duplicate licenses are  
COMMISSION needed, Johnson said there should be one for each office  
Continued and the cost is \$10 per license per year. Priebe opined it  
was "ridiculous."

PAROLE Robert G. "Tim" Tangeman, Hearing/Liaison Officer, Board of  
BOARD Parole, was present for review of the following:

PAROLE BOARD OF [615]		
Initial interviews, 3.6(2)	ARC 3002	.....N.....7/7/82
Findings of hearing officer, 7.5(13)	ARC 3003	.....N.....7/7/82
Hearing, 7.6(2)	ARC 3004	.....N.....7/7/82
Waiver of probable cause hearing, 7.7(2)	ARC 3005	.....N.....7/7/82
Requests for reconsideration or appearance, 9.1	ARC 3006	.....N.....7/7/82

No questions re ARC 3002 and 3003. Priebe questioned authority for 7.6(2) which would allow the Board to designate other locations for hearings. He argued this would work a hardship on inmates. Oakley supported the concept and noted that not all inmates are confined to the 3 institutions. Tangeman discussed a case where the hearing had been held in Des Moines to the advantage of all concerned.

Tieden inquired if it would be possible to include a "general agreement." Priebe thought that to be acceptable. Schroeder suggested that more study be given to 7.6(2). Tangeman agreed to relay the recommendation to the Board.

Royce advised there was statutory authority for 7.6(2). No other questions.

BOARD OF Helen Lobis, Assistant Director, Nursing Practice; Jeanne  
NURSING Wilson, Associate Director, Continuing Education; Wilda Wagner, Associate Director of Nursing Education, appeared on behalf of the Board of Nursing. Also present: JoAnne Han-naseh, RN, Director, Department of Nursing, Iowa Hospital Association.

The following rules were before the Committee:

NURSING, BOARD OF [590]		
Nursing practice, 6.1(14), 6.3(2), 6.3(3)	ARC 3020	.....F.....7/7/82
Licensing examination, 3.1(1), 3.1(5), filed emergency after notice	ARC 3019	.....FEAN.....7/7/82

No questions re ARC 3020. In re licensing examination, ARC 3019, Lobis said the problem with respect to retaking the test had been resolved. Hereafter, everyone will be required to retake the complete test. Schroeder could see merit in allowing a partial retake.

No formal action taken.

BOARD OF William M. Schroeder, Executive Secretary, and Dr. Gaylon  
ACCOUNTANCY Halverson, Board Member, were present on behalf of the Board of Accountancy. Registration and licensing, 6.1, 6.4, 12.9(1), filed emergency after notice, ARC 3019, IAB 7/7/82 was before the Committee.

The Chairman was informed that the amendments were filed emergency to implement HF 2067 which provides that licensees who fail to renew certificates will have the license auto-matically revoked. - 1779 -

BOARD OF ACCOUNTANCY

Re notification, 6.4(2), Holden requested inclusion of a provision for immediate notification of failure to renew. He noted that licenses expire June 30 and expressed preference for the fee to be paid before the expiration date.

Recess

Chairman Schroeder recessed the Committee at 11:50 a.m. to be reconvened at 1:15 p.m.

Reconvened

The Committee was reconvened at 1:23 p.m. in the Legislative Dining Room.

HEALTH DEPARTMENT

The following Health Department agenda was before the Committee:

- HEALTH DEPARTMENT[470]
- Public health nursing services, ch 79 amendments; homemaker-home health aide, ch 80, filed emergency ARC 3055 F.A. 7/21/82
- Medical examiners, physicians assistants, ch 136 amendments, filed emergency ARC 3054 F.A. 7/21/82
- Long-term care facilities, 263.5, 263.6, notice A.C. 2234 terminated ARC 3047 N. 7/21/82
- Medical examiners, requirements for licensing examination, 135.102(5) ARC 3011 F. 7/17/82
- Medical examiners, prescribed prescriptions, 135.204(3)rd ARC 3010 F. 7/17/82
- Hearing aid dealers, license renewal and continuing education, 145.5(1), 145.6(2), 145.10, 160.8 ARC 3012 F. 7/17/82
- Nonpublic water wells, 45.6(3), 45.7(2) ARC 3028 N. 7/17/82
- Special Nursing home administrators -- license by reciprocity.....IAC
- Peview Licensing Board
- Radiographers, ch 42, delayed at June meeting .....IAC

