



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXX  
March 12, 2008

NUMBER 19  
Pages 1373 to 1416

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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

Telephone: (515)281-3355

STEPHANIE A. HOFF, Deputy Editor

(515)281-8157

Fax: (515)281-5534

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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
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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>
21	Friday, March 21, 2008	April 9, 2008
22	Friday, April 4, 2008	April 23, 2008
23	Friday, April 18, 2008	May 7, 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\*\*\***

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>CORRECTIONS DEPARTMENT[201]</b>		
Jail inspections and operations, amendments to ch 50 IAB 3/12/08 <b>ARC 6641B</b>	Second Floor Conference Room 510 E. 12th St. Des Moines, Iowa	April 1, 2008 1 to 3 p.m.
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Administrator endorsement—out-of- state applicants, 14.142 IAB 2/27/08 <b>ARC 6606B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	March 19, 2008 1 p.m.
School psychologist endorsement, 15.11(2) IAB 3/12/08 <b>ARC 6642B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 2, 2008 1 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Iowa public charter schools, 68.1 to 68.7 IAB 2/27/08 <b>ARC 6623B</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 18, 2008 1 to 2 p.m.
<b>LOTTERY AUTHORITY, IOWA[531]</b>		
Claiming prizes, 11.1(5), 11.4 IAB 3/12/08 <b>ARC 6652B</b> (See also <b>ARC 6651B</b> herein)	2323 Grand Ave. Des Moines, Iowa	April 2, 2008 10 a.m. (If requested)
<b>MEDICINE BOARD[653]</b>		
Physician licensure—USMLE and COMLEX, 9.4 IAB 2/27/08 <b>ARC 6607B</b>	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	March 18, 2008 3 p.m.
<b>STATE PUBLIC DEFENDER[493]</b>		
Submission of claims; fee limitations, 7.1, 12.2, 12.5, 12.6, 12.9(2), 13.2(4) IAB 2/27/08 <b>ARC 6610B</b>	Conference Room 424 Lucas State Office Bldg. Des Moines, Iowa	March 24, 2008 9:15 a.m.
Mileage reimbursement; rate and fee limitations, 12.8(1), 14.3 IAB 2/27/08 <b>ARC 6609B</b> (See also <b>ARC 6608B</b> )	Conference Room 424 Lucas State Office Bldg. Des Moines, Iowa	March 24, 2008 9 a.m.
<b>TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]</b>		
Service delivery bureau, 1.5(2) IAB 2/27/08 <b>ARC 6611B</b>	ICN Grand Conference Room Grimes State Office Bldg. Des Moines, Iowa	March 19, 2008 2:30 p.m.
Authorized spending limit, 5.1(1) IAB 2/27/08 <b>ARC 6612B</b>	ICN Grand Conference Room Grimes State Office Bldg. Des Moines, Iowa	March 19, 2008 2:30 p.m.

**TRANSPORTATION DEPARTMENT[761]**

Outdoor advertising, amendments to ch 117 IAB 3/12/08 <b>ARC 6637B</b>	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	April 3, 2008 11 a.m. (If requested)
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**UTILITIES DIVISION[199]**

Electric energy adjustment clause, 20.1(3), 20.9(2), 20.13(1), 20.17 IAB 2/27/08 <b>ARC 6616B</b>	350 Maple St. Des Moines, Iowa	April 8, 2008 10 a.m.
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**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Admissions procedure; personal needs allowance, 10.1, 10.3, 10.4, 10.6, 10.16(2), 10.19, 10.51 IAB 3/12/08 <b>ARC 6644B</b>	Ford Memorial Conference Room 1301 Summit Iowa Veterans Home Marshalltown, Iowa	April 2, 2008 9 a.m. (If requested)
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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:

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## ARC 6641B

## CORRECTIONS DEPARTMENT[201]

## 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 chapters 356 and 356A and section 17A.3, the Department of Corrections hereby gives Notice of Intended Action to amend Chapter 50, “Jail Facilities,” Iowa Administrative Code

The proposed amendments clarify and update current provisions of existing practices for jail inspections and jail operations.

Any interested person may make written suggestions or comments on the proposed amendments on or before Tuesday, April 1, 2008. Such written material should be sent to the Department of Corrections, Legal and Policy Division, 510 E. 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on Tuesday, April 1, 2008, from 1 to 3 p.m. in the Second Floor Conference Room, 510 E. 12th Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

Any persons who intend to attend the public hearing and have special requirements should contact the Department of Corrections and advise of specific needs.

These amendments are intended to implement Iowa Code chapters 356 and 356A and section 17A.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.

The following amendments are proposed.

ITEM 1. Amend rule ~~201—50.1(356,356A)~~, definitions of “average daily population,” “capacity,” “cell,” “day-room,” “housing,” “jailer,” “multiple occupancy cell,” and “waiver/variance,” as follows:

“Average daily population” means the average number of prisoners housed daily during each year any given time period.

“Capacity” means the number of prisoner occupants which any cell, room, unit, building, facility or combination thereof may accommodate according to the square footage and fixture requirements of the standards.

“Cell” means single prisoner occupancy bedroom space with toilet and lavatory facilities.

“Dayroom” means a common space shared by prisoners residing in a cell or group of cells or multiple occupancy cells, to which prisoners are admitted for activities such as dining, bathing, or passive recreation and which are situated immediately adjacent to prisoner sleeping areas.

“Housing unit” means an individual a detention area. This area may be a single occupancy cell, multiple occupancy cell, cellblock, or dormitory.

“Jailer” means any person who is involved in the booking and supervision of prisoners, who has direct contact with

prisoners and who has control over the movement or release of prisoners within the jail, and who meets *Jailers shall meet* the requirements of rules 201—50.10(356,356A) and 50.11(356,356A), Iowa Administrative Code.

“Multiple occupancy cell” means a cell or a group of cells designed for more than one prisoner and accessible to a day-room.

“Waiver/variance” means a waiver of a specific standard granted by the jail inspection unit Iowa department of corrections in accordance with 201—Chapter 7.

ITEM 2. Amend paragraph ~~50.4(8)“b”~~ as follows:

b. Adequate storage space for prisoners’ personal clothing and property shall be provided. Space provided shall be secure, and the prisoner’s name or identity *identification number* shall be affixed to the storage space. ~~Property shall be inventoried and accounted for pursuant to Iowa Code section 804.19.~~

ITEM 3. Amend paragraphs ~~50.7(2)“e,” 50.7(2)“f”~~ and ~~50.7(2)“g”~~ as follows:

e. A functionally operating shower which produces both hot and cold water for each group of ~~ten~~ 12 prisoners.

f. A lavatory that furnishes both hot and cold water for each group of ~~six~~ 9 prisoners or portion thereof.

g. A functional toilet for each group of ~~six~~ 9 prisoners or portion thereof.

ITEM 4. Amend paragraph ~~50.8(1)“c”~~ as follows:

c. Dormitory units shall provide a minimum of ~~35~~ 60 square feet of ~~unencumbered~~ floor space for each prisoner, *exclusive of lavatories, showers, and toilets.*

ITEM 5. Amend subrule 50.8(5) as follows:

~~50.8(5)~~ Exercise areas.

a. *This paragraph shall apply to all jails on or before January 1, 2008.* Exercise areas may be indoor or outdoor exercise areas and shall contain 15 square feet per prisoner for the maximum number of prisoners expected to use the space at one time, but not less than 500 square feet of unencumbered space. Segregation units may have individual exercise areas containing a minimum of 180 square feet of unencumbered space. Exercise areas shall provide opportunity for adequate exercise in accordance with 50.18(1)“c.” Exercise areas are ~~not shall not~~ be the same as dayrooms.

b. *This paragraph shall apply to all jails which are of new construction and to all major remodeling or reconstruction after January 1, 2008.* Exercise areas may be indoor or outdoor exercise areas and shall contain 15 square feet per prisoner for the maximum number of prisoners expected to use the space at one time, but not less than 500 square feet of unencumbered space. Segregation units may have individual exercise areas containing a minimum of 180 square feet of unencumbered space. Exercise areas shall have a minimum ceiling height of 18 feet. Exercise areas shall provide opportunity for adequate exercise in accordance with 50.18(1)“c.” Exercise areas shall not be the same as dayrooms.

ITEM 6. Amend subparagraph ~~50.13(2)“c”~~(1) as follows:

(1) All prisoners and property entering or leaving the jail shall be thoroughly searched; searchers of persons charged with a simple misdemeanor shall follow provisions of Iowa Code section 804.30. *Property taken from prisoners shall be inventoried and accounted for pursuant to Iowa Code section 804.19. The prisoner’s name or identification number shall be affixed to the property or storage space. Receipts shall be*

CORRECTIONS DEPARTMENT[201](cont'd)

*made for property taken from prisoners at the time of admission and returned to prisoners at the time of release.*

ITEM 7. Amend subparagraph **50.13(2)“e”(4)** as follows:

(4) The jail administrator shall have written plans for situations that threaten facility security. Such situations include but are not limited to: *bomb threats*, riots, hunger strikes, disturbances, hostage situations, escape attempts, medical emergencies, natural disasters, and staff work stoppage. The plans shall be made available to all applicable personnel and reviewed by jail staff at least annually and updated as needed.

ITEM 8. Amend subparagraphs **50.13(2)“f”(1)** and **50.13(2)“f”(2)** as follows:

(1) Observation by staff shall be continuous. (*A CCTV system may be used.*)

(2) Personal visual (*non-CCTV*) observation of the prisoner and the restraint device application shall be made at least every 15 minutes.

ITEM 9. Amend paragraphs **50.15(6)“c”** and **50.15(6)“d”** as follows:

c. As a part of the admission procedure, a medical history intake form shall be completed for each person admitted to the jail. The intake procedure shall include screening for potential self-injury or potential suicide. Jail staff with actual knowledge that there is a substantial risk that a prisoner intends to commit suicide shall take reasonable measures to abate that risk. The jail shall have a written suicide prevention plan. Essential elements of the plan shall include *annual* training to recognize the potential for suicide, communication between staff, appropriate housing and intervention procedures.

d. During times when there is no means of immediate access to the district court, a person arrested on a charge constituting a simple misdemeanor and believed by the arresting officer/agency to be mentally ill, and because of that illness is likely to physically injure the person's self or others, shall be admitted to the jail only after the arresting officer/agency has demonstrated a reasonable effort to comply with the emergency hospitalization procedure, as provided in Iowa Code section 229.22. The jail shall have a written plan to provide prisoners access to services for the detection, diagnosis and treatment of mental illness. *The plan shall include a mental health screening process at admission.*

ITEM 10. Amend paragraph **50.15(7)“b”** as follows:

b. All prescription medicine shall be securely stored and inventory control practiced. Inventory control shall include ~~control~~ *documentation* of all medication coming into the jail and the amount returned or destroyed when a prisoner is released.

ITEM 11. Amend subparagraph **50.21(4)“b”(14)** as follows:

(14) A policy and procedure to ensure that a written report is made of the decision and the supporting reasons and that a copy is given to the prisoner. The hearing record and documents shall be kept in the prisoner's file. ~~If the prisoner is found not guilty, the disciplinary report shall be removed from the prisoner's file.~~

**ARC 6657B**

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

### 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 15.104 and 15.106, the Iowa Department of Economic Development hereby proposes to amend Chapter 104, “Targeted Industries Internship Program,” Iowa Administrative Code.

The amendment removes the requirement that a business receiving an award from the program must select an intern within 90 days of the award date. In lieu thereof, the new requirement is that the business must select an intern within the time period identified in the contract between the Department and the business. The Department has determined that establishing a fixed 90-day period from the award date did not allow enough time for the contracting and intern selection processes to be completed.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on April 1, 2008. Interested persons may submit written or oral comments by contacting Karen Merrick, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4833.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6658B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code Supplement section 15.411(6).

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 6642B**

## EDUCATIONAL EXAMINERS BOARD[282]

### 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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposal to amend subrule 15.11(2) is intended to make the requirements for the school psychologist endorsement more clear.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 2, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, April 4, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [marcia.henderson@iowa.gov](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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 15.11(2) as follows:

**15.11(2) Program requirements.**

a. An applicant shall have completed a program of graduate study *that is currently approved (or that was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association, or be certified as a Nationally Certified School Psychologist by the National Association of School Psychologists*, in preparation for service as a school psychologist through one of the following options:

(1) Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or

(2) Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or

~~(3) Completion of a 60-semester-hour master's degree program; or~~ Completion of a doctoral degree program of at least 60 graduate semester hours with or without completion of a terminal master's degree program or specialist's degree program.

~~(4) Completion of a graduate school psychology program that is currently approved (or was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association; or~~

~~(5) Certification as a Nationally Certified School Psychologist by the National Association of School Psychologists.~~

The program must include a practicum in a school setting designed to give the school psychologist an opportunity to develop an understanding of the role of psychology in the

classroom through participation in classroom procedures in a supportive role.

b. The program shall include an approved human relations component.

c. The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

## ARC 6629B

### 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 234.6 and 2007 Iowa Acts, chapter 218, section 31(13), the Department of Human Services proposes to amend Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments change the Medicaid reimbursement methodology for outpatient hospital services. Currently, Iowa Medicaid reimburses for outpatient hospital services based on a combination of prospectively set payments based upon Medicaid-determined fee schedules for noninpatient programs, ambulance services, observation beds, and clinical diagnostic laboratory services and cost-based payment methodology based upon ambulatory patient groups (APGs). The hospital-specific base rates and Iowa-specific APG weights are updated (rebased) every three years and are inflated during nonrebased years as approved by the Iowa General Assembly. The last rebasing was effective October 1, 2005.

Provisions of 2007 Iowa Acts, chapter 218, section 31, authorize the Department to implement the Medicare ambulatory payment classification methodology for reimbursement of outpatient hospital services and provide that any change in hospital reimbursement shall be budget-neutral. Under these amendments, hospital outpatient services will be paid based on a combination of:

- Medicaid-determined fee schedules; and

- Medicare's outpatient prospective payment system (OPPS), as mandated for Medicare by the Balanced Budget Refinement Act of 1999 and the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000.

The Medicaid payment for hospital outpatient services paid based on the OPPS will be made at a predetermined, specific rate. These outpatient services are classified according to a list of ambulatory payment classifications (APCs). Each ambulatory payment classification is an outpatient service or group of services for which a single rate is set. The services or groups of services are determined according to the typical clinical characteristics, the resource use, and the costs associated with the service or services. The relative weight assigned to the APC measures the resource requirements of the service.

The Centers for Medicare and Medicaid Services publish relative weights for ambulatory payment classifications annually in the Code of Federal Regulations. These amend-

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

ments adopt and incorporate by reference the OPSS APCs and relative weights effective January 1, 2008, published as final regulations on November 27, 2007, in the Federal Register at Volume 72, No. 227, page 66579.

Each service represented by a current procedural terminology (CPT) or healthcare common procedures coding system (HCPCS) code is assigned an OPSS APC payment status indicator that indicates whether a service is payable under an OPSS APC or another payment system and also whether particular OPSS policies apply to the code. Services that do not have an assigned weight will be paid based on the Iowa Medicaid fee schedule. No additional funding has been appropriated for outpatient hospital services. Therefore, the reimbursement methodology changes have been developed to be budget-neutral.

The APC payment is calculated by multiplying the assigned APC relative weight by the blended base APC rate. The blended base APC rate reflects a 50/50 blend of statewide and hospital-specific base APC rates. The statewide and hospital-specific base APC rates are calculated using the hospitals' base-year cost reports and arithmetical hospital-specific and statewide case-mix indices that measure the relative average costliness of outpatient cases treated in a hospital compared to the statewide average cost. To limit aggregate expenditures to available funding, a budget factor is applied when the statewide and hospital-specific base APC rates are calculated.

Outpatient hospital services that have been assigned to an APC with an assigned weight will be reimbursed based on the APC to which the services provided are assigned. A discount factor is usually applied to additional APCs when more than one APC is provided during the same visit (including the same APC provided more than once). However, not all APCs are subject to a discount factor. For procedures started but discontinued before completion, the payment will be 50 percent of the APC for those services. A cost outlier payment is made for services provided during a single visit that have an extraordinarily high cost and is considered an additional payment beyond the base APC payment.

Some services or groups of services that are assigned an APC are "packaged" with other services. Packaged services are services that are secondary to other services but considered an integral part of another service. Generally, separate payment is not made for packaged services. However, there are limited instances where separate payment under the OPSS APC payment criteria will be made for packaged services.

