



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1673 to 1840

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## PREFACE

The Iowa Administrative Bulletin is published biweekly 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"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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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	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
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The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2016

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. 30 '15*</b>	Jan. 20 '16	Feb. 9 '16	Feb. 24 '16	Feb. 26 '16	Mar. 16 '16	Apr. 20 '16	July 18 '16
Jan. 15	Feb. 3	Feb. 23	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 29	Feb. 17	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 12	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 26	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sep. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sep. 26
Mar. 25	Apr. 13	May 3	May 18	<b>***May 18***</b>	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	<b>***June 29***</b>	July 20	Aug. 24	Nov. 21
<b>***May 18***</b>	June 8	June 28	July 13	July 15	Aug. 3	Sep. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sep. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '17
<b>***June 29***</b>	July 20	Aug. 9	Aug. 24	<b>***Aug. 24***</b>	Sep. 14	Oct. 19	Jan. 16 '17
July 15	Aug. 3	Aug. 23	Sep. 7	Sep. 9	Sep. 28	Nov. 2	Jan. 30 '17
July 29	Aug. 17	Sep. 6	Sep. 21	Sep. 23	Oct. 12	Nov. 16	Feb. 13 '17
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<b>***Aug. 24***</b>	Sep. 14	Oct. 4	Oct. 19	<b>***Oct. 19***</b>	Nov. 9	Dec. 14	Mar. 13 '17
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, March 25, 2016	April 13, 2016
22	Friday, April 8, 2016	April 27, 2016
23	Friday, April 22, 2016	May 11, 2016

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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\*\*\***

**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]**

Office organization; public records; petitions and procedures for rule making; declaratory orders; contested cases, chs 1 to 6 IAB 3/2/16 ARC 2421C	Conference Room 2, B Level Hoover State Office Bldg. Des Moines, Iowa	March 22, 2016 1 to 2 p.m.
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**DENTAL BOARD[650]**

Students enrolled in dental hygiene programs, 10.4(4) IAB 3/2/16 ARC 2432C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 30, 2016 2 p.m.
Students enrolled in dental assisting programs, 20.17 IAB 3/2/16 ARC 2431C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 30, 2016 2 p.m.

**EDUCATIONAL EXAMINERS BOARD[282]**

Licensure of out-of-state applicants; adding endorsements, 13.5(2), 13.26, 13.29(1) IAB 3/16/16 ARC 2453C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
Reading endorsements, 13.28 IAB 3/16/16 ARC 2450C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
Administrator licenses and endorsements, 18.1, 18.4(4), 18.8, 18.9, 18.11(2) IAB 3/16/16 ARC 2454C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
Standard, master educator and administrator license renewal, 20.5, 20.6, 20.9 IAB 3/16/16 ARC 2452C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
Coaching authorization, 22.1(2) IAB 3/16/16 ARC 2445C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NPDES General Permit No. 7 for discharge of pesticides, 64.3(4)“b,” 64.15(7) IAB 3/16/16 ARC 2441C	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	April 5, 2016 10 a.m.
NPDES General Permit No. 5 for wastewater discharge from mines and quarries, 64.15(5) IAB 3/16/16 ARC 2442C	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	April 7, 2016 11 a.m.

**INSURANCE DIVISION[191]**

Pharmacy benefits managers, amendments to ch 59 IAB 3/2/16 ARC 2433C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	March 22, 2016 10 a.m.
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**LABOR SERVICES DIVISION [875]**

Conveyances—elevators in broadcast towers, 71.11(2), 72.28, 73.28 IAB 3/2/16 <b>ARC 2422C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	March 23, 2016 10 a.m. (If requested)
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**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]**

Organization and operation; vendor appeals; waivers; contested cases; licensure; rule making; declaratory orders; public records, amendments to chs 1, 3, 5, 7 to 10, 13 IAB 3/16/16 <b>ARC 2456C</b>	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	April 5, 2016 9 a.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Practice of medical aesthetics by estheticians—oversight only by medicine board, 60.5(6) IAB 3/16/16 <b>ARC 2467C</b>	Fifth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 1 to 1:30 p.m.
Salons and schools of cosmetology—licensure and sanitation, amendments to chs 61, 63 IAB 3/16/16 <b>ARC 2465C</b>	Fifth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 1:30 to 2 p.m.
Physician assistants—on-site visits by supervising physician, 327.4(2) IAB 3/16/16 <b>ARC 2440C</b> (See also <b>ARC 2436C</b> herein)	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 9 to 9:30 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Iowa get screened colorectal cancer program, amendments to ch 10 IAB 3/16/16 <b>ARC 2446C</b>	Rooms 517 and 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009990303	April 5, 2016 1 to 2 p.m.
Central registry for brain and spinal cord injuries, amendments to ch 21 IAB 3/16/16 <b>ARC 2447C</b>	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009990482	April 5, 2016 3 to 4 p.m.
Practice of tattooing, 22.1 to 22.17 IAB 3/16/16 <b>ARC 2459C</b>	Rooms 517 and 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009991863	April 8, 2016 1 to 3 p.m.
Grants to counties for private well testing, reconstruction, and plugging, amendments to ch 24 IAB 3/16/16 <b>ARC 2461C</b>	Room 142 Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009991863	April 5, 2016 11 a.m. to 12 noon

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

Board-certified behavior analyst and assistant behavior analyst grants program, ch 107 IAB 3/16/16 <b>ARC 2460C</b>	Room 415, Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	April 5, 2016 3 to 4:30 p.m.
Collection of and access to health data, amendments to ch 177 IAB 3/16/16 <b>ARC 2458C</b>	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	April 5, 2016 2 to 3 p.m.

**REVENUE DEPARTMENT[701]**

Broadband infrastructure property tax exemption, 80.31 IAB 3/16/16 <b>ARC 2466C</b>	First Floor Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 6, 2016 10 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Commercial driver licensing, amendments to ch 607 IAB 3/16/16 <b>ARC 2451C</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 7, 2016 10 a.m. (If requested)
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The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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## ARC 2437C

## COLLEGE STUDENT AID COMMISSION[283]

## Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby proposes to amend Chapter 21, "Approval of Postsecondary Schools," Iowa Administrative Code.

The proposed amendment to Chapter 21 provides changes necessary to implement policies that schools must follow to participate in an interstate reciprocity agreement under which the Commission is an approved participant under Iowa Code chapter 261G. In addition, the amendment updates policies for schools that must register under Iowa Code chapter 261B.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 16, 2015, as **ARC 2143C**. The Commission received comments from four entities during the comment period and has held several discussions about the Notice of Intended Action. This Amended Notice of Intended Action takes those comments into consideration and creates rule 283—21.14(261B,261G) to address the registration process specifically for schools seeking approval to participate in a Commission-approved state authorization reciprocity agreement.

Interested persons may submit comments orally or in writing by 4:30 p.m. on April 5, 2016, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. Written comments also may be sent by fax (515)725-3401, by e-mail to [julie.leeper@iowa.gov](mailto:julie.leeper@iowa.gov), or via the Iowa Administrative Rules Web site at <https://rules.iowa.gov>.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission finds that there is no impact on jobs.

This amendment is intended to implement Iowa Code chapters 261, 261B, and 261G.

The following amendment is proposed.

Amend **283—Chapter 21** as follows:

## CHAPTER 21

## APPROVAL OF POSTSECONDARY SCHOOLS

**283—21.1(261B,261G) Postsecondary registration and participation in the commission-approved reciprocity agreement.** The college student aid commission examines college and university applications for ~~operation~~ registration to operate in Iowa and monitors schools approved by the commission to operate in the state. The commission also examines Iowa college and university applications for participation in an interstate reciprocity agreement under which the commission is an approved participant.

**283—21.2(261B,261G) Definitions.** As used in this chapter:

"Interstate reciprocity agreement administrator" means the entity with which the commission has an agreement to participate in interstate reciprocity under Iowa Code chapter 261G.