Health Department was represented by Norman Pawlewski, Commissioner, Don Flater, John Eure, Ted Ellis, Deputy Commissioner, S. F. VanderWoude, J. R. Kelly, James Krusor, Ronald Eckoff, Peter Fox, Mark Wheeler, Kenneth Choquette and Irene Howard. Also present: Ken Sullivan, Picker Corporation; Cindy Windsor, President, Marilyn Holland and Margaret Page, Legal Affairs, Iowa Society of Radiologic Technologists; Jeanne Boesen, League of Women Voters; Pat Howell and Merlie Howell, Iowa Council for Homemaker-Health Aid Services; Shirley Kiser, Home Health Aid and Mobile Meals, Inc.; James B. West, Legal Counsel, Iowa Medical Society; Dennis Jurgens, RT, Winterset; David Foy, Radiologist, Des Moines General Hospital; Richard Hamilton, Osceola Community Hospital, Sibley; Marlys Scherlin, Baum Harom Memorial Hospital, Primghar; W. Dagtberg, Community Memorial Hospital, Sheldon; George Garwood, RN, Virginia Gay Hospital, Vinton; David E. Rutter, Dallas County Hospital, Perry; Greg Hanson, Audubon County Memorial Hospital, Audubon; Larry Crail, Administrator, Hancock Memorial Hospital; Terry Boese, RT, Ringgold County Hospital; Bruce Johnson, Story City Hospital; Ted Yanecek, Iowa Farm Bureau, Richard Thelie, Bd. of Examiners for Nursing Home Administrators; Lawrence Craft, Hancock County Hospital; JoAnne Hannaseh, RN, Director, Department of Nursing, Iowa Hospital Association; Norene Jacobs and Richard W. Berglund, Iowa Hospital Association.

chs 79 & 80 Chapters 79 and 80 were considered. No suggestions were offered. Holden referred to ARC 3012 and inquired as to the type of evidence required to verify completion of continuing education. Howard cited proof of attendance, certificate copy or letter issued by the sponsor of the program.

Nursing Home Administrators

Dr. Richard Rabe, Board Chairman, Dr. Mary Heltsley and S.S. VanderWoude, Board Members appeared on behalf of Nursing Home Administrators for special review of license by reciprocity.

Heltsley reviewed reciprocity provisions of their rules. Vice Chairman Priebe alluded to a misunderstanding with Howard concerning a problem referred to him by constituent Becker.

8-4-82

HEALTH  
Nursing  
Home  
Adminis-  
trators  
Cont'd

Becker had submitted an application in December and, in March, had not yet received response. At that time, Becker contacted Priebe, who in turn, telephoned Howard. Priebe expressed dissatisfaction with Howard's indifference to the matter. Priebe referred to 2.7(2)d(4) and questioned the requirement for business law courses. Heltsley responded the Board believed it to be a logical requirement since administrators need a knowledge of law.

There was lengthy discussion about Iowa's qualifications for licensure and the fact that there should be some uniform nation-wide standards. Howard estimated that 1/3 of the states have requirements equal to Iowa's criteria.

After questioning by Oakley, Rabe indicated that the Board had appeared before the Professional and Occupational Regulation Commission but had received no adverse comments regarding educational requirements. Oakley requested Rabe to provide him and the Committee with a copy of that review.

Oakley recalled that 2 years ago, a key issue was that Iowa did not want to become a training ground for chain nursing home operators. The state had been inundated "with complaints" of maladministration.

Schroeder suggested the Committee ask the Nursing Home Administrator Board to rereview the rules and send a letter if there are areas that need modification. The ARRC concluded that some effort should be made to work out a uniform plan with other states.

HEALTH  
Wells

Choquette gave a brief review of the revision of rules which will allow a "well frost pit" in connection with new construction on nonpublic wells. Re 45.7(2), Schroeder was not sure the pit floor was needed between two tiles and he questioned the need for a lip on the manhole cover.

Eure advised him the main purpose of the lip was to allow for centering of the manhole cover. Schroeder preferred that the lid be no more than two inches larger. He doubted that the opening had to be three inches around outer diameter of tile for grouting.

Schroeder urged that pressure pumps be allowed in pits so long as drilled wells are sealed--an exception would be for NE Iowa. Choquette reminded the Committee that the majority of pit problems are related to frost pits that are not sealed thus allowing contamination directly into the well. Pawlewski pointed out the matter would be under the jurisdiction of the new WAWM agency next year.

Radiology  
ca 42

Chairman Schroeder announced continued review of chapter 42--radiographers--which was delayed at the June meeting. He asked those who wished to make presentations to identify themselves. Boesen spoke in support of the rules as being reasonable, flexible, and in the best interest of the Iowa Public.

HEALTH  
DEPT.  
Cont'd

Page spoke against the possibility of taking radiology<sup>8-4-82</sup> back to primitive times. She cited harmful effects of radiation and stressed the importance of proper training.

Ch 42

Holland referred to Public Law 97 passed in 1981 which mandated persons who administer radiologic procedures to be required to demonstrate competence by reason of education, training and experience. She added that the Health Resources Administration was given one year to write minimum standards which will be available by August 13--every state will be asked to comply.