OPSS APC relative weights will be updated annually in January. Effective January 1, 2009, and every three years thereafter, base APC rates and case-mix indices will be updated. During years when no update is made, inflation will be applied only to the extent the Iowa General Assembly provides funding.

These amendments change only the interim payment methodology for outpatient hospital services provided by critical access hospitals and not the retrospective adjustment to 100 percent of allowable cost. No changes are being proposed for the noninpatient programs or ambulance and clinical diagnostic laboratory services. Those services will continue to be paid based on the Medicaid-determined fee schedule.

These amendments do not provide for waivers in specified situations. A hospital may request a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 2, 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 249A.4.

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 **79.1(5)**, paragraph "aa," as follows:

aa. Retrospective adjustment for critical access hospitals. Payments to critical access hospitals pursuant to paragraphs 79.1(5)"a" to "z" are subject to a retrospective adjustment equal to the difference between the reasonable costs of covered services provided to eligible fee-for-service Medicaid recipients members (excluding recipients members in managed care), based on the hospital's annual cost reports and Medicare cost principles, and the Medicaid fee-for-service reimbursement received pursuant to paragraphs 79.1(5)"a" to "z." Amounts paid prior to before adjustment that exceed reasonable costs shall be recovered by the department.

(1) The base rate upon which the DRG and APG APC payment is built shall be changed after any retrospective adjustment to reflect, as accurately as is possible, the reasonable costs of providing the covered service to eligible fee-for-service Medicaid recipients members for the coming year using the most recent utilization as submitted to the Iowa Medicaid enterprise provider cost audits audit and rate-setting unit and Medicare cost principles.

(2) Once a hospital begins receiving reimbursement as a critical access hospital, prospective DRG and APG APC payments are not subject to inflation factors, rebasing, or recalibration as provided in paragraph 79.1(5)"k."

ITEM 2. Amend subrule **79.1(16)** as follows:

Amend paragraph "a" as follows:

Rescind the definitions of "ambulatory patient group (APG)," "ancillary service," "APG relative weight," "assessment payment," "case-mix adjusted," "consolidation," "discounting," "final payment rate," "grouper," "inlier," "invalid claims or visits," "net number of Iowa Medicaid valid visits," "packaging," "rate table listing," "recalibration," "singleton APG," "statewide visit expected payment (SVEP)," and "valid claims or visits."

Amend the definitions of "base year cost report," "blended base amount," "cost outlier," "outpatient visit," "rebasing," and "significant procedure APG" as follows:

"Base-year cost report," for rates effective October July 1, 2005 2008, shall mean the hospital's cost report with fiscal year ending on or after January 1, 2004 2006, and before January 1, 2005 2007; except as noted in paragraph "s." Cost reports shall be reviewed using Medicare's cost-reporting and cost reimbursement principles for those cost-reporting periods.

"Blended base amount APC rate" shall mean the case-mix adjusted, hospital-specific operating cost per visit associated with treating Medicaid outpatients base APC rate, plus the statewide average case-mix adjusted operating cost per Med-

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

icaid visit base APC rate, divided by two. This basic amount is the value to which inflation is added to form a final payment rate. The costs of hospitals receiving reimbursement as critical access hospitals during any of the period of time included in the base-year cost report shall not be used in determining the statewide average case mix adjusted operating cost per Medicaid visit base APC rate.

“Cost outlier” shall mean cases which services provided during a single visit that have an extraordinarily high cost as established in paragraph “g” and, thus, are therefore eligible for additional payments above and beyond the base APG APC payment.

“Outpatient visit” shall mean those hospital-based outpatient services which are billed on a single UB-92 claim form, and which occur within 72 hours of initiation of service, with exceptions as noted in paragraph “m.”.

“Rebasing” shall mean the redetermination of the blended base APC rate amount or other applicable components of the final payment rate from using more recent Medicaid cost report data.

“Significant procedure APG” shall mean a the procedure which, therapy, or service provided to a patient that constitutes the primary reason for the visit and which dominates the time and resources expended during the visit.

Adopt the following new definitions in alphabetical order:

“Allowable costs” means the costs defined as allowable in 42 CFR, Chapter IV, Part 413, as amended to October 1, 2007, except for the purposes of calculating direct medical education costs, where only the reported costs of the interns and residents are allowed. Further, costs are allowable only to the extent that they relate to patient care; are reasonable, ordinary, and necessary; and are not in excess of what a prudent and cost-conscious buyer would pay for the given service or item.

“Ambulatory payment classification” or “APC” means an outpatient service or group of services for which a single rate is set. The services or groups of services are determined according to the typical clinical characteristics, the resource use, and the costs associated with the service or services.

“Ambulatory payment classification relative weight” or “APC relative weight” means the relative value assigned to each APC.

“Ancillary service” means a supplemental service that supports the diagnosis or treatment of the patient’s condition. Examples include diagnostic testing or screening services and rehabilitative services such as physical or occupational therapy.

“APC service” means a service that is priced and paid using the APC system.

“Diagnostic service” means an examination or procedure performed to obtain information regarding the medical condition of an outpatient.

“Discount factor” means the percentage discount applied to additional APCs when more than one APC is provided during the same visit (including the same APC provided more than once). Not all APCs are subject to a discount factor.

“Healthcare common procedures coding system” or “HCPCS” means the national uniform coding method that is maintained by the Centers for Medicare and Medicaid Services (CMS) and that incorporates the American Medical Association publication Physicians Current Procedural Terminology (CPT) and the three HCPCS unique coding levels I, II, and III.

“Modifier” means a two-character code that is added to the procedure code to indicate the type of service performed.

The modifier allows the reporting hospital to indicate that a performed service or procedure has been altered by some specific circumstance. The modifier may affect payment or may be used for information only.

“Multiple significant procedure discounting” means a reduction of the standard payment amount for an APC to recognize that the marginal cost of providing a second APC service to a patient during a single visit is less than the cost of providing that service by itself.

“Observation services” means a set of clinically appropriate services, such as ongoing short-term treatment, assessment, and reassessment, that is provided before a decision can be made regarding whether a patient needs further treatment as a hospital inpatient or is able to be discharged from the hospital.

“Outpatient hospital services” means preventive, diagnostic, therapeutic, observation, rehabilitation, or palliative services provided to an outpatient by or under the direction of a physician, dentist, or other practitioner by an institution that:

1. Is licensed or formally approved as a hospital by the officially designated authority in the state where the institution is located; and
2. Meets the requirements for participation in Medicare as a hospital.

“Outpatient prospective payment system” or “OPPS” means the payment methodology for hospital outpatient services established by this subrule and based on Medicare’s outpatient prospective payment system mandated by the Balanced Budget Refinement Act of 1999 and the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000.

“Packaged service” means a service that is secondary to other services but is considered an integral part of another service.

“Pass-through” means certain drugs, devices, and biologicals for which providers are entitled to payment separate from any APC.

“Status indicator” or “SI” means a payment indicator that identifies whether a service represented by a CPT or HCPCS code is payable under the OPPS APC or another payment system. Only one status indicator is assigned to each CPT or HCPCS code.

Rescind paragraphs “b” through “e” and adopt the following new paragraphs in lieu thereof:

b. Outpatient hospital services. Medicaid adopts the Medicare categories of hospitals and services subject to and excluded from the hospital outpatient prospective payment system (OPPS) at 42 CFR 419.20 through 419.22 as amended to October 1, 2007, except as indicated in this subrule. Interim payments to critical access hospitals shall be based on the OPPS.

(1) A teaching hospital that has approval from the Centers for Medicare and Medicaid Services to receive reasonable cost reimbursement for physician services under 42 CFR 415.160 through 415.162 as amended to October 1, 2007, is eligible for combined-billing status if the hospital has filed the approval notice with the Iowa Medicaid enterprise provider cost audit and rate-setting unit. If a teaching hospital elects to receive reasonable cost payment for physician direct medical and surgical services furnished to Medicaid members, those services and the supervision of interns and residents furnishing the care to members are covered as hospital services and are combined with the bill for hospital service. Cost settlement for the reasonable costs related to physician direct medical and surgical services shall be made after receipt of the hospital’s financial and statistical report.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) A hospital-based ambulance service must be an enrolled Medicaid ambulance provider and must bill separately for ambulance services. EXCEPTION: If the member's condition results in an inpatient admission to the hospital, the reimbursement for ambulance services is included in the hospital's DRG reimbursement rate for the inpatient services.

(3) All psychiatric services for members who have a primary diagnosis of mental illness and are enrolled in the Iowa Plan program under 441—Chapter 88 shall be the responsibility of the Iowa Plan contractor and shall not be otherwise payable by Iowa Medicaid. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APC.

(4) Emergency psychiatric evaluations for members who are covered by the Iowa Plan shall be the responsibility of the Iowa Plan contractor. For members who are not covered by the Iowa Plan, services shall be payable under the APC for emergency psychiatric evaluation.

(5) Substance abuse services for persons enrolled in the Iowa Plan program under 441—Chapter 88 shall be the responsibility of the Iowa Plan contractor and shall not be otherwise payable by Iowa Medicaid. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APC.

c. Payment for outpatient hospital services.

(1) Outpatient hospital services shall be reimbursed according to the first of the following methodologies that applies to the service:

1. Any specific rate or methodology established by other rules for the particular service.
2. The OPPS APC rates established pursuant to this sub-rule.

3. Fee schedule rates established pursuant to paragraph 79.1(1)“c.”

(2) Outpatient hospital services that are not provided by critical access hospitals as defined in paragraph 79.1(5)“a” and that have been assigned to an APC with an assigned weight shall be reimbursed based on the APC to which the services provided are assigned. For dates of services beginning on or after July 1, 2008, the department adopts and incorporates by reference the OPPS APCs and relative weights effective January 1, 2008, published on November 27, 2007, as final by the Centers for Medicare and Medicaid Services in the Federal Register at Volume 72, No. 227, page 66579. Relative weights shall be updated pursuant to paragraph 79.1(16)“j.”

(3) The APC payment is calculated as follows:

1. The applicable APC relative weight is multiplied by the blended base APC rate determined according to paragraph 79.1(16)“e.”
2. The resulting APC payment is multiplied by a discount factor of 50 percent and by units of service when applicable.
3. For a procedure started but discontinued before completion, the department will pay 50 percent of the APC for the service.

(4) The OPPS APC payment status indicators show whether a service represented by a CPT or HCPCS code is payable under an OPPS APC or under another payment system and whether particular OPPS policies apply to the code. The following table lists the status indicators and definitions for both services that are paid under an OPPS APC and services that are not paid under an OPPS APC.

Indicator	Item, Code, or Service	OPPS Payment Status
A	<p>Services furnished to a hospital outpatient that are paid by Medicare under a fee schedule or payment system other than OPPS, such as:</p> <ul style="list-style-type: none"> <li>• Ambulance services.</li> <li>• Clinical diagnostic laboratory services.</li> <li>• Diagnostic mammography.</li> <li>• Screening mammography.</li> <li>• Nonimplantable prosthetic and orthotic devices.</li> <li>• Physical, occupational, and speech therapy.</li> <li>• Erythropoietin for end-stage renal dialysis (ESRD) patients.</li> <li>• Routine dialysis services provided for ESRD patients in a certified dialysis unit of a hospital.</li> </ul>	<p>If covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but may be paid under the specific rate or methodology established by other rules (other than outpatient hospital).</p>
B	<p>Codes that are not paid by Medicare on an outpatient hospital basis</p>	<p>Not paid under OPPS APC.</p> <ul style="list-style-type: none"> <li>• May be paid when submitted on a bill type other than outpatient hospital.</li> <li>• An alternate code that is payable when submitted on an outpatient hospital bill type (13x) may be available.</li> </ul>

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

Indicator	Item, Code, or Service	OPPS Payment Status
C	Inpatient procedures	<p>If covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid as an outpatient hospital service, the service is not paid under OPPS APC. Admit the patient and bill as inpatient care.</p>
D	Discontinued codes	Not paid under OPPS APC or any other Medicaid payment system.
E	<p>Items, codes, and services:</p> <ul style="list-style-type: none"> <li>• That are not covered by Medicare based on statutory exclusion and may or may not be covered by Iowa Medicaid; or</li> <li>• That are not covered by Medicare for reasons other than statutory exclusion and may or may not be covered by Iowa Medicaid; or</li> <li>• That are not recognized by Medicare but for which an alternate code for the same item or service may be available under Iowa Medicaid; or</li> <li>• For which separate payment is not provided by Medicare but may be provided by Iowa Medicaid.</li> </ul>	<p>If covered by Iowa Medicaid, the item, code, or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item, code, or service is not paid under OPPS APC or any other Medicaid payment system.</p>
F	<p>Certified registered nurse anesthetist services</p> <p>Corneal tissue acquisition</p> <p>Hepatitis B vaccines</p>	<p>If covered by Iowa Medicaid, the item or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item or service is not paid under OPPS APC or any other Medicaid payment system.</p>
G	Pass-through drugs and biologicals	<p>If covered by Iowa Medicaid, the item is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the item is not paid under OPPS APC or any other Medicaid payment system.</p>
H	Pass-through device categories	<p>If covered by Iowa Medicaid, the device is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”</p> <p>If not covered by Iowa Medicaid, the device is not paid under OPPS APC or any other Medicaid payment system.</p>

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

Indicator	Item, Code, or Service	OPPS Payment Status
K	Blood and blood products Brachytherapy sources Non-pass-through drugs and biologicals Therapeutic radiopharmaceuticals	If covered by Iowa Medicaid, the item is: <ul style="list-style-type: none"> <li>• Paid under OPPS APC with a separate APC payment when both an APC and an APC weight are established.</li> <li>• Paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c” when either no APC or APC weight is established.</li> </ul> If not covered by Iowa Medicaid, the item is not paid under OPPS APC or any other Medicaid payment system.
L	Influenza vaccine Pneumococcal pneumonia vaccine	If covered by Iowa Medicaid, the vaccine is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”  If not covered by Iowa Medicaid, the vaccine is not paid under OPPS APC or any other Medicaid payment system.
M	Items and services not billable to the Medicare fiscal intermediary	If covered by Iowa Medicaid, the item or service is not paid under OPPS APC, but is paid based on the Iowa Medicaid fee schedule for outpatient hospital services established pursuant to 79.1(1)“c.”  If not covered by Iowa Medicaid, the item or service is not paid under OPPS APC or any other Medicaid payment system.
N	Packaged services not subject to separate payment under Medicare OPPS payment criteria	Paid under OPPS APC. Payment, including outliers, is included with payment for other services; therefore, no separate payment is made.
P	Partial hospitalization	Not a covered service under Iowa Medicaid.
Q	Packaged services subject to separate payment under Medicare OPPS payment criteria	Paid under OPPS APC in a separate APC payment based on Medicare OPPS payment criteria.  If criteria are not met, payment, including outliers, is packaged into payment for other services; therefore, no separate APC payment is made.
S	Significant procedure, not discounted when multiple	If covered by Iowa Medicaid, the procedure is paid under OPPS APC with separate APC payment.  If not covered by Iowa Medicaid, the procedure is not paid under OPPS APC or any other Medicaid payment system.
T	Significant procedure, multiple reduction applies	If covered by Iowa Medicaid, the procedure is paid under OPPS APC with separate APC payment subject to multiple reduction.  If not covered by Iowa Medicaid, the procedure is not paid under OPPS APC or any other Medicaid payment system.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Indicator	Item, Code, or Service	OPPS Payment Status
V	Clinic or emergency department visit	<p>If covered by Iowa Medicaid, the service is paid under OPPS APC with separate APC payment.</p> <p>If not covered by Iowa Medicaid, the service is not paid under OPPS APC or any other Medicaid payment system.</p>
X	Ancillary services	<p>If covered by Iowa Medicaid, the service is paid under OPPS APC with separate APC payment.</p> <p>If not covered by Iowa Medicaid, the service is not paid under OPPS APC or any other Medicaid payment system.</p>

d. Calculation of case-mix indices. Hospital-specific and statewide case-mix indices shall be calculated using all applicable claims with dates of service occurring in the period July 1, 2006, through June 30, 2007, paid through September 10, 2007.

(1) Hospital-specific case-mix indices are calculated by summing the relative weights for each APC service at that hospital and dividing the total by the number of APC services for that hospital.

(2) The statewide case-mix index is calculated by summing the relative weights for each APC service for all claims and dividing the total by the statewide total number of APC services. Claims for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report are not used in calculating the statewide case-mix index.

e. Calculation of the hospital-specific base APC rates.