"Registration" means the process by which a school must seek, or voluntarily seeks, the commission's explicit approval to operate in Iowa or offer courses of instruction to Iowans under Iowa Code chapter 261B.

"School" means a postsecondary educational institution that applies to register or is currently registered to offer all or a portion of a program in Iowa under Iowa Code chapter 261B. "School" also means a postsecondary educational institution that is seeking to participate in the commission's approved interstate reciprocity agreement under Iowa Code chapter 261G or that is a "participating resident institution" as defined in Iowa Code section 261G.2. A postsecondary educational institution that maintains a physical location outside of the state of Iowa and that must register under Iowa Code chapter 261B to operate at a physical location in this state is not a school that is eligible to participate in the commission's approved interstate reciprocity agreement under Iowa Code chapter 261G.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

~~283—21.2~~ ~~283—21.3~~ **261B,261G) Approval Registration approval criteria.** The college student aid commission ~~approves~~ will approve an applicant school that completes a registration application provided by the commission and meets all of the following criteria:

~~21.2(1)~~ **21.3(1)** The applicant school is accredited by an agency recognized by the United States Department of Education or its successor agency. The applicant school shall certify to the commission the school's status with the accrediting agency at the time of the application and provide information about any pending or final action that may affect the school's status with its accrediting agency.

As applicable, the applicant school shall provide the commission the name of any programmatic accrediting agency recognized by the United States Department of Education that accredits the specific programs the applicant school proposes to offer under its registration.

~~21.2(2)~~ **21.3(2)** The applicant school certifies to the commission that the applicant school's approval to operate in a state has not been revoked by the state, the school has not been sanctioned by a state within a year prior to the date of its application, and the school is not under investigation or bound by the terms of a judgment issued by a state's attorney general or other enforcement authority.

~~21.2(3)~~ **21.3(3)** The applicant school certifies that it is not subject to a limitation, suspension or termination order issued by the United States Department of Education or its successor agency. The applicant school shall provide the commission with a copy of the school's current program participation agreement with the United States Department of Education.

~~21.2(4)~~ **21.3(4)** The applicant school complies with Iowa Code section 261B.7, which prohibits a school from advertising that the school is approved or accredited by the commission or the state of Iowa. However, an applicant school must demonstrate the method by which it will disclose that the school is registered with the commission and provide the commission's contact information for students who wish to inquire about the school or file a complaint.

~~21.2(5)~~ **21.3(5)** The applicant school provides the commission with institutional policies adopted by the school that comply with the requirements of Iowa Code section 261.9(1) "e" to "h."

*a.* For a program in which a student's academic progress is measured only in clock hours, the school shall provide a full refund of tuition and mandatory fees to a student who withdraws and who requests that benefit under Iowa Code section 261.9(1) "g" for the payment period in which the student withdrew. The payment period is determined under rules promulgated by the United States Department of Education for the disbursement of federal Stafford loan funds.

*b.* The employee policy for reporting suspected incidents of child physical or sexual abuse required by Iowa Code section 261.9(1) "h" shall apply to individuals the school compensates to conduct activities on the school's behalf at an Iowa location.

~~21.2(6)~~ **21.3(6)** If required by the commission, the applicant school files annual reports that the commission also requires from all Iowa colleges and universities.

~~21.2(7)~~ **21.3(7)** The applicant school demonstrates financial viability by providing a copy of the institution's most recent audit that was prepared by a certified public accounting firm no more than 12 months prior to the date of the application and that provides an unqualified opinion. An applicant school must provide the auditor's report as an attachment to the registration application, which is posted on the commission's Internet site. However, the school may provide financial statements associated with the audit in a separate electronic file that is marked "confidential." Financial statements that a school identifies as "confidential" will not be treated as public records under Iowa Code chapter 22.

~~21.2(8)~~ **21.3(8)** The applicant school provides a description of the learning resources it offers to students, including appropriate library and other support services ~~requisite for the school's programs~~ the school provides to its students.

~~21.2(9)~~ **21.3(9)** The applicant school provides evidence that faculty within an appropriate discipline are involved in developing and evaluating curriculum for the program(s) being registered in Iowa.

~~21.2(10)~~ **21.3(10)** The applicant school provides ~~résumés, other~~ documentation, or information posted on its Internet site that describes the educational and experiential qualifications of all faculty or instructors who teach ~~the courses offered to Iowans in the programs the school proposes to offer under its registration~~ and the general subject matter in which faculty members or instructors teach. The

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

applicant school shall also provide the number of full-time and part-time faculty and instructors who will teach the courses offered to Iowans.

~~21.2(11)~~ 21.3(11) The applicant school provides documentation demonstrating that a program which prepares a student for an occupation that requires professional licensure in Iowa and which the school proposes to offer under its registration:

*a.* Has been approved by the appropriate state of Iowa licensing agency and accrediting agency, if such approval is required, or

*b.* Meets curriculum standards of the appropriate state of Iowa licensing agency such that the state of Iowa licensing agency does not require the student to complete additional coursework or practicum hours that the school did not offer in its professional licensure preparation program.

~~21.2(12)~~ 21.3(12) The school submits a request for amendment of its registration subject to commission approval in the event the school makes a substantive change in location, program offering, or accreditation during its registration term. A substantive change in program offering occurs when a school proposes to initiate ~~or modify~~ a program that requires the approval of the state board of education or any Iowa state agency authorized to approve the school or its other program that prepares a student for an occupation that requires professional licensure in this state.

~~21.2(13)~~ 21.3(13) During its registration term, the school notifies the commission within 90 days after adding a program that does not require the approval of another Iowa state agency the school to seek the commission's amendment approval under subrule 21.3(12).

~~21.2(14)~~ 21.3(14) The applicant school certifies that it will immediately notify the commission of any pending or final sanction issued by the school's accrediting agency, another state agency that registers or licenses the school during its registration term, or a state attorney general's office or other enforcement authority. ~~The commission may take action that includes, but is not limited to, reducing the school's registration term or limiting its enrollment of Iowans as the result of a final sanction issued by the school's accrediting agency, another state agency, or a state attorney general's office or other enforcement authority.~~

~~21.2(15)~~ 21.3(15) The applicant school provides a statement, signed by its chief executive officer, demonstrating the applicant school's commitment to the delivery of programs offered in Iowa and agreeing to provide alternatives for students to complete their programs at the same or other schools if the applicant school discontinues a program, the applicant school closes, or the applicant school closes an Iowa site before students have completed their courses of study.

Notwithstanding any limitations on student eligibility for a teach-out plan approved by a school's accrediting agency, the alternatives that the school provides under this agreement with the commission shall ensure that all academically eligible students attending the programs the school offers under its registration are provided with a viable option(s) to finish the program(s).

21.3(16) If the applicant school is for-profit, the applicant school provides evidence that its most recently calculated percentage of revenue derived from funds received under Title IV of the Higher Education Act of 1965, as amended, does not exceed the threshold established by the United States Department of Education.

21.3(17) If the applicant school is nonpublic, the applicant school provides evidence of its official financial responsibility composite score, as calculated using the method prescribed by the United States Department of Education.

*a.* A school demonstrates that its financial responsibility composite score is official by providing written confirmation of its composite score from the United States Department of Education.

*b.* A school that does not participate in the postsecondary student financial aid programs authorized by the United States Department of Education demonstrates that its financial responsibility composite score is official by providing written confirmation of its composite score from its accrediting agency. If the school's accrediting agency does not independently verify the school's composite score, the school must submit written confirmation from its independent auditor.

21.3(18) A nonpublic school that does not have a legal governing body, such as a board of directors or board of trustees, shall provide the names, titles, and educational and experiential qualifications of the persons holding key academic and operational leadership positions at the school.

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21.3(19) A nonpublic school that is a subsidiary of another organization provides all of the following:

- a. The name of the parent organization.
- b. The names and titles of the members of the parent organization's legal governing body, such as a board of directors or board of trustees. In the absence of a legal governing body, the school provides the information described in subrule 21.3(18).
- c. The name(s) of any other school(s) that is a subsidiary of the same parent organization.

