



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

KATHLEEN K. WEST, Administrative Code Editor

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**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

## Schedule for Rule Making 2008

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 26 '07*</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11 '08	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sept. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sept. 22
Mar. 21	Apr. 9	Apr. 29	May 14	<b>***May 14***</b>	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	<b>***June 25***</b>	July 16	Aug. 20	Nov. 17
<b>***May 14***</b>	June 4	June 24	July 9	July 11	July 30	Sept. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sept. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
<b>***June 25***</b>	July 16	Aug. 5	Aug. 20	<b>***Aug. 20***</b>	Sept. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sept. 3	Sept. 5	Sept. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sept. 2	Sept. 17	Sept. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sept. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
<b>***Aug. 20***</b>	Sept. 10	Sept. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sept. 5	Sept. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sept. 19	Oct. 8	Oct. 28	Nov. 12	<b>***Nov. 12***</b>	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	<b>***Nov. 26***</b>	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	<b>***Dec. 10***</b>	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 18 '09	May 18 '09
<b>***Nov. 12***</b>	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
<b>***Nov. 26***</b>	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
<b>***Dec. 10***</b>	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 8, 2008	February 27, 2008
19	Friday, February 22, 2008	March 12, 2008
20	Friday, March 7, 2008	March 26, 2008

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

## SUBSCRIPTION INFORMATION

In 2008, mail subscriptions to the Iowa Administrative Bulletin and the Iowa Administrative Code will be discontinued, and Internet updating and printing options will be instituted through the Iowa General Assembly's Internet home page: [www.legis.state.ia.us](http://www.legis.state.ia.us).

**\*Please note that until the Internet updating and printing options are operational, subscriptions will be continued at no cost to the subscriber until the Internet updating and printing options become operational.**

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The Administrative Rules Review Committee will hold a special meeting on Friday, February 8, 2008, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **CORRECTIONS DEPARTMENT[201]**

Iowa state industries, ch 37, Notice **ARC 6538B** ..... 1/16/08

#### **DENTAL BOARD[650]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Dental assistants, 20.2, 20.4(2), 20.16"1," 22.1, Filed **ARC 6569B** ..... 1/30/08

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Entrepreneurs with disabilities (EWD) program, 56.20, Notice **ARC 6530B** ..... 1/16/08

#### **ELDER AFFAIRS DEPARTMENT[321]**

Complaint and contested case procedures for persons affected by actions of an AAA, the department,

or the commission, 2.9, 2.10, Filed **ARC 6548B** ..... 1/30/08

Senior internship program, ch 10, Filed **ARC 6549B** ..... 1/30/08

Waivers or variances from administrative rules, 11.2, 11.17, Filed **ARC 6550B** ..... 1/30/08

Rules and practices in contested cases, ch 13, Filed **ARC 6551B** ..... 1/30/08

Declaratory orders, ch 18, Filed **ARC 6552B** ..... 1/30/08

#### **EMPOWERMENT BOARD, IOWA[349]**

Community empowerment gifts and grants accounts, 1.4, 1.6(3)"p," 1.9, Notice **ARC 6584B** ..... 1/30/08

#### **ENERGY INDEPENDENCE, OFFICE OF[350]**

Definitions; organization; Iowa power fund; public records; rule making;

declaratory orders; waivers, chs 1 to 4, 51 to 55, Filed Emergency After Notice **ARC 6577B** ..... 1/30/08

#### **HUMAN SERVICES DEPARTMENT[441]**

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- Milk and milk products, rescind ch 13, Filed Without Notice **ARC 6578B** ..... 1/30/08
- Swimming pool registration, 15.6(2)"d," 15.9(3), Filed **ARC 6570B** ..... 1/30/08
- Garbage and refuse, rescind ch 16, Filed Without Notice **ARC 6579B** ..... 1/30/08
- Sanitation of habitable buildings, rescind ch 17, Filed Without Notice **ARC 6580B** ..... 1/30/08
- Tourist camps, trailer camps, cabin camps, construction camps and  
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- Mass gatherings, rescind ch 19, Filed Without Notice **ARC 6582B** ..... 1/30/08
- WIC program—sharing of contact information with other department programs, 73.2, 73.3,  
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- Healthy families Iowa (HFI), ch 87, Filed **ARC 6572B** ..... 1/30/08
- Interagency coordinating council for the state medical examiner, ch 124,  
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- Advisory council for the state medical examiner, ch 125, Filed **ARC 6574B** ..... 1/30/08
- Awards and grants, 176.1, 176.2, 176.4 to 176.7, 176.8(1), 176.8(10), Filed **ARC 6575B** ..... 1/30/08

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- DUI testing—sample collection, 157.3, Notice **ARC 6544B**, also Filed Emergency **ARC 6543B** ..... 1/16/08
- Electrician and electrical contractor licensing program, chs 500 to 504, Notice **ARC 6536B**,  
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**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Organization; contested cases; licensure; horse racing; gambling games, 1.5(1), 1.5(3),  
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

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- Gambling elections, 21.820, Filed Emergency After Notice **ARC 6555B** ..... 1/30/08

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

- Incident and outage reporting requirements for natural gas, electric, and water utilities, communications providers,  
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**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

**EDITOR’S NOTE: Terms ending April 30, 2011.**

Senator Jeff Angelo  
P.O. Box 604  
Creston, Iowa 50801

Senator Michael Connolly  
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Dubuque, Iowa 52001

Senator Thomas Courtney  
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Burlington, Iowa 52601

Senator John P. Kibbie  
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Representative Linda Upmeyer  
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James Larew  
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>CORRECTIONS DEPARTMENT[201]</b>		
Iowa state industries, ch 37 IAB 1/16/08 <b>ARC 6538B</b>	Corrections Conference Room 510 E. 12th St. Des Moines, Iowa	February 5, 2008 11 a.m. to 1 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Extracurricular interscholastic competition—eligibility, 36.1, 36.14(7), 36.15 IAB 1/16/08 <b>ARC 6531B</b> ( <b>ICN Network</b> )	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	February 5, 2008 2 to 4 p.m.
	Forum Building Dubuque Community School District 2300 Chaney Dubuque	February 5, 2008 2 to 4 p.m.
	Decorah High School 100 E. Claiborne Dr. Decorah	February 5, 2008 2 to 4 p.m.
	Room 113 Mason City High School 1700 4th SE Mason City	February 5, 2008 2 to 4 p.m.
	West Lyon High School 1787 Hwy 182N Inwood	February 5, 2008 2 to 4 p.m.
	Paullina-South O'Brien High School 307 W Groesbeck Paullina	February 5, 2008 2 to 4 p.m.
	Paton-Churdan High School 606 Adrian St. Churdan	February 5, 2008 2 to 4 p.m.
	Laurens-Marathon High School 300 W Garfield Laurens	February 5, 2008 2 to 4 p.m.
	Marshalltown High School 1602 S 2nd Ave. Marshalltown	February 5, 2008 2 to 4 p.m.
	Iowa Falls High School 1903 Taylor Iowa Falls	February 5, 2008 2 to 4 p.m.
	Room 148 Cedar Falls High School 1015 Division St. Cedar Falls	February 5, 2008 2 to 4 p.m.
	West High School Baltimore & Ridgeway Waterloo	February 5, 2008 2 to 4 p.m.

**EDUCATION DEPARTMENT[281]** (Cont'd)

North High School 4200 Cheyenne Sioux City	February 5, 2008 2 to 4 p.m.
AR-WE-VA High School 108 Clinton Westside	February 5, 2008 2 to 4 p.m.
Room 12 Fort Dodge High School 819 N 25th St. Fort Dodge	February 5, 2008 2 to 4 p.m.
Media Center Bettendorf High School 3333 18th St. Bettendorf	February 5, 2008 2 to 4 p.m.
Room 135 Muscatine High School 2705 Cedar Muscatine	February 5, 2008 2 to 4 p.m.
Room 150, Administration Bldg. Cedar Rapids Community School Dist. 346 2nd Ave. SW Cedar Rapids	February 5, 2008 2 to 4 p.m.
Lone Tree Jr-Sr High School 303 S Devoe St. Lone Tree	February 5, 2008 2 to 4 p.m.
Room 157, Vocational Tech. Bldg. Ottumwa High School 501 E 2nd Ottumwa	February 5, 2008 2 to 4 p.m.
Central Decatur High School 1201 NE Poplar Leon	February 5, 2008 2 to 4 p.m.
Clarinda High School 100 N Cardinal Dr. Clarinda	February 5, 2008 2 to 4 p.m.
Lineville-Clio High School 200 W 6th St. Lineville	February 5, 2008 2 to 4 p.m.
Burlington High School 421 Terrace Dr. Burlington	February 5, 2008 2 to 4 p.m.
Fort Madison High School 20th St. & Avenue B Fort Madison	February 5, 2008 2 to 4 p.m.
Des Moines Central Campus 1800 Grand Ave. Des Moines	February 5, 2008 2 to 4 p.m.

**EDUCATION DEPARTMENT[281] (Cont'd)**

Carroll High School 2809 N Grant Rd. Carroll	February 5, 2008 2 to 4 p.m.
Room 206 Audubon High School 800 3rd Ave. Audubon	February 5, 2008 2 to 4 p.m.
Knoxville High School 102 N Lincoln St. Knoxville	February 5, 2008 2 to 4 p.m.
Media Center Lewis Central Middle School 3601 Highway 275 Council Bluffs	February 5, 2008 2 to 4 p.m.
Creston High School 601 W Townline Creston	February 5, 2008 2 to 4 p.m.

**EMPOWERMENT BOARD, IOWA[349]**

Community empowerment gifts and grants accounts, 1.4, 1.6(3), 1.9 IAB 1/30/08 <b>ARC 6584B</b>	Room 142 Lucas State Office Bldg. Des Moines, Iowa	March 4, 2008 10 a.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality, amendments to chs 20 to 23, 25, 33 IAB 1/2/08 <b>ARC 6517B</b>	Air Quality Bureau Conf. Rooms 7900 Hickman Rd. Urbandale, Iowa	February 4, 2008 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Funeral and cremation establishments; licensure of funeral directors, amendments to chs 99 to 104 IAB 1/16/08 <b>ARC 6545B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	February 5, 2008 9 to 9:30 a.m.
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**PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]**

Propane Education and Research Council, ch 1 IAB 1/30/08 <b>ARC 6554B</b>	Conference Room, Suite 8 4830 Maple Dr. Pleasant Hill, Iowa	February 22, 2008 10 a.m.
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**PUBLIC SAFETY DEPARTMENT[661]**

Liquefied natural gas, rescind ch 51; adopt ch 228 IAB 1/30/08 <b>ARC 6567B</b>	First Floor Conference Rm. 125 State Public Safety HQS Bldg. 215 E. 7th St. Des Moines, Iowa	February 21, 2008 8:30 a.m.
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**PUBLIC SAFETY DEPARTMENT[661] (Cont'd)**

Devices and methods to test for alcohol or drugs, 157.3 IAB 1/16/08 <b>ARC 6544B</b> (See also <b>ARC 6543B</b> )	First Floor Conference Rm. 125 State Public Safety HQS Bldg. 215 E. 7th St. Des Moines, Iowa	February 15, 2008 8:30 a.m.
Electrician and electrical contractor licensing program, chs 500 to 504 IAB 1/16/08 <b>ARC 6536B</b> (See also <b>ARC 6535B</b> )	First Floor Conference Rm. 125 State Public Safety HQS Bldg. 215 E. 7th St. Des Moines, Iowa	February 21, 2008 10 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Bureau[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
     Interior Design Examining Board[193G]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
 IOWA FINANCE AUTHORITY[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ENERGY INDEPENDENCE, OFFICE OF[350]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

## **MODEL STATE ADMINISTRATIVE PROCEDURE ACT REVISION PROCESS**

### **Invitation to Participate**

The National Conference of Commissioners on Uniform State Laws (NCCUSL) is revising its Model State Administrative Procedure Act (MSAPA). NCCUSL invites organizations and individuals interested in state administrative agency processes to participate in this effort.

NCCUSL is a 117 year old national organization of lawyers, judges and law professors who are appointed to represent their states in drafting and seeking enactment of uniform laws to facilitate commerce and certainty in the law among the states. For more information about NCCUSL, visit <http://www.nccusl.org/>.

The goal of the MSAPA drafting committee is to make the administrative process more efficient, accessible and fair. The most recent draft of MSAPA is available at <http://www.nccusl.org/Update/CommitteeSearchResults.aspx?committee=234>.

The drafting process will not be completed until the spring of 2009. The MSAPA drafting committee invites interested parties to attend committee meetings as an observer and make comments and suggestions at the meetings or by submitting them in writing. To become an observer, please contact Ms. Leang Sou at NCCUSL at (312)450-6606 or at [leang.sou@nccusl.org](mailto:leang.sou@nccusl.org).

Submit written comments about the MSAPA to:

Commissioner Francis J. Pavetti  
18 The Strand  
Goshen Point  
Waterford, CT 06385

**ARC 6584B****EMPOWERMENT  
BOARD, IOWA[349]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code section 28.4, the Iowa Empowerment Board hereby gives Notice of Intended Action to amend Chapter 1, “Community Empowerment,” Iowa Administrative Code.

The proposed amendments to Chapter 1 add definitions and incorporate language placed into the Iowa Code during the 2006 and 2007 legislative sessions. These amendments add definitions for the “business community investment advisory council,” “community empowerment gifts and grants account,” “early childhood business committee,” and “first years first,” and update the responsibilities of the Iowa Empowerment Board.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 4, 2008. Such written materials should be sent to the Early Childhood Business Community Liaison, Office of Empowerment, Iowa Department of Management, State Capitol Building, Des Moines, Iowa 50319; by facsimile to (515) 281-4225; or by electronic mail to [beth.jones@iowa.gov](mailto:beth.jones@iowa.gov).

A public hearing will be held on March 4, 2008, at 10 a.m. in Room 142 of the Lucas State Office Building, Des Moines, Iowa, at which time comments may be submitted orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Beth Jones at (515)725-2074 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 28.9(5) and 2006 Iowa Acts, chapter 1157, section 17(4)“b.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **349—1.4(28)** by adopting the following **new** definitions in alphabetical order:

“Business community investment advisory council” means a council created by the Iowa legislature to provide recommendations on building a public-private partnership for early childhood in Iowa.

“Community empowerment gifts and grants account” means an account created in the Iowa empowerment fund under the authority of the department of management to be used for first years first.

“Early childhood business committee” means a committee created by the Iowa board to advise the Iowa board on the use of the community empowerment gifts and grants account funds and to support implementation of the business community investment advisory council recommendations.

“First years first” means a public-private partnership for early childhood in Iowa.

ITEM 2. Amend subrule **1.6(3)** by adopting the following **new** paragraph:

p. The Iowa board shall establish an early childhood business committee to serve in an advisory role to the Iowa board on the use of the gifts and grants account funds and to support the implementation of the business community investment advisory council recommendations through first years first.

ITEM 3. Amend rule 349—1.9(28) as follows:

**349—1.9(28) Iowa empowerment fund.** An Iowa empowerment fund is created in the state treasury as specified in Iowa Code section 28.9. A school ready funding account is created in the Iowa empowerment fund under the authority of the Iowa board to be administered by the director of the department of education. Moneys credited to the account shall be distributed by the department of education to designated empowerment areas pursuant to criteria established by the Iowa board in accordance with law. An early childhood funding account is created in the Iowa empowerment fund and shall be distributed by the *director of the* department of human services to designated empowerment areas pursuant to criteria established by the Iowa board in accordance with law. *A community empowerment gifts and grants account is created in the Iowa empowerment fund under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are appropriated to the department of management to be used for first years first.* Interest or earnings on moneys deposited in the Iowa empowerment fund shall be credited to the fund.

**ARC 6586B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.30A, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Chapter 81, “Nursing Facilities,” Chapter 82, “Intermediate Care Facilities for the Mentally Retarded,” and Chapter 85, “Services in Psychiatric Institutions,” Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 218 (House File 909), increased the Medicaid personal needs allowance for residents in the following facilities to \$50 per month and provided that residents who have less than \$50 monthly income may receive a supplemental state payment to bring their income up to \$50 if funding is specifically appropriated for this payment.

- Intermediate care facilities for persons with mental retardation (ICF/MR)
- Intermediate care facilities for persons with mental illness (ICF/MI)
- Psychiatric medical institutions for children (PMIC)

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department did implement the increased personal needs allowance (see **ARC 6019B**, published in the Iowa Administrative Bulletin on July 4, 2007) but did no rule making regarding the supplemental payments, since no funding was appropriated for state fiscal year 2008. The increased personal needs allowance and the supplemental payments were implemented for nursing facility residents in state fiscal year 2007 (see **ARC 5211B**, published in the Iowa Administrative Bulletin on July 5, 2006), and funding was appropriated for supplemental payments to nursing facility residents for state fiscal year 2008.

The proposed amendments add provisions to allow this supplemental payment for Medicaid residents of an ICF/MR or ICF/MI, so that administrative rules accommodate this supplemental payment if funding is specifically appropriated by future legislation. The proposed amendments do not address a supplemental payment for residents of PMICs. Children receiving PMIC care are likely to have parents that provide for their personal needs. The parents' income is not considered in determining the child's financial participation except in the first month of placement.

The proposed amendments add the condition of a specific appropriation to the existing provision for supplemental payments to residents of nursing facilities to make the language parallel across facilities and add a cross reference to supplemental payment rules to the rule establishing the personal needs allowance. The amendments also make technical changes to update form number references in Chapter 82.

These amendments do not provide for waivers in specified situations since the amendments are based on statutory provisions the Department has no authority to waive.

Any interested person may make written comments on the proposed amendments on or before February 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code Supplement section 249A.30A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **75.16(2)**, paragraph "a," introductory paragraph, as follows:

a. Ongoing personal needs allowance. All clients shall retain \$50 of their monthly income for a personal needs allowance. (See rules 441—81.23(249A), 441—82.19(249A), and 441—85.47(249A) regarding potential state-funded personal needs supplements.)

ITEM 2. Amend rule 441—81.23(249A) as follows:

**441—81.23(249A) State-funded personal needs supplement.** ~~When a resident of~~ A Medicaid member living in a nursing facility as defined in Iowa Code section 135C.1 who has countable income for purposes of rule 441—75.16(249A) of less than \$50 per month, ~~the department shall issue~~ receive a state-funded payment ~~to from the resident department~~ for the difference between that countable income and \$50 if the legislature has appropriated funding specifically for this purpose. This payment shall not be considered a benefit under Title XIX of the Social Security Act.