(1) Using the hospital's base-year cost report, hospital-specific outpatient cost-to-charge ratios are calculated for each ancillary and outpatient cost center of the Medicare cost report, Form CMS 2552-96.

(2) The cost-to-charge ratios are applied to each line item charge reported on claims with dates of service occurring in the period July 1, 2006, through June 30, 2007, paid through September 10, 2007, to calculate the Medicaid cost per service. The hospital's total outpatient Medicaid cost is the sum of the Medicaid cost per service for all line items.

(3) The following items are subtracted from the hospital's total outpatient Medicaid costs:

1. The total calculated Medicaid direct medical education cost for interns and residents based on the hospital's base-year cost report.

2. The total calculated Medicaid cost for services listed at 441—subrule 78.31(1), paragraphs “g” to “n.”

3. The total calculated Medicaid cost for ambulance services.

4. The total calculated Medicaid cost for services paid based on the Iowa Medicaid fee schedule.

(4) The remaining amount is multiplied by a factor to limit aggregate expenditures to available funding, divided by the hospital-specific case-mix index, and then divided by the total number of APC services for that hospital during the period July 1, 2006, through June 30, 2007, that were paid through September 10, 2007.

(5) Hospital-specific base APC rates are not computed for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report.

Adopt **new** paragraph “f” as follows:

f. Calculation of statewide base APC rate.

(1) The statewide average base APC rate is calculated by summing the outpatient Medicaid cost for all hospitals and subtracting the following:

1. The total calculated Medicaid direct medical education cost for interns and residents for all hospitals.

2. The total calculated Medicaid cost for services listed at 441—subrule 78.31(1), paragraphs “g” to “n,” for all hospitals.

3. The total calculated Medicaid cost for ambulance services for all hospitals.

4. The total calculated Medicaid cost for services paid based on the Iowa Medicaid fee schedule for all hospitals.

(2) The resulting amount is multiplied by a factor to limit aggregate expenditures to available funding, divided by the statewide case-mix index, and then divided by the statewide total number of APC services for the period July 1, 2006, through June 30, 2007, that were paid through September 10, 2007.

(3) Data for hospitals receiving reimbursement as critical access hospitals during any of the period included in the base-year cost report is not used in calculating the statewide average base APC rate.

Amend paragraph “g” as follows:

g. ~~Outlier Cost outlier payment policy. Additional payment is made for approved cases meeting or exceeding services provided during a single visit that exceed~~ the following Medicaid criteria of cost outliers for each ~~APG APC~~ APC. ~~Outlier payments are determined on an APC-by-APC basis.~~

~~(1) Cases qualify An APC qualifies as a cost outliers outlier when costs the cost of the service in a given case exceed exceeds both the cost multiple threshold and the fixed-dollar threshold. For visits with a “statewide visit expected payment (SVEP)” equal to or between \$150 and \$700, this cost threshold is determined to be two times the statewide average APG-based payment or SVEP for that visit. For SVEPs greater than \$700, the outlier cost threshold for a hospital outpatient visit equals the statewide average payment plus \$500. There is no outlier threshold (or additional payment) for hospital visits with an SVEP less than \$150.~~

~~(2) The multiple threshold is met when the cost of furnishing an APC service exceeds 1.75 times the APC payment amount.~~

~~(3) The fixed-dollar threshold is met when the cost of furnishing an APC service exceeds the APC payment amount plus \$2,000.~~

~~(4) If both the multiple threshold and the fixed-dollar threshold are met, the outlier payment is calculated as 50 percent of the amount by which the hospital's cost of furnish-~~

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

ing the APC service or procedure exceeds the multiple threshold.

(5) ~~Costs are~~ The cost of furnishing the APC service or procedure is calculated using a single overall hospital-specific cost-to-charge ratios ratio determined from the base-year cost reports report. Additional payment for cost outliers is 60 percent of the excess between the hospital's cost for the visit and the cost threshold established to define cost outliers. Costs appearing on a claim that are attributable to packaged APC services for which no separate payment is made are allocated to all nonpackaged APC services that appear on that claim. The amount allocated to each nonpackaged APC service is based on the proportion the APC payment rate for that APC service bears to the total APC rates for all nonpackaged APC services on the claim.

Rescind paragraph "h" and adopt the following **new** paragraph in lieu thereof:

h. Cost-reporting requirements. Hospitals shall prepare annual cost reports in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and in accordance with Medicare Provider Reimbursement Manual, CMS Publication 15, subject to the exceptions and limitations provided in this rule.

(1) Using electronic media, each hospital shall submit the following:

1. The hospital's Medicare cost report (Form CMS 2552-96, Hospitals and Healthcare Complex Cost Report);

2. Either Form 470-4515, Critical Access Hospital Supplemental Cost Report, or Form 470-4514, Hospital Supplemental Cost Report; and

3. A copy of the revenue code crosswalk used to prepare the Medicare cost report.

(2) The cost reports and supporting documentation shall be sent to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, P.O. Box 36450, Des Moines, Iowa 50315.

(3) The cost reports shall be submitted on or before the last day of the fifth calendar month following the close of the period covered by the report. For fiscal periods ending on a day other than the last day of the month, cost reports are due 150 days after the last day of the cost-reporting period. Extensions of the due date for filing a cost report granted by the Medicare fiscal intermediary shall be accepted by Iowa Medicaid.

Rescind and reserve paragraph "i."

Amend paragraph "j" as follows:

j. ~~Inflation factors, rebasing, and recalibration~~ *Rebasing.*

(1) ~~Inflation factors shall be set annually at levels that ensure payments that are consistent with efficiency, economy, and quality of care and that are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area. Effective January 1, 2009, and annually thereafter, the department shall update the OPPS APC relative weights using the most current calendar update as published by the Centers for Medicare and Medicaid Services.~~

(2) ~~Base amounts~~ *Effective January 1, 2009, and every three years thereafter, blended base APC rates shall be rebased and APG weights recalibrated in 2005 and every three years thereafter.* Cost reports used in rebasing shall be the hospital fiscal year-end Form CMS 2552-96, Hospital and Healthcare Complex Cost Report, as submitted to Medicare in accordance with Medicare cost report submission time

lines for the hospital fiscal year ending during the preceding calendar year. If a hospital does not provide this cost report, including the Medicaid cost report and revenue code crosswalk, to the Iowa Medicaid enterprise provider cost audits audit and rate-setting unit by May 31 of a year in which rebasing occurs, the most recent submitted cost report will be used with the addition of a hospital market basket index inflation factor.

(3) ~~Case~~ *Effective January 1, 2009, and every three years thereafter, case-mix indices shall be calculated recalculated using claims most nearly matching each hospital's fiscal year end.*

(4) No change.

(5) Hospitals receiving reimbursement as critical access hospitals shall not receive inflation of base payment amounts APC rates and shall not have base amounts APC rates rebased or weights recalibrated pursuant to this paragraph.

Amend paragraph "k" as follows:

k. Payment to out-of-state hospitals. ~~Payment made to out~~ *Out-of-state hospitals providing care to beneficiaries members of Iowa's Medicaid program is equal to either the shall be reimbursed in the same manner as Iowa statewide average case-mix adjusted base amount of hospitals, except that APC payment amounts for out-of-state hospitals may be based on either the Iowa statewide average case-mix-adjusted base amount APC rate or the Iowa blended with the hospital-specific base amount APC rate for the out-of-state hospital.*

(1) ~~Hospitals~~ *For out-of-state hospitals that submit a cost report no later than May 31 in the most recent rebasing year, APC payment amounts will receive a case-mix-adjusted be based on the blended base APC rate using hospital-specific, Iowa-only Medicaid data and the Iowa statewide average cost-per-visit amount. For other out-of-state hospitals, APC payment amounts will be based on the Iowa statewide base APC rate.*

(2) If a ~~an~~ *out-of-state hospital qualifies for reimbursement for direct medical education under Medicare guidelines, it shall qualify for such reimbursement purposes in from the Iowa Medicaid program for services to Iowa Medicaid members.*

Amend paragraph "l" as follows:

l. Preadmission, preauthorization or inappropriate services. Inpatient or outpatient services ~~which that~~ require preadmission or preprocedure approval by the *quality improvement organization (QIO) are updated yearly and are available from the QIO.*

(1) The hospital shall provide the QIO authorization number on the ~~UB-92~~ claim form to receive payment. *Claims for services requiring preadmission or preprocedure approval that are submitted for payment without this authorization number will be denied.*

(2) To safeguard against other inappropriate practices, the department, through the QIO, will monitor admission practices and quality of care. If an abuse of the prospective payment system is identified, payments for abusive practices may be reduced or denied. In reducing or denying payment, Medicaid adopts the Medicare QIO regulations.

Rescind and reserve paragraphs "m" and "r."

Amend paragraph "t" as follows:

t s. ~~Limitations~~ *Limit on payments.*

(1) ~~Ambulatory patient groups~~ *Payments under the ambulatory payment classification (APC) methodology, as well as other payments for outpatient services, are subject to upper limits limit rules set forth in 42 CFR 447.321, as amended to September 5, 2001, and 447.325, as amended to January 26,*

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

1993. Requirements under these sections state that, in general, Medicaid may not make payments to providers that would exceed the amount that would be payable to providers under comparable circumstances under Medicare. ~~In aggregate, the total Medicaid payments may not exceed the total payments received by all providers from recipients, carriers or intermediaries for providing comparable services under comparable circumstances under Medicare.~~

(2) *t. Government-owned facilities.* Payments to a hospital that is owned or operated by state or non-state government shall not exceed the hospital's actual medical assistance program costs.

(1) The department shall perform a cost settlement annually after the desk review or audit of the hospital's cost report.

(2) The department shall determine the aggregate payments made to the hospital under the ~~ambulatory patient group APC~~ methodology and shall compare this amount to the hospital's actual medical assistance program costs as determined from the audit or desk review of the hospital's cost report. For purposes of this determination, aggregate payments shall include amounts received from the Medicaid program, including graduate medical education payments and outlier payments, as well as patient and third-party payments up to the Medicaid-allowed amount.

(3) If the aggregate payments exceed the hospital's actual medical assistance program costs, the amount by which payments exceed actual costs shall be requested and collected from the hospital.

Amend paragraph "u" as follows:

u. QIO review. The QIO will review a yearly random sample of hospital outpatient service cases performed for Medicaid recipients *members* and identified on claims data from all Iowa and bordering state hospitals in accordance with the terms in the contract between the department and the QIO. The QIO contract is available for review at the Iowa Medicaid Enterprise Office, 100 Army Post Road, Des Moines, Iowa 50315.

**ARC 6652B****LOTTERY AUTHORITY, IOWA[531]****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 99G.9(3), the Iowa Lottery Authority hereby proposes to amend Chapter 11, "Prizes," Iowa Administrative Code.

Chapter 11 is being amended in order to clarify the requirements for claiming a prize.

Any interested party may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request must include all of the following: the name, address, and telephone number of the party making the comments or request; a reference to the specific proposed amendments that are the subjects of the comments or request; and the general content of a requested oral presentation.

All comments or requests should be addressed to the Iowa Lottery Rules Administrator and should either be mailed to

2323 Grand Avenue, Des Moines, Iowa 50312; faxed to (515)281-7882; or E-mailed to [mtooman@ialottery.com](mailto:mtooman@ialottery.com). All comments or requests for oral presentations must be received by the Lottery Rules Administrator no later than April 1, 2008.

A meeting to hear requested oral presentations is scheduled for April 2, 2008, at 10 a.m. at the Iowa Lottery headquarters. The meeting will be canceled without further notice if no oral presentations are requested.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6651B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 99G.

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 6648B****PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]****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 455G.4(3)"a," the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, "Claims," Iowa Administrative Code.

The proposed amendment modifies rules and procedures for the reimbursement of claims for the removal of eligible upgraded underground storage tanks pursuant to Iowa Code Supplement section 455G.9(1)"1." The changes address comments received after the public comment period for the recent rule making (**ARC 6423B**, IAB 11/21/07) to implement 2007 Iowa Acts, Senate File 499. The amendment broadens the number of eligible sites and provides greater flexibility to the Board to work with the IDNR in removing in a more timely manner tanks that may cause environmental harm. Additionally, in order to address the large number of sites that have changed owners and the various methods of transfer or retention of liability, the proposed amendment simplifies documenting eligibility at sites where ownership has changed.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on April 1, 2008. Interested persons may submit written or oral comments by contacting the Administrator of the UST Fund at 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; E-mail [Scott\\_Scheidel@ars.aon.com](mailto:Scott_Scheidel@ars.aon.com); telephone (515)225-9263; or facsimile (515)225-9361.

These rules do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivi-

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

sions or agencies and entities which contract with political subdivisions to provide services.

This amendment is intended to implement Iowa Code Supplement section 455G.9(1)“1” (2007 Iowa Acts, Senate File 499, section 8).

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.

Rescind subrule 11.3(11) and adopt the following **new** subrule in lieu thereof:

**11.3(11)** Permanent closure of an underground storage tank system. Costs for the permanent closure of underground storage tank systems are eligible for reimbursement from the board if all of the following requirements are met:

a. The underground storage tank system to be permanently closed was already in place on the date an eligible claim was submitted to the board.

b. A claim for reimbursement from the board must have been made and must have been deemed eligible for the site, pursuant to Iowa Code section 455G.9 or 455G.21.

c. The permanent closure activities occurred on or after July 1, 2007. All costs must have been preapproved prior to the commencement of work.

d. For projects that include the removal of tank systems that are also associated with a larger scope of work, for example, the installation of a remediation system or expanded excavation or upgrading of a fuel delivery system, the budget for the entire scope of work must be submitted for any costs to be considered eligible for reimbursement.

e. The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. Any copayment shall be paid by the claimant upon removal of the tank system. The board will limit reimbursement for any removal to no more than the board would have paid had the board removed the tanks with any board-contracted vendor.

f. For claims submitted in situations where the tank owner and the eligible claimant are different parties, the board will reimburse costs under this subrule after invoices have been paid and only with written acknowledgment consenting to the work completed by both parties and submitted with the invoices.

g. Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing or certification requirements or both that may exist at the time of completion of the work to be reimbursed. If the work is performed by a board-contracted vendor, the board shall ensure that licensing and certification requirements of the general contractor are met.

h. Claims made under this subrule are subject to Iowa Code chapter 455G copayment requirements and cost recovery enforcement.

i. The board may remove tanks at sites that fail to meet the requirements under paragraph “a” or “b” of this subrule through a board-contracted vendor. These sites shall be subject to cost recovery, which may include a lien on the property.

**ARC 6643B**

## SECRETARY OF STATE[721]

### 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 17A.3(1)“b,” the Iowa Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

The purpose of the proposed subrule is to provide voters and other interested persons with the opportunity to review the summary to be printed on the ballot for the proposed constitutional amendment that is to be voted upon at the November 4, 2008, General Election. Because the only purpose for this Notice is to solicit public comments, following the comment period the Notice will be terminated without adopting the subrule.

Any interested person may make written suggestions or comments on this proposed subrule through 5 p.m. on Tuesday, April 1, 2008. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office at (515)281-5823 or at the Secretary of State’s offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by Tuesday, April 1, 2008.

This amendment is intended to implement Iowa Code section 49.44.

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 rule 721—21.200(49) by adding the following **new** subrule:

**21.200(4)** A proposed constitutional amendment was passed by the Eighty-first General Assembly as House Joint Resolution 5, and by the Eighty-second General Assembly as House Joint Resolution 3. This proposed amendment will be voted upon at the general election to be held on November 4, 2008.

The summary that is proposed by the secretary of state appears below:

1

Summary: Changes the language that describes a person who cannot legally vote from “idiot or insane person” to “a person adjudged mentally incompetent to vote.”

**ARC 6637B****TRANSPORTATION  
DEPARTMENT[761]****Notice of Intended Action**

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 306B.2, 306B.3, 306C.11, 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 117, "Outdoor Advertising," Iowa Administrative Code.

Chapter 117 pertains to outdoor advertising along interstate, freeway-primary and primary highways. The following summarizes the amendments to this chapter:

1. Municipal, county and school district recognition signs. Several amendments strike references to municipal, county and school district recognition signs. 2006 Iowa Acts, chapter 1068, sections 1 to 3, eliminated the permit requirement for these recognition signs. Recognition signs are official signs and notices which may be erected without Department approval.