21.3(20) The school posts a list of required and suggested textbooks for all courses and corresponding international standard book numbers for such textbooks at least 14 days before the start of each semester or term at the locations where textbooks are sold on campus and on the school's Internet site.

21.3(21) The school provides any additional information the commission requires to evaluate the school.

~~283—21.3~~ ~~283—21.4~~(261B,261G) **Additional approval criteria for an applicant school that applies for registration to maintain a fixed location in Iowa.** In addition to meeting the registration approval criteria in rule ~~283—21.2~~(261B) 21.3(261B,261G), a school that applies for registration to operate a campus, branch campus, student services center, or administrative office at a fixed location in Iowa shall meet all of the following additional criteria:

1. The applicant school employs at least one full-time Iowa faculty member or one program or student services coordinator devoted to Iowa students.
2. The applicant school provides to the commission the name and business contact information for a contact person in Iowa.
3. The applicant school demonstrates that it has adequate physical facilities located in Iowa appropriate for the programs and services offered.

~~283—21.4~~ ~~283—21.5~~(261B,261G) **Additional criteria for an out-of-state applicant school that applies for registration to offer programs via in-person instruction but in a nontraditional format.**

~~21.4(1)~~ 21.5(1) In addition to meeting the approval criteria in rule ~~283—21.2~~(261B) 21.3(261B,261G), an out-of-state school that applies for registration to offer programs via in-person instruction but in a nontraditional format shall notify the commission in writing within 90 days of the date that the school establishes a new Iowa location at which Iowa students will receive instruction in the school's nontraditional program. Notification to the commission via electronic mail is acceptable. If the school's accrediting agency requires preapproval of the new Iowa location, the school's notice to the commission must include a copy of that accrediting agency's approval. If the school's accrediting agency does not require preapproval of the new Iowa location, the school must certify that ~~preapproval~~ accrediting agency approval is not required. Such a school is not required to submit a registration amendment request under subrule 21.3(12).

~~21.4(2)~~ 21.5(2) For the purposes of this rule, "nontraditional format" includes, but is not limited to, the following:

- a. A program offered partially via distance education and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.
- b. A program offered partially at the applicant school's out-of-state campus and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.
- c. A program offered at a location in Iowa through compressed courses scheduled on Saturday or Sunday.
- d. A program offered only during the summer months.
- e. A program offered at temporary locations in Iowa where the school identifies cohorts of students who have expressed interest in the program.

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**~~283—21.5~~ 283—21.6(261B,261G) Additional approval criteria and exception for an out-of-state applicant school that applies for registration to offer distance education programs.**

~~21.5(1)~~ 21.6(1) An out-of-state school offering distance education programs is not required to register in Iowa if its home state approves the school to participate in a commission-approved interstate reciprocity agreement. ~~¶~~ If an out-of-state applicant school providing distance education programs in Iowa is not approved by the school's home state to participate in a commission-approved interstate reciprocity agreement, in addition to meeting the approval criteria in rule ~~283—21.2(261B) 21.3(261B,261G)~~, an the out-of-state applicant school that applies for registration to offer distance education programs shall meet all of the following additional criteria:

*a.* The applicant school discloses the name and business contact information of any person compensated by the school (including by honorarium) to remotely provide instruction or academic supervision in the school's distance education courses from any Iowa location.

*b.* The applicant school discloses the name, business contact information, and duties of any person the applicant school compensates to remotely perform operational activities from any Iowa location.

~~21.5(2)~~ 21.6(2) Exception. If a school applies for registration solely to offer distance education programs that include a structured field experience in which the student will participate at an Iowa location and the applicant school maintains no other presence in Iowa as defined in Iowa Code section 261B.2, the school is not required to implement a policy that complies with Iowa Code section 261.9(1) "h."

~~21.5(3)~~ A registered school must notify the commission within 90 days of the date that the school establishes an Iowa location at which a student will participate in any structured activity (e.g., field experience) related to the school's distance education course of instruction. Notification to the commission via electronic mail is acceptable.

**~~283—21.6~~ 283—21.7(261B,261G) Recruiting for an out-of-state applicant school's residential programs from an Iowa location.**

~~21.6(1)~~ 21.7(1) An out-of-state applicant school that compensates a party to recruit Iowans for its campus-based, residential programs shall apply for registration if the recruiter maintains an Iowa address. In addition to meeting all of the criteria in rule ~~283—21.2(261B) 21.3(261B,261G)~~, the applicant school shall disclose the name and business contact information for its Iowa-based recruiter.

~~21.6(2)~~ 21.7(2) An out-of-state applicant school that compensates a person to recruit students for its campus-based, residential programs is not required to apply for registration if the school's recruitment activities at a location in Iowa are occasional and short-term; for example, at a college fair or conference.

**~~283—21.7~~ 283—21.8(261B,261G) Provisional registration.**

~~21.7(1)~~ 21.8(1) The commission may grant provisional registration ~~only~~ under the following conditions:

*a.* An out-of-state applicant school is accredited by an entity or organization recognized by the United States Department of Education or its successor agency at the time the school submits its registration application; and

*b.* The applicant school must obtain the commission's approval before the school's accrediting agency will consider approving the applicant school to operate at a physical location in Iowa.

~~21.7(2)~~ 21.8(2) The commission may prohibit the school from initiating instruction at a location in Iowa until the school obtains its accrediting agency's approval to operate at an Iowa location.

**283—21.9(261B,261G) Duration of registration; application for renewal.**

21.9(1) Upon approval by the commission, an applicant school is registered for a period of two calendar years, contingent upon the school's compliance with commission requirements as provided in this chapter.

21.9(2) A registered school shall submit a completed registration renewal application to the commission at least six months before the ending date of the school's current registration term. A school is solely responsible for submitting a timely renewal application.

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**283—21.10(261B,261G) Limitation, denial, or revocation of registration.**

**21.10(1)** At the time of initial registration or registration renewal and during a registration term, the commission may take action that includes, but is not limited to, limiting a school's program offerings or enrollment or denying or revoking the school's registration as a result of any of the following:

- a. An adverse notice, warning, or other sanction issued by the school's accrediting agency.
- b. An adverse action or sanction issued by the United States Department of Education.
- c. A lawsuit filed by a state agency, a state attorney general's office, or another enforcement authority.
- d. A judgment issued by a state attorney general's office or another enforcement authority.
- e. A for-profit school's most recently calculated percentage of revenue derived from funds received under Title IV of the Higher Education Act of 1965, as amended, that exceeds the threshold established by the United States Department of Education.
- f. Repeated complaints about a school received from the school's students by the commission, by another state, or by a state attorney general's office.
- g. Notice that the school has experienced a change of ownership or governance. The school shall notify the commission no later than 30 calendar days after the change in ownership or governance.
- h. Failure to pay fees due to the commission in accordance with rule 283—21.12(261B,261G).
- i. Other actions deemed by the commission as significant evidence that the school should not be allowed to operate under this chapter.

**21.10(2)** Reserved.

**283—21.8 283—21.11(261B,261G) School, Iowa site, or program closure.**

**21.8(1) 21.11(1)** Before No later than 90 days before a registered school takes action to discontinue a program in which an Iowa is enrolled that is offered by the school under its registration, close an Iowa site, or close the school, the school must notify the commission in writing.

**21.8(2) 21.11(2)** The school's notice to the commission shall include all of the following:

- a. the The full name, contact information residential address, telephone number, e-mail address, program name, and anticipated graduation date of affected Iowans, Iowa resident students or, as applicable, affected students at the school's Iowa campus(es). The school shall organize this list in alphabetical order by student last name.
- b. documentation Documentation of the school's proposed notice to students.
- c. the The school's specific plan to provide alternatives for Iowa affected students to complete the program, programs offered under the school's registration in accordance with the agreement described in subrule 21.3(15). The school shall obtain the prior approval of the commission for any agreement the school proposes to establish with another institution that provides completion alternatives for programs the school offered under its registration.
- d. The school's plan for permanent storage and retrieval of student transcript information.
- e. and specific Specific information about how the school will provide transitional support to affected students.
- f. Contact information for the specific entity and individual who will accept responsibility for all of the following:
  - (1) Ensuring that unearned federal student aid is returned to the United States Department of Education on a timely basis.
  - (2) Finalizing student account records and providing copies of the students' final account statements to the students and, upon request, to the commission.
  - (3) Collecting outstanding bills a student owes to the school for tuition and other educational expenses.
  - (4) Collecting on private education loans or other institutional loans made to students by the school and, if applicable, the school's private preferred lender(s).