This rule is intended to implement 2006 Iowa Acts, House File 2319 Iowa Code Supplement section 249A.30A.

ITEM 3. Amend rule **441—82.5(249A)** and subrule **82.17(1)** by striking the reference to "Form AA-4036-0" wherever it appears and inserting "Form 470-0030" in lieu thereof.

ITEM 4. Amend subrule 82.9(1) as follows:

**82.9(1) Resident care agreement.** The ICF/MR Resident Care Agreement, Form MA-2151-0 470-0374, shall be used as a three-party contract among the facility, the resident, and the department to spell out the duties, rights, and obligation of all parties.

ITEM 5. Amend subrule **82.14(2)** by striking the reference to "Form MA-2151-0" and inserting "Form 470-0375" in lieu thereof.

ITEM 6. Amend rules **441—82.17(249A)** and **441—82.18(249A)** by adopting the following **new** implementation sentence for each rule:

This rule is intended to implement Iowa Code section 249A.12.

ITEM 7. Adopt **new** rule 441—82.19(249A) as follows:

**441—82.19(249A) State-funded personal needs supplement.** A Medicaid member living in an intermediate care facility for persons with mental retardation who has countable income for purposes of rule 441—75.16(249A) of less than \$50 per month shall receive a state-funded payment from the department for the difference between that countable income and \$50 if the legislature has appropriated funding specifically for this purpose. This payment shall not be considered a benefit under Title XIX of the Social Security Act.

This rule is intended to implement Iowa Code Supplement section 249A.30A.

ITEM 8. Amend **441—Chapter 82** by striking the implementation sentence at the end of the chapter.

ITEM 9. Adopt **new** rule 441—85.47(249A) as follows:

**441—85.47(249A) State-funded personal needs supplement.** A Medicaid member living in an intermediate care facility for persons with mental illness who has countable income for purposes of rule 441—75.16(249A) of less than \$50 per month shall receive a state-funded payment from the department for the difference between that countable income and \$50 if the legislature has appropriated funding specifically for this purpose. This payment shall not be considered a benefit under Title XIX of the Social Security Act.

This rule is intended to implement Iowa Code Supplement section 249A.30A.

**ARC 6583B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.46, the Department of Human Services proposes to amend Chapter 187, "Aftercare Services and Supports," Iowa Administrative Code.

These amendments would allow youth who are participating in the Preparation for Adult Living Program (PAL) to receive a start-up allowance to assist in covering initial costs for living on one's own, such as rental and utility deposits, food, and necessary household items. Start-up costs typically amount to well above the monthly stipend a youth begins receiving in the first month of eligibility. The Department has been approving funding for start-up costs through exceptions to policy. These amendments would streamline the authorization process and set a uniform standard for awarding the allowance.

These amendments do not provide for waivers in specified situations because they benefit the youth affected. The Department has general procedures for requesting an exception to policy at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before February 20, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 234.46.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 187.11(5) as follows:

**187.11(5) Financial need.** ~~A youth whose unearned income exceeds the maximum payment determined according to 187.12(2) is not eligible for a stipend.~~ Initial and ongoing eligibility shall be based on the youth's income and need as determined according to ~~187.12(1) rule 441—187.12(234).~~

ITEM 2. Amend rule 441—187.12(234) as follows:

Amend the introductory paragraph as follows:

**441—187.12(234) Payment.** The program administrator or designee shall issue a ~~monthly stipend payment~~ to each participant according to the following guidelines:

Amend subrule 187.12(2) as follows:

Amend the introductory paragraph as follows:

**187.12(2) Amount of monthly stipend.** The monthly stipend shall be based on the foster family basic daily maintenance rate for a child aged 16 or older. The maximum month-

ly ~~payment stipend~~ shall be calculated by multiplying the daily rate in 441—subrule 156.6(1) by 365 and dividing by 12.

Amend paragraph "b" as follows:

b. *Effect of income.*

(1) *When the monthly unearned income of the youth exceeds the maximum monthly stipend, the youth is not eligible for a stipend.*

(2) When the net earnings of the youth exceed the maximum ~~payment~~ *monthly stipend*, the stipend shall be reduced the following month by 50 cents for every dollar earned over the maximum ~~payment~~ *monthly stipend*.

Adopt ~~new~~ subrule 187.12(4) as follows:

**187.12(4) Start-up allowance.** When a youth is approved for the PAL program, the program administrator or designee may authorize a one-time start-up allowance in addition to the monthly stipend. The start-up allowance:

a. Is intended to assist in covering the initial costs of establishing the youth's living arrangement, such as rental and utility deposits, purchase of food, and purchase of necessary household items.

b. Shall be based on the youth's income and need as determined according to subrule 187.12(1).

c. Shall not exceed the maximum monthly stipend amount.

ITEM 3. Amend **441—Chapter 187, Division II**, implementation sentence, as follows:

These rules are intended to implement 2006 Iowa Acts, Senate File 2217, ~~Division V~~ *Code section 234.46.*

**ARC 6557B****INSPECTIONS AND APPEALS  
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, "Hospitals," Iowa Administrative Code.

The proposed amendment makes a technical change in the procedures used by Iowa hospitals for the authentication of standing orders by a physician. The proposed amendment strikes the June 30, 2007, sunset provision of the paragraph and requires that standing orders be authenticated by the prescribing physician within 30 days of a patient's discharge. Adoption of the proposed amendment would provide for consistency in the authentication process used by Iowa hospitals when authenticating both standing and verbal orders.

The Department does not believe that the proposed amendment poses a financial hardship on any hospital. Rather, adoption of the proposed amendment would provide for consistency in the authentication process used by hospitals for both verbal and standing orders by a physician.

The proposed amendment was presented to the Hospital Licensing Board at its November 29, 2007, meeting, at which time the Board approved it.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

The State Board of Health initially reviewed the proposed amendment at its January 9, 2008, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before February 19, 2008. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or E-mailed to [David.Werning@dia.iowa.gov](mailto:David.Werning@dia.iowa.gov).

This amendment is intended to implement Iowa Code Supplement section 135B.7A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **51.14(4)**, paragraph "e," as follows:

e. Be dated, signed by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record. ~~This paragraph expires June 30, 2007.~~

**ARC 6560B****INSPECTIONS AND APPEALS  
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 57, "Residential Care Facilities," Chapter 58, "Nursing Facilities," and Chapter 63, "Residential Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The proposed amendments clarify that a resident may be seen and treated by a health care practitioner, other than the resident's personal physician, if the practitioner is working in collaboration with the resident's physician and is not employed by the facility. The current rules stipulate that a resident shall be seen by or visit a physician only.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entities. Rather, adoption of the proposed amendments confers a benefit to residential care facilities and nursing facilities by permitting health care practitioners, other than a resident's personal physician, to see and treat residents.

Similarly, as the proposed amendments confer a benefit on residential care facilities and nursing facilities, there is no waiver provision contained in the proposed amendments.

The proposed amendments were presented to the State Board of Health for initial review at the Board's January 9, 2008, meeting.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 19, 2008. Such written materials should be addressed to the Director, Department of Inspections and Appeals,

Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail may be sent to [David.Werning@dia.state.ia.us](mailto:David.Werning@dia.state.ia.us).

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 57.15(6) as follows:

**57.15(6)** Each resident shall be visited by or shall visit the resident's physician at least once each year. *The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with the physician.* (III)

ITEM 2. Amend subrule 58.14(8) as follows:

**58.14(8)** Each resident shall be visited by or shall visit the resident's physician at least twice a year. The year period shall be measured by *from* the date of admission and is not to include preadmission physicals. *Any required physician task or visit in a nursing facility may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with the physician.* (III)

ITEM 3. Amend subrule 63.15(6) as follows:

**63.15(6)** Each resident shall be visited by or shall visit the resident's physician at least annually. *The year period shall be measured from the date of admission and is not to include preadmission physicals. Any required physician task or visit in a residential care facility for the mentally retarded may also be performed by an advanced registered nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with the physician.* (III)

**ARC 6554B****PROPANE EDUCATION AND  
RESEARCH COUNCIL, IOWA[599]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement chapter 101C, the Iowa Propane Education and Research Council hereby gives Notice of Intended Action to adopt new Chapter 1, "Iowa Propane Education and Research Council," Iowa Administrative Code.

These rules implement the authority of the Iowa Propane Education and Research Council organized in accordance with Iowa Code Supplement chapter 101C to engage in the

## PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599](cont'd)

activities of developing programs and projects relating to propane and collecting and managing funds derived from an assessment on sales of propane in accordance with and under the authority of Iowa Code Supplement chapter 101C.

Interested persons may make written comments on the proposed rules on or before February 22, 2008. Such written material should be directed to the Iowa Propane Education and Research Council, P.O. Box 57188, Des Moines, Iowa 50317. Persons who want to convey their views orally should contact the Iowa Propane Education and Research Council at (515)564-1260 or at 4830 Maple Drive, Suite 8, Pleasant Hill, Iowa.

Also, a public hearing will be held on February 22, 2008, at 10 a.m. in the Iowa Propane Education and Research Council Conference Room, 4830 Maple Drive, Suite 8, Pleasant Hill, Iowa. Persons may present their views at the public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact the Iowa Propane Education and Research Council at P.O. Box 57188, Des Moines, Iowa 50317, or (515)564-1260 at least one day prior to the date of the public hearing.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 6553B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code Supplement chapter 101C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

**ARC 6559B****PUBLIC HEALTH  
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 141A.2 and 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 11, "Acquired Immune Deficiency Syndrome (AIDS)," Iowa Administrative Code.

This amendment expands eligibility for the AIDS Drug Assistance Program (ADAP) by adding a work-related deduction to the income criteria. As HIV/AIDS drug regimens improve, persons living with this disease are often staying in their jobs, working part-time, or returning to the workplace. It is often the case that these employment situations do not provide adequate insurance benefits to persons with HIV/AIDS to ensure that they have access to lifesaving medications. Consequently, the Department seeks to bring the Iowa AIDS Drug Assistance Program (ADAP) in line with those of most other Midwestern states and to expand program eligibility by including a work-related deduction. There is sufficient federal funding to implement this change.

Consideration will be given to all written suggestions or comments on this amendment received on or before February 19, 2008. Such written materials should be sent to Holly Hanson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; fax (515) 281-4570; or E-mail [hhanson@idph.state.ia.us](mailto:hhanson@idph.state.ia.us).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6558B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 141A.3.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

**ARC 6567B****PUBLIC SAFETY  
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 101.1, the Fire Marshal hereby gives Notice of Intended Action to rescind Chapter 51, "Flammable and Combustible Liquids," and adopt new Chapter 228, "Liquefied Natural Gas," Iowa Administrative Code.

Iowa Code section 101.1 authorizes and requires the State Fire Marshal to adopt by administrative rule requirements for the safe transportation, handling, storage, and use of liquefied natural gas (LNG). The current rule concerning liquefied natural gas, 661—51.150(101), is based upon a national standard published by the National Fire Protection Association (NFPA) in 2001, which has been superseded by a later edition published in 2006 (NFPA 59A). In the past two years, the State Fire Marshal has established the International Fire Code, as well as applicable NFPA standards, as the basis for fire safety regulations for the State of Iowa. The amendments proposed herein incorporate provisions of the International Fire Code and the latest edition of the NFPA standard applicable to liquefied natural gas and provide for incorporating the requirements applicable to liquefied natural gas in new Chapter 228, consistent with an overall renumbering of rules of the Department of Public Safety, which is intended to make the rules more easily accessible to those affected by them and to the general public.

A public hearing on these proposed amendments will be held on February 21, 2008, at 8:30 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views concerning these amendments at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing are requested to contact the Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319; or by telephone at (515)725-6185 at

PUBLIC SAFETY DEPARTMENT[661](cont'd)

least one day prior to the hearing, although any person who appears at the hearing will be afforded an opportunity to speak.

Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on February 21, 2008. Comments may also be submitted by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on February 21, 2008.

These amendments are intended to implement Iowa Code section 101.1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind and reserve **661—Chapter 51**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 228  
LIQUEFIED NATURAL GAS

**661—228.1(101) Scope.** This chapter establishes requirements for the safe transportation, storage, handling, and use of liquefied natural gas, as authorized by Iowa Code section 101.1.

**661—228.2(101) Definitions.** The following definitions apply to rules 661—228.1(101) through 661—228.3(101).

"ICC" means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

"Liquefied natural gas" or "LNG" means a fuel in the liquid state which is composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

"NFPA" means National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. References to the form "NFPA xx," where "xx" is a number, refer to the NFPA standard or pamphlet of the corresponding number.

**661—228.3(101) Production, storage, and handling of liquefied natural gas.** Applicable requirements established in the International Fire Code, 2006 edition, published by the ICC and NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 2006 edition, are adopted by reference as the requirements for transportation, storage, handling, and use of liquefied natural gas. In any case in which applicable provisions of the International Fire Code are in conflict with provisions of NFPA 59A, provisions of the International Fire Code shall apply.

These rules are intended to implement Iowa Code section 101.1.

## ARC 6568B

### REAL ESTATE APPRAISER EXAMINING BOARD[193F]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 10, "Reciprocity," and Chapter 12, "Fees," Iowa Administrative Code.

The proposed amendments to Chapter 10 add the National Registry of the Appraisal Subcommittee as the primary source for determining whether an applicant for certification by reciprocity is in good standing, provide for work product review as needed to determine proficiency for applicants for certification by reciprocity, and require that applicants for temporary practice permits pay the fee as set forth in 193F—12.1(543D).

The proposed amendments to Chapter 12 increase the fees needed to process work product reviews for certified general applicants and to review subsequent reports for proficiency determinations required by the Board on a case-by-case basis, increase the fee to administer the new qualifying examination as identified by the provider and agreed upon by the Board (the time to take the examination has increased from 2 hours to 8 hours), and establish the fee for a temporary practice permit as allowed by the Appraisal Subcommittee.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before February 19, 2008. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [sylvia.king@iowa.gov](mailto:sylvia.king@iowa.gov).

These amendments are intended to implement Iowa Code chapters 543D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 10.1(2) as follows:

**10.1(2)** The board may issue a reciprocal certificate to a nonresident individual who is certified and ~~shows proof of demonstrates~~ good standing in another state. *An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at [www.asc.gov](http://www.asc.gov).*

## REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

ITEM 2. Adopt **new** subrule 10.1(5) as follows:

**10.1(5)** The board may, at its discretion, request work product from an applicant for certification by reciprocity for good cause shown, such as an applicant's having a prior history in Iowa that includes a disciplinary investigation or disciplinary action. If work product is requested, the appraiser shall be subject to the process set forth in 193F—subrule 3.5(2) and shall pay the appropriate fee as required in 193F—12.1(543D).

ITEM 3. Amend subrule 10.2(2) as follows:

**10.2(2)** The appraiser must register with the board and identify the property(ies) to be appraised, the name and address of the client and the estimated length of time the appraiser will be in the state and ~~provide a copy of the appraiser's current license/certificate/registration.~~ *The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at [www.asc.gov](http://www.asc.gov).* Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. ~~There is no fee to register with the board.~~ *The appraiser shall pay the appropriate fee as required in 193F—12.1(543D).*

ITEM 4. Amend rule 193F—12.1(543D) as follows:

**193F—12.1(543D) Required fees.** The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	\$100
Examination fee (and reexamination fee)	\$95 145
Biennial registration fee for active status:	
Certified general real property appraiser	\$360
Certified residential real property appraiser	\$360
Associate real property appraiser	\$250
Biennial registration fee for active status:	
Certified general real property appraiser	\$100
Certified residential real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$150
Reciprocal application fee (one time only)	\$50
Reciprocal registration fee (biennial)	\$360
Fee to reinstate	
a lapsed license	\$150 (plus the registration fee)
Fee to reinstate an inactive license to active status	\$50
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	\$50
Work product review fee fees:	\$300
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports	
as requested by the board	\$150 per report
Additional nonresidential reports	
as requested by the board	\$250 per report

**ARC 6585B**

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Chapter 38, “Administration,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 42, “Adjustments to Computed Tax,” Chapter 43, “Assessments and Refunds,” Chapter 46, “Withholding,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” Chapter 55, “Assessments, Refunds, Appeals,” Chapter 56, “Estimated Tax for Corporations,” Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues,” Chapter 59, “Determination of Net Income,” and Chapter 60, “Assessments, Refunds, Appeals,” Iowa Administrative Code.

These amendments clarify existing rules and remove obsolete rules or rule provisions.

Item 1 amends the implementation clause for rule 701—10.4(421) to correct a cross reference to an Iowa Code section.

Items 2 and 3 amend subrules 38.14(1) and 38.14(2) to provide that information returns are now required for interest from state and municipal bonds issued for any political subdivision of Iowa.

Item 4 amends rule 701—38.15(422) regarding Iowa innocent spouse relief to remove obsolete provisions and add new provisions which are needed to ensure that the Iowa innocent spouse provisions are the same as the federal innocent spouse provisions.

Item 5 amends rule 701—40.6(422) to remove obsolete provisions relating to interest from “All-Savers Certificates” for tax years beginning prior to January 1, 1984.

Item 6 amends rule 701—40.9(422) to update the applicable dates for the work opportunity credit and to remove obsolete provisions relating to this credit for periods prior to September 30, 1996.

Item 7 amends subrule 40.16(4) to clarify that income derived from activities other than the sale of tangible personal property is attributed to Iowa to the extent the recipient of the service receives the benefit of the service in Iowa. This change is consistent with 701—subrule 54.6(1).

Item 8 amends rule 701—40.20(422) to remove an obsolete provision regarding the statute of limitations for refund for tax periods ending prior to January 1, 1979.

Item 9 amends rule 701—40.30(422) to remove obsolete provisions regarding the amount of percentage depletion to be added to net income for tax years beginning before January 1, 1987.

Item 10 amends rule 701—40.31(422) to remove obsolete provisions regarding the deduction from net income for away-from-home expenses for state legislators for tax years beginning before January 1, 1987.

## REVENUE DEPARTMENT[701](cont'd)

Item 11 amends subrule 40.38(8) to clarify an example regarding the sale of assets of a partnership as the sale relates to the Iowa capital gains deduction.

Item 12 amends rule 701—40.45(422) to reflect a change in federal law which provides that distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner.

Item 13 rescinds and reserves subrule 41.4(1), which is an obsolete subrule regarding a direct charitable deduction that is no longer allowed for tax years beginning after 1986.

Item 14 amends subrule 41.5(2) to update the applicable dates for the itemized deduction for state sales and use tax in lieu of state income tax.

Item 15 amends subrule 41.5(3) to remove obsolete provisions regarding the deduction for adoption expenses for tax years beginning prior to January 1, 1987.