2. LED displays. Item 1 adds a new definition of "LED display." Item 1 also amends the definition of "modification" to clarify that the addition of LED display capabilities to an advertising device is a modification (a new permit is required prior to the modification of an advertising device). Item 3 adds new language that allows LED displays to be used provided that the message is displayed in the minimum required time frame, is changed within the prescribed time frame, and is not a traveling or segmented message and that the light intensity presented does not exceed that allowed for other illuminated displays. Item 5 amends subrule 117.5(5), paragraphs "c" to "f," to provide for a minimum spacing between LED displays of 500 feet within cities and 1000 feet outside cities.

3. Modifications. Item 1 amends the definition of "modification" to clarify that temporary extensions or cutouts may be illuminated only by existing sign lighting and shall not contain internal lighting.

4. Regularly used. Item 1 adds a new definition of "regularly used." This term is used in Iowa Code subsection 306C.10(19) and subrule 117.4(4). It is also used in the amendment to subrule 117.5(5), paragraph "b," which is discussed in paragraph "8" of this preamble.

5. Service club and religious notices. Item 1 amends the definition of "service club or religious notice" to add signing for cemeteries, which the Federal Highway Administration allows, and to allow service club or religious notices to display the hours open to the public.

6. Obstructions in the right-of-way. 2006 Iowa Acts, chapter 1097, enacted Iowa Code chapter 318 and repealed former Iowa Code chapter 319 regarding obstructions in the highway right-of-way. Item 2 amends subrules 117.2(4) and 117.2(5) to make conforming amendments. Item 7 amends subrule 117.8(5) to renumber it as subrule 117.8(2) and to cross-reference subrule 117.2(5).

7. Flashing, intermittent or moving lights. Item 3 amends the first sentence of paragraph 117.3(1)"e" and adds a new sentence to distinguish between off-premises and on-premises signs. The current language incorrectly restricts on-premises signs.

8. Advertising devices along interstate highways. Item 5 amends subrule 117.5(5), paragraph "b," to provide that an advertising device visible from an interstate highway must be located within an area zoned and used for commercial or industrial purposes; within 750 feet of the regularly used portion of a commercial or industrial activity visible from the main-traveled way; and on the same, individual, platted parcel of land as that commercial or industrial activity.

9. Side-by-side and double-deck configurations. Item 5 amends subrule 117.5(5), paragraph "k," to clarify that, for permit purposes, side-by-side and double-deck sign configurations are considered one face with the surface areas combined into one square footage.

10. Illegal and abandoned advertising devices. Item 7 renumbers subrule 117.8(2) as subrule 117.8(1). This subrule, which pertains to the removal of illegal and abandoned advertising devices, is also amended to mirror the provisions of Iowa Code sections 306B.5 and 306C.19. Language that addresses the sale of advertising devices after removal is stricken. The Iowa Code does not provide for this option, and the Department has had no success in selling used advertising structures. Item 7 also strikes subrule 117.8(3), which duplicates renumbered and amended subrule 117.8(1) and is therefore unnecessary.

11. Development directory signing. 2007 Iowa Acts, chapter 143, section 1 [Iowa Code Supplement section 306C.11(2)], provides that businesses located within the limits of a commercial or industrial development may be advertised on a sign located anywhere within the development regardless of land ownership. To implement this legislation, Item 8 adopts a new rule regarding development directory signing. Also, Item 1 amends the existing definition of "on-premises sign" to exclude development directory signs from the seven listed criteria. The new development directory signing rule:

- Defines "development directory sign" to mean a type of on-premises sign displaying a message that is limited to the names of two or more businesses located within a commercial or industrial development. The sign may also display the name of the development.
- Allows the name of a business to appear on no more than two development directory signs visible to traffic proceeding in any one direction.
- Includes requirements that must be met for a premises to qualify as a commercial or industrial development. These requirements are based on Federal Highway Administration criteria and are needed to remain in compliance with 23 U.S.C. Section 131 and avoid the loss of federal highway funds.

12. Other. Item 4 corrects cross references. Item 7 strikes subrule 117.8(4), which is out of date and unnecessarily repeats language from the Iowa Code.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

## TRANSPORTATION DEPARTMENT[761](cont'd)

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: [julie.fitzgerald@dot.iowa.gov](mailto:julie.fitzgerald@dot.iowa.gov).

5. Be received by the Office of Policy and Legislative Services no later than April 1, 2008.

A meeting to hear requested oral presentations is scheduled for Thursday, April 3, 2008, at 11 a.m. at the Administration Building, 1st Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by April 14, 2008.

These amendments are intended to implement Iowa Code chapters 306B and 306C.

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.

Proposed rule-making actions:

ITEM 1. Amend rule 761—117.1(306B,306C) as follows:

**761—117.1(306B,306C) Definitions.** The definitions in Iowa Code section 306C.10 are adopted. In addition:

“Abandoned sign” means an advertising device for which the owner has failed to timely apply for the required outdoor advertising permit(s) or has failed to timely pay the required fee(s).

“Area zoned and used for commercial or industrial purposes” means an area zoned for commercial or industrial purposes in accordance with Iowa Code chapter 414, in the case of city zoning, or in accordance with Iowa Code chapter 335, in the case of county zoning, in which one or more commercial or industrial activities, as defined under the city or county zoning ordinance, are located.

“Billboard control Act” means Iowa Code chapter 306C, division II.

“Bonus Act” means Iowa Code chapter 306B.

“Daylight area” means a triangular area formed by a line connecting two points each back (50 feet in city, 100 feet in unincorporated area) from the point where the right of way lines of the main traveled way and an intersecting street meet or would meet if extended.

“Development directory sign” means the same as defined in rule 761—117.15(306C).

“Directional and official signs and notices” means official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs, and municipal, county and school district recognition signs.

“Directional sign” means a sign governed by 761—Chapter 120.

“Face” means that part of an advertising device that is devoted to the display of advertising and that is visible to traffic proceeding in any one direction.

“Interchange” means the entire area constructed for a junction of two or more public streets or highways by a system of separate levels that permit traffic to pass from one level to another without the crossing of traffic streams. This in-

cludes all acceleration and deceleration lanes constructed to accommodate this movement of traffic.

“Lease” means an agreement, oral or written, by which possession or use of land or interests therein are given by the owner or other person to another person for a specified purpose.

“LED display” means a face, as defined herein, displaying a message that is formed by light emitting diodes and that is changed by an electronic process. An LED display is a single face.

“Modification” means any addition to or change in dimensions, lighting, structure or advertising face, except as incidental to the customary maintenance of an advertising device.

1. A change in the number or type of support posts is a modification. A change in dimensions, other than the addition of extensions or cutouts (including forward projecting) for a period of 90 days or less, is a modification. However, the addition of extensions or cutouts, including forward projecting, is not a modification if the extensions or cutouts are added for a period of 90 days or less and if they are illuminated only by existing sign lighting and do not contain internal lighting.

2. A lawful change in advertising message is not a modification. The use of a vinyl overlay or wrap on either a poster panel or paint unit is a change in advertising message, not a modification.

3. The addition of LED display capabilities to an advertising device is a modification.

“Municipal, county or school district recognition sign” means an official recognition sign erected and maintained by a city, county or school district within its territorial or zoning jurisdiction. The recognition sign is limited to displaying a message that identifies the city, county or school district and its boundaries, public services, and noncommercial attractions of a scenic, historical, cultural, scientific, educational or recreational nature that are located therein.

“Nonconforming sign” means an advertising device that was lawfully erected and continues to be lawfully maintained, but that does not comply fully with current size and spacing requirements due to changed conditions, such as a change in zoning, establishment of a new highway, or a similar change that affects compliance.

“Obsolete sign” means an advertising device displaying information pertaining to activities that are no longer conducted or products or services that are no longer available at the advertised location.

“Official sign or notice” means a sign or notice lawfully erected and maintained by a city, county or public agency within its territorial or zoning jurisdiction for the purpose of carrying out an official duty or responsibility. The definition includes a historical marker lawfully erected by a state or local government agency or a nonprofit historical society.

“On-premises sign” or “on-property sign” means an advertising device advertising the sale or lease of, or activities being conducted upon, the property where the sign is located. The criteria to be used to determine if an advertising device qualifies as on-premises signing, excluding development directory signing, include but are not limited to the following:

1. to 7. No change.

“Public utility sign” means a warning or informational sign, notice or marker that is customarily erected and maintained by a publicly or privately owned utility to mark the location of a utility facility.

“Regularly used” means open for business and staffed by an owner or employee for at least 20 hours per week, on

## TRANSPORTATION DEPARTMENT[761](cont'd)

property assessed as commercial or industrial by the jurisdiction having authority; the hours of operation must be visibly posted on the premises. The department may delay action on the permit application for up to 180 days from the date of the application in order to conduct periodic checks on the site as necessary to determine whether the purported commercial or industrial activity meets this definition. A rental storage business is excepted from the staffing requirement if it has 24-hour access for customers and a minimum of 50 units, each occupying at least 50 square feet, individually separated, and enclosed by walls.

"Scenic area" means any area of particular scenic beauty or historical significance, as determined by the federal, state or local officials having jurisdiction of the area. It includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

"Service club or religious notice" means a sign displaying a message that is limited to the name of a nonprofit service club, charitable association, or church or religious group or cemetery, the location and hours of its meetings or services or the hours it is open to the public, and an appropriate emblem.

"Tri-face device" means an advertising device with three singular faces attached to one common structure in a triangular configuration. The maximum area of any face is 750 square feet. The inside angle formed by any two faces may not exceed 60 degrees.

"Tri-vision device" means an advertising device that has an advertising face with a mechanical device that allows three advertising messages to be alternately visible to traffic proceeding in any one direction. Each message is attached to individual vertical or horizontal louvers, which are mechanically rotated to change the message.

ITEM 2. Amend subrules 117.2(3) to 117.2(5) as follows:

**117.2(3)** Unauthorized signs, signals, or markings (321.259). In addition to the provisions of these rules, any sign, signal, marking or device prohibited by Iowa Code section 321.259 is a public nuisance and shall be removed by the department if it is within its the department's jurisdiction.

**117.2(4)** Obstruction of Advertising devices obstructing the view of a highway or railway (319.10, 657.2(7)). In addition to these rules, any Any advertising device, any other provision to the contrary notwithstanding, which that obstructs the view of any portion of a public highway, public street, avenue, boulevard, alley, street, railroad, or railway tract as to render dangerous the use of a public highway track in violation of Iowa Code section 319.10 and subsection 318.11(2) or 657.2(7), is a public nuisance, and shall be enforced accordingly which shall be abated as provided in Iowa Code chapter 657.

**117.2(5)** Advertising devices within the right of way (319.12). In addition to these rules, any Any advertising device placed or erected within the right of way of any primary interstate, freeway-primary, or interstate primary highway, except signs or devices authorized by law or approved by the department, in violation of is an obstruction in the highway right of way and violates Iowa Code section 319.12 318.3 and subsection 318.11(1) shall be removed and the costs assessed against the owner of the sign or device as provided by Iowa Code section 319.13. In accordance with Iowa Code sections 318.4 and 318.5, the department shall remove the advertising device and assess the cost of removal against the owner of the device.

ITEM 3. Amend subrule **117.3(1)**, paragraphs "e," "f" and "m," as follows:

e. No off-premises sign shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. No on-premises sign located within the adjacent area of an interstate highway but outside an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C), shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. Any variation or addition to the stated service information shall be is subject to department approval by the department. This paragraph does not prohibit an LED display, provided:

(1) Each change of message is accomplished in one second or less.

(2) Each message remains in a fixed position for at least eight seconds.

(3) No traveling messages (e.g., moving messages, animated messages, full-motion video, scrolling text messages) or segmented messages are presented.

f. No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any highway, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle. This paragraph does not prohibit an LED display provided the light intensity presented does not exceed that allowed for other illuminated displays.

m. An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if the advertising device is visible from the main traveled way of any interstate, freeway-primary, or primary highway except for on-premises signs and municipal, county and school district recognition signs official signs and notices.

ITEM 4. Amend paragraphs **117.3(1)"h," 117.6(4)"d," 117.6(5)"c,"** and **117.6(9)"b"** and subrules **117.6(7)** and **117.6(8)** by striking the phrase "subrule 117.8(2) or 117.8(3), as applicable" and inserting the phrase "subrule 117.8(1)" in lieu thereof.

ITEM 5. Amend subrule 117.5(5) as follows:

**117.5(5)** Advertising devices erected after July 1, 1972. Except as otherwise provided in this chapter, an advertising device which is visible from the main traveled way of any interstate, freeway-primary, or primary highway shall not be erected after July 1, 1972, or subsequently maintained within the adjacent area unless the advertising device complies with the following:

a. No change.

b. Commercial or industrial area.

(1) An advertising device visible from the main traveled way of an interstate highway must be located within an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C); within 750 feet of the regularly used portion of a commercial or industrial activity visible from the main traveled way; and on the same, individual, platted parcel of land as that commercial or industrial activity. The commercial or industrial activity must be one defined under the city's or county's, as applicable, zoning ordinance.

(2) An advertising device visible from the main traveled way of a freeway-primary or primary highway must be located within a zoned commercial or industrial zone or an un-

## TRANSPORTATION DEPARTMENT[761](cont'd)

zoned commercial or industrial area, *as defined in Iowa Code section 306C.10.*

c. Spacing within city—interstate and freeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 250 feet of another advertising device when both are visible to traffic proceeding in ~~the same~~ *any one* direction. *If the advertising device has an LED display, the advertising device shall not be located within 500 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.*

(2) and (3) No change.

d. Spacing outside city—interstate and freeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 500 feet of another advertising device when both are visible to traffic proceeding in ~~the same~~ *any one* direction. *If the advertising device has an LED display, the advertising device shall not be located within 1000 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.*

(2) and (3) No change.

e. Spacing within city—nonfreeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 100 feet of another advertising device when both are visible to traffic proceeding in ~~the same~~ *any one* direction. *If the advertising device has an LED display, the advertising device shall not be located within 500 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.*

(2) No change.

f. Spacing outside city—nonfreeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 300 feet of another advertising device when both are visible to traffic proceeding in ~~the same~~ *any one* direction. *If the advertising device has an LED display, the advertising device shall not be located within 1000 feet of another advertising device that has an LED display when both are visible to traffic proceeding in any one direction.*

(2) No change.

g. to j. No change.

k. Sizes and types. Only the following types of advertising devices are permitted: single-face, side-by-side, double-deck, tri-vision, back-to-back, v-type, and tri-face.

(1) The multiple faces or panels of an advertising device must be contiguous or on a common structure. Side-by-side structures configurations are contiguous if the faces are not more than two feet apart and they are owned by the same permit holder. Side-by-side structures configurations must be on the same vertical and horizontal planes.

(2) No change.

(3) For an advertising device with one face, the maximum display area of the face is 1200 square feet. This applies to single-face, side-by-side, double-deck and tri-vision devices. *For permit purposes, side-by-side and double-deck configura-*

*tions are considered one face with the surface areas combined into one square footage.*

(4) and (5) No change.

l. No change.

ITEM 6. Amend rule 761—117.7(306C) as follows:

**761—117.7(306C) Official signs and notices, public utility signs, and service club and religious notices, and municipal recognition signs.** This rule does not pertain to on-premises signs.

~~117.7(1)~~ Rescinded, effective 7/8/87.

~~117.7(2)~~ Rescinded, effective 7/8/87.

~~117.7(3)~~ **117.7(1)** Official signs and notices. Official signs and notices regulated by the “Manual on Uniform Traffic Control Devices for Streets and Highways,” as adopted in rule 761—130.1(321) 761—Chapter 130, shall comply with its provisions. All other official signs and notices shall comply with applicable state law, local ordinance or administrative authority. Historical markers shall be *are* subject to the approval of the department if they are erected within the right of way of any interstate, freeway-primary or primary highway.

~~117.7(4)~~ **117.7(2)** Public utility signs. Public utility signs shall be erected no larger than required to adequately convey the necessary message, and only at such places as are required to adequately mark the location of the utility, and *Public utility signs are* subject to the approval of the department if ~~located~~ *they are erected* within the right of way of any interstate, freeway-primary or primary highway under its jurisdiction.

~~117.7(5)~~ **117.7(3)** Service club and religious notices.

a. and b. No change.

c. Service club and religious notices may be placed outside the right of way of a freeway-primary or primary highway and outside the adjacent area of an interstate highway. Notices in these locations may be grouped upon a common panel ~~or on a municipal, county or school district recognition sign~~ and shall comply with the following:

(1) to (4) No change.