**21.8(3) 21.11(3)** The commission may require a registered school that has a continuous corporate surety bond in effect pursuant to Iowa Code section 714.18 to maintain the bond, at minimum, for one

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year after the school ceases operation in Iowa, closes an Iowa site, or ceases new enrollment in programs previously offered to ~~Iowans~~ Iowa resident students.

~~21.8(4)~~ **21.11(4)** If the commission takes action to discontinue a school's program, close a school's Iowa site, or terminate a school's operation in Iowa, the school shall provide to the commission the information in subrule ~~21.8(2)~~ 21.11(2) and shall be subject to the requirements of subrule ~~21.8(3)~~ 21.11(3).

~~283—21.9~~ **283—21.12(261B,261G) Registration Initial registration application fees and subsequent annual fees.**

~~21.9(1)~~ **21.12(1)** A school that applies for initial registration in Iowa as required under Iowa Code chapter 261B shall remit to the commission a \$1,000 initial registration application fee payable to the state of Iowa commission in the amount of \$5,000. This fee is nonrefundable regardless of the commission's decision with respect to the school's eligibility for registration in Iowa. ~~The commission assesses this fee at the time the school initially applies for registration and at the time of each subsequent registration renewal application.~~ A school that fails to pay the initial registration application fee shall be denied initial registration consideration.

~~21.9(2)~~ **21.12(2)** A school that is approved for registration in Iowa shall remit to the commission a \$1,000 registration annual fee payable to the state of Iowa commission in the amount due on July 15 of each year. The commission assesses the \$1,000 registration fee at the time the commission initially approves the school's registration and at the time the commission approves each subsequent registration renewal. If a school's registration terminates during a year, the school shall pay the annual fee to the commission if the school's registration is valid as of July 15 of that year. The annual fee is nonrefundable and will be assessed based on a school's full-time equivalent (FTE) enrollment as follows:

- Under 2,500 FTE – \$2,000.
- 2,500 to 9,999 FTE – \$4,000.
- 10,000 FTE or more – \$6,000.

~~21.9(3)~~ **21.12(3)** A school that registers and pays fees under rule ~~283—21.12(261B,261G)~~ is not required to pay fees under rule ~~283—21.14(261B,261G)~~ if participating in the interstate reciprocity agreement. ~~makes substantive changes in location, program offerings, or accreditation during its registration term must request that the commission approve a registration amendment. The school shall submit its amendment request in a format acceptable to the commission. The school's amendment request shall be accompanied by a \$1,000 amendment fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's registration amendment request.~~

~~283—21.10~~ **283—21.13(261B,261G) Authorization to operate in Iowa for certain private nonpublic, nonprofit colleges and universities exempt from registration.**

~~21.10(1)~~ **21.13(1)** The state of Iowa considers a private nonpublic, nonprofit institution located in Iowa, which is exempt qualifies for an exemption from registration under Iowa Code section 261B.11(1) "j" and "l," to be authorized to lawfully operate in Iowa as a postsecondary educational institution that grants a degree, diploma, or certificate for the purpose of state authorization regulations established by the United States Department of Education, provided the institution meets the following additional conditions:

- a. The institution is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code on or after July 1, 2013; and
- b. The institution originated in this state and has undergone no change in ownership or control since July 1, 2011.

~~21.10(2)~~ **21.13(2)** The following Iowa colleges and universities are authorized under subrule ~~21.10(1)~~ 21.13(1):

- ~~a.~~ AIB College of Business;
- ~~b.~~ a. Allen College;
- ~~c.~~ b. Briar Cliff University;

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- ~~d.~~ c. Buena Vista University;
- ~~e.~~ d. Central College;
- ~~f.~~ e. Clarke University;
- ~~g.~~ f. Coe College;
- ~~h.~~ g. Cornell College;
- ~~i.~~ h. Des Moines University;
- ~~j.~~ i. Divine Word College;
- ~~k.~~ j. Dordt College;
- ~~l.~~ k. Drake University;
- ~~m.~~ l. Emmaus Bible College;
- ~~n.~~ m. Faith Baptist Bible College and Theological Seminary;
- ~~o.~~ n. Graceland University;
- ~~p.~~ o. Grand View University;
- ~~q.~~ p. Grinnell College;
- ~~r.~~ q. Iowa Wesleyan College;
- ~~s.~~ r. Loras College;
- ~~t.~~ s. Luther College;
- ~~u.~~ t. Maharishi University of Management;
- ~~v.~~ u. Mercy College of Health Sciences;
- ~~w.~~ v. Mercy St. Luke's School of Radiologic Technology;
- ~~x.~~ w. Morningside College;
- ~~y.~~ x. Mount Mercy College;
- ~~z.~~ y. Northwestern College;
- ~~aa.~~ z. Palmer College of Chiropractic;
- ~~ab.~~ aa. Simpson College;
- ~~ac.~~ ab. St. Ambrose University;
- ~~ad.~~ ac. St. Luke's College;
- ad. Unity Point Health – Des Moines School of Radiologic Technology;
- ae. University of Dubuque;
- af. Upper Iowa University;
- ag. Wartburg College;
- ah. Wartburg Theological Seminary; and
- ai. William Penn University.

**283—21.14(261B,261G) Approval criteria for a school seeking to participate in a commission-approved interstate reciprocity agreement under Iowa Code chapter 261G.** A school that voluntarily applies to participate in a commission-approved interstate reciprocity agreement shall meet the following criteria:

**21.14(1)** The applicant school shall submit an institutional participation application as required by the commission-approved interstate reciprocity agreement. The application shall be signed by the school's chief executive officer or chief academic officer, and the school shall demonstrate compliance with the following:

a. The school's principal campus or central administrative unit located in Iowa is authorized to operate in Iowa.

b. The school is a degree-granting institution accredited by an accrediting agency recognized by the United States Department of Education, and the school will notify the commission of any negative changes to its accrediting status.

c. The school will provide enrollment data or other data prescribed by the interstate reciprocity agreement.

d. The school abides by the Interregional Guidelines for the Evaluation of Distance Education adopted by the Council of Regional Accrediting Commissions.

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e. The school agrees to be responsible for the actions of any third-party providers the school uses to engage in operations under the commission-approved interstate reciprocity agreement.

f. The school will provide disclosures to students who enroll in courses or programs that customarily lead to professional licensure, or that students could reasonably believe lead to licensure, about whether the school's program meets requirements for licensure in the state where each student resides. If the school does not know whether licensure requirements are met in a student's state of residence, the school may meet this requirement by informing the student in writing and providing the student with contact information for the appropriate state licensing board(s).

g. A school that receives state aid under Iowa Code chapter 261 meets all of the following criteria:

(1) The school will include in its student management information system the unique student identifiers assigned to the school's students while the students were in the state's kindergarten through grade 12 system.

(2) The school is eligible to participate in a federal student aid program authorized under Title IV of the federal Higher Education Act of 1965, as amended.

(3) The school will annually provide the commission with information about the numbers of minority students enrolled in and minority faculty members employed at the school.

(4) The school will provide the commission with institutional policies adopted by the school that comply with the requirements of Iowa Code section 261.9(1) "d" to "i":

1. For a program in which a student's academic progress is measured only in clock hours, the school shall provide a full refund of tuition and mandatory fees to a student who withdraws and who requests that benefit under Iowa Code section 261.9(1) "g" for the payment period in which the student withdrew. The payment period is determined under rules promulgated by the United States Department of Education for the disbursement of federal Stafford loan funds.