Items 16 and 17 rescind and reserve subrules 41.7(1) and 41.8(1) to remove obsolete provisions regarding itemized deductions for part-year residents and nonresidents of Iowa for tax years beginning before January 1, 1982.

Item 18 rescinds and reserves subrule 41.11(2), which is an obsolete subrule regarding a reduction in itemized deductions for certain high-income taxpayers for the 1992 through 1994 tax years.

Item 19 amends rule 701—41.12(422) to remove obsolete provisions regarding the reduced state deduction for home mortgage interest for tax years beginning before January 1, 1996.

Item 20 amends subrule 42.4(3) by eliminating an obsolete provision regarding the out-of-state tax credit for tax years beginning before January 1, 1983.

Item 21 rescinds rule 701—43.5(422) and adopts new rule 701—43.5(421) regarding the abatement of individual income tax.

Item 22 amends subrule 46.3(3) to change the time period for which employers must keep copies of W-2 forms from three years to four years.

Item 23 amends subrule 46.4(6) to update the Department's E-mail address.

Item 24 amends rule 701—46.10(403) to provide examples regarding the targeted jobs withholding tax credit.

Item 25 amends subrule 52.1(1) to remove an obsolete provision regarding the definition of "doing business" for tax periods after December 31, 1988.

Item 26 amends subrule 52.1(5) to adjust the method for computing the federal tax deduction and adding back Iowa income tax for certain S corporations subject to Iowa corporation income tax for tax years beginning on or after January 1, 2008.

Item 27 amends subrule 52.1(6) to remove an obsolete provision regarding tax on unrelated business income for certain exempt organizations for tax periods beginning prior to January 1, 1988.

Item 28 amends subrule 53.2(3) to provide additional clarification regarding the net operating loss provisions for farm corporations for tax years beginning on or after January 1, 1998.

Item 29 rescinds rule 701—55.4(422) and adopts new rule 701—55.4(421) regarding the abatement of corporation income tax.

Item 30 amends subrule 56.2(1) to correct a mailing address for corporation income tax estimated payments.

Item 31 amends subrule 56.2(2) to reflect the correct name of the Department of Revenue.

Item 32 amends subrule 58.2(1) to correct a mailing address for franchise tax returns.

Item 33 amends rule 701—59.9(422) to reflect the correct name of the work opportunity tax credit which is allowed as a deduction for franchise tax purposes.

Item 34 rescinds rule 701—60.4(422) and adopts new rule 701—60.4(421) regarding the abatement of franchise tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than March 3, 2008, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 19, 2008. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by February 22, 2008.

These amendments are intended to implement Iowa Code chapter 422.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the implementation clause for rule **701—10.4(421)** as follows:

This rule is intended to implement Iowa Code section 421.7 421.8.

ITEM 2. Amend subrule 38.14(1) as follows:

**38.14(1)** Incomes to be included in information returns. The entities described in rule 701—38.14(422) are required to file information returns to the department of revenue and finance on income payments of interest (other than interest coupons payable to the bearer), rents, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, unemployment compensation, royalties, patronage dividends, or other fixed or determinable annual or periodic gains, profits, and income to the extent that the amount of income is great enough so that an information return on the in-

## REVENUE DEPARTMENT[701](cont'd)

come is required to be filed with the Internal Revenue Service (IRS) under provisions of the Internal Revenue Code. However, no reporting is required for state or municipal bonds issued for any political subdivision of this state or for payments of deferred compensation, pensions, and annuities to nonresidents of Iowa. In addition, no reporting is required for any type of income payment where information on the income payment is available to the department from the Internal Revenue Service.

ITEM 3. Amend subrule **38.14(2)**, paragraph “i,” as follows:

- i. 1099-INT.
  1. Interest.
  2. Tax withheld.
  3. Savings bonds.
  4. Interest forfeiture.
  5. *Tax-exempt interest.*

ITEM 4. Amend rule 701—38.15(422), introductory paragraph and numbered paragraph “1,” as follows:

**701—38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse.** A husband and wife are generally jointly and severally liable for the total tax, penalty, and interest from a joint return or from a return where they file separately on the combined return form. However, effective for tax years beginning on or after January 1, 1994, a married person who meets the criteria for an innocent spouse established in Section 6015 of the Internal Revenue Code may be relieved of liability for a substantial understatement of tax that is attributable to grossly erroneous items of the other spouse. For purposes of determining if an individual is an innocent spouse for state income tax purposes, the provisions in Section 6015 of the Internal Revenue Code will be followed as well as federal court cases, letter rulings, and revenue rulings which deal with innocent spouse. *In addition, for tax years beginning on or after January 1, 2002, the provisions of Sections 6015(c) and 6015(f) of the Internal Revenue Code regarding relief for separation of liabilities and equitable relief, respectively, are applicable for Iowa income tax purposes.* The following are the criteria that must be considered for purposes of determining if an individual is an innocent spouse for Iowa income tax purposes:

1. ~~Substantial understatement~~ *Understatement* of tax attributable to grossly erroneous items of the other spouse. An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. ~~The understatement of tax must be greater than \$500 to be substantial and the understatement must be entirely attributable to grossly erroneous items of one spouse in order for the other spouse to be eligible for status as an innocent spouse. As an innocent spouse, the individual will not be liable for the substantial understatement of tax of the other spouse. However, if the understatement of tax is less than \$500 on the Iowa return, and the understatement is attributable to grossly erroneous items of one spouse, the other spouse may be an innocent spouse for Iowa income tax purposes only if that spouse was considered to be an innocent spouse for federal tax purposes.~~ The tax liability attributable to the understatement is computed by adding penalties and interest that accrued by the date of the deficiency notice. Grossly erroneous items may include any omission from gross income such as income from embezzled funds. Grossly erroneous items may also include deductions or Iowa tax credits that are without factual or legal foundation.

ITEM 5. Amend rule 701—40.6(422) as follows:

**701—40.6(422) Interest and dividend income.** ~~The following~~ *This* rule applies to interest and dividends from foreign securities, *and* securities of state and other political subdivisions, and for tax years beginning on or after January 1, 1981, and before January 1, 1984, interest excluded from federal adjusted gross income under Section 128 of the Internal Revenue Code. Interest and dividends from foreign securities, *and* from securities of state and their *other* political subdivisions, ~~and interest excluded from federal adjusted gross income under Section 128 of the Internal Revenue Code, also known as “All-Savers Certificate” interest,~~ are to be included in Iowa taxable income. Certain types of interest and dividends, because of specific exemption, are not included in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the term of income is specifically exempted from state taxation by the laws or constitutions of Iowa or of the United States, it must be added to Iowa taxable income.

ITEM 6. Amend rule 701—40.9(422) as follows:

**701—40.9(422) Targeted jobs tax credit, work opportunity tax credit, and alcohol fuel credit.** Where an individual claims the targeted jobs tax credit or the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol fuel credit under Section 40 of the Internal Revenue Code, the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. ~~The adjustment for the targeted jobs tax credit is applicable for the tax years beginning on or after January 1, 1977, and before January 1, 1996. The work opportunity tax credit applies to eligible individuals who begin work after September 30, 1996, and before January 1, 2006~~ *September 1, 2011.* The adjustment for the alcohol fuel credit is applicable for tax years beginning on or after January 1, 1980.

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, Senate File 2357.

ITEM 7. Amend subrule **40.16(4)**, paragraph “c,” as follows:

- c. Income derived from business other than the manufacture or sale of tangible personal property shall be attributed to Iowa in that portion which the Iowa gross receipts bear to the total gross receipts. Gross receipts are attributable to this state in the portion which the ~~income-producing activity which gave rise to the receipts is performed within this state~~ *recipient of the service receives benefit of the service in this state.*

ITEM 8. Amend rule 701—40.20(422) as follows:

**701—40.20(422) Adjustments to prior years.** When Iowa requests for refunds are filed, they shall be allowed only if filed within three years after the tax payment upon which a refund or credit became due, or one year after the tax payment was made, whichever time is the later. ~~For tax years ending prior to January 1, 1979, the period of time was five years.~~ Even though a refund may be barred by the statute of limitations, a loss shall be carried back and applied against income on a previous year to determine the correct amount of loss carryforward.

This rule is intended to implement Iowa Code section 422.73.

ITEM 9. Amend rule **701—40.30(422)** by striking the first unnumbered paragraph.

## REVENUE DEPARTMENT[701](cont'd)

ITEM 10. Amend rule **701—40.31(422)** by striking the first unnumbered paragraph.

ITEM 11. Amend subrule **40.38(8)**, Example 5, as follows:

EXAMPLE 5. Joe and Ray Johnson were partners in a farm partnership that they had owned for 12 years in 1998 when the *assets of the partnership* were sold to Ray's son Charles. Joe Johnson had materially participated in the partnership for the whole time that the business was in operation, so he could exclude the capital gain he had received from the sale of his interest in the partnership *assets*. Although Ray Johnson had not materially participated in the farm business, he could exclude the capital gain he received from the sale of the *assets of the partnership* because the sale of the partnership *assets* was to his son, a lineal descendant.

ITEM 12. Amend rule 701—40.45(422), introductory paragraph, as follows:

**701—40.45(422) Exemption for distributions from pensions, annuities, individual retirement accounts, and or deferred compensation plans received by nonresidents of Iowa.** For tax years beginning on or after January 1, 1994, a distribution from a pension plan, annuity, individual retirement account, and or deferred compensation plan which is received by a nonresident of Iowa is exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the pensioner, annuitant, owner of individual retirement account, or participant in a deferred compensation arrangement. *For tax years beginning on or after January 1, 1996, distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner.* In a situation where the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies before the date of documented retirement, any distribution from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to the beneficiary receiving the distributions, if the beneficiary is a nonresident of Iowa. If the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies after the date of documented retirement, any distributions from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to a beneficiary receiving distributions if the beneficiary is a nonresident of Iowa.

ITEM 13. Rescind and reserve subrule **41.4(1)**.

ITEM 14. Amend subrule 41.5(2), introductory paragraph, as follows:

**41.5(2)** For the tax years beginning on or after January 1, 2004, and before January 1, ~~2006~~ 2008, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

ITEM 15. Amend subrule 41.5(3) as follows:

**41.5(3) Adoption expense deduction.**

a.—~~Reduce federal itemized deductions by any amounts of adoption expenses allowed under Section 222 of the Internal Revenue Code. This deduction is applicable for tax years beginning on or after January 1, 1981, but before January 1, 1987.~~

b. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by a licensed agency under Iowa Code chapter 238, by an agency that meets the ~~provision~~ *provisions* of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement under Iowa Code chapter 600, which exceed 3 percent of the taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return. ~~Adoption expenses paid or incurred prior to January 1, 1977, in connection with the adoption of a child, which exceed 3 percent of the taxpayer's net income, will be allowed only if the child was placed by a licensed agency under Iowa Code chapter 238 or by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158.~~

ITEM 16. Rescind and reserve subrule **41.7(1)**.

ITEM 17. Rescind and reserve subrule **41.8(1)**.

ITEM 18. Rescind and reserve subrule **41.11(2)**.

ITEM 19. Amend rule 701—41.12(422) as follows:

**701—41.12(422) Reduced state deduction Deduction for home mortgage interest for taxpayers with mortgage interest credit.** ~~For tax years beginning before January 1, 1996, taxpayers who qualified for the mortgage interest credit on their federal return which reduced their deduction for home mortgage interest are subject to the same reduced deduction for mortgage interest for Iowa income tax purposes. The mortgage interest credit is provided in Section 25 of the Internal Revenue Code. For example, a taxpayer paid \$6,000 in home mortgage interest in the tax year and qualified for a mortgage interest credit of \$900. Thus, the taxpayer had a federal mortgage interest deduction in the tax year of \$5,100. The Iowa mortgage interest deduction for the tax year is also \$5,100 instead of \$6,000. For tax years beginning on or after January 1, 1996, any taxpayer who had the mortgage interest credit on the federal return can claim a deduction on the Schedule A of the IA 1040 for all the mortgage interest paid in the tax year, including the mortgage interest that was not deducted on the federal return due to the mortgage interest credit.~~

This rule is intended to implement Iowa Code sections 422.3 and 422.9 as amended by 1997 Iowa Acts, Senate File 429.

ITEM 20. Amend subrule **42.4(3)** by rescinding paragraph "a" and relettering paragraphs "b" and "c" as "a" and "b."

ITEM 21. Rescind rule 701—43.5(422) and adopt the following **new** rule in lieu thereof:

**701—43.5(421) Abatement of tax.** For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

ITEM 22. Amend subrule **46.3(3)**, paragraph "d," subparagraph (2), as follows:

## REVENUE DEPARTMENT[701](cont'd)

(2) Form of statement. The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as “combined W-2.” Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for ~~three~~ four years from the end of the year for which the combined W-2 applies.

ITEM 23. Amend subrule **46.4(6)**, paragraph “b,” fourth unnumbered paragraph, as follows:

The listing, magnetic tape or other electronic submission should be sent to the following address: Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306; [idr@idr.state.ia.us](mailto:idr@idr.state.ia.us) [idr@iowa.gov](mailto:idr@iowa.gov).

ITEM 24. Amend rule 701—46.10(403) as follows:

**701—46.10(403) Targeted jobs withholding tax credit.** For employers that created targeted jobs in an urban renewal area and that enter into a withholding agreement with pilot project cities approved by the Iowa department of economic development, a credit equal to 3 percent of the gross wages paid to employees under the withholding agreement can be taken on the Iowa withholding tax return. The employer shall remit the amount of the credit to the pilot project city. The administrative rules for the targeted jobs withholding tax credit program administered by the Iowa department of economic development may be found in 261—Chapter 71.

If the amount of withholding by the employer is less than 3 percent of the wages paid to the employees covered under the withholding agreement, the employer can take the remaining credit against Iowa tax withheld for other employees or may carry the credit forward for up to ten years or until depleted, whichever is the earlier.

If an employer also has a new job credit from withholding provided in rule 701—46.8(260E) or the supplemental new jobs credit from withholding provided in subrule 46.9(1), these credits shall be collected and disbursed prior to the collection and disbursement of the targeted jobs withholding tax credit.

*The following nonexclusive examples illustrate how this rule applies:*

*EXAMPLE 1: Company A does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company A enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 4 percent of the wages paid. Company A will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement, since the targeted jobs withholding tax credit cannot exceed 3 percent.*

*EXAMPLE 2: Company B does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company B enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company B will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement. The extra withholding credit equal to 0.5 percent may be used to offset withholding tax for Company B’s employees not covered under the withholding agreement.*

*EXAMPLE 3: Company C has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to*

*new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company C also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under these agreements is 5 percent of the wages paid. Company C will be allowed a credit on the Iowa withholding return equal to 5 percent of the wages paid to each employee covered under these agreements. Since the community college receives disbursement of the credit before the pilot project city, the community college will receive 3 percent of the wages paid to each employee covered under the agreements, and the pilot project city will receive the remaining 2 percent of the wages paid to each employee covered under the agreements.*

*EXAMPLE 4: Company D has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company D also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company D will be allowed a credit on the Iowa withholding tax return equal to 6 percent of the wages paid to each employee covered under these agreements. The extra withholding credit equal to 3.5 percent may be used to offset withholding tax for Company D’s employees not covered under these agreements.*

**46.10(1) and 46.10(2)** No change.

This rule is intended to implement 2006 Iowa Acts, chapter 1441 Iowa Code Supplement section 403.19A.

ITEM 25. Amend subrule **52.1(1)**, paragraph “a,” as follows:

a. Doing business. The term “doing business” is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be “doing business.” In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

~~For the period from July 1, 1986, through December 31, 1988, the term “doing business” does not include placing of liquor in bailment pursuant to 1986 Iowa Acts, chapter 1246, section 603, if this is the corporation’s sole activity within Iowa. Any activities by corporate officers or employees in Iowa in addition to bailment are “doing business” and will subject the corporation to corporation income tax.~~

ITEM 26. Amend subrule **52.1(5)**, paragraph “b,” as follows:

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation for tax years beginning prior to January 1, 2008. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders for tax years beginning prior to January 1, 2008. For tax years beginning on or after January 1, 2008, an adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation.

REVENUE DEPARTMENT[701](cont'd)

ITEM 27. Amend subrule **52.1(6)** by striking paragraph “**d**” and relettering paragraphs “**e**” and “**f**” as “**d**” and “**e**.”

ITEM 28. Amend subrule **53.2(3)**, paragraph “**d**,” introductory paragraph, as follows:

d. For tax years beginning on or after January 1, 1998, for a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss. *However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) for the two-year or three-year carryback in lieu of the five-year carryback must be attached to the Iowa return or the Form IA 1139 Farm, Application for Refund Due to the Carryback of Corporate Farming Losses, to show why the carryback was two years or three years instead of five years. If the taxpayer has elected for federal income tax purposes to carry a net operating loss from the trade or business of farming back two years, the taxpayer must carry the Iowa net operating loss from the trade or business of farming back two years. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa.*

ITEM 29. Rescind rule 701—55.4(422) and adopt the following **new** rule in lieu thereof:

**701—55.4(421) Abatement of tax.** For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

ITEM 30. Amend subrule **56.2(1)**, paragraph “**a**,” as follows:

a. General rule. The date for filing the first estimated tax payment is on or before the last day of the fourth month of the tax year. The estimated tax form is to be filed with Corporate Estimate Processing, P.O. Box 40468 10466, Des Moines, Iowa 50306.

ITEM 31. Amend subrule **56.2(2)**, paragraph “**d**,” as follows:

d. Electronic transfer payments. For installments due on or after April 1, 1990, for tax years beginning on or after January 1, 1990, installments shall be made electronically in a format and by means specified by the department of revenue and finance when total corporate tax liability for the tax year prior to the tax year just completed exceeds \$80,000. Estimated tax declaration forms are not required to be filed when electronic transmission of installments is done in the prescribed format by specified means. Installments transmitted electronically are considered to have been made on the date that the deposit or remittance is added to the bank account designated by the treasurer of the state of Iowa.

ITEM 32. Amend subrule 58.2(1) as follows:

**58.2(1)** Returns of financial institutions. A return of income for all financial institutions must be filed on or before the delinquency date. The delinquency date for all financial institutions is the day following the last day of the fourth month following the close of the taxpayer’s taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the day following the last day of the period covered by an extension of time granted by the director. When the last day prior to the delinquency date falls on a Saturday, Sunday or a legal holiday, the return will be timely if it is filed on the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the delinquency date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Franchise Tax Processing, Hoover State Office Building P.O. Box 10413, Des Moines, Iowa 50319 50306.