~~117.7(6)~~ **Municipal, county and school district recognition signs.**

a. ~~Municipal, county and school district recognition signs shall not be placed within the right of way.~~

b. ~~Municipal, county and school district recognition signs may be placed within the adjacent area of an interstate highway only if they are eligible for issuance of an outdoor advertising permit. All permit provisions apply, including but not limited to the size and spacing requirements of sub-rule 117.5(5) and permit fees.~~

c. ~~A municipal, county or school district recognition sign may be placed outside the right of way of a freeway-primary or primary highway and outside the adjacent area of an interstate highway if the following conditions are met:~~

(1) ~~The recognition sign shall comply with the definition of “Municipal, county or school district recognition sign” in rule 761—117.1(306B,306C).~~

(2) ~~The recognition sign shall comply with rule 761—117.3(306B,306C).~~

(3) ~~The recognition sign shall not display advertising.~~

(4) ~~The recognition sign may identify no more than two sponsors of the sign. Each sponsor’s message is limited to eight square feet in area and is limited to identifying the sponsor. No advertising or product logos are allowed.~~

(5) ~~The department’s approval of the recognition sign and its proposed location shall be obtained prior to the sign’s~~

## TRANSPORTATION DEPARTMENT[761](cont'd)

erection. A special application form shall be filed with the department, but no fees are required.

ITEM 7. Amend rule 761—117.8(306B,306C) as follows:

**761—117.8(306B,306C) Removal procedures.** The department shall cause to be removed every advertising device illegally erected or maintained and every abandoned sign.

~~117.8(1) Advertising devices lawfully in existence within 660 feet of the right of way not in zoned and unzoned commercial or industrial areas. Rescinded IAB 11/27/02, effective 1/1/03.~~

~~117.8(2) 117.8(1) Removal of illegal and abandoned advertising devices under billboard control Act. Any In accordance with Iowa Code sections 306B.5 and 306C.19, an advertising device erected or maintained after July 1, 1972, in violation of Iowa Code chapter 306B or 306C, or these rules is a public nuisance and may be removed by the department upon 30 days' notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located.~~

a. The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not.

b. If the advertising device has not been removed or made to conform with the provisions of these rules, *the advertising device is deemed to be forfeited* and the department shall *may* enter upon the land and remove the advertising device, aided by injunction to abate the nuisance and to ensure peaceful entry, if necessary.

c. Costs of removal, including fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the advertising device. Should the owner of the advertising device fail to promptly pay such fees, costs, or expenses *within 30 days after assessment*, the department shall proceed to advertise and sell the advertising device for purposes of collecting the same *may commence an action to collect them*.

d. Any balance from the total receipts of the sale after deducting all fees, costs, and expenses, including those of the sale, shall be paid to the owner of the advertising device; however, if in the opinion of the department the proceeds of the sale will not be sufficient to justify the expense involved, ~~the~~ *The* advertising device may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

e. No compensation shall be paid to the owner of any advertising device which is illegally erected or maintained. ~~except as may result pursuant to sale as provided for in paragraph 117.8(2)“d.”~~

~~117.8(3) Removal of illegal advertising devices under bonus Act. Any advertising device erected or maintained in violation of the more strict provisions of Iowa Code chapter 306B is a public nuisance and may be removed by the department upon 30 days' notice, by certified mail, to the owner of the device and to the owner of the land on which the advertising device is located.~~

a.—The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not.

b.—If the landowner or owner of the device fails to act within 30 days as required in the notice, the department may

file a petition in the district court of the county where the advertising device is located to abate the nuisance.

e.—If the court finds a violation exists as alleged in the petition, the court shall enter an order in abatement against the person or persons erecting and maintaining the advertising device and against the person or persons owning the land on which it is located.

d.—If the landowner or owner of the sign fails to act within the time required in the order of abatement, the department may give 30 days' notice to the landowner or owner of the sign and at the end of 30 days the department may enter upon the land and remove the sign.

e.—The department may be aided by injunction to abate the nuisance and to ensure peaceful entry.

f.—Such entry after notice shall not be deemed a trespass and the department may be aided by injunction to abate the nuisance and to ensure peaceful entry.

g.—The cost of removal, including any fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the sign.

h.—Should the owner of the sign fail to promptly pay such fees, costs or expenses, the department shall proceed to advertise and sell the sign for purposes of collecting the same.

i.—Any balance from the total receipts of the sale after deducting the fees, costs and expenses, including those of the sale, shall be paid to the owner of the sign; however, if in the opinion of the department the proceeds of the sale will not be sufficient to justify the expense involved, the sign may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

~~117.8(4) Misdemeanor. Whoever erected or maintains an advertising device in violation of Iowa Code chapter 306B or in violation of these rules pertaining to the more strict provisions applicable thereto shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25 nor more than \$100.~~

~~117.8(5) 117.8(2) Removal from right of way and other state-owned property. Advertising The department shall remove advertising devices erected upon the right of way of any public interstate, freeway-primary or primary highway; shall be removed pursuant to Iowa Code section 319.13 see subrule 117.2(5). Unauthorized advertising devices erected upon other property owned by the state of Iowa shall be are subject to removal by the agency, board, commission or department having control or jurisdiction of the same property. [Intended to implement Iowa Code chapter 319.]~~

ITEM 8. Adopt the following new rule:

**761—117.15(306C) Development directory signing.**

**117.15(1) Definition.** “Development directory sign” means a type of on-premises sign displaying a message that is limited to the names of two or more businesses located within a commercial or industrial development. The sign may also display the name of the development. The sign must be located within the limits of the development but may be located anywhere within the development regardless of land ownership.

**117.15(2) Limitation.** Each business within the development is limited to its name appearing on not more than two development directory signs visible to traffic proceeding in any one direction on any interstate, freeway-primary or primary highway.

**117.15(3) Commercial or industrial development.** A development directory sign must be located within a commercial or industrial development. For the purposes of this rule,

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a commercial or industrial development is a single premises that meets all of the following requirements:

- a. All of the lots, regardless of whether they are individually owned, are contiguous, except for roadways or driveways providing access to lots or common areas within the development.
- b. No part of the development is separated from another part by an interstate, freeway-primary, or primary highway.
- c. The development is approved for the establishment of commercial or industrial activities by an authorized governing authority, and is occupied by commercial or industrial activities. The term "commercial or industrial activities" is defined in Iowa Code section 306C.10.
- d. The development is subject to a common development and common use plan that provides for common areas such as sidewalks, roadways, parking, storage, and service areas, to which all businesses within the development have irrevocable shared use and shared property rights, and for which they have irrevocable shared obligations.
- e. The development operates through an association or other entity, actively managed and maintained, through which all lot owners have irrevocable rights and obligations with respect to the development and its common areas.
- f. The development and the businesses within the development present themselves to the public as a common development through signage or other marketing efforts.
- g. The common areas of the development have necessary and true value to the regular operations of the businesses within the development, and were created for purposes other than establishing eligibility for development directory signing.

**NOTICE—USURY**

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

March 1, 2007 — March 31, 2007	6.75%
April 1, 2007 — April 30, 2007	6.75%
May 1, 2007 — May 31, 2007	6.50%
June 1, 2007 — June 30, 2007	6.75%
July 1, 2007 — July 31, 2007	6.75%
August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%
March 1, 2008 — March 31, 2008	5.75%

**ARC 6626B**

**UTILITIES DIVISION[199]**

**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 sections 17A.4, 476.2, and 479.5 and Iowa Code chapter 476A, the Utilities Board (Board) gives notice that on February 11, 2008, the Board issued an order in Docket No. RMU-08-1, In re: Amendments to Informational Meeting Accessibility Requirements [199 IAC 10.3(1), 11.4(1), 13.3(1), and 24.7(2)], "Order Commencing Rule Making."

The Board is proposing to amend subrules 10.3(1), 11.4(1), 13.3(1), and 24.7(2) to reflect the rescission of Iowa Code section 104A.3 and to update accessibility requirements for facilities used for informational meetings under Board rules. Current rules refer to Iowa Code section 104A.3 and the Americans With Disabilities Act of 1990 to establish standards recommended for facilities used for informational meetings for proposed gas pipelines, electric lines, hazardous liquid pipelines, and electric power generating facilities.

As indicated, Iowa Code section 104A.3 has been rescinded by the Iowa Legislature, and more recent ADA guidelines are available. Iowa Code section 104A.3 has been replaced by rules promulgated by the State Building Code Commissioner pursuant to Iowa Code section 104A.6. The State Building Code Commissioner has adopted by reference at 661 IAC 302.5(103A,104A) the requirements found in ADA Accessibility Guidelines, Chapter 4. The Board is proposing to amend the above-listed subrules to refer to the ADA Accessibility Guidelines, Chapter 4, as applicable, for those persons required to schedule informational meetings under Board rules. The guidelines will be used for reference and will not be mandatory, since many informational meetings are required to be held in more rural locations throughout Iowa where facilities that meet all of the guidelines may not be available. The order commencing the rule making can be found on the Board's Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub).

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 1, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, and 479.5 and Iowa Code chapter 476A.

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)

UTILITIES DIVISION[199](cont'd)

281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 10.3(1) as follows:

**10.3(1)** Facilities. Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans With Disabilities Act *Accessibility Guidelines, Chapter 4, where reasonably available of 1990, parking facilities and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 2. Amend subrule 11.4(1) as follows:

**11.4(1)** Facilities. Prospective petitioners for franchise shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans With Disabilities Act *Accessibility Guidelines, Chapter 4, where reasonably available of 1990, and parking facilities, and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 3. Amend subrule 13.3(1) as follows:

**13.3(1)** Facilities. Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans With Disabilities Act *Accessibility Guidelines, Chapter 4, where reasonably available of 1990, parking facilities and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 4. Amend subrule 24.7(2) as follows:

**24.7(2)** Meeting facilities. The applicant shall be responsible for all negotiations and compensation for a suitable meeting place facility to be used for the informational meeting, including *but not limited to* a building or facility which is in *substantial* compliance with the requirements of the Americans With Disabilities Act *Accessibility Guidelines, Chapter 4, where reasonably available of 1990, parking facilities, and electronic voice amplification equipment, if necessary.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

**ARC 6644B**

## VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

### 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 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

These proposed amendments reflect changes in the Iowa Veterans Home admissions procedure designed to expedite the application process as well as changes in the Medicaid program, whereby eligible residents will be entitled to an increase in the residents' personal needs allowance from \$120 to \$140.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 1, 2008. Such written materials should be directed to Daniel R. Steen, Commandant, Iowa Veterans Home, 1301 Summit, Marshalltown, Iowa 50158-5485, or faxed to (641)753-4278. E-mail may be sent to [daniel.steen@ivh.state.ia.us](mailto:daniel.steen@ivh.state.ia.us). Persons who wish to convey their views orally should contact the Commandant's office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendments will be held on April 2, 2008, at 9 a.m. in the Ford Memorial Conference Room at the Iowa Veterans Home, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received, the public hearing will be canceled without further notice.

These amendments are intended to implement Iowa Code chapter 35D.

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 **801—10.1(35D)**, definition of "director of resident and family services," as follows:

"Director of resident and family services" means the administrator responsible for social work services, ~~substance abuse programs~~ and chaplain services for members.

ITEM 2. Amend subrule 10.3(3) as follows:

**10.3(3)** The applicant shall be scheduled for a physical examination by a medical provider; and the results of the examination shall be entered on the application by the examining medical provider. If the applicant has had a complete physical examination within three months of application, a copy of this physical shall suffice. Information must be au-

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

thenticated by the medical provider's original signature *or electronic signature*.

ITEM 3. Amend subrule **10.3(4)** by rescinding paragraphs "**i**" and "**j**."

ITEM 4. Amend subrule 10.4(3) as follows:

**10.4(3)** Regardless of whether or not the applicant can be immediately admitted, the applicant shall be notified by the director of admissions *or designee* of the applicant's designated level and category of care. An applicant who does not wish to be admitted to the designated level and category of care may submit evidence to show that another level or category of care may be more appropriate. However, once the admissions committee makes a final determination, the applicant who does not wish to be admitted under the designated level or category of care may withdraw the application in writing or have the application denied.

ITEM 5. Amend subrule **10.4(5)** by rescinding paragraph "**d**" and relettering existing paragraph "**e**" as "**d**."

ITEM 6. Amend subrule 10.6(1) as follows:

**10.6(1)** The applicant shall be notified by the director of admissions *or designee* to appear for admission to IVH.

ITEM 7. Amend subrule **10.6(4)** by rescinding paragraphs "**a**," "**b**," "**c**" and "**f**" and relettering existing paragraphs "**d**" and "**e**" as "**a**" and "**b**."

ITEM 8. Amend paragraph **10.16(2)"b"** and paragraph **10.16(2)"d,"** introductory paragraph, as follows:

b. Assets of a single member. When liquid assets, not exempted in paragraph "a" above, are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for *the* payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least ~~\$120~~ *\$140*.

d. Assets of a married member with spouse living in the community. When liquid assets, not exempted in paragraph "a" above, are equal to or exceed \$2,000, those liquid assets shall be considered an available resource for *the* payment of member support. These assets shall be considered available

for payment of member support until such time that the remaining liquid assets total less than \$500, but leaving at least ~~\$120~~ *\$140*.

ITEM 9. Amend subrule 10.19(1) as follows:

**10.19(1)** For members living on Title XIX certified units who are eligible for Title XIX medical assistance, rule 441—75.5(249A) shall apply. For those members participating in the Title XIX medical assistance program, the difference between the ~~\$120~~ *\$140* personal needs allowance and the Title XIX personal needs allowance shall be returned to the member out of individual member participation.

ITEM 10. Amend paragraph **10.19(2)"a"** by adopting the following new subparagraph:

(16) Income from participating as outlined in the community reentry program (IVH policy #265A) or the IVH discharge planning policy (IVH policy #265).

ITEM 11. Amend subparagraph **10.19(2)"b"(1)** as follows:

(1) All income up to the first ~~\$120~~ *\$140* shall be kept as a personal needs allowance.

ITEM 12. Amend subrules 10.51(1) and 10.51(2) as follows:

**10.51(1)** Each competent member shall be afforded a choice in the methods of handling *the* member's *business* mail and in meeting the member's responsibilities for reporting resources for computation of member support purposes. A member found to be mentally incompetent shall have that member's *business* mail handled in a manner as to respect that member's dignity and still meet the needs of IVH for complete information regarding resources.

**10.51(2)** Each competent member shall be allowed to handle that member's *business* mail to the degree of responsibility chosen by the member. A member may:

a. Elect to receive all *business* mail personally and provide the admissions office with financial documentation, or

b. Designate that the member shall receive personal mail items, but *business* mail received at IVH from entitlement sources or concerning assets shall be routed to the director of admissions or designee.

**ARC 6658B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts an amendment to Chapter 104, "Targeted Industries Internship Program," Iowa Administrative Code.

The amendment removes the requirement that a business receiving an award from the program must select an intern within 90 days of the award date. In lieu thereof, the new requirement is that the business must select an intern within the time period identified in the contract between the Department and the business. The Department has determined that establishing a fixed 90-day period from the award date did not allow enough time for the contracting and intern selection processes to be completed.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because this amendment removes a restriction on businesses. This change allows a time period for the selection of an intern for participation in the program to be negotiated and included in the contract between the business and the Department.

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 the amendment should be made effective upon filing with the Administrative Rules Coordinator on February 22, 2008. This effective date will permit the Department and award recipients to finalize contracts and establish reasonable time periods for the selection of interns.

This amendment is also published herein under Notice of Intended Action as **ARC 6657B** to allow for public comment.

The Iowa Economic Development Board adopted this amendment on February 21, 2008.

This amendment became effective on February 22, 2008.

This amendment is intended to implement Iowa Code Supplement section 15.411(6).

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 rule 261—104.10(82GA,HF829) as follows:

**261—104.10(82GA,HF829) Application content and other requirements.**

**104.10(1)** Applicants must complete an application for internship assistance and submit it to the department. Successful applicants must enter into a contract with the department prior to posting or advertising the internship.

**104.10(2)** ~~The applicant has 90 days from the time of the award to secure an intern.~~ *If an award is made, the business shall secure an intern within the time period stated in the contract between IDED and the business.*

**104.10(3)** The application shall include, but not be limited to, all of the following:

- a. The dates and location of the internship.
- b. A statement of duties the intern will be performing at the business site. The intern is to be involved in a substantive experience in one or more of the following areas: research

and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. The application shall also include information regarding the intern's work space (i.e., access to telephone, computer, and other necessary items).

c. The name of the business's representative who will train and supervise the intern.

d. A statement of the anticipated workforce needs at the business, which shall include an explanation of the current workforce shortage and identify the intern's potential for prospective employment with the business following graduation.