2. The employee policy for reporting suspected incidents of child physical or sexual abuse required by Iowa Code section 261.9(1) "h" shall apply to individuals the school compensates to conduct activities on the school's behalf at an Iowa location.

h. The school posts a list of required and suggested textbooks for all courses and corresponding international standard book numbers for such textbooks at least 14 days before the start of each semester or term at the locations where textbooks are sold on campus and on the school's Internet site.

i. The applicant school complies with Iowa Code section 261B.7, which prohibits a school from advertising that the school is approved or accredited by the commission or the state of Iowa. However, an applicant school must demonstrate the method by which it will disclose that the school is approved to participate in the commission-approved interstate reciprocity agreement and provide the commission's contact information to students who wish to inquire about the school or file a complaint. The school shall provide the commission with the name and business contact information for a person in Iowa whom the school designates to receive student complaints from the commission and to coordinate the school's response. The school will work with the commission to resolve any complaints arising from the school's students enrolled in programs the school offers under the commission-approved interstate reciprocity agreement.

j. The names of the program(s) the school will offer under the commission-approved interstate reciprocity agreement and the total tuition, fee, book, supply, and other standard costs payable to the school by a student during the program(s).

k. A copy of or a description of the means by which the school intends to comply with Iowa Code section 261B.9, which requires disclosure to students of all of the following:

(1) The name or title of the courses included in a program(s) the school will offer under the commission-approved interstate reciprocity agreement and a brief description of the subject matter of the course.

(2) The tuition charge or other fees charged for the course.

(3) The refund policy of the school for the return of the refundable portion of tuition, fees, or other charges. If refunds are not to be paid, the information shall state that fact. For a for-profit school, the refund policy shall comply with subrule 21.14(3).

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(4) Whether a certificate or diploma awarded to a student upon completion of the course of instruction is applicable toward a degree granted by the school and, if so, under what circumstances the degree will be awarded.

(5) The name of the accrediting agency recognized by the United States Department of Education or its successor agency which has accredited the school.

l. A description of the school's procedures for preservation of student records and the contact information to be used by students and graduates who seek to obtain transcript information.

m. The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used in the programs that the school offers under the commission-approved interstate reciprocity agreement, including but not limited to classroom instruction, correspondence, distance delivery, independent study, and portfolio experience evaluation.

n. The school's most recent, official Stafford loan cohort default rate as calculated by the United States Department of Education, if applicable.

o. The average student loan debt upon graduation of students completing programs at the school.

p. The graduation rate of undergraduate students as reported to the United States Department of Education.

**21.14(2)** A nonpublic applicant school must have an official financial responsibility composite score, as calculated using the method prescribed by the United States Department of Education, of at least 1.5 for its most recent institutional fiscal year. A nonpublic applicant school with an official financial responsibility composite score of between 1.0 and 1.49 for its most recent institutional fiscal year must submit to the commission a plan by which the school will raise its official composite score to 1.5 by the time the school applies, under subrule 21.14(1), for participation in the commission-approved interstate reciprocity agreement for the third consecutive time.

**21.14(3)** A for-profit applicant school must demonstrate and maintain compliance with Iowa Code sections 714.18 and 714.23. The school shall apply the policy it adopts under Iowa Code section 714.23 to students who attend its campus(es) in Iowa, as well as to Iowa resident and nonresident students who attend distance education programs the school offers under the interstate reciprocity agreement.

**21.14(4)** A for-profit applicant school that does not participate in the student financial assistance programs administered by the United States Department of Education must demonstrate and maintain compliance with Iowa Code section 714.25.

**21.14(5)** A school that is approved to participate in the commission-approved interstate reciprocity agreement shall remit an annual fee payable and due to the commission on July 15 of each year. If a school's participation in the commission-approved interstate reciprocity agreement terminates during a year, the school shall pay the annual fee to the commission if the school's registration is valid as of July 15 of that year. The annual fee is nonrefundable and will be assessed based on a school's full-time equivalent (FTE) enrollment as follows:

- Under 2,500 FTE – \$2,000.
- 2,500 to 9,999 FTE – \$4,000.
- 10,000 FTE or more – \$6,000.

**21.14(6)** A school that applies for, and is approved to participate in, the commission-approved interstate reciprocity agreement shall remit to the interstate reciprocity agreement administrator any registration fees required by that administrator.

**21.14(7)** Upon approval by the interstate reciprocity agreement administrator, a school may continue its participation in the commission-approved interstate reciprocity agreement by meeting all requirements of the interstate reciprocity agreement administrator.

**21.14(8)** The school shall abide by conditions of provisional approval, if necessary, which may include oversight measures as the commission deems necessary, including enrollment limits. The commission, at its discretion, may approve a school for initial participation in the commission-approved interstate reciprocity agreement on a provisional status in any of the following circumstances:

- a. The school is on probationary status, or the equivalent, with its institutional accrediting agency.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

b. The institution is currently using a letter of credit or is under a cash management agreement with the United States Department of Education.

c. The school is the subject of a publicly announced investigation by a government agency, and the investigation is related to the school's academic quality, financial stability, or student consumer protection.

d. The school is the subject of a current investigation by an agency of the state of Iowa, and the investigation is related to the institution's academic quality, financial stability, or student consumer protection.

21.14(9) A school that closes while participating in the commission-approved interstate reciprocity agreement shall provide to the commission the notice described in subrule 21.11(1) and data described in subrule 21.11(2) for affected Iowa-resident students, students attending the school's campus(es) located in Iowa, and for out-of-state residents who are enrolled in distance education programs the school offers under the commission-approved interstate reciprocity agreement. Such a school shall promptly provide the commission with a teach-out plan approved by the school's accrediting agency and shall deposit its student transcript records at the office of the registrar of the university of Iowa in compliance with Iowa Code chapter 264.

These rules are intended to implement Iowa Code chapters 261, and 261B, and 261G.

**ARC 2453C****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(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments would allow applicants from another state who have met the assessment requirements in their state and successfully taught for at least three years in their state to be exempt from the Iowa assessment requirements. There is also language added to reflect a minimum grade standard for coursework related to licensure eligibility.

The proposed amendments would also provide clarity regarding the student teaching requirement for the elementary education endorsement, field placements and practicum experiences for adding endorsements, and the minimum grade standard for coursework related to adding an endorsement.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 8, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 6, 2016, 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 amendments. 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, or at (515)281-5849, prior to the date of the public hearing.

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

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.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend subrule 13.5(2) as follows:

**13.5(2)** *Applicants from non-Iowa institutions.*

a. No change.

b. In addition to the requirements set forth in subrule 13.5(1), applicants from non-Iowa institutions:

(1) Shall submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate.

(2) Shall provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and the applicant has verified fewer than three years of valid out-of-state teaching experience. If the teacher preparation program was completed prior to January 1, 2013, or if the applicant has verified three years of valid out-of-state teaching experience, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed (or verify highly qualified status) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license. Applicants seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for licensure.

(4) to (6) No change.

c. to e. No change.

ITEM 2. Rescind subrule **13.26(4)**.

ITEM 3. Renumber subrule **13.26(5)** as **13.26(4)**.

ITEM 4. Amend renumbered subrule 13.26(4) as follows:

**13.26(4)** *Teacher—elementary classroom.* Effective September 1, 2015, the following requirements apply to persons who wish to teach in the elementary classroom:

a. *Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

b. *Content.*

(1) to (8) No change.

(9) Student teaching in an elementary general education classroom.

ITEM 5. Amend subrule 13.29(1) as follows:

**13.29(1)** *Adding an endorsement.* After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

a. No change.

b. *Additional requirements for adding an endorsement.*

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

(1) In addition to meeting the requirements for Iowa licensure, applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area and grade levels of the endorsement added.