ITEM 33. Amend rule 701—59.9(422) as follows:

**701—59.9(422) Jobs Work opportunity tax credit.** Where a financial institution claims the federal work opportunity tax credit as provided in Section 51 of the Internal Revenue Code, the amount of credit allowable shall be a deduction from Iowa taxable income to the extent the credit increased federal taxable income.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

ITEM 34. Rescind rule 701—60.4(422) and adopt the following **new** rule in lieu thereof:

**701—60.4(421) Abatement of tax.** For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

**ARC 6577B****ENERGY INDEPENDENCE,  
OFFICE OF [350]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code Supplement sections 469.3(2)“k” and 469.9(4)“b,” the Director of the Office of Energy Independence hereby adopts Chapter 1, “Rules Applicable to All Chapters,” Chapter 2, “Organization of Office of Energy Independence,” Chapter 3, “Iowa Power Fund Board and Due Diligence Committee,” Chapter 4, “Iowa Power Fund Financial Assistance,” Chapter 51, “Public Records and Fair Information Practices,” Chapter 52, “Office Procedure for Rule Making,” Chapter 53, “Petitions for Rule Making,” Chapter 54, “Declaratory Orders,” and Chapter 55, “Uniform Waiver and Variance Rules,” Iowa Administrative Code.

These rules establish the organizational structure and procedures for the Office of Energy Independence, the Iowa Power Fund Board, and the Due Diligence Committee and the eligibility requirements, evaluation criteria, and application procedures for financial assistance from the Iowa power fund. Included are procedures concerning public records and fair information practices, office procedures for rule making, procedures for filing petitions for rule making and declaratory orders, and a process for requesting a rule waiver or variance. The rules enable the Office, the Board, and the Committee to begin fulfilling their statutory duties as soon as possible.

Notice of Intended action was published in the November 21, 2007, Iowa Administrative Bulletin as **ARC 6411B**. Public hearings were held on December 18, 2007. The Board received three written comments. The Board, in response to written comments, made clarifying changes to the administrative rules. Subrule 4.7(2) details cost-share requirements for power fund projects. The Board replaced the word “administrative” with the word “indirect.” In subrule 4.8(3), the Board clarified the requirements of applicants to pay for technical, scientific, and financial review in power fund projects by replacing the word “require” with the word “request.” In the same subrule, the Board clarified the cost share for the technical, financial, or scientific review of a proposal, and added the phrase “which may wholly or partially be funded” before the words “at the applicant’s expense.” This clause was added to ensure that the state would not solely bear the expense of proposal review. The subrule now reads as follows:

**4.8(3)** Technical, scientific or financial review. The board or committee may request an applicant to obtain a technical, scientific or financial review of a proposal which may wholly or partially be funded at the applicant’s expense. The review may be obtained from a reviewer recommended by the board or committee or may be obtained from a reviewer selected by the applicant and approved in advance by the board or committee. Only reviews from reviewers recommended by or approved by the board or committee will be accepted.”

The Iowa Power Fund Board adopted these administrative rules on January 9, 2008.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on January 11, 2008. An immediate effective date confers a

benefit on the public by expediting the application process for loans and grants from the Iowa power fund.

Those adopted rules which do not impose statutory requirements are subject to a petition for waiver or variance under Iowa Code section 17A.9A and Chapter 55 of these rules.

These rules became effective on January 11, 2008.

These rules are intended to implement Iowa Code Supplement sections 469.1 to 469.10.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 1 to 4, 51 to 55] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 6411B**, IAB 11/21/07.

[Filed Emergency After Notice 1/11/08, effective 1/11/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6562B****HUMAN SERVICES  
DEPARTMENT [441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments:

- Expand Medicaid eligibility for newborn children of Medicaid-eligible mothers to include children born to mothers who are only Medicaid-eligible for three days of emergency services for labor and delivery of the child.
- Add provisions for verifying identity and citizenship using affidavits.

The Department has received federal guidance from the Centers for Medicare and Medicaid Services that its current rule on eligibility for newborns is too narrow. Health care benefits are critical to the healthy development of newborn babies. Deeming newborns eligible for Medicaid because of the mother’s status allows the infant to qualify for Medicaid immediately, without waiting for the normal application and verification procedures. This change will give all newborns the same opportunity for deemed Medicaid eligibility in the first year of life, regardless of the level of Medicaid benefits for which the mother qualifies.

Federal guidance now allows affidavits as verification of identity and citizenship in certain situations when no other verifying document is available. These amendments specify those requirements.

These amendments do not provide for waivers in specified situations because they expand opportunities for attaining Medicaid eligibility. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6431B**. The Department received no comments on the Notice of Intended Action.

The Department has added the qualifiers “guardian or representative” to subparagraph 75.11(2)“h”(2) to define the

HUMAN SERVICES DEPARTMENT[441](cont'd)

“knowledgeable person” who may attest to the reasons why evidence of citizenship cannot be obtained. This change was made to conform to the rules to federal requirements.

The Council on Human Services adopted these amendments on January 9, 2008.

These amendments are intended to implement Iowa Code section 249A.3.

The Department finds that these amendments confer a benefit on Medicaid applicants and members by allowing them other options to meet the requirements for verification of identity and citizenship. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments shall become effective on February 1, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.1(20), 75.11(2)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6431B**, IAB 12/5/07.

[Filed Emergency After Notice 1/9/08, effective 2/1/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## **ARC 6564B**

### **HUMAN SERVICES DEPARTMENT[441]**

#### **Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments expand Medicaid coverage for dental services to include dental sealants on all deciduous and permanent posterior teeth and include root canal retreatments and dental implants with prior authorization.

The Oral Health Bureau in the Iowa Department of Public Health formally petitioned for sealants on deciduous teeth to be included in coverage. Currently, coverage is allowed only for permanent molars. Like permanent molars, other permanent posterior teeth (bicuspid) and deciduous (“baby”) posterior teeth also have pits and fissures where bacteria can become trapped and lead to tooth decay. The National Center for Health Statistics reported that dental decay in deciduous teeth increased from 24 percent to 28 percent between 1988 and 2004. If expanded coverage for sealants is approved, expenditures for more costly treatment, such as fillings, crowns, or extractions, should significantly decrease.

Root canal retreatments and dental implants are currently allowed according to specified criteria under the exception-to-policy process. The prior authorization process is a more efficient method to allow for coverage.

These amendments do not provide for waivers in specified situations because they expand coverage. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 10,

2007, as **ARC 6301B**. The Department received 12 comments on the Notice of Intended Action. Ten of the comments were in support of the expansion of the application of sealants, though one commenter noted that long-term effectiveness of placing sealants on deciduous molars was unknown and urged the Department to undertake some type of evaluation. The Department has referred this issue to the University of Iowa College of Dentistry as a possible research topic.

One commenter expressed reservations about coverage for root canal retreatment and implants. These services are covered only with prior approval. The Department's dentist consultant reviews each request for prior authorization on a case-by-case basis. Dental implants are not allowed for persons who can use conventional dentures. It is the Department's position that the ability to masticate food is essential to optimal health and cost-effective for the Medicaid program. Retreatment of a failed anterior root canal treatment is less costly than the alternative of extraction and replacement with a partial denture, which is allowed under the Medicaid program.

One commenter requested that application of sealants be included as a physician service since so few dentists accept Medicaid. Given the need for special equipment and training, it is questionable whether there would be much physician interest. Sealants are currently applied in dental offices and by dental hygienists in school-based sealant programs and at Title V public health agencies.

The Council on Human Services adopted these amendments on January 9, 2008.

These amendments are identical to those published under Notice of Intended Action.

The Department finds that these amendments confer a benefit on Medicaid members by expanding access to certain dental services. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments shall become effective on February 1, 2008.

These amendments are intended to implement Iowa Code section 249A.4.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.4, 78.28(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 6301B**, IAB 10/10/07.

[Filed Emergency After Notice 1/9/08, effective 2/1/08]  
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[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## **ARC 6553B**

### **PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]**

#### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code Supplement section 101C.3, subsection 12, the Iowa Propane Education and Research Council hereby adopts new Chapter 1, “Iowa Propane Education and Research Council,” Iowa Administrative Code.

## PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599](cont'd)

These rules implement the authority of the Iowa Propane Education and Research Council organized in accordance with Iowa Code Supplement chapter 101C to engage in the activities of developing programs and projects relating to propane and collecting and managing funds derived from an assessment on sales of propane in accordance with and under the authority of Iowa Code Supplement chapter 101C.

In compliance with Iowa Code section 17A.4(2), the Council finds that notice and public participation are impracticable and contrary to the public interest because there are several requirements that apply to the propane industry effective January 1, 2008, including the collection of an assessment provided for in Iowa Code Supplement section 101C.4. In addition, the Council is required by Iowa Code Supplement section 101C.3(12) to promulgate its initial rules on an emergency basis.

The Council also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of the rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on December 28, 2007. Having administrative rules in effect on this date will allow for program establishment and collection of assessments beginning January 1, 2008.

These rules are also published herein under Notice of Intended Action as **ARC 6554B** to allow for public comment.

The Iowa Propane Education and Research Council adopted these rules on December 28, 2007.

These rules became effective on December 28, 2007.

These rules are intended to implement Iowa Code Supplement chapter 101C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Adopt the following **new** chapter:

CHAPTER 1  
IOWA PROPANE EDUCATION  
AND RESEARCH COUNCIL

**599—1.1(101C) Definitions.** As used in these rules, unless the context otherwise requires:

“Council” means the Iowa propane education and research council established pursuant to Iowa Code Supplement section 101C.3.

“Education” means any activity designed to provide consumers and members of the propane industry information regarding propane, propane equipment, mechanical and technical practices, and uses of propane.

“Fire marshal” means the state fire marshal as provided in Iowa Code section 100.1.

“Odorized propane” means propane to which an odorant has been added.

“Propane” means a hydrocarbon with a chemical composition that is predominately C<sub>3</sub>H<sub>8</sub>, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures.

“Propane industry” means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment.

“Propane industry trade association” means an organization exempt from tax under Section 501(c)(3) or 501(c)(6) of

the Internal Revenue Code that represents the propane industry.

“Public member” means a member of the council, other than a representative of a retail propane marketer, who represents a significant user of propane, a public safety official, a state regulatory official, or another group knowledgeable about propane.

“Qualified propane industry organization” means the Iowa Propane Gas Association or any other similarly constituted industry trade association that represents at least 35 percent of the total volume of odorized propane sold at retail in this state.

“Research” means any type of study, investigation, program, or other activity designed to advance the image, desirability, usage, marketability, efficiency, or safety of propane or to further the development of information related to such activities.

“Retail propane dispenser” means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales.

“Retail propane marketer” means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to a retail propane dispenser.

**599—1.2(101C) Organization and operation.**

**1.2(1)** The council shall consist of ten voting members appointed by the governor, nine of whom represent retail propane marketers and one of whom shall be a public member. Qualified propane industry organizations shall together nominate all members of the council. A vacancy in the unfinished term of a council member shall be filled for the remainder of the term in the same manner as the original appointment was made.

**1.2(2)** Other than the public member, council members shall be full-time employees or owners of a propane industry business or representatives of an agricultural cooperative actively engaged in the propane industry. An employee of a qualified propane industry organization shall not serve as a member of the council. An officer of the board of directors of a qualified propane industry organization or propane industry trade association shall not serve concurrently as a member of the council.

**1.2(3)** In nominating members of the council, qualified propane industry organizations shall give due consideration to nominating council members who are representative of the propane industry, including representation of all of the following:

- a. Interstate and intrastate retail propane marketers.
- b. Large and small retail propane marketers, including agricultural cooperatives.
- c. Diverse geographic regions of the state.

**1.2(4)** The fire marshal or a designee may serve as an ex officio, nonvoting member of the council.

**1.2(5)** The following persons shall be ex officio, nonvoting members of the council designated for three-year terms as follows:

- a. A professional firefighter designated by the Iowa Association of Professional Fire Chiefs.
- b. A volunteer firefighter designated by the Iowa Firemen's Association.
- c. An experienced plumber involved in plumbing training programs designated by the Iowa State Building and Construction Trades Council.
- d. A heating, ventilation, and air conditioning professional involved in heating, ventilation, and air conditioning

## PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599](cont'd)

training programs designated by the Iowa State Building and Construction Trades Council.

e. A community college instructor with experience in conducting fire safety programs designated by the Iowa Association of Community College Presidents.

f. A representative of a property and casualty insurance company with experience in insuring sellers of propane gas designated by the Iowa Insurance Institute.

**1.2(6)** A council member, other than the public member, shall not receive compensation for the council member's service and shall not be reimbursed for expenses relating to the council member's service. The public member shall receive a per diem as specified in Iowa Code section 7E.6 and shall be reimbursed for actual expenses incurred in performing official duties of the council not to exceed 40 days per year.

**1.2(7)** A member of the council shall not be a salaried employee of the council or of any organization or agency which receives funds from the council.

**1.2(8)** A council member shall serve a term of three years and shall not serve more than two full consecutive terms. A council member filling an unexpired term may serve not more than a total of seven consecutive years. A former council member may be appointed to the council if the former member has not been a member of the council for a period of at least two years.

**1.2(9)** Initial appointments to the council shall be for terms of one, two, and three years that are staggered to provide for the future appointment of at least two members each year.

**1.2(10)** The voting members of the council shall select a chairperson and other officers as necessary from the voting members and shall adopt rules and bylaws for the conduct of business and the implementation of this chapter. The council may establish committees and subcommittees comprised of members of the council and may establish advisory committees comprised of persons other than council members. The council shall establish procedures for the solicitation of propane industry comments and recommendations regarding any significant plans, programs, or projects to be funded by the council.

**599—1.3(101C) Program and project development and implementation.**

**1.3(1)** The council shall develop programs and projects, including programs to enhance consumer and employee safety and training, and enter into agreements for administering such programs and projects as provided in this chapter; provide for research and development of clean and efficient propane utilization equipment; inform and educate the public about safety and other issues associated with the use of propane; and develop programs and projects that provide assistance to persons who are eligible for the low-income home energy assistance program.

**1.3(2)** The programs and projects shall be developed to attain equitable geographic distribution of their benefits to the fullest extent practicable. The council shall coordinate its programs and projects with propane industry trade associations and others as the council deems appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities. The council shall give priority to the development of programs and projects related to research and development, safety, education, and training.

**1.3(3)** At the beginning of each fiscal year, the council shall prepare a budget plan for the next fiscal year, including the probable cost of all programs, projects, and contracts to be undertaken. The council shall submit the proposed budget to the fire marshal for review and comment. The fire marshal

may recommend appropriate programs, projects, and activities to be undertaken by the council.

**1.3(4)** The council shall also perform the functions required of a state organization under the federal Propane Education and Research Act of 1996, be the repository of funds received under that Act, and separately account for those funds. The council shall coordinate the operation of the program with the federal council as contemplated by 15 U.S.C. Section 6405. These rules shall be administered and construed as complementary to the federal Propane Education and Research Act of 1996, 15 U.S.C. Section 6401 et seq. These rules shall not be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of this state.

**599—1.4(101C) Records, audits and public access to information.**

**1.4(1)** The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council which are public records open to public inspection. The books and records shall indicate the geographic areas where benefits were conferred by each individual program or project in detail sufficient to reflect the degree to which each program or project attained equitable geographic distribution of its benefits. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. The cost of the audit shall be paid by the council. Copies of the audit shall be provided to all council members, to all qualified propane industry organizations, and to other members of the propane industry upon request. In addition, a copy of the audit and a report detailing the programs and projects conducted by the council and containing information reflecting the degree to which equitable geographic distribution of the benefits of each program or project was attained shall be submitted each fiscal year to the chief clerk of the house of representatives and the secretary of the senate.

**1.4(2)** The council shall prepare and submit an annual report to the fire marshal and the auditor of state summarizing the activities of the council conducted pursuant to this chapter. The report shall show all income, expenses, and other relevant information concerning assessments collected and expended under these rules.

**1.4(3)** The council is subject to the open meeting requirements of Iowa Code chapter 21.

**599—1.5(101C) Funding, assessments collection and investment procedures.**

**1.5(1)** The council and its activities shall be funded by an annual assessment of one-tenth of one cent on each gallon of odorized propane sold.

**1.5(2)** The owner of odorized propane at the time of odorization or at the time of import shall calculate the amount of the assessment based on the volume of odorized propane sold for use in this state.

**1.5(3)** The assessment, when made, shall be listed as a separate line item on the bill of sale for the odorized propane and titled "Iowa propane education and research assessment."

**1.5(4)** Assessments shall be collected by the owner from purchasers of the odorized propane and shall be paid by the owner to the council on a monthly basis by the twenty-fifth day of the month following the month the assessment was collected.

**1.5(5)** If payment is not made to the council by the due date as required by this subrule, an interest penalty of 1 percent of any amount unpaid shall be imposed against the own-

PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599](cont'd)

er for each month or fraction of a month after the due date, until final payment is made.

**1.5(6)** Assessments shall be remitted payable to the Iowa Propane Education and Research Council at P. O. Box 57188, Des Moines, Iowa 50317. A completed form for remission, provided by the council upon request, shall accompany the remittance.

**1.5(7)** Pending the disbursement of assessments collected, the council shall invest moneys collected through assessments and any other moneys received by the council in any of the following:

- a. Obligations of the United States or any agency of the United States.
- b. General obligations of any state or political subdivision of any state.
- c. Any interest-bearing account or certificate of deposit of a bank that is a member of the federal reserve system.
- d. Obligations that are fully guaranteed as to principal and interest by the United States.

**599—1.6(101C) Termination of the council.** On the council's own initiative or on petition to the council by retail propane marketers representing 35 percent of the volume of odorized propane sold in this state, the council shall, at its own expense, arrange for a referendum to be conducted by an independent auditing firm agreed upon by the retail propane marketers, to determine whether the council should be terminated or suspended. Voting rights in the referendum shall be based on the volume of odorized propane sold in this state by each retail propane marketer during the previous calendar year. Each retail propane marketer voting in the referendum shall certify to the independent auditing firm the volume of odorized propane sold by that person as represented by that person's vote. Upon the approval of those retail propane marketers representing more than one-half of the total volume of odorized propane sold in this state, the council shall be terminated or suspended and the general assembly shall consider the repeal of this chapter during its next regular session.

**599—1.7(101C) Enforcement, restricted activities and bonding.**

**1.7(1)** The district court is vested with the jurisdiction specifically to enforce this chapter and to prevent or restrain any person from violating this chapter. A successful action for compliance may also require payment by the defendant of the costs incurred by the council in bringing the action.