**104.10(4)** The department reserves the right to require additional information from the business.

[Filed Emergency 2/22/08, effective 2/22/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6627B****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," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

These amendments make technical changes to update the descriptions of forms and procedures used in determining Medicaid eligibility and benefits. The amendments reflect the development of a new authorization form for obtaining information necessary to determine disability. Under former procedures, the applicant had to sign a separate form for every source of information, and if more sources were identified during the process, work was halted until more authorizations were obtained. The new form is designed to authorize all sources of information with one signature.

The amendments also reflect new names for:

- The form used to gather information from newly approved Supplemental Security Income recipients that is needed to complete the Medicaid eligibility determination;
- The form used to gather medical support information from an absent parent; and
- The form used to collect information about accident-related injuries. The affected rules are updated with current terminology and references.

These amendments do not provide for waivers in specified situations because these are merely technical changes. 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 19, 2007, as **ARC 6494B**. The Department received no comments on the Notice of Intended Action.

Since publication of the Notice of Intended Action, paragraphs 75.1(41)"a" and "c," rules 441—76.2(249A) and 441—76.4(249A), and subrule 76.7(1) also have been modified by replacing references to "recipient" with "member." Additionally, references to "county office" and "local office"

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

have been changed to “department” in portions of Chapters 75 and 76 to accommodate “outstationed” staff and to reflect the planned centralization of some departmental functions.

The Council on Human Services adopted these amendments on February 13, 2008.

The Department finds that these amendments confer a benefit on Medicaid applicants and members by streamlining and clarifying procedures. 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 became effective on February 15, 2008.

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

The following amendments are adopted.

ITEM 1. Amend subrule **75.1(35)** as follows:

Strike the word “recipient” or “recipients” and insert in lieu thereof the word “member” or “members” wherever the words appear in subparagraph “c”(2), paragraphs “f” and “i,” and paragraph “j,” introductory paragraph.

Further amend paragraph “f” and paragraph “i,” first unlettered paragraph, by striking the words “county office” wherever the words appear and inserting in lieu thereof the word “department.”

Amend paragraph “i,” subparagraphs (2) and (3), as follows:

(2) For an independent determination of disability, the applicant or recipient or the applicant’s or recipient’s authorized representative shall *complete, sign and* submit Form 470-4459 or 470-4459(S), *Authorization to Disclose Information to the Department of Human Services, and* either:

1. Form 470-2465, Disability Report for Adults, if the applicant or recipient is aged 18 or over; or

2. Form 470-3912, Disability Report for Children, if the applicant or recipient is under the age of 18. ~~A signed Authorization to Obtain or Release Health Care Information, Form 470-3951 or 470-3951(S), shall be completed for each medical source listed on the disability report.~~

(3) In connection with any independent determination of disability, the department shall determine whether reexamination of the person’s medical condition will be necessary for periodic redeterminations of eligibility. *When reexamination is required, the member or the member’s authorized representative shall complete and submit the same forms as required in subparagraph (2).*

ITEM 2. Amend subrule **75.1(41)**, paragraph “a,” subparagraph (1), and paragraph “c,” subparagraph (1), by striking the word “recipient” or “recipients” and inserting in lieu thereof the word “member” or “members” wherever the words appear.

ITEM 3. Amend rule 441—75.2(249A) as follows:

Amend the introductory paragraphs and subrules 75.2(1) and 75.2(2) as follows:

**441—75.2(249A) Medical resources.** Medical resources include health and accident insurance, eligibility for care through the Department of Veterans Affairs, specialized child health services, Title XVIII of the Social Security Act (Medicare), and other resources for meeting the cost of medical care which may be available to the recipient member. These resources must be used when reasonably available.

~~When a medical resource may be obtained by filing a claim or an application, and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist.~~

**75.2(1)** The department shall approve payment only for those services or that part of the cost of a given service for which no medical resources exist unless pay and chase provisions as defined in rule 441—75.25(249A) are applicable.

a. Persons who have been approved by the Social Security Administration for supplemental security income shall complete Form 470-2304, 470-2304(S), 470-0364, or 470-0364(S), SSI Medicaid Information Questionnaire for SSI Persons, and return it to the local office of the department.

b. Persons eligible for Part B of the Medicare program shall make assignment to the department on Form 470-2304, 470-2304(S), 470-0364, or 470-0364(S), SSI Medicaid Information Questionnaire for SSI Persons.

**75.2(2)** *When a medical resource may be obtained by filing a claim or an application and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist.*

~~**75.2(1)** a. The recipient member, or one acting on the recipient’s member’s behalf, shall file a claim, or submit an application, for any reasonably available medical resource, and shall also cooperate in the processing of the claim or application. Failure to do so, without good cause, shall result in the termination of medical assistance benefits.~~

b. The medical assistance benefits of a minor or a legally incompetent adult recipient member shall not be terminated for failure to cooperate in reporting medical resources.

~~**75.2(2)** When a parent or payee, acting on behalf of a minor, or of a legally incompetent adult recipient, member fails to file a claim or application for reasonably available medical resources, or fails to cooperate in the processing of a claim or application, without good cause, the medical assistance benefits of the parent or payee shall be terminated.~~

Amend subrules **75.2(3)** and **75.2(4)** by striking the word “recipient” or “recipients” and inserting in lieu thereof the word “member” or “members” wherever the words appear.

Amend subrule 75.2(5) as follows:

**75.2(5)** When the department receives information through a cross-match with Iowa workforce development department of employment services and child support recovery files which indicates the absent parent of a Medicaid-eligible child is employed, the department shall send Form 470-0413, Absent Parent Obligor Insurance Questionnaire, to the absent parent in order to obtain health insurance coverage information. If the absent parent does not respond within 15 days from the date Form 470-0413 is sent, the department shall send Form 470-2240, Employer Insurance Questionnaire, to the employer in order to obtain the health insurance coverage information.

ITEM 4. Amend rule **441—75.3(249A)** by striking the word “recipient” and inserting in lieu thereof the word “member” wherever the word appears and by striking the words “local office” wherever the words appear and inserting in lieu thereof the word “department.”

ITEM 5. Amend rule **441—75.4(249A)** as follows:

Strike the words “recipient,” “medical assistance recipient,” “recipient of medical assistance,” “recipient of the medical assistance program” and “applicant for or recipient of medical assistance” and insert in lieu thereof the word “member” wherever the words appear, except as indicated below.

Amend subrule **75.4(3)**, paragraphs “d” and “e,” as follows:

d. The recipient member, or one acting on the recipient’s member’s behalf, shall complete the Recipient Inquiry Prior-

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

ity Leads Letter, Form 470-0398, when the department has reason to believe that the recipient member has received sustained an accident-related injury. Failure to cooperate in completing and returning this form, or in giving complete and accurate information, shall result in the termination of Medicaid benefits.

e. When the recovery rights of the department are adversely affected by the actions of a parent or payee acting on the behalf of a minor or legally incompetent adult recipient member, the Medicaid benefits of the parent or payee shall be terminated. When a parent or payee fails to cooperate in completing or returning the Recipient Inquiry Priority Leads Letter, Form 470-0398, or the Supplemental Insurance Questionnaire, Form 470-2826, or fails to give complete and accurate information concerning the accident-related injuries of a minor or legally incompetent adult recipient member, the department shall terminate the Medicaid benefits of the parent or payee.

Amend subrule **75.4(4)**, paragraph “c,” as follows:

c. An attorney representing an applicant for medical assistance or a past or present recipient of medical assistance Medicaid member on a claim to which the department has filed a lien under this rule shall notify the department of the claim of which the attorney has actual knowledge, prior to before filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge shall include the notice to the attorney pursuant to subrule 75.4(1). The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or regional local office location, is adequate legal notice of the claim.

Amend subrule 75.4(6) as follows:

**75.4(6)** For purposes of this rule, the term “third party” includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for medical assistance or a past or present recipient of assistance under the medical assistance program Medicaid member.

ITEM 6. Amend rule 441—75.20(249A) as follows:

Amend subrule **75.20(2)**, paragraph “b,” as follows:

b. When there is no binding SSA decision and the department is required to establish eligibility for SSI-related Medicaid based on disability, initial determinations shall be made by disability determination services, a bureau of the Iowa department of education under the division of vocational rehabilitation services. The client applicant or the client's applicant's authorized representative shall complete and submit Form 470-4459 or 470-4459(S), Authorization to Disclose Information to the Department of Human Services, and either:

(1) Form 470-2465, Disability Report for Adults, if the client applicant is aged 18 or over; or

(2) Form 470-3912, Disability Report for Children, if the client applicant is under the age of 18. A signed release, Form 470-3951 or 470-3951(S), Authorization to Obtain or Release Health Care Information, shall be completed for each medical source listed on the disability report.

Amend subrule 75.20(4) as follows:

**75.20(4)** Redeterminations of disability. In connection with any independent determination of disability, the department will determine whether reexamination of the person's member's medical condition will be necessary for periodic redeterminations of eligibility. When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms as required in paragraph 75.20(2) “b.”

Amend subrule **75.20(5)** by striking the word “recipient” or “recipients” and inserting in lieu thereof the word “member” or “members” wherever the words appear.

ITEM 7. Amend rule **441—76.1(249A)** as follows:

Amend the second unnumbered paragraph as follows:

A person who is a recipient of supplemental security income (SSI) benefits shall not be required to complete a separate Medicaid application. If the county office department does not have all information necessary to establish that an SSI recipient meets all Medicaid eligibility requirements, the SSI recipient may be required to complete Form 470-2304, 470-2304(S), or 470-0364, or 470-0364(S), SSI Medicaid Information Questionnaire for SSI Persons, and may be required to attend an interview to clarify information on this form.

Amend subrule **76.1(4)** by striking the words “local office” wherever the words appear and inserting in lieu thereof the word “department.”

Amend subrule **76.1(7)** by striking the word “recipient” or “recipients” wherever the words appear and inserting in lieu thereof the word “member” or “members.”

ITEM 8. Amend rule **441—76.2(249A)**, introductory paragraph, by striking the word “recipient” wherever the word appears and inserting in lieu thereof the word “member” and by striking the words “county office” wherever the words appear and inserting in lieu thereof the word “department.”

ITEM 9. Amend subrule **76.3(6)** by striking the words “county office” wherever the words appear and inserting in lieu thereof the word “department.”

ITEM 10. Amend rule **441—76.4(249A)** by striking the word “recipient” or “recipient's” wherever the word appears and inserting in lieu thereof the word “member” or “member's” and by striking the words “local office” wherever the words appear and inserting in lieu thereof the word “department.”

ITEM 11. Amend subrule **76.5(1)**, paragraph “d,” as follows:

d. Persons receiving only supplemental security income benefits who wish to make application for Medicaid benefits for three months preceding the month of application shall complete Form MA-2124-0 470-2304, 470-2304(S), 470-0364, or 470-0364(S), Supplementary SSI Medicaid Information—Medicaid Application—Retroactive Medicaid Eligibility.

ITEM 12. Amend subrules **76.7(1)** and **76.7(3)** by striking the word “recipient” wherever the word appears and inserting in lieu thereof the word “member” and by striking the words “county office” wherever the words appear and inserting in lieu thereof the word “department.”

[Filed Emergency After Notice 2/13/08, effective 2/15/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6651B****LOTTERY AUTHORITY, IOWA[531]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 99G.9(3), the Iowa Lottery Authority hereby amends Chapter 11, "Prizes," Iowa Administrative Code.

Chapter 11 is being amended in order to clarify the requirements for claiming a prize.

In compliance with Iowa Code section 17A.4(2), the Iowa Lottery Authority finds that notice and public participation are unnecessary and impracticable due to the immediate need for these amendments in order to provide additional protections for the public and to continue to ensure the integrity of lottery operations. The amendments are being made as directed by the Government Oversight Committees of the Iowa General Assembly.

The Iowa Lottery Authority also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and that these amendments should be made effective on March 15, 2008, because they confer a benefit on the public by protecting the public and retailers from the possibility of fraud, thereby continuing to ensure that the integrity of the Lottery is maintained at the highest possible level.

The Iowa Lottery Authority Board adopted these amendments on February 20, 2008.

These amendments are also published herein under Notice of Intended Action as **ARC 6652B** to allow for public comment.

These amendments are intended to implement Iowa Code chapter 99G.

These amendments will become effective March 15, 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 amendments are adopted.

ITEM 1. Amend rule 531—11.1(99G) by adopting **new** subrule 11.1(5) as follows:

**11.1(5)** The player must sign the original ticket or share prior to presenting the ticket to another party for the purpose of checking or validating the ticket. The lottery and retailers shall verify that there is a signature on any ticket(s) submitted for checking or validation.

ITEM 2. Amend rule 531—11.4(99G) as follows:

**531—11.4(99G) Ticket is a bearer instrument.** A ticket is a bearer instrument until signed in the space designated on the ticket for signature if a signature space is provided. The person who signs the ticket is thereafter considered the owner of the ticket. ~~Payment of any prize may be made to the physical possessor of an unsigned ticket or to the person whose signature appears on the ticket.~~ All liability of the state, the lottery authority board, the lottery authority, the chief executive officer, and the employees of the lottery terminates upon payment.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

[Filed Emergency 2/20/08, effective 3/15/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6655B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 1, "Organization," Chapter 101, "Division Responsibilities," Chapter 102, "Information and Technology Joint Venture Fund," Chapter 103, "Information Technology Training Program," Chapter 104, "Targeted Industries Internship Program," Chapter 105, "Demonstration Fund," Chapter 106, "Community College Equipment and Training Fund," Chapter 107, "Targeted Industries Networking Fund," Chapter 108, "Targeted Industries Student Competition Fund," and Chapter 109, "Targeted Industries Career Awareness Fund," Iowa Administrative Code.

The amendments incorporate a decision by the Department to rename the Targeted Industries Division as the Innovation and Commercialization Division. This change more closely describes the mission of this Division.

Notice of Intended Action was published on December 19, 2007, as **ARC 6478B**. No public comments concerning the proposed amendments were received. The adopted amendments are identical to the proposed amendments.

The Iowa Economic Development Board adopted these amendments on February 21, 2008.

These amendments will become effective on April 16, 2008.

These amendments are intended to implement Iowa Code chapter 17A.

The following amendments are adopted.

ITEM 1. Amend subrule 1.4(4) as follows:

**1.4(4) Divisions.** The director has established the following administrative divisions within the department in order to most efficiently and effectively carry out the department's responsibilities:

1. Administration division;
2. Business development division;
3. Community development division; and
4. ~~Targeted industries~~ *Innovation and commercialization* division.

ITEM 2. Amend **261—Part V**, title, as follows:

PART V  
TARGETED INDUSTRIES INNOVATION AND  
COMMERCIALIZATION DIVISION

ITEM 3. Amend rule 261—101.1(15) as follows:

**261—101.1(15) Mission.** The mission of the ~~targeted industries~~ *innovation and commercialization* division is to grow Iowa's economy by fostering entrepreneurship and supporting the workforce, commercialization, and marketing activities of the advanced manufacturing, biosciences, and information technology industries.

ITEM 4. In each of the following subrules, in the phrase "Targeted Industries Division," strike "Targeted Industries" and insert "Innovation and Commercialization" in

lieu thereof: **102.8(1), 103.11(1), 104.9(1), 105.8(1), 106.6(1), 107.6(1), 108.6(1)** and **109.7(1)**.

[Filed 2/22/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6656B****ECONOMIC DEVELOPMENT, IOWA  
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development amends Chapter 165, "Allocation of Grow Iowa Values Fund," Iowa Administrative Code.

The amendments update the rules to incorporate legislative changes to the amounts allocated to the Department for the Grow Iowa Values Fund. Funds were reallocated to provide assistance for commercialization services described in Iowa Code section 15.411(2) and (3). The amendments revise the rules applicable to the annual report from the State Board of Regents (Regents) to the Department and the Iowa Economic Development Board about the use of the \$5 million appropriation from the Grow Iowa Values Fund to the Regents for institutions of higher learning under the control of the Regents.