(2) Practitioners who are adding ~~an elementary or early childhood~~ a K-8 endorsement and have not student taught ~~on~~ at the elementary ~~or early childhood~~ level shall complete a teaching practicum ~~appropriate for teaching at the level of the new endorsement in an elementary setting.~~ Applicants seeking the early childhood or elementary endorsements set forth in rule 282—13.26(272) must complete the required field experience and teaching practicum specific to the endorsement desired.

(3) Practitioners who are adding a ~~secondary teaching~~ 5-12 endorsement and have not student taught ~~on~~ at the secondary level shall complete a teaching practicum ~~appropriate for teaching at the level of the new endorsement in a high school setting.~~

(4) Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the Class B license. The practitioner must obtain a Class B license while practicing with the 5-12 endorsement.

(5) Applicants seeking a board of educational examiners transcript review must have achieved a C- grade or higher in the courses that will be considered for an endorsement.

**ARC 2450C**

**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(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

Endorsement requirements are periodically reviewed to ensure alignment with research-based competencies, national standards, and the Iowa Core. The proposed new subrules pertaining to reading endorsements reflect recommendations by a reading endorsement review committee, which met in October and continued to communicate electronically throughout the past few months and was comprised of current reading teachers, reading specialists, Department of Education and Reading Research Center consultants, and higher education faculty from a variety of Iowa institutions.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 8, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 6, 2016, 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 amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State

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

Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319, 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.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Rescind subrule 13.28(15) and adopt the following **new** subrule in lieu thereof:

**13.28(15) Reading.** K-8 and 5-12. Completion of 24 semester hours in reading to include all of the following requirements:

*a. Foundations of reading.* This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of the psychological, sociocultural, motivational, and linguistic foundations of reading and writing processes and instruction.

(2) The practitioner demonstrates knowledge of a range of research pertaining to reading, writing, and learning, including the analysis of scientifically based reading research, and knowledge of histories of reading. The range of research encompasses research traditions from the fields of the social sciences and other paradigms appropriate for informing practice.

(3) The practitioner demonstrates knowledge of the major components of reading, such as comprehension, vocabulary, word identification, fluency, phonics, and phonemic awareness, and effectively integrates curricular standards with student interests, motivation, and background knowledge.

*b. Reading curriculum and instruction.* This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of designing and implementing an integrated, comprehensive, and balanced curriculum that addresses the major components of reading and contains a wide range of texts, including but not limited to narrative, expository, and poetry, and including traditional print, digital, and online resources.

(2) The practitioner uses knowledge of a range of research-based strategies and instructional technology for designing and delivering effective instruction, including instruction to students with reading difficulties.

(3) The practitioner demonstrates knowledge of grouping students, selecting materials appropriate for learners with diverse abilities at various stages of reading and writing development, differentiating instruction to meet the unique needs of all learners, including students with dyslexia, offering sufficient opportunities for students to practice reading skills, and providing frequent and specific instructional feedback to guide students' learning.

(4) The practitioner demonstrates knowledge of designing instruction to meet the needs of diverse populations, including populations in urban, suburban, and rural settings, as well as for students from various cultural and linguistic backgrounds.

(5) The practitioner demonstrates knowledge of creating a literate physical environment which is low risk, supports students as agents of their own learning, and supports a positive socio-emotional impact for students to identify as readers.

*c. Reading assessment, diagnosis and evaluation.* This requirement includes the following competencies:

(1) The practitioner understands types of reading and writing assessments and their purposes, strengths, and limitations.

(2) The practitioner demonstrates knowledge of selecting and developing appropriate assessment instruments, procedures, and practices that range from individual to group and from formal to informal to alternative for the identification, screening, and diagnosis of students' reading proficiencies and needs.

(3) The practitioner demonstrates knowledge of assessment data analysis to inform, plan, measure, progress monitor, and revise instruction for all students and to communicate the outcomes of ongoing assessments to all stakeholders.

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(4) The practitioner demonstrates awareness of policies and procedures related to special programs, including Title I.

*d. Reading in the content areas.* This requirement includes the following competencies:

(1) The practitioner demonstrates knowledge of morphology and the etymology of words, along with text structure and the dimensions of content area vocabulary and comprehension, including literal, interpretive, critical, and evaluative.

(2) The practitioner provides content area instruction in reading and writing that effectively uses a variety of research-based strategies and practices.

*e. Language development.* This requirement includes the following competency: The practitioner uses knowledge of oral language development, cognitive academic language development, oral and written language proficiency (including second language development), acquisition of reading skills, and the variations related to cultural and linguistic diversity to provide effective instruction in reading and writing.

*f. Oral communication instruction.* This requirement includes the following competencies:

(1) The practitioner has knowledge of the unique needs and backgrounds of students with language differences and delays.

(2) The practitioner uses effective strategies for facilitating the learning of language for academic purposes by all learners.

*g. Written communication instruction.* This requirement includes the following competency: The practitioner uses knowledge of reading-writing-speaking connections; the writing process to include structures of language and grammar; the stages of spelling development; the different types of writing, such as narrative, expressive, persuasive, informational, and descriptive; and the connections between oral and written language development to effectively teach writing as communication.

*h. Children's fiction and nonfiction (K-8 only) or adolescent or young adult fiction and nonfiction (5-12 only).* This requirement includes the following competency: The practitioner uses knowledge of children's literature (K-8) or adolescent or young adult literature (5-12) for:

(1) Modeling the reading and writing of varied genres, including fiction and nonfiction; technology- and media-based information; and nonprint materials;

(2) Motivating through the use of texts at multiple levels, representing broad interests, and reflecting varied cultures, linguistic backgrounds, and perspectives; and

(3) Matching text complexities to the proficiencies and needs of readers.

*i. Practicum.* This requirement includes the following competencies:

(1) The practitioner works with appropriately licensed professionals who observe, evaluate, and provide feedback on the practitioner's knowledge, dispositions, and performance of the teaching of reading and writing.

(2) The practitioner effectively uses reading and writing strategies, materials, and assessments based upon appropriate reading and writing research and works with colleagues and families in the support of children's reading and writing development.

ITEM 2. Rescind subrule 13.28(16) and adopt the following **new** subrule in lieu thereof:

**13.28(16) Reading specialist.** K-12. The applicant must have met the requirements for the standard license and a K-8 or 5-12 reading endorsement and must present evidence of at least three years of experience which included the teaching of reading as a significant part of the responsibility.

*a. Authorization.* The holder of this endorsement is authorized to serve as a reading specialist in kindergarten and grades one through twelve.

*b. Program requirements.* Degree—master's.

*c. Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. This sequence is to be at least 24 semester hours to include the following:

(1) Foundations of reading. The reading specialist will understand the historical, theoretical, and evidence-based foundations of reading and writing processes and instruction and will be able to interpret

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

these findings to model exemplary instructional methods for students with typical and atypical literacy development and effectively develop and lead professional development.

(2) Curriculum and instruction. The reading specialist will use instructional approaches, materials, and an integrated, comprehensive, balanced curriculum to support student learning in reading and writing including the following:

1. Work collaboratively with teachers to develop a literacy curriculum that has vertical and horizontal alignment K-12 and that uses instructional approaches supported by literature and research for the following areas: print, phonemic awareness, phonics, fluency, comprehension, vocabulary, writing, critical thinking, and motivation.

2. Support classroom teachers to implement and adapt in-depth instructional approaches, including but not limited to approaches to improve decoding, comprehension, and information retention, to meet the language-proficiency needs of English language learners and needs of students with reading difficulties or reading disabilities, including but not limited to students with dyslexia, within or outside the regular classroom.

3. Demonstrate a knowledge of a wide variety of quality traditional print, digital, and online resources and support classroom teachers in building and using a quality, accessible classroom library and materials collection that meets the specific needs and abilities of all learners.

4. Provide support for curriculum and instruction through modeling, coteaching, observing, planning, reviewing literacy data, and providing resources.

(3) Assessment, diagnosis, and evaluation. The reading specialist will use a variety of assessment tools and practices to plan and evaluate effective reading and writing instruction including the following:

1. Demonstrate an understanding of the literature and research related to assessments and their purposes, including the strengths and limitations of assessments; and assessment tools for screening, diagnosis, progress monitoring, and measuring outcomes; and also demonstrate an understanding of district and state assessments, proficiency standards and student benchmarks.