**1.7(2)** Moneys collected by the council shall not be used in any manner for influencing legislation or elections, except that the council may recommend statutory changes that would further the purposes of these rules to the general assembly.

**1.7(3)** In all cases, the price of propane shall be determined by market forces. Consistent with antitrust laws, the council shall not take any action regarding, and this chapter shall not be interpreted as establishing, an agreement to pass along to consumers the cost of the assessment provided for in Iowa Code Supplement section 101C.4.

**1.7(4)** Any person occupying a position of trust under any provision of these rules shall provide a bond in an amount required by the council. The costs of obtaining the bond shall be paid out of council funds.

**599—1.8(101C) Not a state agency.** The Iowa propane education and research council is not a state agency.

**599—1.9(101C) Penalty.** A person who willfully violates the provisions of these rules or willfully renders or furnishes a false or fraudulent report, statement, or record required by the

fire marshal pursuant to this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code Supplement chapter 101C.

[Filed Emergency 12/28/07, effective 12/28/07]  
[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6558B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 141A.2 and 135.11, the Department of Public Health hereby amends Chapter 11, "Acquired Immune Deficiency Syndrome (AIDS)," Iowa Administrative Code.

This amendment expands eligibility for the AIDS Drug Assistance Program (ADAP) by adding a work-related deduction to the income criteria. As HIV/AIDS drug regimens improve, persons living with this disease are often staying in their jobs, working part-time, or returning to the workplace. It is often the case that these employment situations do not provide adequate insurance benefits to persons with HIV/AIDS to ensure that they have access to lifesaving medications. Consequently, the Department seeks to bring the Iowa AIDS Drug Assistance Program (ADAP) in line with those of most other Midwestern states and to expand program eligibility by including the work-related deduction described herein. There is sufficient federal funding to implement this change.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to public interest because the funding is immediately available and because this amendment confers a much needed public benefit to employed Iowans living with HIV/AIDS.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and this amendment should be made effective upon filing with the Administrative Rules Coordinator on January 9, 2008, as it confers a benefit upon persons with HIV/AIDS who are in need of funding for services.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment is also published herein under Notice of Intended Action as **ARC 6559B** to allow for public comment. This emergency filing permits the Department to implement the work-related deduction immediately.

This amendment is intended to implement Iowa Code section 141A.3.

This amendment became effective January 9, 2008.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend subrule **11.86(1)**, paragraph "d," as follows:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. Has an annual gross family income that is less than or equal to 200 percent of the poverty level as determined by the most recent federal poverty guidelines published annually by the United States Department of Health and Human Services for the size of the household (*this income shall be determined after a \$500 work-related deduction is deducted from the monthly gross salary of an employed person with HIV/AIDS*);

[Filed Emergency 1/9/08, effective 1/9/08]  
[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6556B

### SECRETARY OF STATE[721]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 47.1 and 423E.2(3), the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

The amendments to rule 721—21.803(77GA, HF2282) correct the rule to comply with the current provisions of Iowa Code section 423E.2. The changes include references to elections to extend the period of time for which the tax will be collected; corrections of citations to obsolete Iowa Code sections; and the addition of specific instructions that petitions, motions and the ballot language for local option sales and services tax elections for school infrastructure projects must be limited to a single subject, such as imposition, rate change, use change, repeal or extension. However, more than one ballot question may be submitted at the same election.

The amendment to paragraph 21.803(1)"c" includes new instructions for collecting the necessary information for a local option sales and services tax for school infrastructure projects when the board of supervisors initiates the election. Iowa Code section 423E.2(3) specifies that the Commissioner develop the ballot language using the language from a petition filed with the board of supervisors or from motions from the boards of directors of school districts. The Code of Iowa is silent about the source of ballot language if the board of supervisors initiates the election. The amendment to paragraph 21.803(1)"c" requires the Commissioner to consult with the boards of directors of school districts to determine the ballot language if the board of supervisors initiates the election.

The amendments to paragraphs 21.803(3)"a" to "c" also include changes in the form of ballots for school infrastructure elections. The substantive change clarifies that, although all voters in the county must be presented with the same ballot, if the motions or petitions calling the election specify different uses for the tax in different school districts, those uses must appear on the ballot.

These amendments also include editorial changes to the ballot formats. The font has been changed from all uppercase letters to include both uppercase and lowercase letters. Readability experts report that information that is presented in all uppercase letters is difficult to read. The voting targets have been changed to show the current format used on all ballots in the state—an oval printed on the left-hand side of the choice. Explanatory information in the sample ballots that has proved to be more confusing than helpful has been deleted.

Notice of Intended Action for these amendments was published as **ARC 6420B** in the November 21, 2007, Iowa Administrative Bulletin. The Secretary received one comment in response to the Notice. However, the comment addressed a statutory issue that cannot be changed by rule. The adopted amendments are identical to those published under Notice of Intended Action.

The Secretary finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing. The Secretary received only one comment on these amendments, and the statute they implement is currently in effect. Having these amendments in effect will provide a service to the Iowa county auditors who may need to conduct school infrastructure local option tax elections before the normal implementation date of March 5, 2008.

The Secretary of State adopted these amendments on January 4, 2008.

These amendments became effective January 9, 2008.

These amendments are intended to implement Iowa Code section 423E.2.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 21.803] is being omitted. These amendments are identical to those published under Notice as **ARC 6420B**, IAB 11/21/07.

[Filed Emergency After Notice 1/9/08, effective 1/9/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6555B

### SECRETARY OF STATE[721]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

2007 Iowa Acts, Senate File 263, adds "gambling structures" to the authorized places for conducting gambling games. 2007 Iowa Acts, Senate File 263, section 9 [Iowa Code Supplement section 99F.4D, subsection 1] provides, "Unless otherwise provided by this chapter, the provisions of this chapter applicable to an excursion gambling boat shall also apply to a gambling structure." The amendments to 721—21.820(99F) incorporate the new provisions for gambling structures into the existing rules on excursion gambling boats. The amendments also make editorial corrections in the rule to make all references to an excursion gambling boat uniform. The amendments also change the voting targets in the sample ballots from squares to the ovals that are currently used on all optical scan ballots in Iowa.

Notice of Intended Action for these amendments was published as **ARC 6424B** in the November 21, 2007, Iowa Administrative Bulletin. The Secretary received no comments on the Notice. The adopted amendments are identical to those published under Notice of Intended Action.

The Secretary finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should

SECRETARY OF STATE[721](cont'd)

be made effective upon filing. 2007 Iowa Acts, Senate File 263, was effective July 1, 2007. The Secretary received no comments on the proposed amendments; there is no controversy regarding them. Having these amendments in effect will provide a service to the county auditors who may need to hold elections regarding gambling structures before the normal effective date of March 5, 2008.

The Secretary of State adopted these amendments on January 4, 2008.

These amendments became effective January 9, 2008.

These amendments are intended to implement 2007 Iowa Acts, Senate File 263, section 9 [Iowa Code Supplement section 99F.4D, subsection 1].

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to 21.820] is being omitted. These amendments are identical to those published under Notice as **ARC 6424B**, IAB 11/21/07.

[Filed Emergency After Notice 1/9/08, effective 1/9/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6569B****DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 20, "Dental Assistants," and Chapter 22, "Dental Assistant Radiography Qualification," Iowa Administrative Code.

Item 1 changes the definition of "personal supervision" of a dental assistant trainee. The proposed definition requires a dentist to be physically present in the treatment room for all intraoral or chairside services of the dental assistant and a licensee or registrant to be physically present for all extraoral services of the dental assistant.

Items 2 and 4 authorize registered dental assistants to take dental radiographs under the general supervision of a dentist. General supervision means that a dentist has delegated the services to be provided by a dental assistant. The dentist need not be present in the facility while these services are being provided.

Item 3 clarifies that a dental assistant must either be currently certified by the Dental Assisting National Board or must have two years of clinical dental assisting experience as a registered dental assistant to qualify for expanded function training.

These amendments are subject to waiver or variance pursuant to 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6408B**. A public hearing on the amendments was held on November 27, 2007. One written comment was received from the Iowa Dental Association suggesting additional clarification. These amendments are identical to those published under Notice.

These amendments were approved at the January 10, 2008, meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code chapters 136C, 147, 153, and 272C.

These amendments will become effective on March 5, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [20.2, 20.4(2), 20.16, 22.1] is being omitted. These amendments are identical to those published under Notice as **ARC 6408B**, IAB 11/7/07.

[Filed 1/10/08, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6548B****ELDER AFFAIRS  
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby adopts amendments to Chapter 2, "Department of Elder Affairs," Iowa Administrative Code.

The amendments clarify the complaint and contested case procedures for persons affected by actions of an Area Agency on Aging, the Department of Elder Affairs or the Commission of Elder Affairs and add a severability clause to the chapter. These amendments align the rules with Iowa Code chapter 17A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6226B**. The public comment period on the Notice ended November 1, 2007. No comments were received. These amendments are identical to those published under Notice.

The Commission adopted these amendments during its regularly scheduled meeting on December 17, 2007.

These amendments are intended to implement Iowa Code chapter 231.

These amendments will become effective March 5, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.9, 2.10] is being omitted. These amendments are identical to those published under Notice as **ARC 6226B**, IAB 9/12/07.

[Filed 12/28/07, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6549B****ELDER AFFAIRS  
DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 10, "Senior Internship Program," Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

The new chapter aligns the rules with the recently amended laws contained in the federal Older Americans Act and the Iowa Code, specifically Iowa Code chapter 17A. The new chapter also clarifies the procedures for appealing decisions of subproject sponsors related to enrollees and removes an obsolete word in the reference to the director of the Department of Elder Affairs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6228B**. The public comment period on the Notice ended November 1, 2007. No comments were received. These rules are identical to those published under Notice.

The Commission adopted these rules during its regularly scheduled meeting on December 17, 2007.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

These rules are intended to implement Iowa Code chapter 231.

These rules will become effective March 5, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 10] is being omitted. These rules are identical to those published under Notice as **ARC 6228B**, IAB 9/12/07.

[Filed 12/28/07, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6550B

### ELDER AFFAIRS DEPARTMENT[321]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby adopts amendments to Chapter 11, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

These amendments change references to specific waiver language and add a severability clause to the chapter. These amendments align the rules with Iowa Code chapter 17A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6229B**. The public comment period on the Notice ended November 1, 2007. No comments were received. Since publication of the Notice, an item has been added to update the implementation sentence at chapter's end.

The Commission adopted these amendments during its regularly scheduled meeting on December 17, 2007.

These amendments are intended to implement Iowa Code chapter 231.

These amendments will become effective March 5, 2008. The following amendments are adopted.

ITEM 1. Amend rule 321—11.2(17A,231,ExecOrd11) as follows:

**321—11.2(17A,231,ExecOrd11) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule. Specific waiver provisions are provided in 321—24.26(231D); 321—25.24(231C); and 321—subrule 9.2(4) 321—*Chapters 4, 6 and 9.*

ITEM 2. Adopt **new** rule 321—11.17(17A,231,ExecOrd11) as follows:

**321—11.17(17A,231,ExecOrd11) Severability.** Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

ITEM 3. Amend **321—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~17A.9A~~ **chapters 17A, 22, and 231** and Executive Order Number 11.

[Filed 12/28/07, effective 3/5/08]  
[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6551B

### ELDER AFFAIRS DEPARTMENT[321]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby adopts new Chapter 13, "Rules and Practices in Contested Cases," Iowa Administrative Code.

The new chapter establishes the procedures for informal settlement of complaints and for contested cases regarding actions of the Department of Elder Affairs or Area Agencies on Aging. This chapter aligns department policies with Iowa Code chapter 17A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6231B**. The public comment period on the Notice ended November 1, 2007. No comments were received. These rules are identical to those published under Notice.

The Commission adopted these rules during its regularly scheduled meeting on December 17, 2007.

These rules are intended to implement Iowa Code chapters 17A and 231.

These rules will become effective March 5, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 13] is being omitted. These rules are identical to those published under Notice as **ARC 6231B**, IAB 9/12/07.

[Filed 12/28/07, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6552B

### ELDER AFFAIRS DEPARTMENT[321]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby rescinds Chapter 18, "Declaratory Orders," Iowa Administrative Code, and adopts a new Chapter 18 with the same title.

The new chapter establishes a procedure to handle requests for informal review of specific circumstances and clarifies procedures for the issuance of declaratory orders.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6232B**. The public comment period on the Notice ended

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November 1, 2007. No comments were received. These rules are identical to those published under Notice.

The Commission adopted these rules during its regularly scheduled meeting on December 17, 2007.

These rules are intended to implement Iowa Code chapters 17A and 231.

These rules will become effective March 5, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 18] is being omitted. These rules are identical to those published under Notice as **ARC 6232B**, IAB 9/12/07.

[Filed 12/28/07, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6566B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 7, "Appeals and Hearings," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and rescinds Chapter 87, "Medicaid Provider Audits," Iowa Administrative Code.

These amendments address documentation requirements for Medicaid providers. The amendments:

- Clarify documentation requirements for all Medicaid providers, including specific lists of documentation required for each type of service;
- Explain what is acceptable when making a correction to a medical record;
- Update and move rules formerly in 441—Chapter 87 to rule 441—79.4(249A);
- Set deadlines for the submission of records in response to an audit or review request;
- Clarify the statistical sampling techniques that may be used for audits or reviews and the requirements for challenging the Department's sampling results;
- Add a reevaluation process which affords a provider that has received a preliminary overpayment finding an opportunity to submit clarifying information and supplemental documentation to justify the provider's charges.

These amendments are intended to help providers understand what documentation is required to support charges to the Medicaid program in an effort to streamline review processes and eliminate unnecessary appeals. Current rules on documentation are directed primarily to providers of non-traditional Medicaid services. The amendments clarify requirements for all provider groups. The Iowa Medicaid Enterprise Surveillance and Utilization Review Services Unit will attach a checklist of the documentation required by these rules to all records requests.

These amendments provide that maintenance and submission of a particular item of documentation that is normally required may be waived if the item:

- Is not routinely received or created in connection with a particular service or activity, and

- Is not required in order to document the reason for performing the service or activity, the medical necessity of the service or activity, or the level of care associated with the service or activity.

Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6391B**. The Department received comments on the Notice of Intended Action from 15 persons or organizations. In response to these comments, the Department has made the following changes to the amendments published under Notice of Intended Action:

- In subparagraph 79.3(2)"c"(3), added limitations to the requirements relating to documentation of service date, time and location; medications and supplies dispensed; and the credentials of the person performing the service billed to Medicaid.

- In subparagraph 79.3(2)"d"(33), clarified that the specified authorization form is required only for services authorized before May 1, 2007, and clarified that all case management services are addressed, including those delivered under a home- and community-based services waiver. A related nonsubstantive change was also made in subparagraph 79.3(2)"d"(35).

- Amended proposed paragraph 79.3(2)"e" to allow the person who provided the service to authorize another person to change the service record, to remove the requirements that the original information show on an electronic record and that the change entry indicate the reason for the change, and to allow changes to be made after billing provided that the service is rebilled if the change affects the accuracy or validity of the claim.

- In subrule 79.4(7), removed the sentence "Documentation not received by the department pursuant to the requirements in paragraph 79.4(3)"a," paragraph 79.4(3)"b," or subrule 79.4(5) shall not be considered on appeal." On an appeal of a review or audit finding, the issue is whether the finding was correct based on the information provided. Any new evidence submitted at the hearing is irrelevant to that issue, and, under the current rules, administrative law judges have generally excluded such evidence on that basis.

The Council on Human Services adopted these amendments on January 9, 2008.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on April 1, 2008.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)**, definition of "aggrieved person," numbered paragraph "7," as follows:

7. For providers, a person or entity:

- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.

- Whose claim for payment as a provider or whose request for prior authorization of payment has been denied *in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology.*

- Whose contract as a Medicaid patient manager has been terminated.

- ~~That has been notified that an~~ *Who has been subject to the withholding of a payment to recover a prior overpayment*

## HUMAN SERVICES DEPARTMENT[441](cont'd)

has been established and repayment is requested. or who has received an order to repay an overpayment pursuant to 441—paragraph 79.4(4)“c.”

• That *Who* has been notified that the *managed care* re-consideration process has been exhausted and that *who* remains dissatisfied with the outcome.

• Whose claim for payment was not paid according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology without making any additional charges to the recipient.

• Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.

ITEM 2. Amend subrule 79.2(2) by rescinding paragraph “u.”

ITEM 3. Amend subrule 79.3(2) as follows:

Amend the introductory paragraph as follows:

**79.3(2)** Medical (clinical) records. A provider of service shall maintain complete and legible medical records for each service for which a charge is made to the medical assistance program. ~~except as provided in paragraph 79.3(2)“d.”~~ *Required records shall include any records required to maintain the provider's license in good standing.*

Amend paragraph “c” as follows:

Rescind subparagraph (1) and adopt the following **new** subparagraph in lieu thereof:

(1) Identification. Each page or separate electronic document of the medical record shall contain the member's first and last name. In the case of electronic documents, the member's first and last name must appear on each screen when viewed electronically and on each page when printed. As part of the medical record, the medical assistance identification number and the date of birth must also be identified and associated with the member's first and last name.

Amend subparagraph (2) as follows:

(2) Basis for service—*general rule. General requirements for all services are listed herein. For the application of these requirements to specific services, see paragraph 79.3(2)“d.”* The medical record shall reflect the reason for performing the service or activity, *substantiate medical necessity, and demonstrate the level of care associated with the service.* ~~Documentation may~~ *The medical record shall include one or more of the following items specified below, as applicable to the service being provided unless the listed item is not routinely received or created in connection with a particular service or activity and is not required to document the reason for performing the service or activity, the medical necessity of the service or activity, or the level of care associated with the service or activity:*

1. The member's complaint, ~~or~~ symptoms, and diagnosis.
2. The member's *medical or social* history.
3. Examination findings.
4. Diagnostic test reports, laboratory test results, or X-ray reports.
5. Goals or needs identified in the member's plan of care.
6. *Physician orders and any prior authorizations required for Medicaid payment.*
7. *Medication records, pharmacy records for prescriptions, or providers' orders.*
8. *Related professional consultation reports.*
9. *Progress or status notes for the services or activities provided.*
10. *All forms required by the department as a condition of payment for the services provided.*

11. *Any treatment plan, care plan, service plan, individual health plan, behavioral intervention plan, or individualized education program.*

6 12. The observer's provider's assessment, clinical impression, or diagnosis, or narrative, including the complete date of the observation thereof and the identity of the observer person performing the assessment, clinical impression, diagnosis, or narrative.