Notice of Intended Action was published on December 19, 2007, as **ARC 6477B**. A public hearing was held on January 8, 2008. No public comments concerning the proposed amendment were received. The adopted amendment includes two changes. During the final review of the amendment, staff noticed that the allocation for one fiscal year was missing in rule 261—165.4(15G). Language has been added to clarify that for the time period July 1, 2006, to June 30, 2007, \$33 million is allocated for programs administered by the Department. In addition, Iowa Code references have been updated.

The Iowa Economic Development Board adopted the amendment on February 21, 2008.

This amendment will become effective on April 16, 2008.

This amendment is intended to implement Iowa Code Supplement section 15G.111(2) and (3).

The following amendment is adopted.

Amend **261—Chapter 165** as follows:

CHAPTER 165  
ALLOCATION OF GROW IOWA VALUES FUND

**261—165.1(15G) Purpose.** The purpose of the grow Iowa values fund is to provide financial assistance for business incentives, marketing efforts, and other programs and activities designed to spur the economy and improve the quality of life of Iowans. Moneys in the grow Iowa values fund provide financial assistance for programs administered by the department; for state parks pursuant to a plan from the department of natural resources (DNR); for the cultural trust fund; for workforce training and economic development funds of the community colleges; for economic development region initiatives; and for financial assistance to the regents for the University of Northern Iowa, Iowa State University, the University of Iowa, a bioscience organization, and private universi-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ties. The rules in this chapter apply to financial assistance awarded from the grow Iowa values fund by the department and the board.

**261—165.2(15G) Definitions.** The definitions located in 261—Chapter 173 apply to this chapter.

**261—165.3(15G) Grow Iowa values fund (2005).** The grow Iowa values fund (2005) refers to the fund established on July 1, 2005, pursuant to Iowa Code chapter 15G Supplement section 15G.111(2) and (3). The fund includes moneys appropriated to the department by the general assembly for the fund, interest earned, repayments, and recaptures of loans and grants. Pursuant to Iowa Code section 15G.108, the fund is under the control of and administered by the department.

**261—165.4(15G) Allocation of grow Iowa values fund moneys.** Pursuant to Iowa Code section 15G.110, \$50 million is appropriated from the grow Iowa values fund to the department each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2015. The fund moneys are allocated as follows:

\$35M (except as set forth in "1" to "3" below)—For programs administered by the department, marketing and other specified uses.

1. For each fiscal year beginning July 1, 2005, and ending June 30, 2006, the amount available is \$35M.

2. For each fiscal year beginning July 1, 2006, and ending June 30, 2007, the amount available is \$33M.

3. For each fiscal year beginning July 1, 2007, and ending June 30, 2009, the amount available is \$30M.

4. For each fiscal year beginning July 1, 2009, and ending June 30, 2015, the amount available is \$32M.

\$ 3M—For the fiscal period beginning July 1, 2007, and ending June 30, 2015, this amount is available for commercialization services described in Iowa Code Supplement section 15.411(2) and (3).

\$ 2M—For the fiscal period beginning July 1, 2006, and ending June 30, 2009, this amount is available for deposit in the renewable fuel infrastructure fund as provided in Iowa Code section 15G.205.

\$ 5M—To the state board of regents for institutions of higher learning under the control of the state board of regents, for specific activities.

\$ 1M—For projects in targeted state parks, state banner parks and destination parks.

\$ 1M—For the cultural trust fund administered by the department of cultural affairs.

\$ 7M—For workforce training and economic development funds of the community colleges.

\$ 1M—For economic development region initiatives.

**165.4(1)** Funding for programs administered by the department, marketing, other specified uses.

a. IDED programs. Pursuant to Iowa Code section 15G.111, \$35 million is funds are appropriated to the department for each of the fiscal years identified above for deposit in the fund for programs administered by the department. The grow Iowa values fund moneys can be used to fund projects and activities under the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the brown-field redevelopment program (261—Chapter 65), commercialization services described in Iowa Code Supplement

section 15.411(2) and (3) and other programs administered by the department.

b. Administrative costs. The department may use for administrative purposes up to one and one-half percent of the \$35 million allocation for administrative purposes amount in rule 261—165.4(15G) that is allocated for programs administered by the department, marketing and other specified uses.

c. Business incentives, marketing, and research and development. Each fiscal year the department shall allocate a percentage of the fund moneys for business start-ups, business expansions, business modernization, business attraction, business retention, marketing, and research and development. The department may adjust the allocation during the year if it determines that it is necessary to do so to ensure the availability of funds in those categories in which a greater need is demonstrated to exist or to respond to investment opportunities.

d. Technical assistance, labor shed study and transportation purposes. A portion of the \$35 million allocation for programs administered by the department, marketing and other specified uses may also be used to procure technical assistance from the public or private sectors, for information technology purposes, for a statewide labor shed study, and for rail, air, or river port transportation-related purposes. For applications involving rail, air, or river port transportation-related purposes, fund assistance is only available if the activity is directly related to an economic development project and the values fund moneys are used to leverage other financial assistance moneys.

e. No change.

f. Board approval. The board shall approve or deny financial assistance applications and other activities funded with moneys provided through this \$35 million allocation from the grow Iowa values fund.

**165.4(2)** Funding to the state board of regents for institutions of higher learning under the control of the state board of regents for specific activities.

a. Use of funds. Five million dollars is available for financial assistance to institutions of higher learning under the control of the state board of regents (Iowa State University (ISU), University of Iowa (U of I), University of Northern Iowa (UNI)). The funds must be used for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under Iowa Code chapter 262B.

(1) In allocating moneys to institutions under the control of the state board of regents, the state board of regents shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys provided under this subrule.

(2) The state board of regents may allocate moneys available under this subrule for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under

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Iowa Code chapter 262B and to accredited private universities in this state.

b. Annual state board of regents report. Each fiscal year, the state board of regents shall report how the funds were used and allocated among ISU, U of I, UNI, a bioscience organization, and private universities. *The report shall be submitted to the department by July 31. In order to determine the impact of the funding applied to accelerate research leading to commercial products/processes and to measure activities that demonstrate successes, the annual report shall include, at a minimum, the following information:*

(1) *Research and development commercialization agreements executed with Iowa companies (the number, the dollar amount).*

(2) *Corporate sponsored funding for R&D by Iowa companies (the number, the dollar amount).*

(3) *University centers and institutes: core laboratory equipment utilized and services provided (hours, samples, dollar amount).*

(4) *License and option agreements executed with Iowa companies (the number).*

(5) *New Iowa companies formed and jobs created from the result of licensed technologies (the number).*

(6) *Revenue to Iowa companies (based on sales) as a result of licensed technologies (the dollar amount).*

c. Board action. The board shall ~~hear a~~ review the annual report from the state board of regents and accept, or request additional information regarding, the use of the \$5 million allocation from the grow Iowa values fund to the state board of regents. *The board will include in its annual grow Iowa values fund report that is required to be submitted by January 15 each year pursuant to Iowa Code section 15.104(9) an evaluation of the annual report received from the state board of regents.*

**165.4(3) to 165.4(6)** No change.

These rules are intended to implement Iowa Code chapter 15G and Iowa Code Supplement section 15G.111(2) and (3).

[Filed 2/22/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

## ARC 6636B

### EDUCATIONAL EXAMINERS BOARD[282]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The amendment assists in meeting the Board's goal of resolving complaints within 180 days.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6398B**. A public hearing on the amendment was held on November 28, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 16, 2008.

The following amendment is adopted.

Amend subrules 11.28(1) and 11.28(2) as follows:

**11.28(1)** Appeal by party. Any adversely affected party may appeal a proposed decision to the board within ~~60~~ 30 days after issuance of the proposed decision.

**11.28(2)** Review. The board may initiate review of a proposed decision on its own motion at any time within ~~60~~ 30 days following the issuance of such a decision.

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

## ARC 6639B

### EDUCATIONAL EXAMINERS BOARD[282]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment to rule 282—14.104(272) strikes the part of the rule that requires applicants to pass the TOEFL test at a level established by the Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6457B**. A public hearing on the amendment was held on January 2, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 16, 2008.

The following amendment is adopted.

Amend rule 282—14.104(272) as follows:

**282—14.104(272) Applicants from foreign institutions.** An applicant for initial licensure whose preparation was completed in a foreign institution must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the board of educational examiners for a determination of eligibility for licensure. ~~The applicant must demonstrate English proficiency by providing evidence of passing the TOEFL test at the level established by the board.~~

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6638B****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment to paragraph "c" of subrule 14.142(1) allows an administrator from another state to obtain the same license in Iowa that is held in the other state, and the administrator will not be required to complete the coursework for other grade levels.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6450B**. A public hearing on the amendment was held on January 2, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 16, 2008.

The following amendment is adopted.

Amend subrule **14.142(1)**, paragraph "c," as follows:

c. Other.

(1) The applicant must have had three years of teaching experience at the early childhood through grade twelve level.

~~(2) Graduates from institutions in other states who are seeking initial Iowa licensure and the PK-12 principal and PK-12 supervisor of special education endorsement must meet the requirements for the standard license in addition to the experience requirements.~~

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

Amend subrule 17.5(1) as follows:

**17.5(1)** Six units are needed for renewal. These units may be earned in any combination listed below.

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned for successful completion of the National Board for Professional Teaching Standards certification. This *certification* may be used one time for either the standard or the master educator license.

f. *One unit may be earned upon successful acquisition of three points from the following activities:*

(1) *Mentoring a full-semester student teacher (12 or more weeks) is worth two points.*

(2) *Mentoring a half-semester student teacher (less than 12 weeks) is worth one point.*

(3) *Mentoring a practicum student or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.*

(4) *Attending (from start to finish) a cooperating teachers' workshop in conjunction with mentoring a student teacher or practicum student is worth one point.*

(5) *Serving as a multiyear member of a teacher education program's advisory committee is worth one point.*

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6634B****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 17, "Renewal of Licenses," Iowa Administrative Code.

The amendment to subrule 17.5(1) is adopted as a strategy to reward practicing teachers for mentoring a student teacher or for mentoring practicum students.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6397B**. A public hearing on the amendment was held on November 28, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 16, 2008.

The following amendment is adopted.

**ARC 6635B****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 17, "Renewal of Licenses," Iowa Administrative Code.

The amendment to subrule 17.6(1) is adopted as a strategy to reward practicing teachers for mentoring a student teacher or for mentoring practicum students.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6396B**. A public hearing on the amendment was held on November 28, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment will become effective April 16, 2008.  
The following amendment is adopted.

Amend subrule 17.6(1) as follows:

**17.6(1)** Four units are needed for renewal. These units may be earned in any combination listed below.

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. If previously used to renew the standard license, this certification may not be used.

f. *One unit may be earned upon successful acquisition of three points from the following activities:*

(1) *Mentoring a full-semester student teacher (12 or more weeks) is worth two points.*

(2) *Mentoring a half-semester student teacher (less than 12 weeks) is worth one point.*

(3) *Mentoring a practicum student or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.*

(4) *Attending (from start to finish) a cooperating teachers' workshop in conjunction with mentoring a student teacher or practicum student is worth one point.*

(5) *Serving as a multiyear member of a teacher education program's advisory committee is worth one point.*

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6633B****EDUCATIONAL EXAMINERS  
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

The following amendment to subrule 25.3(6) reflects changes made in legislation to Iowa Code Supplement sections 272.15 and 279.43. The statute has been amended to expand the scope of professional conduct and ethics. Teachers and administrators will now be required to report when there have been assignments that do not match licensure and also when teachers are teaching without the appropriate endorsements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6395B**. A public hearing on the amendment was held on November 28, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code Supplement sections 272.15 and 279.43.

This amendment will become effective April 16, 2008.

The following amendment is adopted.

Amend subrule **25.3(6)** as follows:

Amend paragraph "o" as follows:

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared or *performing services without holding a valid license.*

Adopt **new** paragraphs "p," "q," and "r" as follows:

p. Falsifying, forging, or altering a license issued by the board.

q. Failure of the practitioner holding a contract under Iowa Code section 279.13 to disclose to the school official responsible for determining assignments a teaching assignment for which the practitioner is not properly licensed.

r. Failure of a school official responsible for assigning licensed practitioners holding contracts under Iowa Code section 279.13 to adjust an assignment if the practitioner discloses to the official that the practitioner is not properly licensed for an assignment.

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6649B****ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 3, "Application and Renewal Process," Chapter 6, "Seal and Certificate of Responsibility," and Chapter 9, "Complaints, Investigations, and Disciplinary Actions," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6362B**. These amendments are identical to the amendments published under Notice of Intended Action.

Item 1 enumerates Board-approved foreign credential evaluators. Item 2 clarifies that it is the Board's intention to mail renewal notifications instead of renewal applications prior to the license expiration date. Item 3 allows an out-of-state resident who is applying for reinstatement to provide a statement from the resident state's licensing board as documented evidence of compliance with mandatory continuing education requirements during a period when the out-of-state resident's Iowa license was lapsed. Item 4 corrects an inconsistency in the language by changing "information block" to "certification block" wherever it appears. Item 5 adopts a new rule pertaining to confidentiality of complaint and investigative information which allows the Board, under narrow

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

circumstances, to disclose to a licensee information that would otherwise be confidential under Iowa Code section 272C.6(4) and defines those narrow circumstances.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

These amendments were adopted by the Board on January 10, 2008.

These amendments shall become effective April 16, 2008.

These amendments are intended to implement Iowa Code chapter 17A and sections 542B.2, 542B.6, 542B.13 to 542B.15, 542B.20, 542B.22, 542B.30, 272C.2, 272C.3, and 272C.6.

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 [3.1(3), 3.4(2), 3.5, 6.1(4), 9.8] is being omitted. These amendments are identical to those published under Notice as **ARC 6362B**, IAB 10/24/07.

[Filed 2/20/08, effective 4/16/08]  
[Published 3/12/08]

[For replacement pages for IAC, see IAC Supplement 3/12/08.]

**ARC 6650B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 514I.5(8), the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

These amendments change the rules to reflect current practice and are intended to make the rules more clear. The amendments:

- Clarify the definition of "enrollee" as used in program policies.

- Clarify how losses from a self-employment enterprise are handled in the eligibility determination.

- Clarify the family composition policy. When counting the children in the family, only siblings under the age of 19 are counted in determining family size. When a child who is emancipated due to marriage lives with parents or siblings, the emancipated child and any spouse or children of the emancipated child will be considered a separate family.

- Clarify when families may voluntarily choose to exclude some of their children from the HAWK-I family size.

- Clarify that temporary absence policies apply to parents as well as children when determining family size.

- Clarify the circumstances under which a family may choose not to include a child in the family size for HAWK-I eligibility.

- Incorporate a clarification received from the Centers for Medicare and Medicaid Services that if a state contributes \$10 or less toward the cost of health insurance coverage for the dependents of a state employee, the employee's children are not barred from participating in the state's child health insurance program if otherwise eligible.

- Clarify that an application is considered filed if it is received either by the third-party administrator or at a Department office.

- Clarify the time limit for making a HAWK-I eligibility determination on a HAWK-I application that was referred to and denied by Medicaid. The HAWK-I eligibility determination must be made within ten working days from the date of the Medicaid denial unless additional verification is needed.

- Clarify the order in which children would be placed on a waiting list, should waiting lists be necessary, and remove a reference to an obsolete form.

- Clarify and update the process that Medicaid income maintenance workers follow when making referrals to HAWK-I on denied Medicaid applications and canceled Medicaid cases by limiting the amount of information that must be transferred and eliminating the deadlines.

- Clarify that a request for an extension of the initial premium due date must be made no later than the original due date, and that an untimely initial premium payment will be the basis for denial of the application in the same way that untimely ongoing premium payments are the basis of cancellation of the HAWK-I case.

- Give participating health plans the option of providing the specified material in an electronic format, instead of in a hard-copy format.

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 21, 2007, as **ARC 6412B**. The Department received no comments on the Notice of Intended Action. The Department has made one change to the amendments as published in the Notice of Intended Action. In Item 4, subrule 86.2(3), paragraph "c," the proposed new sentence, "A child for whom the family chooses not to apply will not be counted in the family size," has been removed. The HAWK-I application is being revised to collect the information necessary to determine eligibility for all children. In some cases, it may be advantageous to the family to count a child that the family had planned to exclude.

The HAWK-I Board adopted these amendments on February 18, 2008.

These amendments are intended to implement Iowa Code chapter 514I.

These amendments shall become effective on April 16, 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 [86.1 to 86.4, 86.8(3), 86.15(6)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6412B**, IAB 11/21/07.