2. Select, administer, and interpret assessments for specific purposes, including collaboration with teachers in the analysis of data, and leading schoolwide or districtwide scale analyses to select assessment tools that provide a systemic framework for assessing reading, writing, and language growth of all students, including those with reading difficulties and reading disabilities including but not limited to students with dyslexia and English language learners.

3. Use assessment information to plan and evaluate instruction, including multiple data sources for analysis and instructional planning, for examining the effectiveness of specific intervention practices and students' responses to interventions, and to plan professional development initiatives.

4. Communicate assessment results and implications to a variety of audiences.

(4) Administration and supervision of reading programs. The reading specialist will:

1. Demonstrate foundational knowledge of adult learning theories and related research about organizational change, professional development, and school culture.

2. Demonstrate the practical application of literacy leadership including planning, developing, supervising, and evaluating literacy programs at all levels.

3. Demonstrate knowledge of supervising an overall reading program, including but not limited to staffing; budgetary practices; planning, preparing, and selecting materials; subsystems; special provisions; and evaluating teacher performance.

4. Participate in, design, facilitate, lead, and evaluate effective and differentiated professional development programs to effectively implement literacy instruction.

5. Demonstrate an understanding of local, state, and national policies that affect reading and writing instruction.

6. Promote effective communication and collaboration among stakeholders, including parents and guardians, teachers, administrators, policymakers, and community members, and advocate for change when necessary to promote effective literacy instruction.

(5) Educational research, measurement and evaluation. The reading specialist will effectively utilize existing research and learn to conduct new research to continuously improve the design and implementation of a comprehensive reading system.

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(6) Psychology of language and reading. The reading specialist will understand the highly complex processes by which children learn to speak, read, and write, including language acquisition, ranges of individual differences, reading difficulties and reading disabilities, including but not limited to dyslexia, and the importance of the role of diversity in learning to read and write.

(7) Practicum in reading leadership. The reading specialist will participate in elementary and secondary practicum experiences with licensed teachers who are serving in leadership roles in the area of reading.

**ARC 2454C****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(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments clarify language regarding temporary permits for administrators, adjust the experience requirement for an initial administrator license to mirror the experience requirement for superintendent licensure, correct conflicting language regarding the administrative experience required for superintendents, and strike language setting forth different endorsements and requirements for out-of-state candidates.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 8, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 6, 2016, 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 amendments. 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, 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.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

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

ITEM 1. Amend rule 282—18.1(272) as follows:

**282—18.1(272) All applicants desiring an Iowa administrator license.**

**18.1(1) Administrator licenses.** Administrator licenses are issued upon application filed on a form provided by the board of educational examiners and upon completion of the background check requirements set forth in rule 282—13.1(272).

**18.1(2) Temporary permits.** ~~The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application, including certification from the applicant of completion of the Praxis II examination, if required; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check.~~

~~The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check and the board's receipt of verification of completion of the Praxis II examination. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.~~

The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check. The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 2. Amend subrule 18.4(4) as follows:

**18.4(4) Specific requirements for an initial administrator license for applicants who have completed a professional service endorsement.** An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of an Iowa professional service license; and
- b. Has three years of experience in an educational setting in the professional service endorsement area or has three years of professional service and administrative experience provided that at least two years are professional service experience and one year is administrative experience, all while holding a valid license; and
- c. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and
- d. Is assuming a position as a PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has one year of out-of-state or nonpublic administrative experience; and
- e. Has completed the required coursework in human relations, cultural competency, diverse learners and reading instruction set forth in 281—subrules 79.15(2) and 79.15(3); and
- f. Has completed the professional education core in 281—paragraphs 79.15(5) “b” to “k”; and
- g. Has completed an evaluator approval program.

ITEM 3. Amend rule 282—18.8(272) as follows:

**282—18.8(272) Specific requirements for a Class B license.** A nonrenewable Class B license valid for two years may be issued to an individual under the following conditions:

**18.8(1) Endorsement in progress.** The individual has a valid Iowa teaching license but is seeking to obtain an administrator endorsement. A Class B license may be issued if requested by an employer and

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

the individual seeking this endorsement has completed at least 75 percent of the requirements leading to completion of all requirements for this endorsement.

**18.8(2) Experience requirement.**

*a. Principal endorsement.* For the principal endorsement, ~~three years of teaching experience must have been met before application for the Class B license~~ the applicant must meet the experience requirement set forth in subparagraph 18.9(1)“c”(1).

*b. Superintendent endorsement.* For the superintendent endorsement, ~~three years of teaching experience and three years as a building principal or other PK-12 districtwide or intermediate agency experience are acceptable for becoming a superintendent, and must have been met before application for the Class B license~~ the applicant must meet the experience requirement set forth in subrule 18.10(3).

**18.8(3) Request for exception.** Rescinded IAB 2/23/11, effective 3/30/11.

ITEM 4. Amend rule 282—18.9(272) as follows:

**282—18.9(272) Area and grade levels of administrator endorsements.****18.9(1) PK-12 principal and PK-12 supervisor of special education.**

*a. and b.* No change.

*c. Other.*

(1) The applicant must have had three years of teaching experience at the early childhood through grade twelve level while holding a valid license or have had three years of teaching and administrative experience provided that at least two years are teaching experience and one year is administrative experience, all while holding a valid license.

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

~~**18.9(2) PK-8 principal—out-of-state applicants.** This endorsement is only for applicants from out-of-state institutions:~~

~~*a.—Authorization.* The holder of this endorsement is authorized to serve as a principal of programs serving children from birth through grade eight.~~

~~*b.—Program requirements:*~~

~~(1) Degree—master's.~~

~~(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.~~

~~1.—Knowledge of early childhood, elementary, and early adolescent level administration, supervision, and evaluation.~~

~~2.—Knowledge and skill related to early childhood, elementary, and early adolescent level curriculum development.~~

~~3.—Knowledge of child growth and development from birth through early adolescence and developmentally appropriate strategies and practices of early childhood, elementary, and early adolescence, to include an observation practicum.~~

~~4.—Knowledge of family support systems, factors which place families at risk, child care issues, and home-school-community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.~~

~~5.—Knowledge of school law and legislative and public policy issues affecting children and families.~~

~~6.—Planned field experiences in early childhood and elementary or early adolescent school administration.~~

~~7.—Completion of evaluator training component.~~

~~8.—Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies:~~

~~• Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.~~

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- Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.

- Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

- Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.

- Acts with integrity, fairness, and in an ethical manner.

- Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

*c. — Other.* The applicant must have had three years of teaching experience at the early childhood through grade eight level while holding a valid license.

~~18.9(3) 5-12 principal out-of-state applicants.~~ This endorsement is only for applicants from out-of-state institutions.

*a. — Authorization.* The holder of this endorsement is authorized to serve as a principal in grades five through twelve.

*b. — Program requirements.*

(1) Degree — master's.

(2) Content: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements.

1. — Knowledge of early adolescent and secondary level administration, supervision, and evaluation.

2. — Knowledge and skill related to early adolescent and secondary level curriculum development.

3. — Knowledge of human growth and development from early adolescence through early adulthood, to include an observation practicum.

4. — Knowledge of family support systems, factors which place families at risk, and home-school community relationships and interactions designed to promote parent education, family involvement, and interagency collaboration.

5. — Knowledge of school law and legislative and public policy issues affecting children and families.

6. — Planned field experiences in early adolescence or secondary school administration.

7. — Completion of evaluator training component.

8. — Competencies: Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements. A school administrator is an educational leader who promotes the success of all students by accomplishing the following competencies.

- Facilitates the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community.

- Advocates, nurtures, and sustains a school culture and instructional program conducive to student learning and staff professional growth.

- Ensures management of the organization, operations, and resources for a safe, efficient, and effective learning environment.

- Collaborates with families and community members, responds to diverse community interests and needs, and mobilizes community resources.