13. *Any additional documentation necessary to demonstrate the medical necessity of the service provided or otherwise required for Medicaid payment.*

Amend subparagraph (3) as follows:

(3) Service documentation. The record for each service encounter provided shall include information necessary to support each item of substantiate that the service reported on the medical assistance claim form. The documentation was provided and shall identify include the following:

1. The specific procedures or treatments performed.
2. The complete date and of the service, including the beginning and ending time when the service was provided date if the service is rendered over more than one day.
3. The complete time of the service, including the beginning and ending time if the service is billed on a time-related basis.
4. The location where the service was provided if otherwise required on the billing form or in 441—paragraph 77.30(5)“c” or “d,” 441—paragraph 77.33(6)“d,” 441—paragraph 77.34(5)“d,” 441—paragraph 77.37(15)“d,” 441—paragraph 77.39(13)“e,” 441—paragraph 77.39(14)“d” or 441—paragraph 77.46(5)“i,” or 441—subparagraph 78.9(10)“a”(1).

4 5. The name, dosage, and route of administration of any medication dispensed or administered as part of the service.

5 6. Medications or other Any supplies dispensed as part of the service.

6 7. The first and last name and title professional credentials, if any, of the person providing the service.

7 8. The signature of the person providing the service, or the initials of the person providing the service if a signature log indicates the person's identity.

9. For 24-hour care, documentation for every shift of the services provided, the member's response to the services provided, and the person who provided the services.

Rescind paragraphs “d” and “e” and adopt the following **new** paragraphs in lieu thereof:

d. Basis for service requirements for specific services. The medical record for the following services must include, but is not limited to, the items specified below (unless the listed item is not routinely received or created in connection with the particular service or activity and is not required to document the reason for performing the service or activity, its medical necessity, or the level of care associated with it). These items will be specified on Form 470-4479, Documentation Checklist, when the Iowa Medicaid enterprise surveillance and utilization review services unit requests providers to submit records for review. (See paragraph 79.4(2)“b.”)

(1) Physician (MD and DO) services:

1. Service or office notes or narratives.
2. Procedure, laboratory, or test orders and results.

(2) Pharmacy services:

1. Prescriptions.
2. Nursing facility physician order.
3. Telephone order.
4. Pharmacy notes.
5. Prior authorization documentation.

(3) Dentist services:

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1. Treatment notes.
2. Anesthesia notes and records.
3. Prescriptions.
- (4) Podiatrist services:
  1. Service or office notes or narratives.
  2. Certifying physician statement.
  3. Prescription or order form.
- (5) Certified registered nurse anesthetist services:
  1. Service notes or narratives.
  2. Preanesthesia physical examination report.
  3. Operative report.
  4. Anesthesia record.
  5. Prescriptions.
- (6) Other advanced registered nurse practitioner services:
  1. Service or office notes or narratives.
  2. Procedure, laboratory, or test orders and results.
- (7) Optometrist and optician services:
  1. Notes or narratives supporting eye examinations, medical services, and auxiliary procedures.
  2. Original prescription or updated prescriptions for corrective lenses or contact lenses.
  3. Prior authorization documentation.
- (8) Psychologist services:
  1. Service or office psychotherapy notes or narratives.
  2. Psychological examination report and notes.
- (9) Clinic services:
  1. Service or office notes or narratives.
  2. Procedure, laboratory, or test orders and results.
  3. Nurses' notes.
  4. Prescriptions.
  5. Medication administration records.
- (10) Services provided by rural health clinics or federally qualified health centers:
  1. Service or office notes or narratives.
  2. Form 470-2942, Prenatal Risk Assessment.
  3. Procedure, laboratory, or test orders and results.
  4. Immunization records.
- (11) Services provided by community mental health centers:
  1. Service referral documentation.
  2. Initial evaluation.
  3. Individual treatment plan.
  4. Service or office notes or narratives.
  5. Narratives related to the peer review process and peer review activities related to a member's treatment.
  6. Written plan for accessing emergency services.
- (12) Screening center services:
  1. Service or office notes or narratives.
  2. Immunization records.
  3. Laboratory reports.
  4. Results of health, vision, or hearing screenings.
- (13) Family planning services:
  1. Service or office notes or narratives.
  2. Procedure, laboratory, or test orders and results.
  3. Nurses' notes.
  4. Immunization records.
  5. Consent forms.
  6. Prescriptions.
  7. Medication administration records.
- (14) Maternal health center services:
  1. Service or office notes or narratives.
  2. Procedure, laboratory, or test orders and results.
  3. Form 470-2942, Prenatal Risk Assessment.
- (15) Birthing center services:
  1. Service or office notes or narratives.
  2. Form 470-2942, Prenatal Risk Assessment.
- (16) Ambulatory surgical center services:
  1. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
  2. Physician orders.
  3. Consent forms.
  4. Anesthesia records.
  5. Pathology reports.
  6. Laboratory and X-ray reports.
- (17) Hospital services:
  1. Physician orders.
  2. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
  3. Progress or status notes.
  4. Diagnostic procedures, including laboratory and X-ray reports.
  5. Pathology reports.
  6. Anesthesia records.
  7. Medication administration records.
- (18) State mental hospital services:
  1. Service referral documentation.
  2. Resident assessment and initial evaluation.
  3. Individual comprehensive treatment plan.
  4. Service notes or narratives (history and physical, therapy records, discharge summary).
  5. Form 470-0042, Case Activity Report.
  6. Medication administration records.
- (19) Services provided by skilled nursing facilities, nursing facilities, and nursing facilities for persons with mental illness:
  1. Physician orders.
  2. Progress or status notes.
  3. Service notes or narratives.
  4. Procedure, laboratory, or test orders and results.
  5. Nurses' notes.
  6. Physical therapy, occupational therapy, and speech therapy notes.
  7. Medication administration records.
  8. Form 470-0042, Case Activity Report.
- (20) Services provided by intermediate care facilities for persons with mental retardation:
  1. Physician orders.
  2. Progress or status notes.
  3. Preliminary evaluation.
  4. Comprehensive functional assessment.
  5. Individual program plan.
  6. Form 470-0374, Resident Care Agreement.
  7. Program documentation.
  8. Medication administration records.
  9. Nurses' notes.
  10. Form 470-0042, Case Activity Report.
- (21) Services provided by psychiatric medical institutions for children:
  1. Physician orders or court orders.
  2. Independent assessment.
  3. Individual treatment plan.
  4. Service notes or narratives (history and physical, therapy records, discharge summary).
  5. Form 470-0042, Case Activity Report.
  6. Medication administration records.
- (22) Hospice services:
  1. Physician certifications for hospice care.

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2. Form 470-2618, Election of Medicaid Hospice Benefit.

3. Form 470-2619, Revocation of Medicaid Hospice Benefit.

4. Plan of care.

5. Physician orders.

6. Progress or status notes.

7. Service notes or narratives.

8. Medication administration records.

9. Prescriptions.

(23) Services provided by rehabilitation agencies:

1. Physician orders.

2. Initial certification, recertifications, and treatment plans.

3. Narratives from treatment sessions.

4. Treatment and daily progress or status notes and forms.

(24) Home- and community-based habilitation services:

1. Notice of decision for service authorization.

2. Service plan (initial and subsequent).

3. Service notes or narratives.

(25) Remedial services and rehabilitation services for adults with a chronic mental illness:

1. Order for services.

2. Comprehensive treatment or service plan (initial and subsequent).

3. Service notes or narratives.

(26) Services provided by area education agencies and local education agencies:

1. Service notes or narratives.

2. Individualized education program (IEP).

3. Individual health plan (IHP).

4. Behavioral intervention plan.

(27) Home health agency services:

1. Plan of care or plan of treatment.

2. Certifications and recertifications.

3. Service notes or narratives.

4. Physician orders or medical orders.

(28) Services provided by independent laboratories:

1. Laboratory reports.

2. Physician order for each laboratory test.

(29) Ambulance services:

1. Documentation on the claim or run report supporting medical necessity of the transport.

2. Documentation supporting mileage billed.

(30) Services of lead investigation agencies:

1. Service notes or narratives.

2. Child's lead level logs (including laboratory results).

3. Written investigation reports to family, owner of building, child's medical provider, and local childhood lead poisoning prevention program.

4. Health education notes, including follow-up notes.

(31) Medical supplies:

1. Prescriptions.

2. Certificate of medical necessity.

3. Prior authorization documentation.

4. Medical equipment invoice or receipt.

(32) Orthopedic shoe dealer services:

1. Service notes or narratives.

2. Prescriptions.

3. Certifying physician's statement.

(33) Case management services, including HCBS case management services:

1. Form 470-3956, MR/CMI/DD Case Management Service Authorization Request, for services authorized before May 1, 2007.

2. Notice of decision for service authorization.

3. Service notes or narratives.

4. Social history.

5. Individual treatment plan.

6. Reassessment of member needs.

(34) Early access service coordinator services:

1. Individualized family service plan (IFSP).

2. Service notes or narratives.

(35) Home- and community-based waiver services, other than case management:

1. Notice of decision for service authorization.

2. Service plan.

3. Service logs, notes, or narratives.

4. Mileage and transportation logs.

5. Log of meal delivery.

6. Invoices or receipts.

7. Forms 470-3372, HCBS Consumer-Directed Attendant Care Agreement, and 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record.

e. Corrections. A provider may correct the medical record before submitting a claim for reimbursement.

(1) Corrections must be made or authorized by the person who provided the service or by a person who has first-hand knowledge of the service.

(2) A correction to a medical record must not be written over or otherwise obliterate the original entry. A single line may be drawn through erroneous information, keeping the original entry legible. In the case of electronic records, the original information must be retained and retrievable.

(3) Any correction must indicate the person making the change and any other person authorizing the change, must be dated and signed by the person making the change, and must be clearly connected with the original entry in the record.

(4) If a correction made after a claim has been submitted affects the accuracy or validity of the claim, an amended claim must be submitted.

ITEM 4. Rescind and reserve subrule **79.3(4)**.

ITEM 5. Rescind rule 441—79.4(249A) and adopt the following new rule in lieu thereof:

**441—79.4(249A) Reviews and audits.**

**79.4(1) Definitions.**

“Authorized representative,” within the context of this rule, means the person appointed to carry out audit or review procedures, including assigned auditors, reviewers or agents contracted for specific audits, reviews, or audit or review procedures.

“Claim” means each record received by the department or the Iowa Medicaid enterprise that states the amount of requested payment and the service rendered by a specific and particular Medicaid provider to an eligible member.

“Clinical record” means a legible electronic or hard-copy history that documents the criteria established for medical records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a clinical record.

“Confidence level” means the statistical reliability of the sampling parameters used to estimate the proportion of payment errors (overpayment and underpayment) in the universe under review.

“Customary and prevailing fee” means a fee that is both (1) the most consistent charge by a Medicaid provider for a given service and (2) within the range of usual charges for a given service billed by most providers with similar training and experience in the state of Iowa.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Extrapolation” means that the total amount of overpayment or underpayment will be determined by using sample data meeting the confidence level requirement.

“Fiscal record” means a legible electronic or hard-copy history that documents the criteria established for fiscal records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a fiscal record.

“Overpayment” means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to the Medicaid program and that results in a payment greater than that to which the provider is entitled.

“Procedure code” means the identifier that describes medical or remedial services performed or the supplies, drugs, or equipment provided.

“Random sample” means a statistically valid random sample for which the probability of selection for every item in the universe is known.

“Underpayment” means any payment or portion of a payment not made to a provider for services delivered to eligible members according to the laws and rules applicable to the Medicaid program and to which the provider is entitled.

“Universe” means all items or claims under review or audit during the period specified by the audit or review.

**79.4(2)** Audit or review of clinical and fiscal records by the department. Any Medicaid provider may be audited or reviewed at any time at the discretion of the department.

a. Authorized representatives of the department shall have the right, upon proper identification, to audit or review the clinical and fiscal records of the provider to determine whether:

(1) The department has correctly paid claims for goods or services.

(2) The provider has furnished the services to Medicaid members.

(3) The provider has retained clinical and fiscal records that substantiate claims submitted for payment.

(4) The goods or services provided were in accordance with Iowa Medicaid policy.

b. Requests for provider records by the Iowa Medicaid enterprise surveillance and utilization review services unit shall include Form 470-4479, Documentation Checklist, which is available at [www.ime.state.ia.us/Providers/Forms.html](http://www.ime.state.ia.us/Providers/Forms.html), listing the specific records that must be provided for the audit or review pursuant to paragraph 79.3(2)“d” to document the basis for services or activities provided, in the following format:

Iowa Department of Human Services  
Iowa Medicaid Enterprise Surveillance  
and Utilization Review Services  
**Documentation Checklist**

Date of Request: \_\_\_\_\_  
Reviewer Name & Phone Number: \_\_\_\_\_  
Provider Name: \_\_\_\_\_  
Provider Number: \_\_\_\_\_  
Provider Type: \_\_\_\_\_

Please sign this form and return it with the information requested. Follow the checklist to ensure that all documents requested for each patient have been copied and enclosed with this request. The documentation must support the validity of the claim that was paid by the Medicaid program.

**Please send copies. Do not send original records.**

If you have any questions about this request or checklist, please contact the reviewer listed above.

[specific documentation required]
[Note: number of specific documents required varies by provider type]
Any additional documentation that demonstrates the medical necessity of the service provided or otherwise required for Medicaid payment. List additional documentation below if needed.

The person signing this form is certifying that all documentation that supports the Medicaid billed rates, units, and services is enclosed.

Signature	Title	Telephone Number
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c. Records generated and maintained by the department may be used by auditors or reviewers and in all proceedings of the department.

**79.4(3)** Audit or review procedures. The department will select the method of conducting an audit or review and will protect the confidential nature of the records being audited or reviewed. The provider may be required to furnish records to the department. Unless the department specifies otherwise, the provider may select the method of delivering any requested records to the department.

a. Upon a written request for records, the provider must submit all responsive records to the department or its autho-

rized agent within 30 calendar days of the mailing date of the request, except as provided in paragraph “b.”

b. Extension of time limit for submission.

(1) The department may grant an extension to the required submission date of up to 15 calendar days upon written request from the provider or the provider’s designee. The request must:

1. Establish good cause for the delay in submitting the records; and

2. Be received by the department before the date the records are due to be submitted.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Under exceptional circumstances, a provider may request one additional 15-calendar-day extension. The provider or the provider's designee shall submit a written request that:

1. Establishes exceptional circumstances for the delay in submitting records; and

2. Is received by the department before the expiration of the initial 15-day extension period.

(3) The department may grant a request for an extension of the time limit for submitting records at its discretion. The department shall issue a written notice of its decision.

(4) The provider may appeal the department's denial of a request to extend the time limit for submission of requested records according to the procedures in 441—Chapter 7.

c. The department may elect to conduct announced or unannounced on-site reviews or audits. Records must be provided upon request and before the end of the on-site review or audit.

(1) For an announced on-site review or audit, the department's employee or authorized agent may give as little as one day's advance notice of the review or audit and the records and supporting documentation to be reviewed.

(2) Notice is not required for unannounced on-site reviews and audits.

(3) In an on-site review or audit, the conclusion of that review or audit shall be considered the end of the period within which to produce records.

d. Audit or review procedures may include, but are not limited to, the following:

(1) Comparing clinical and fiscal records with each claim.

(2) Interviewing members who received goods or services and employees of providers.

(3) Examining third-party payment records.

(4) Comparing Medicaid charges with private-patient charges to determine that the charge to Medicaid is not more than the customary and prevailing fee.

(5) Examining all documents related to the services for which Medicaid was billed.

e. Use of statistical sampling techniques. The department's procedures for auditing or reviewing Medicaid providers may include the use of random sampling and extrapolation.

(1) A statistically valid random sample will be selected from the universe of records to be audited or reviewed. The sample size shall be selected using accepted sample size estimation methods. The confidence level of the sample size calculation shall not be less than 95 percent.

(2) Following the sample audit or review, the statistical margin of error of the sample will be computed, and a confidence interval will be determined. The estimated error rate will be extrapolated to the universe from which the sample was drawn within the computed margin of error of the sampling process.

(3) Commonly accepted statistical analysis programs may be used to estimate the sample size and calculate the confidence interval, consistent with the sampling parameters.

(4) The audit or review findings generated through statistical sampling procedures shall constitute prima facie evidence in all department proceedings regarding the number and amount of overpayments or underpayments received by the provider.

**79.4(4)** Preliminary report of audit or review findings. If the department concludes from an audit or review that an overpayment has occurred, the department will issue a preliminary finding of a tentative overpayment and inform the provider of the opportunity to request a reevaluation.

**79.4(5)** Disagreement with audit or review findings. If a provider disagrees with the preliminary finding of a tentative overpayment, the provider may request a reevaluation by the department and may present clarifying information and supplemental documentation.

a. Reevaluation request. A request for reevaluation must be submitted in writing within 15 calendar days of the date of the notice of the preliminary finding of a tentative overpayment. The request must specify the issues of disagreement.

(1) If the audit or review is being performed by the Iowa Medicaid enterprise surveillance and utilization review services unit, the request should be addressed to: IME SURS Unit, P.O. Box 36390, Des Moines, Iowa 50315.

(2) If the audit or review is being performed by any other departmental entity, the request should be addressed to: Iowa Department of Human Services, Attention: Fiscal Management Division, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

b. Additional information. A provider that has made a reevaluation request pursuant to paragraph "a" of this subrule may submit clarifying information or supplemental documentation that was not previously provided. This information must be received at the applicable address within 30 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider, except as provided in paragraph "c" of this subrule.

c. Disagreement with sampling results. When the department's audit or review findings have been generated through sampling and extrapolation and the provider disagrees with the findings, the burden of proof of compliance rests with the provider. The provider may present evidence to show that the sample was invalid. The evidence may include a 100 percent audit or review of the universe of provider records used by the department in the drawing of the department's sample. Any such audit or review must:

(1) Be arranged and paid for by the provider.

(2) Be conducted by an individual or organization with expertise in coding, medical services, and Iowa Medicaid policy if the issues relate to clinical records.

(3) Be conducted by a certified public accountant if the issues relate to fiscal records.

(4) Demonstrate that bills and records that were not audited or reviewed in the department's sample are in compliance with program regulations.

(5) Be submitted to the department with all supporting documentation within 60 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider.

**79.4(6)** Finding and order for repayment. Upon completion of a requested reevaluation or upon expiration of the time to request reevaluation, the department shall issue a finding and order for repayment of any overpayment and may immediately begin withholding payments on other claims to recover any overpayment.