[Filed 2/20/08, effective 4/16/08]  
[Published 3/12/08]

[For replacement pages for IAC, see IAC Supplement 3/12/08.]

**ARC 6630B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 172, "Family-Centered Child Welfare Services," Iowa Administrative Code.

These amendments remove requirements for purchasing legal services for permanency through a statewide formal competitive selection process. The Department is not required to purchase legal services through a competitive process. (See Iowa Department of Administrative Services rule 11—106.7(8A).) Because of the uniquely local nature of legal services and the limited budget available, the Department has decided to adopt the process used for legal services in the adoption and guardianship subsidy programs.

Under these amendments, a family who is receiving child welfare services and is in need of legal services to modify a child custody order or to create a guardianship or adoptive relationship will hire a local attorney and submit the expenses to the Department for reimbursement, up to the limits currently applied in adoption and guardianship subsidies. This change will allow families who do not qualify for those subsidies to have equivalent access to legal services.

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6456B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 6458B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations, since the changes confer a benefit on the families affected by enabling the Department to purchase legal services. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments February 13, 2008.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective April 16, 2008, at which time the rules Adopted and Filed Emergency are rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 441—172.31(234), introductory paragraph, as follows:

**441—172.31(234) Provider selection.** *Family-centered With the exception of legal services for permanency, family-centered* supportive services shall be purchased through a formal competitive selection process according to the requirements of 11—Chapters 106 and 107. With the exception of service-area-specific services, family-centered supportive services shall be available on a statewide basis.

ITEM 2. Amend subrule 172.34(3) as follows:

**172.34(3)** Legal services for permanency. The unit of service for legal services shall be a variable amount per client, based on the actual costs of legal services and related court costs necessary to achieve the desired legal result, *up to the*

*limits applicable to nonrecurring expenses for adoption subsidy as described in 441—subparagraph 201.6(1) "a"(7).*

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6631B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 600.22, the Department of Human Services amends Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

These amendments make technical changes to remove obsolete references and terminology. The name of the Department's division responsible for the adoption subsidy program has changed. The rule cross-referenced in paragraph 201.4(4)"b" has been rescinded. Failure to participate in the subsidy renewal process is no longer grounds for terminating a subsidy, since annual reviews of the subsidy are no longer required.

These amendments do not provide for waivers in specified situations because they are merely technical changes. 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 6434B**. 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 February 13, 2008.

These amendments are intended to implement Iowa Code sections 600.17 to 600.23.

These amendments shall become effective on April 16, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 441—201.1(600) as follows:

**441—201.1(600) Administration.** The Iowa department of human services, through the administrator of the division of behavioral, developmental, *child* and protective *family* services for families, adults, and children, shall administer the subsidized adoption program, in conformance with the legal requirements for adoption as defined in Iowa Code chapter 600.

ITEM 2. Amend subrule 201.4(4) as follows:

**201.4(4)** An application for subsidy cannot be taken after the child is adopted except when one of the following occurs:

a.—~~There~~ *there* are facts relevant to a child's eligibility that were not presented before the finalizing of the adoption.

a. Upon receiving verification that the child was eligible before the child's adoption, the department may conduct an administrative review of the facts and may determine the child an eligible special needs child. Eligibility will be effective after Form 470-0744, Application for Subsidy, is com-

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

pleted and Form 470-0749, Adoption Subsidy Agreement, is signed by all parties.

b. ~~The child is adopted as provided in 201.3(2)“a.”~~ Requests for determining a child an eligible special needs child after the adoption is finalized shall be forwarded with verification of eligibility to the division of ~~behavioral, developmental, child and protective family services for families, adults, and children,~~ adoption program. The division shall conduct an administrative review of eligibility factors and render a written decision regarding the child's eligibility as a special needs child within 30 days of receipt of request and verification materials unless additional verification is requested. If additional verification is requested, a decision shall be reached within 30 days of receipt of additional verification materials.

ITEM 3. Rescind and reserve subrule **201.7(8)**.

ITEM 4. Amend rule 441—201.8(600) as follows:

**441—201.8(600) Reinstatement of subsidy.** Reinstatement of subsidy will be made when the subsidy was terminated because of reasons in 201.7(3), ~~or 201.7(6), to 201.7(8)~~ or 201.7(7) and the reason for termination no longer exists.

[Filed 2/13/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

## ARC 6632B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 202, “Foster Care Services,” Iowa Administrative Code.

The Tax Relief and Health Care Act of 2006 (Public Law 109-432) has imposed more stringent requirements on eligibility for funding through various federal programs, including federal foster care assistance authorized under Title IV-E of the Social Security Act. The amendments detail the documentation that may be used to verify citizenship for children in foster care. If citizenship cannot be verified, the Department will not be able to claim federal matching funds for the cost of the child's care. This decision will not affect the services offered to the child.

The amendments also make technical changes to update organizational terms and references.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive federal requirements.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on December 19, 2007, as **ARC 6493B**. 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 February 13, 2008.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on May 1, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 441—202.2(234) as follows:

Amend subrule 202.2(5), introductory paragraph, as follows:

**202.2(5)** The need for foster care and the efforts to prevent placement shall be evaluated by a review committee prior to placement or, for emergency placements only, within 30 days after the date of placement. For children who are mentally retarded or developmentally disabled and receive case management services, this requirement may be met by the interdisciplinary staffing described in 441—Chapter 24 90, as long as the service area manager approves, the department worker attends the staffing, and the staffing meets the requirements of paragraphs “b” to “h” below.

Adopt ~~new~~ subrule 202.2(6) as follows:

**202.2(6)** The citizenship or alien status of a child who enters foster care must be verified.

a. When the child will remain in foster care for no more than 60 days, Form 470-4500, Statement of Citizenship Status: Foster Care, signed by the parent or guardian of the child is sufficient.

b. When the child will remain in foster care for more than 60 days, one of the documents listed in this paragraph is required. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

(1) A certificate of birth in the United States.

(2) Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.

(3) Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.

(4) A United States passport.

(5) Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.

(6) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.

(7) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.

(8) A valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act, but only if the state issuing the license or document either:

1. Requires proof of United States citizenship before issuance of the license or document; or

2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.

(9) Another document that provides proof of United States citizenship or nationality as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v) or 1396b(x)(3)(C)(v).

c. A child entering foster care is exempt from these requirements when the family has previously presented satisfactory documentary evidence of citizenship, as specified by the Secretary of the U.S. Department of Health and Human Services.

d. The parent or guardian of the child shall have a reasonable period to obtain and provide proof of citizenship. For the purposes of this requirement, the “reasonable period”

HUMAN SERVICES DEPARTMENT[441](cont'd)

begins on the date when the child is placed in foster care and continues to the date when the proof is provided or when the department establishes that the parent or guardian is no longer making a good-faith effort to obtain the proof.

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 234.6(1) and 234.6(6)“b.”

ITEM 2. Amend rule ~~441—202.3(234)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 234.6(6)“b” and ~~section 234.35(1)“c.”~~ as amended by 2003 Iowa Acts, House File 667, section 37.

ITEM 3. Amend subrule 202.16(1), introductory paragraph, as follows:

**202.16(1)** Applicants for departmental approval of need shall submit the following to the division of ~~adult, children~~ *child* and family services:

ITEM 4. Amend subrule 202.18(4), introductory paragraph, as follows:

**202.18(4)** Report. The service area manager or designee shall submit a report on transition planning committees to the department’s division of ~~behavioral, developmental~~ *child* and ~~protective~~ *family* services for ~~families, adults and children.~~ The report shall be submitted annually by October 1 for the immediately preceding fiscal year. The report shall include, but not be limited to, the following:

[Filed 2/13/08, effective 5/1/08]

[Published 3/12/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

## ARC 6654B

### INSURANCE DIVISION[191]

#### Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 513B.18, the Iowa Insurance Division hereby amends Chapter 71, “Small Group Health Benefit Plans,” Iowa Administrative Code.

New rule 71.26(513B) implements the use of the small employer uniform health insurance application form when small employers seek premium quotes from small employer carriers for health insurance benefits. The use of the uniform application ensures that small employer carriers receive important information necessary to issue a premium quote by standardizing the key data elements, thus enabling the small employer to provide the information one time.

Notice of Intended Action was published in the December 5, 2007, Iowa Administrative Bulletin as **ARC 6435B**. A public hearing was held on January 4, 2008. As a result of public comments, the information requested in the small employer uniform health insurance application form has been reorganized; the language in rule 71.26(513B) has not changed since the Notice of Intended Action.

This amendment will become effective on April 16, 2008.

This amendment is intended to implement Iowa Code Supplement section 513B.18.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

this amendment [71.26] is being omitted. With the exception of the change noted above, this amendment is identical to that published under Notice as **ARC 6435B**, IAB 12/5/07.

[Filed 2/22/08, effective 4/16/08]

[Published 3/12/08]

[For replacement pages for IAC, see IAC Supplement 3/12/08.]

## ARC 6645B

### LABOR SERVICES DIVISION[875]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 81, “Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board,” Iowa Administrative Code.

The amendment changes the language in the rules for Board issuance of waivers or variances.

The purpose of this amendment is to more closely align the administrative rule with the legislative intent.

No waiver or variance provision is included in this rule making because 875—Chapter 81 sets forth procedures for waivers or variances.

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6500B**. No member of the public commented on the Notice of Intended Action. The adopted amendment does not differ from the amendment in the Notice of Intended Action.

This amendment will become effective on April 16, 2008.

This amendment is intended to implement Iowa Code chapter 89.

The following amendment is adopted.

Amend subrule 81.10(6) as follows:

**81.10(6)** Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be ~~impractical~~ *impracticable*. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

[Filed 2/19/08, effective 4/16/08]

[Published 3/12/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

## ARC 6646B

### LABOR SERVICES DIVISION[875]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 81, “Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board,” Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

## LABOR SERVICES DIVISION[875](cont'd)

The amendments rescind a rule concerning nonstandard objects; require that operating certificates and orders granting waivers be posted in boiler rooms; adopt new language concerning "imminent danger"; change the requirements for using a waiver as a defense to an enforcement action; adopt a new rule concerning the statutory ten-day notice provision; and establish rules regarding temporary boilers.

The purposes of these amendments are to clarify safety requirements for temporary boilers, to facilitate the automatic transfer of waivers from one building owner to the next, to implement 2007 Iowa Acts, House File 368, to enhance compliance with the statutory ten-day notice requirement, to protect the safety of the public, and to implement legislative intent.

No waiver or variance provision is included in this rule making because 875—Chapter 81 sets forth procedures for waivers or variances.

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6502B**. No member of the public commented on the Notice of Intended Action. The adopted amendments do not differ from the amendments in the Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 89 and 2007 Iowa Acts, House File 368.

These amendments will become effective on April 16, 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 [81.10(10), 81.15, 90.2, 90.6(7), 90.8, 90.13, 90.14, 91.16] is being omitted. These amendments are identical to those published under Notice as **ARC 6502B**, IAB 12/19/07.

[Filed 2/19/08, effective 4/16/08]  
[Published 3/12/08]

[For replacement pages for IAC, see IAC Supplement 3/12/08.]

**ARC 6653B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

Chapter 94 gives the regulations for hunting deer and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements. These amendments set quotas for nonresident antlerless licenses and require successful hunters to report their kill.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6442B**. A public hearing was held on January 2, 2008. Two comments were received. One commenter requested a clarification of the definition of ground blind, and the other commenter requested that the rule clarify that optional antlerless licenses will still be issued for disabled hunters as specified in rule 571—94.10(481A). Changes from the Notice of Intended Action clarify language in new subrule 94.7(6) to in-

dicating that the requirement for blaze orange applies only to portable ground blinds, and clarify language in subrule 94.8(2) to indicate that disabled hunters can obtain optional antlerless licenses pursuant to rule 571—94.10(481A).

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

These amendments shall become effective April 16, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule **94.1(1)**, paragraph "c," as follows:

c. Optional antlerless-only licenses. A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 571—94.8(483A). ~~This antlerless-only license shall be valid in the county and season designated by the hunter at the time it is purchased.~~

ITEM 2. Amend rule 571—94.7(483A) by adopting the following **new** subrule:

**94.7(6)** Ground blinds. No person shall use a portable ground blind for hunting deer during the regular gun deer seasons unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. As used in this subrule, "ground blind" means a constructed place of concealment. A ground blind is not a naturally occurring feature that a hunter merely uses for concealment.

ITEM 3. Amend subrule 94.8(1) as follows:

**94.8(1)** Any-deer licenses. Applications for any-deer and mandatory antlerless-only licenses will be accepted from the first Saturday in May through the first Sunday in June. No one may submit more than one application during the application period. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. If applications have been sold in excess of the license quota for any zone or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone's license quota for any-deer and mandatory antlerless-only licenses has not been filled, the excess any-deer and mandatory antlerless-only licenses will be sold on a first-come, first-served basis through the telephone ordering system or the Internet license sales Web site. Excess any-deer and mandatory antlerless-only licenses will be sold beginning the ~~fourth last Saturday after the close of the application period~~ *in July* until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. Members of a group that is rejected may purchase licenses individually if excess any-deer and mandatory antlerless-only licenses or optional antlerless-only licenses are available.

ITEM 4. Amend subrule 94.8(2) as follows:

**94.8(2)** Optional antlerless-only licenses. Optional antlerless-only licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking only antlerless deer will be available on the same date as excess any-deer licenses are sold as explained in 94.8(1). Optional antlerless-only licenses *will only be issued for one of the two regular gun seasons and for qualified disabled hunters (571—94.10(481A))*. They will be sold first-come, first-served until the county quota is filled, or until the last day of the season for which a license is valid. If optional antlerless-only licenses are still available on December 15, they may be purchased by nonres-

NATURAL RESOURCE COMMISSION[571](cont'd)

idents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. ~~Optional antlerless-only licenses will be issued by season and county and will be valid only in the season and county designated by the hunter at the time the license is purchased.~~

a. Nonresident landowners. Nonresidents who own land in Iowa will have preference in obtaining optional antlerless-only licenses. Nonresidents must qualify as landowners following the criteria stated in 571—subrule 106.12(1) and 571—subrules 106.12(3) through 106.12(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident optional antlerless-only licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may claim landowner preference in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may ~~exclusively purchase an optional antlerless-only license for the first 14 days of the sale period license for one of the two regular gun seasons when excess any-deer licenses go on sale or for the holiday season beginning December 15.~~ Such proof must be provided before an optional antlerless-only license can be purchased and must be resubmitted each year in which an optional antlerless-only license is purchased. *These licenses do not count against the county quota.*

b. No change.

~~c. Nonresidents who do not own land in Iowa. Nonresidents who are not Iowa landowners may purchase optional antlerless-only licenses beginning the fifteenth day after they are available to landowners.~~

[Filed 2/21/08, effective 4/16/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**ARC 6647B**

## PROFESSIONAL LICENSURE DIVISION[645]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Sign Language Interpreters and Transliterators hereby amends Chapter 361, "Licensure of Interpreter for the Hearing Impaired Practitioners," Iowa Administrative Code.

The amendment to subrule 361.2(1) adds an examination to the list of examinations that may be taken to qualify for licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 19, 2007, as **ARC 6487B**. A public hearing was held on January 14, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

Since publication of the Notice of intended Action, Item 1 has been amended to update the name of the Board from the "Board of Interpreter for the Hearing Impaired Examiners" to the "Board of Sign Language Interpreters and Transliterators" throughout Chapter 361.

The amendments were adopted by the Board of Sign Language Interpreters and Transliterators on February 18, 2008.

These amendments will become effective April 2, 2008.

These amendments are intended to implement Iowa Code chapters 21, 147, 154E and 272C.

The following amendments are adopted.

ITEM 1. Amend **645—Chapter 361** by deleting the words "licensure of interpreter for the hearing impaired practitioners" wherever they appear and inserting "licensure of sign language interpreters and transliterators" in lieu thereof and by deleting the words "board of interpreter for the hearing impaired examiners" wherever they appear and inserting "board of sign language interpreters and transliterators" in lieu thereof.

ITEM 2. Amend subrule **361.2(1)**, paragraph "**d**," as follows:

Amend subparagraph **(4)** as follows:

(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999; *or*

Adopt **new** subparagraph **(5)** as follows:

(5) The Cued Language Transliterators National Certification Examination (CLTNCE).

[Filed 2/19/08, effective 4/2/08]

[Published 3/12/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/12/08.

**IOWA ADMINISTRATIVE BULLETIN**  
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**Department of Administrative Services**  
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