Eure emphasized the federal standards are goals to be met. Oakley was informed by Holland that the radiographer occupational group was scheduled to appear before the Professional and Occupational Regulation Commission in January.

Boese presented results of a survey he had conducted last spring of 15 small hospitals, 5 of which were actively seeking registered technologists, but were unable to find them.

There was discussion concerning involvement of the American Medical Association in determining the number of students for the program and the fact that the profession was not highly paid.

West spoke of the "tremendous impact upon the cost of medical care." He contended, "It has become very clear that there is a side issue--RT's are in the process of seeking licensure." He thought another rule should be added to set out which procedure may be performed by limited diagnostic radiographers. He noted that 42.1(6)--relating to exemption for students--does provide some relief. Eure contended this was not licensure but an attempt to set down training standards and react to the small hospital situation. He spoke of curriculum being developed through DPI and the community college system.

Jacobs reviewed happenings since the 70-day delay had been imposed and cited specific problems faced by small hospitals, which in her opinion, had not been addressed by the Department. She quoted statistics from a survey conducted by IHA of all hospitals under 150 beds. She asked for further delay of the rules until the September 7 meeting of this Committee.

Pawlewski took the position that the Iowa Hospital Association and the Medical Society proposals were unacceptable. "The law was passed to protect the public health, not to make it convenient for radiologists, private practitioners of any of the professions or hospitals." He continued that the size of hospital makes no difference. They should meet minimum standards. Pawlewski stated that the study by Iowa Hospital Association had not been shared with the Department. He denied the Department was proposing licensure under the guise of rules.

Crail reasoned that cross-training allows for a more flexible staff in a 30-bed hospital and provides a larger pool of trained personnel. He estimated that the labor cost of his radiology department would increase by 10.9 percent at a time when they are being told to hold down health care costs.

HEALTH  
DEPT.  
Cont'd

Johnson stated that a cross-training program is utilized in their hospital.

Boese addressed the process used by his hospital on cross-training. He did not consider equipment problems as a major factor and took the position two years of training was not needed. Jurgens had cross-trained laboratory personnel. He had served on the Ad Hoc Committee and favored minimum training. It was his opinion, however, that small hospitals must be allowed to cross-train personnel.

Scherlin produced an increased cost summary. Hansen estimated increased costs of 48% would be transferred to patients. He alluded to problems of recruitment. Rutter had never had more than one registered technician in his 53-bed hospital. Two cross-trained employees worked nights.

Garwood viewed the issue from an economic standpoint and warned that hospital costs will increase. He favored safety of patients but he knew of no problems with those who work with X-ray.

Hamilton observed the bottom line is that the physician and radiologist are responsible. He pointed up the importance of protection of the patient.

Chairman Schroeder reviewed the history of ARRC action and mentioned that the 70-day delay would expire September 9. He preferred to wait until the September 7 meeting of the ARRC before taking further action. He was hopeful a compromise could be reached.

Holden was of the opinion that it must be understood smaller community hospitals cannot offer everything of the large city hospital, but he recognized the important role of the small hospital.

Oakley offered a word of caution about the procedure to follow in the event changes are made. Those who find the rules acceptable as they are should have an opportunity to comment on the changes. Information re small hospitals will be compiled by the Department and copies furnished to the ARRC and the Iowa Hospital Association.

Pawlewski informed Priebe that he had appointed the Ad Hoc Committee and Eure had appointed the study group to work with DPI in developing the 100-hour curriculum.

Clark suspected there was a tendency to X-ray excessively when sophisticated equipment and abundant expertise were available.

July  
Minutes

Chairman Schroeder called for disposition of the minutes. They were approved as submitted.

Mental  
Health  
Advisory  
Council

Barry asked for and received authorization to remove chapter 1 of the Mental Health Advisory Council rules from the IAC. The agency was repealed by 69 GA[1981 Acts].

No Representatives      No agency representatives were requested to appear for the following:

- COLLEGE AID COMMISSION[245]  
National Guard, scholarship and grant program, 9.1(1)"f" and "g" ARC 3021...F.....7/7/82
- PUBLIC INSTRUCTION DEPARTMENT[670]  
Handicapped school bus drivers, 22.15(2), 22.43(1)"c" ARC 3017 .F.....7/7/82
- MERIT EMPLOYMENT DEPARTMENT[570]  
Conduct of appeal hearings, grievances and complaints, 12.10, 15.3, 15.9(2) ARC 3016 ..F.....7/7/82

Adjourned      The next meeting was scheduled for September 7 and 8, 1982, one week earlier than the statutory date.

Adjourned      Chairman Schroeder adjourned the meeting at 4:10 p.m.

Respectfully submitted,

*Phyllis Barry*  
 \_\_\_\_\_  
 Phyllis Barry  
 Assisted by Vivian Haag

APPROVED:

*Lewne Schroeder*  
 \_\_\_\_\_  
 CHAIRMAN