**79.4(7)** Appeal by provider of care. A provider may appeal the finding and order of repayment and withholding of payments pursuant to 441—Chapter 7. However, an appeal shall not stay the withholding of payments or other action to collect the overpayment.

This rule is intended to implement Iowa Code section 249A.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Rescind and reserve **441—Chapter 87.**

[Filed 1/9/08, effective 4/1/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6561B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 236.6(4), the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

This amendment implements a mini-simplified food stamp program, which allows Iowa to take advantage of an option allowed under federal food stamp regulations that will help the state meet the federal work participation rate requirements for Temporary Assistance to Needy Families (TANF) funding for Iowa's Family Investment Program.

Under the mini-simplified food stamp program, the state has the option to replace one or more Food Assistance work rules with TANF work rules. Iowa has obtained federal approval to combine the value of the household's monthly Food Assistance benefits with the household's monthly Family Investment Program benefit amount to determine the maximum number of hours the Department can require a household member under the Family Investment Program to participate in an unpaid work activity that is subject to the federal Fair Labor Standards Act. Although this will result in a higher number of hours required, TANF regulations provide that when this method is used, working that number of hours is deemed to satisfy federal work participation requirements (20 hours per week for a single-parent family or 30 hours per week for a two-parent family).

For example, under current policy, a single parent who receives \$361 per month in Family Investment Program benefits and \$125 per month in Food Assistance benefits can be required to participate in unpaid work activity for only 13 hours per week and could not meet the Family Investment Program 20-hour work requirement without adding other activities. Under the mini-simplified food stamp program, this parent could be required to participate in unpaid work activity for 18 hours per week, and this level of participation would be deemed to meet the 20-hour requirement.

The Department has chosen to include in the mini-simplified food stamp program only Family Investment Program households that include a parent who is exempt from Food Assistance work registration requirements due to caring for a child under the age of six. This exemption ensures that the person's Food Assistance benefits would not be negatively affected by failure to meet the Family Investment Program work requirement. Therefore, implementation of the program will not reduce Food Assistance benefits and may lower the effective work participation requirement for receipt of Family Investment Program benefits.

This amendment does not provide for waivers in specified situations because the rule has no negative effect on Food Assistance benefits and the Department has no authority to waive requirements set in federal regulations.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6390B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on January 9, 2008.

This amendment shall become effective on March 5, 2008.

This amendment is intended to implement Iowa Code section 234.12.

The following amendment is adopted.

Rescind subrule 65.28(19) and adopt the following **new** subrule in lieu thereof:

**65.28(19)** Mini-simplified food stamp program.

a. Scope. The department operates a mini-simplified food stamp program for households that:

(1) Also receive benefits under the family investment program; and

(2) Include a parent who is exempt from food assistance requirements for work registration due to caring for a child under the age of six.

b. Effect. The mini-simplified food stamp program allows replacement of certain food stamp program work rules with work rules of the Temporary Assistance to Needy Families program. The value of the household's monthly food assistance benefits shall be combined with the household's monthly family investment program benefit amount to determine the maximum number of hours the department can require a household member under the family investment program to participate in an unpaid work activity that is subject to the federal Fair Labor Standards Act. Maximum required hours of participation for a month are determined by dividing the total amount of benefits by the state or federal minimum wage, whichever wage is higher.

[Filed 1/9/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6563B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

These amendments simplify and clarify policies on Medicaid coverage of prescribed outpatient drugs. Coverage requirements for prescription and nonprescription drugs are reorganized and moved from the physicians' services rule, 441—78.1(249A), into the rule currently titled retail pharmacies, 441—78.2(249A). Changes have been made as follows:

- The list of covered nonprescription drugs is expanded to include nonprescription drugs designated as preferred drugs.

- The limit on the quantity of prescription drugs dispensed is increased from a 30-day supply to a 31-day supply to accommodate longer months.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- The provision setting prior authorization at 24 months is removed.
- Language is added to clarify that a prescription is a condition for Medicaid payment of all drugs, whether or not a prescription would otherwise be required under Iowa law, and that prescriptions must be available for audit by the Department.
- The legal citations governing prescriptions are updated.
- Provisions in current rule 441—78.2(249A) relating to medical supplies and equipment are removed, since they are outside the scope of the new rule and are already included in the coverage rule for medical equipment and supplies, 441—78.10(249A).
- References to “recipient” are changed to the term “member” as defined in rule 441—75.25(249A).

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6378B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on January 9, 2008.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on April 1, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.1, 78.2, 78.28(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 6378B**, IAB 11/7/07.

[Filed 1/9/08, effective 4/1/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6565B**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This amendment increases the Medicaid upper payment limit for inpatient services in a psychiatric medical institution for children from \$160.71 per day to \$165.53 per day effective July 1, 2007, as directed by 2007 Iowa Acts, chapter 218, section 31(1), paragraph “g.”

The amendment does not provide for waivers in specified situations because the Department has no authority to waive a limit set by legislation.

This amendment was previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6368B**. Notice of Intended Action to solicit comments on this amendment was published in the Iowa Administrative Bulletin on the same date as **ARC 6369B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted this amendment on January 9, 2008.

This amendment is intended to implement Iowa Code section 249A.4 and 2007 Iowa Acts, chapter 218, section 31(1).

This amendment shall become effective March 5, 2008, at which time the Adopted and Filed Emergency amendment is rescinded.

The following amendment is adopted.

Amend subrule **79.1(2)**, “psychiatric medical institutions for children” provider category, as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Psychiatric medical institutions for children		
1. (Inpatient)	Prospective reimbursement	<i>Effective July 1, 2007, Reimbursement rate for provider based on per diem rates for actual costs on 6/30/06 6/30/07, not to exceed a maximum of \$160.71 \$165.53 per day.</i>
2. (Outpatient day treatment)	No change.	No change.

[Filed 1/9/08, effective 3/5/08]  
[Published 1/30/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6578B**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 13, “Milk and Milk Products,” Iowa Administrative Code.

This amendment rescinds the rule that pertained to milk and milk products. The rule is no longer necessary because the language in the rule is outdated and not applicable to today’s process for overseeing and regulating milk and milk products.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the language is outdated and not applicable in any fashion to today’s practice.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment shall become effective March 5, 2008.

This amendment is intended to implement Iowa Code section 135.11.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 13.**

[Filed Without Notice 1/11/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6570B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135I.6, the Department of Public Health hereby amends Chapter 15, "Swimming Pools and Spas," Iowa Administrative Code.

These amendments add the authority for the Department to withhold or revoke the registration of a swimming pool.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6427B**. No public comment was received. Item 2 has been added since the Notice of Intended Action for informational purposes at the suggestion of the Attorney General's office. This addition does not change the effect of the original Notice.

These amendments were adopted by the State Board of Health on January 9, 2008.

These amendments will become effective March 5, 2008.

These amendments are intended to implement Iowa Code chapter 135I.

The following amendments are adopted.

ITEM 1. Amend subrule **15.6(2)**, paragraph "**d**," as follows:

d. Adverse actions and the appeal process. If the department determines that the provisions of Iowa Code chapter 135I and these rules have been or are being violated, the department *may withhold or revoke the registration of a swimming pool or spa, or the department or the local board of health* may order that a swimming pool or spa be closed until corrective action has been taken. If the swimming pool or spa is operated *without being registered, or in violation of the order of the department, the department or local inspection agency* may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

(1) A local inspection agency may request that the department *withhold or revoke the registration of a swimming pool or spa, or issue an order to close a swimming pool or spa*. The request shall be in writing and shall list the violations of Iowa Code chapter 135I and these rules that have occurred or are occurring when the request is made. The local inspection agency shall provide a full accounting of the actions taken by the local inspection agency to enforce Iowa Code chapter 135I and these rules.

(2) ~~An~~ *Notice of the decision to withhold or revoke the registration for a swimming pool or spa, or an order to close a swimming pool or spa shall be delivered by restricted certified mail, return receipt requested, or by personal service. The notice shall inform the owner of the right to appeal the decision and the appeal procedures. The local inspection agency and the county attorney in the county where the swimming pool or spa is located shall be notified in writing of the decision or order.*

(3) An appeal of a *decision to withhold or revoke a registration or of an order to close* shall be submitted by certified mail, return receipt requested, within 30 days of receipt of the department's notice. The appeal shall be sent to *the* Iowa Department of Public Health, Division of ~~Health Statistics and Environmental Health~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the *decision or order* shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the *decision or order* upon satisfaction that the reason for the *decision or order* has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the *decision or order*. If no appeal is submitted within 30 days, the *decision or order* shall become the department's final agency action.

(4) to (10) No change.

(11) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent by certified mail, return receipt requested, or by personal service to the Iowa Department of Public Health, Division of ~~Health Statistics and Environmental Health~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

(12) No change.

ITEM 2. Amend rule 641—15.9(135I) by adopting the following **new** subrule:

**15.9(3)** Withholding registration. The department may withhold or revoke the registration of a swimming pool or spa pursuant to 15.6(2)"d" if an owner or the owner's designated representative has violated a provision of Iowa Code chapter 135I or a rule in this chapter.

[Filed 1/10/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6579B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 16, "Garbage and Refuse," Iowa Administrative Code.

This amendment rescinds the rules that pertained to the collection and disposal of garbage and refuse. The rules are no longer necessary because there are adequate requirements within local jurisdictions regarding the control of garbage and refuse that have eliminated the need for the involvement of the Department. Furthermore, the Department has no per-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

mit program as referenced in the rules for the collection of garbage and refuse, and the Department of Natural Resources has a comprehensive solid waste program.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because adequate measures are in place at the local level to address any concerns related to the improper collection or disposal of garbage and refuse.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment shall become effective March 5, 2008.

This amendment is intended to implement Iowa Code section 135.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 16.**

[Filed Without Notice 1/11/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6580B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 17, "Sanitation of Habitable Buildings," Iowa Administrative Code.

This amendment rescinds the rule that pertained to minimum sanitation requirements of housing in Iowa in addition to the requirements of the "housing law" defined in Iowa Code section 364.17. The rule is no longer necessary because the housing law applies only to those cities with a population of 15,000 or larger. Cities of this size have largely adopted housing standards that are much more stringent than the requirements outlined in this rule. During the last 14 years, the Department has received no requests or inquiries from local officials regarding these minimum standards. Other laws now govern these housing and sanitation issues.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because of the lack of inquiries and complaints relative to the requirements of this rule.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment shall become effective March 5, 2008.

This amendment is intended to implement Iowa Code section 135.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 17.**

[Filed Without Notice 1/11/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6581B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 18, "Tourist Camps, Trailer Camps, Cabin Camps, Construction Camps and Similar Establishments and Areas," Iowa Administrative Code.

This amendment rescinds the rule that pertained to minimum construction requirements for the listed camps intended as a place of residence. The rule is no longer necessary because the Department is not aware of any place of residence as defined in this rule. The Department has not received any complaints, inquiries, or requests for information related to this rule in the last 14 years.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because of the lack of inquiries from the public regarding this rule for many years.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment shall become effective March 5, 2008.

This amendment is intended to implement Iowa Code section 135.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 18.**

[Filed Without Notice 1/11/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6582B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 19, "Mass Gatherings," Iowa Administrative Code.

This amendment rescinds the rules that pertained to gatherings of 1,000 or more people for a duration of at least 12 hours at locations not developed for the purposes of holding mass gathering events. The rules are no longer necessary be-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

cause only one event held annually in Iowa has met this requirement and because the primary activities that occur during a mass gathering event are regulated by other existing rules; for example, food service, which is regulated by the Iowa Department of Inspections and Appeals.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because of the lack of events that meet the definition of a mass gathering.

This amendment was adopted by the State Board of Health on January 9, 2008.

This amendment shall become effective March 5, 2008.

This amendment is intended to implement Iowa Code section 135.11.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 19.**

[Filed Without Notice 1/11/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

## ARC 6571B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

These amendments describe how the WIC program will be able to share WIC participant contact information with other Department of Public Health programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6428B**. No public comment was received on these amendments. These amendments are identical to the amendments published under Notice of Intended Action.

The State Board of Health adopted these amendments on January 9, 2008.

These amendments will become effective on March 5, 2008.

These amendments are intended to implement Iowa Code chapter 135.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [73.2, 73.3, 73.7(7), 73.8(2), 73.13(7)] is being omitted. These amendments are identical to those published under Notice as **ARC 6428B**, IAB 11/21/07.

[Filed 1/10/08, effective 3/5/08]

[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6572B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 87, "Healthy Families Iowa (HFI)," Iowa Administrative Code, and adopts a new Chapter 87 with the same title.

The rules in new Chapter 87 describe the requirements for contractors providing Healthy Families Iowa services. Healthy Families America (HFA) standards are incorporated into the rules. All contractors, according to the rules in new Chapter 87, will be required to be HFA-accredited and to maintain accreditation status.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6426B**. No public comment was received on these rules. These rules are identical to the rules published under Notice of Intended Action.

The State Board of Health adopted these rules on January 9, 2008.

These rules shall become effective on July 1, 2008.

These rules are intended to implement Iowa Code section 135.106.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 87] is being omitted. These rules are identical to those published under Notice as **ARC 6426B**, IAB 11/21/07.

[Filed 1/10/08, effective 7/1/08]

[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

## ARC 6573B

### PUBLIC HEALTH DEPARTMENT[641]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 135.11 and 691.6B, the Department of Public Health hereby adopts new Chapter 124, "Interagency Coordinating Council for the State Medical Examiner," Iowa Administrative Code.

The rules in Chapter 124 describe the purpose, membership, duties, and meeting procedures for the Interagency Coordinating Council for the State Medical Examiner.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6421B**. Comments were received from the American Civil Liberties Union of Iowa concerning the lack of reference to Iowa Code chapter 21. Additions have been made based on these comments, and other, nonsubstantive changes have been made to improve accuracy and clarity.

The State Board of Health adopted these rules on January 9, 2008.

These rules will become effective on March 5, 2008.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These rules are intended to implement Iowa Code section 691.6B.

The following **new** chapter is adopted.

CHAPTER 124  
INTERAGENCY COORDINATING COUNCIL  
FOR THE STATE MEDICAL EXAMINER

**641—124.1(691) Purpose.** The purpose of the interagency coordinating council for the state medical examiner is to provide a venue for the effective coordination of the functions and operations of the office of the state medical examiner with the needs and interests of the department of public safety and the department of public health, with input and guidance from the governor's office.

**641—124.2(691) Membership.** Members shall include the chief state medical examiner or, when the state medical examiner is not available, the deputy state medical examiner, the commissioner of public safety or the commissioner's designee, the director of public health or the director's designee, and the governor or the governor's designee.

**641—124.3(691) Meetings.**

**124.3(1)** The interagency coordinating council shall schedule quarterly meetings to be held at the office of the director of public health.

**124.3(2)** Meetings may be scheduled more frequently or less frequently depending upon the circumstances and the need for consultation.

**124.3(3)** Meetings may be canceled by any member with the agreement of the other members.

**124.3(4)** All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**641—124.4(691) Duties.** The interagency coordinating council shall perform the following duties:

**124.4(1)** Provide a venue to coordinate the functions and operations of the office of the state medical examiner with the department of public safety and the department of public health in order to better serve the needs of the citizens of Iowa.

**124.4(2)** Provide to and receive from the governor's office updated information relevant to the mission of the state medical examiner's office.

**124.4(3)** Discuss legislative and budgetary decisions that may impact the functions and operations of one, two, or all three agencies represented by the interagency coordinating council.

**641—124.5(691) Minutes.** The office of the state medical examiner shall keep minutes of all meetings showing the date, time, place, members present, and the general topics presented.

**124.5(1)** The minutes shall be provided to the members of the interagency coordinating council prior to the next scheduled meeting.

**124.5(2)** The minutes shall be available at the office of the state medical examiner for public inspection Monday through Friday from 8:30 a.m. to 4:30 p.m.

These rules are intended to implement Iowa Code section 691.6B.

[Filed 1/10/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6574B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.11 and 691.6C, the Department of Public Health hereby adopts new Chapter 125, "Advisory Council for the State Medical Examiner," Iowa Administrative Code.

The rules in Chapter 125 describe the purpose, membership, duties, and meeting procedures for the Advisory Council for the State Medical Examiner.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6422B**. Comments were received from the American Civil Liberties Union of Iowa concerning the lack of reference to Iowa Code chapter 21. Additions have been made based on these comments, and other, nonsubstantive changes have been made to improve accuracy and clarity.

The State Board of Health adopted these rules on January 9, 2008.

These rules will become effective on March 5, 2008.

These rules are intended to implement Iowa Code section 691.6C.

The following **new** chapter is adopted.

CHAPTER 125  
ADVISORY COUNCIL FOR  
THE STATE MEDICAL EXAMINER

**641—125.1(691) Purpose.** The purposes of the advisory council for the state medical examiner are to provide guidance concerning medicolegal death investigation for the state of Iowa, facilitate optimal relationships between the state and county medical examiners and other agencies involved in death investigation, and provide a venue for the exchange of information vital to the continued operations of the Iowa office of the state medical examiner.

**641—125.2(691) Membership.** Members shall include representatives from agencies and organizations that are directly involved with the office of the state medical examiner and medicolegal death investigation in the state of Iowa.

**125.2(1)** The advisory council shall include but not be limited to a representative from the following agencies:

- a. The office of the attorney general;
- b. The Iowa County Attorneys Association;
- c. The Iowa Medical Society;
- d. The Iowa Association of Pathologists;
- e. The Iowa Association of County Medical Examiners;
- f. The department of public safety;
- g. The department of public health;
- h. The Iowa Emergency Medical Services Association;
- i. The Iowa Funeral Directors Association;
- j. The University of Iowa department of pathology;
- k. The state public defender's office; and
- l. The office of the state medical examiner.

**125.2(2)** Each specific organization shall designate a representative to serve on the advisory council. Representatives shall be approved by the chief state medical examiner in consultation with the director of public health. Members may be selected from other organizations not specified in subrule 125.2(1) at the discretion of the chief state medical examiner.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**125.2(3)** The chair and presiding member of the council shall be the chief state medical examiner or a designee from the office of the state medical examiner.

**641—125.3(691) Meetings.** The advisory council will hold a meeting at the Iowa laboratory facility in Ankeny at least quarterly or on a more frequent basis as deemed necessary by the chief state medical examiner with approval of a majority of members of the council.

**125.3(1)** Meetings may be conducted via the Iowa Communications Network (ICN) for members who cannot physically be present at the laboratory facilities.

**125.3(2)** Meetings may be conducted by telephone at the discretion of the chief state medical examiner depending upon the complexity of the agenda.

**125.3(3)** Notice of routine meetings and agenda will be made available to the members a minimum of five working days prior to the meeting.

**125.3(4)** The chief state medical examiner or any member of the council may ask for a special meeting to discuss emergent issues within a 24-hour time period.

**125.3(5)** All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**125.3(6)** The operation of council meetings will be governed by the following rules of procedure:

a. A simple majority will be defined as a quorum, but the chair may choose to continue with the meeting even if a quorum is not present.

b. A course of action for topics under debate will be agreed upon by a simple majority vote of the members present at the meeting.

c. Any council member or a designated replacement who is unable to attend a meeting will notify the office of the state medical examiner at least 24 hours prior to the start of a regularly scheduled meeting; a meeting may be canceled if attendance is expected to be low.

**641—125.4(691) Duties.** The advisory council shall perform the following duties:

**125.4(1)** Provide information to council members regarding the current operations and functions of the office of the state medical examiner.

**125.4(2)** Provide information to council members regarding any legislative or budgetary decisions that impact the office of the state medical examiner.

**125.4(3)** Elicit council members' suggestions and recommendations to improve the overall operations of the office of the state medical examiner.

**641—125.5(691) Minutes.** The advisory council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

**125.5(1)** The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

**125.5(2)** If a meeting is convened within a 24-hour time period to discuss emergent issues, then the minutes shall reflect the emergent nature of this meeting.

**125.5(3)** If a meeting is conducted via telephone, then the minutes shall reflect the reason for the use of this method of communication.

**125.5(4)** The minutes shall be available at the office of the state medical examiner for inspection Monday through Friday from 8:30 a.m. to 4:30 p.m.

These rules are intended to implement Iowa Code section 691.6C.

[Filed 1/10/08, effective 3/5/08]

[Published 1/30/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/30/08.

**ARC 6575B****PUBLIC HEALTH  
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 176, "Criteria for Awards or Grants," Iowa Administrative Code.

These amendments modify language to conform to standards of 11—Chapter 105 and clarify the appeal process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6425B**. No public comment was received. Two changes were made upon further internal review. In Item 4, third paragraph, "shall" was changed to "may." In Item 7, the words "Letters of intent" were added to the beginning of the first sentence in subrule 176.8(1).

These amendments were adopted by the State Board of Health on January 9, 2008.

These amendments will become effective March 5, 2008.

These amendments are intended to implement Iowa Code chapters 135 and 17A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [176.1, 176.2, 176.4 to 176.8] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 6425B**, IAB 11/21/07.

[Filed 1/10/08, effective 3/5/08]

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[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6576B****RACING AND GAMING  
COMMISSION[491]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby adopts amendments to Chapter 1, "Organization and Operation," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," Chapter 9, "Harness Racing," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

Items 1 to 11 and 13 to 17 are due to legislative changes, correction of typographical error, relocation of a rule to

## RACING AND GAMING COMMISSION[491](cont'd)

another chapter, or correction of Iowa Rules of Civil Procedure references.

Item 12 changes when the weekly and monthly numbers are due to the Commission.

Items 18 to 33 update existing rules to correspond with the national uniform rules of racing.

Item 34 allows for the use of more than one independent testing facility for the testing of gambling games or implements of gambling.

Item 35 makes the cash payout of a prize to be at least 75 percent of the fair market value of the merchandise or thing of value offered as a prize.

Item 36 changes the theoretical payout percentage to an actual aggregate payout percentage.

Item 37 requires a progressive jackpot that has been removed from the floor to be transferred to another progressive slot machine at the same facility within 30 days of removal.

These adopted amendments are identical to those published under Notice of Intended Action in the November 7, 2007, Iowa Administrative Bulletin as **ARC 6367B**.

A public hearing was held on November 27, 2007. No comments were received.

These amendments will become effective March 5, 2008.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1, 4 to 6, and 9 to 11] is being omitted. These amendments are identical to those published under Notice as **ARC 6367B**, IAB 11/7/07.

[Filed 1/11/08, effective 3/5/08]  
[Published 1/30/08]

[For replacement pages for IAC, see IAC Supplement 1/30/08.]

**ARC 6547B****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapters 476, 478, and 479, and section 17A.4, the Utilities Board (Board) gives notice that on December 27, 2007, the Board issued an order in Docket No. RMU-07-6, In re: Incident and Outage Reporting Requirements for Natural Gas, Electric, and Water Utilities, Communications Providers, and Owners and Operators of Electric Facilities [199 IAC chapters 19, 20, 21, 22 and 25], "Order Adopting Amendments," that adopts amendments to the Board rules for incident and outage notification and reporting by natural gas utilities, electric utilities, rate-regulated water utilities, communications providers, and owners and operators of energized electrical facilities.

The adopted rules prescribe when and what type of notice the Board is to receive so the Board can fulfill its statutory responsibilities to help keep the public and other government agencies informed about significant events that involve interruption of utility service that affects the safety and welfare of Iowa citizens. The amendments are designed to establish procedures for immediate verbal or electronic notification to the Board so the Board can help promote a timely response to the loss of utility service by alerting the appropriate authori-

ties, agencies, and other government officials when necessary.

Notice of Intended Action with the proposed amendments was published in IAB Vol. XXX, No. 7 (9/26/07) p. 576, as **ARC 6267B**. Comments were filed by Interstate Power and Light Company (IPL); the Iowa Association of Municipal Utilities (IAMU); the Consumer Advocate Division of the Department of Justice (Consumer Advocate); MidAmerican Energy Company (MidAmerican); the Iowa Association of Electric Cooperatives (IAEC); AG Processing Inc. (AGP); Iowa-American Water Company (Iowa-American); the Iowa Telecommunications Association (ITA); CTIA-The Wireless Association<sup>®</sup> (CTIA); AT&T Communications of the Midwest, Inc., TCG Omaha, Inc., and SBC Long Distance, LLC, d/b/a AT&T Long Distance (collectively AT&T); Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom); MCImetro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services, and MCI Communications Services, Inc., d/b/a Verizon Business Services (collectively Verizon); and Qwest Corporation (Qwest).

On October 30, 2007, the oral presentation was held as scheduled. Qwest, IPL, MidAmerican, CTIA, and Verizon filed additional information in response to questions from the Board at the hearing. The order containing the background and discussion of the comments and revisions adopted by the Board can be found on the Board's Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub).

These amendments are intended to implement Iowa Code chapters 476, 478, 479, and section 17A.4.

These amendments will become effective on March 5, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule **19.1(3)**, definition of "interruption of service," as follows:

"Interruption of service" means any disturbance of the gas supply whereby gas service to ~~50 customers or more in one segment or in a portion of a distribution system~~ a customer cannot be maintained.

ITEM 2. Rescind and reserve paragraph **19.2(5)"b."**

ITEM 3. Amend paragraph **19.2(5)"i"** as follows:

i. List of persons authorized to receive board inquiries. Each utility shall file with the board *in the annual report required by 199—subrule 23.1(2)* a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) ~~emergencies during nonoffice hours;~~ (6) pipeline permits (gas). *Each utility shall file with the board a telephone contact number or numbers where the board can obtain current information 24 hours a day about incidents and interruptions of service from a knowledgeable person. Such* The contact information required by this paragraph shall be kept current as changes or corrections are made.

ITEM 4. Amend paragraph **19.7(7)"a"** as follows:

a. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety. Each utility shall maintain records for not less than two years of interruptions of service as ~~defined in 19.1(3)~~ required to be reported in 19.17(1) and shall periodically review these records to determine steps to be taken to prevent recurrence.

## UTILITIES DIVISION[199](cont'd)

ITEM 5. Adopt **new** rule 199—19.17(476) as follows:

**199—19.17(476) Incident notification and reports.**

**19.17(1) Notification.** A utility shall notify the board immediately, or as soon as practical, of any incident involving the release of gas, failure of equipment, or interruption of facility operations, which results in any of the following:

- a. A death or personal injury necessitating in-patient hospitalization.
- b. Estimated property damage of \$15,000 or more to the property of the utility and to others, including the cost of gas lost.
- c. Emergency shutdown of a liquefied natural gas (LNG) facility.
- d. An interruption of service to 50 or more customers.
- e. Any other incident considered significant by the utility.

**19.17(2) Information required.** The utility shall notify the board by telephone, as soon as practical, of any reportable incident by calling the board duty officer pager at 1-866-479-9461. The caller shall leave a call-back number for a person who can provide the following information:

- a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries and the extent of those injuries, if any.
- e. An initial estimate of damages.
- f. The number of services interrupted.
- g. A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.
- h. Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.

**19.17(3) Written incident reports.** Within 30 days of the date of the incident, the utility shall file a written report with the board. The report shall include the information required for telephone notice in subrule 19.17(2), the probable cause as determined by the utility, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Copies of any written reports concerning an incident or safety-related condition filed with or submitted to the U.S. Department of Transportation or the National Transportation Safety Board shall also be provided to the board.

ITEM 6. Amend paragraph **20.2(5)“k”** as follows:

k. List of persons authorized to receive board inquiries. Each utility shall file with the board *in the annual report required in 199—subrule 23.1(2)* a list of names, titles, addresses, and telephone numbers of persons authorized to receive, act upon, and respond to communications from the board in connection with: (1) general management duties; (2) customer relations (complaints); (3) engineering operations; (4) meter tests and repairs; (5) emergencies during nonoffice hours; (6) franchises for electric lines; (7) (6) certificates for electric generating plants. *Each utility shall file with the board a telephone contact number where the board can obtain current information 24 hours a day about outages and interruptions of service from a knowledgeable person.*

~~Such~~ *The contact information required by this paragraph shall be kept current as changes or corrections are made.*

ITEM 7. Amend subrule 20.18(6) as follows:

~~**20.18(6) Notification requirements and other reporting of major events.** Notification and reporting of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 20.19(476,478).~~

~~a. Notification. Each electric utility with over 50,000 Iowa retail customers shall notify the board of any major event as defined in subrule 20.18(4) and of any other widespread outage considered significant by the electric utility. The notice shall be provided as soon as practical once the occurrence of a major event becomes known to the electric utility. Notice shall be made by telephone to the board's customer services section, by electronic mail to the board's general E-mail address, or by facsimile. The notice shall include, to the electric utility's best knowledge at the time:~~

- ~~(1) The nature or cause of the major event;~~
- ~~(2) The area affected by the major event;~~
- ~~(3) The number of customers that have experienced a sustained interruption of service; and~~
- ~~(4) The estimated time until service is restored.~~

~~The electric utility shall provide periodic updates to the board as new or improved information becomes available until all service is restored. The electric utility shall periodical report to the general public (via broadcasts or other media and by updating telephone answering machines) its best estimate as to when the service will be restored.~~

~~b. Major event report. Each electric utility with over 50,000 Iowa retail customers shall submit a report to the board within 20 business days after the end of a major event. The report shall include the following:~~

- ~~(1) A description of the event;~~
- ~~(2) The total number of customers out of service over the course of the major event at six-hour intervals, identified by operating area or circuit area;~~
- ~~(3) The longest customer interruption;~~
- ~~(4) The damage cost estimates to the electric utility's facilities;~~
- ~~(5) The date and time when storm center opened and closed;~~
- ~~(6) The number of people used to restore service; and~~
- ~~(7) The name and telephone number of a utility employee who may be contacted about the outage.~~

ITEM 8. Adopt **new** rule 199—20.19(476,478) as follows:

**199—20.19(476,478) Notification and reporting of outages.**

**20.19(1) Notification.** Each electric utility shall notify the board of any outage that results, or is expected to result, in the following:

- a. Loss of service for more than two hours to substantial all of a municipality, including the surrounding area served by the same utility;
- b. Loss of service for more than two hours to 20 percent of the customers in a utility's established zone or area;
- c. Loss of service for more than two hours to more than 3,600 customers in a metropolitan area;
- d. A major event as defined in subrule 20.18(4); or
- e. Any other outage considered significant by the electric utility.

**20.19(2) Information required.**

a. Notice shall be provided as soon as the utility learns of the outage, or as soon as practical thereafter, by calling the board duty officer pager at 1-866-479-9461. The caller shall

## UTILITIES DIVISION[199](cont'd)

leave a call-back number for a person who can provide the following information:

- (1) The nature or cause of the outage;
- (2) The area affected;
- (3) The number of customers that have experienced a loss of electric service as a result of the outage;
- (4) The estimated time until service will be restored; and
- (5) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the outage.

b. The electric utility shall provide updates to the board as new or additional information becomes available until all service is restored.

**20.19(3)** Outage report. Each electric utility shall submit a report to the board within 30 days after the customers affected by the outage reported under subrule 20.19(1) have regained service. The report shall include the following:

- a. A description of the circumstances that caused the outage;
- b. The total number of customers out of service during the outage;
- c. The longest customer interruption;
- d. The damage cost estimates to the electric utility's facilities; and
- e. The number of people used to restore service.

ITEM 9. Adopt **new** rule 199—21.9(476) as follows:

**199—21.9(476) Incident reports.** A regulated public water utility shall notify the board when it notifies the Iowa department of natural resources or the local county health department about an incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by calling the board duty officer pager at 1-866-479-9461. The caller shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.

ITEM 10. Amend paragraph **22.2(6)“a”** as follows:

a. Each utility shall file with the board the name, title, address, and telephone number of the person who is authorized to receive, act upon, and respond to communications from the board in connection with the following:

- (1) General management duties.
- (2) Customer relations (complaints).
- (3) Engineering operations.
- (4) ~~Emergencies during nonoffice hours. Outages, including those occurring during nonoffice hours, pursuant to paragraph 22.2(8) “d.”~~

ITEM 11. Adopt **new** subrule 22.2(8) as follows:

**22.2(8)** Outage reporting requirements. All communications providers included in 47 CFR § 4.3 (a), (c), (f), and (g) shall provide notification, outage reports, and current contact information as provided in this subrule.

a. Notification of reportable outage. All communications providers covered by this subrule shall notify the board of a reportable outage as defined in 47 CFR Part 4 by calling the board duty officer pager at 1-866-479-9461 or by sending an electronic message to the board duty officer pager at [8664799461@pager.connectyou.com](mailto:8664799461@pager.connectyou.com), as soon as reason-

ably possible after discovering the outage, but no later than immediately after submitting the required electronic notification to the Federal Communications Commission (FCC). Notification to the board shall include a contact name and contact telephone number by which the board may immediately contact the reporting communications provider. A copy of the FCC notification shall be sent either by electronic mail to [IUBDutyOfficer@iub.state.ia.us](mailto:IUBDutyOfficer@iub.state.ia.us) or by one paper copy, which shall be filed with the board.

b. Initial communications outage report. Immediately after submitting any initial communications outage report to the FCC (which is required to be submitted no later than 72 hours after an outage is discovered), all communications providers subject to this subrule shall send an electronic copy of the outage report to [IUBDutyOfficer@iub.state.ia.us](mailto:IUBDutyOfficer@iub.state.ia.us) or file one paper copy of the report with the board.

c. Final communications outage report. Immediately after submitting any final communications outage report to the FCC (which is required to be submitted no later than 30 days after an outage is discovered), all communications providers covered by this subrule shall send an electronic copy of the final FCC report to [IUBDutyOfficer@iub.state.ia.us](mailto:IUBDutyOfficer@iub.state.ia.us) or file one paper copy of any final communications outage report with the board.

d. Contact information required. In its annual report, every communications provider subject to this subrule shall submit to the board a current list of contact names and telephone numbers to be used when a service outage occurs or any other time the board or its staff requires immediate information, both during normal office hours and after normal office hours. The named individual(s) shall be knowledgeable about the technical aspects of a service outage(s), its estimated duration, the impact to customers, and the probable cause. Each communications provider shall update the board immediately whenever a change in the contact information occurs.

e. The information contained in the FCC notification and reports required to be filed pursuant to paragraphs 22.2(8)“a” to “c” shall be held as confidential pursuant to FCC order. The board may provide general information or aggregate information from these reports when necessary for the public safety and welfare.

ITEM 12. Amend rule 199—25.5(476,478) as follows:

**199—25.5(476,478) Accident reports.** ~~An electric utility shall file with the board a written report on any accident to an employee or other person involving contact with its energized electrical supply facilities which results in a fatality, admission to a hospital, \$10,000 in damages to the property of the utility and others, or any other accident considered significant by the utility. Prompt telephone notice of any electrical contact accident which results in a fatality shall be given to the board's engineering section during normal working hours. Written reports shall be submitted as soon as is practical following the accident. This rule applies to all owners or operators of electrical facilities subject to the safety jurisdiction of the board under this chapter.~~

~~Written and telephone accident reports shall include the following information:~~

- ~~—The name of the utility, the name of the person making the report, and their telephone number.~~
- ~~—The time and location of the accident.~~
- ~~—The number of fatalities, extent of personal injuries, and the extent of property damage.~~
- ~~—A description of the events associated with the accident.~~

## UTILITIES DIVISION[199](cont'd)

**25.5(1)** All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall provide the board with a 24-hour contact number where the board can obtain immediate access to a person knowledgeable about any incidents involving contact with energized electrical facilities.

**25.5(2)** All owners and operators of electrical facilities subject to the safety jurisdiction of the board shall notify the board of any incident or accident involving contact with energized electrical facilities that meets the following conditions:

a. An employee or other person coming in contact with electrical energized facilities which results in death or personal injury necessitating in-patient hospitalization.

b. Estimated property damage of \$15,000 or more to the property of the utility and others.

c. Any other incident considered significant by the company.

**25.5(3)** The board shall be notified by telephone immediately, or as soon as practical thereafter, by calling the board duty officer pager at 1-866-479-9461. The caller shall leave a telephone number of a person who can provide the following information:

a. The name of the company, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.

b. The location of the incident.

c. The time of the incident.

d. The number of deaths or personal injuries requiring in-patient hospitalization and the extent of those injuries.

e. Initial estimate of damages.

f. A summary of the significant information available regarding the probable cause of the incident and extent of damages.

g. Any oral or written report made to a federal agency, the agency receiving the report, and the name and telephone number of the person who made or prepared the report.

**25.5(4)** Written incident reports. Within 30 days of the date of the incident, the owner or operator shall file a written report with the board. The report shall include the information required for telephone notice in subrule 25.5(2), the probable cause as determined by the company, the number and cause of any deaths or personal injuries requiring in-patient hospitalization, and a detailed description of property damage and the amount of monetary damages. If significant additional information becomes available at a later date, a supplemental report shall be filed. Duplicate copies of any written reports filed with or submitted to a federal agency concerning the incident shall also be provided to the board.

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