- Acts with integrity, fairness, and in an ethical manner.

- Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

*c. — Other.* The applicant must have had three years of teaching experience at the secondary level (5-12) while holding a valid license.

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

ITEM 5. Amend subrule 18.11(2) as follows:

**18.11(2) Program requirements.**

*a.* to *c.* No change.

*d. Experience.* An applicant must ~~have three years of administrative experience as a PK-12 principal or PK-12 supervisor of special education~~ meet the experience requirement set forth in 18.10(3).

*e.* No change.

**ARC 2452C**

**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(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 20, “Renewals,” Iowa Administrative Code.

The proposed amendments will allow both teachers and administrators to utilize the successful completion of an individualized professional development plan for one licensure renewal unit. Iowa Code section 272.9A(2) directs the Board to adopt such rules for administrators, and the Board has proposed to adopt the same language for teachers. The proposed amendments will also allow a teacher to utilize the renewal of National Board for Professional Teaching Standards Certification toward the subsequent renewal of either the standard or master educator license.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 8, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 6, 2016, 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 amendments. 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, 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.

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code sections 272.2(1)“a” and 272.9A(2).

The following amendments are proposed.

ITEM 1. Amend rule 282—20.5(272) as follows:

**282—20.5(272) Specific renewal requirements for the standard license.**

**20.5(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

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

**20.5(2)** Six units are needed for renewal. These units may be earned in any combination listed as follows:

*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 master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

*f.* One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

ITEM 2. Amend rule 282—20.6(272) as follows:

**282—20.6(272) Specific renewal requirements for a master educator license.**

**20.6(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**20.6(2)** 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. This certification may be used one time for either the standard or master educator license. Four units may also be earned for each National Board for Professional Teaching Standards certification renewal and may be used toward the subsequent renewal of either the standard or master educator license.

*f.* One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator.

ITEM 3. Amend rule 282—20.9(272) as follows:

**282—20.9(272) Specific renewal requirements for an administrator license.**

**20.9(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

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

**20.9(2)** 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 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 administrator 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.* One unit may be earned upon the successful completion of an individualized professional development plan as verified by the supervising licensed evaluator, or in the case of a superintendent, as verified by the school board president.

**20.9(3)** No change.

**ARC 2445C**

**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 272.31, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The proposed amendment would require persons seeking a coaching authorization to hold a minimum of a high school diploma or equivalent or attain the age of 20. This age requirement is based on 281—paragraph 36.15(2)“b,” which prohibits persons who are 20 years of age or older from competing in high school interscholastic athletics.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, April 8, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov); or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, April 6, 2016, 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, 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.

This amendment is subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

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

This amendment is intended to implement Iowa Code section 272.31.

The following amendment is proposed.

Amend subrule 22.1(2) as follows:

**22.1(2) Requirements.** Applicants for the coaching authorization shall have completed the following requirements:

a. No change.  
 b. Minimum age or diploma. Applicants must have attained a minimum of 18 years. Applicants must also:

(1) Possess a minimum of:

1. A high school diploma,

2. A graduate equivalent diploma, or

3. Home school completion verified by the executive director; or

(2) Be 20 years of age or older.

c. No change.

**ARC 2441C****ENVIRONMENTAL PROTECTION COMMISSION[567]****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 455B.173(11), the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of these amendments is to reissue the existing National Pollutant Discharge Elimination System (NPDES) Pesticides General Permit known as General Permit No. 7 (GP7). This general permit allows for the discharge of pesticides to waters of the United States. The current general permit was issued on March 30, 2011, and expires on March 29, 2016. Pesticide applications covered under GP7 include those for control of aquatic nuisance insects; weeds, algae, fungi, bacteria, and fish parasites in water and at water’s edge; aquatic nuisance animals; and forest canopy pests at water’s edge. Irrigation return flows and agricultural storm water discharges are not covered under GP7 because they are specifically exempted from the Clean Water Act’s permitting requirements. There are no fees associated with GP7.

In addition to renewing GP7, the Commission is proposing to further reduce the regulatory burden on pesticide applicators by removing the existing requirement that large applicators must submit a Notice of Intent (NOI) for coverage under GP7. Under the renewed permit, all pesticide applications meeting the eligibility criteria will be automatically covered, without the need to submit an NOI. The Commission is also proposing to remove all requirements that were specific to large applicators, including the development and implementation of integrated pest management plans and the creation of annual reports.

The Commission intends to file these amendments as Adopted and Filed Emergency After Notice, to be effective on May 18, 2016, pursuant to Iowa Code section 17A.5(2)“b”(2), following public comment and public hearings. The normal effective date should be waived and the amendments should be made effective on May 18, 2016, as the amendments confer a benefit on the public by simplifying requirements for permit coverage and by minimizing any lapse in permit coverage.

Any interested person may submit written comments on the proposed amendments on or before April 12, 2016. Written comments or questions regarding the proposed amendments should be directed

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

to Wendy Hieb, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50309-0034; via fax at (515)725-8202; or via e-mail at [wendy.hieb@dnr.iowa.gov](mailto:wendy.hieb@dnr.iowa.gov).

A public hearing where persons may present their views orally or in writing will be held on April 5, 2016, at 10 a.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building, 502 East 9th Street, 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 proposed amendments.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department to advise of any specific needs.

After analysis and review of this rule making, no impact on jobs has been found. The general permit has been in place for four years and is accepted by pesticide applicators as a necessary tool to allow for the discharge of pesticides to waters of the United States. In addition, the Commission is proposing to reduce the regulatory burden on applicators as part of the reissuance of the general permit by removing the requirement to submit a Notice of Intent for coverage. The Commission is also proposing to remove all requirements that were specific to large applicators, including the development and implementation of integrated pest management plans and the creation of annual reports.

These amendments are intended to implement Iowa Code sections 455B.173(11) and 455B.186.

The following amendments are proposed.

ITEM 1. Rescind subparagraph **64.3(4)“b”(7)**.

ITEM 2. Amend subrule 64.15(7) as follows:

**64.15(7)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7, effective ~~March 30, 2014~~ May 18, 2016, to ~~March 29, 2016~~ May 17, 2021.

**ARC 2442C**

## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

### **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 455B.173(11), the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The Commission is proposing to reissue the existing National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 5 (GP5), which authorizes wastewater discharges from mines and quarries to waters of the United States throughout Iowa. GP5 became effective on July 20, 2011, and expires on July 19, 2016. The Commission is proposing minor revisions to the permit including updating and correcting references to the Iowa Administrative Code, clarifying terms and adding definitions, updating procedures for submitting a notice of intent for coverage, and easing sulfate sampling requirements.

The Department of Natural Resources (Department) must either reissue GP5 or issue individual NPDES permits for each mine or quarry discharge. Compared to general permits, individual NPDES permits have more complicated application requirements, have higher fees, and take longer to issue. Permittees will benefit from the Department’s reissuance of GP5 compared to having to apply for an individual NPDES permit.

Any interested person may file written suggestions or comments on the proposed amendment on or before April 14, 2016. Written comments or questions regarding the proposed action should be directed

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

to Julie Faas, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; via fax at (515)725-8202; or via e-mail at [julie.faas@dnr.iowa.gov](mailto:julie.faas@dnr.iowa.gov).

A public hearing where persons may present their views orally or in writing will be held on April 7, 2016, at 11 a.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building, 502 East 9th Street, 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 amendment.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department to advise of special needs.

After analysis and review of this rule making, it has been determined that there will be no impact on private sector jobs and employment opportunities in Iowa. There are no proposed changes to GP5 that will cause an impact on jobs. The complete jobs impact statement is available from the Department upon request.

This amendment is intended to implement Iowa Code section 455B.173(11).

The following amendment is proposed.

Amend subrule 64.15(5) as follows:

**64.15(5)** “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective ~~July 20, 2011~~ July 20, 2016, to July 19, 2021.

**ARC 2462C**

**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, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments revise Chapter 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility. The proposed amendments make the following changes:

- Allow for 12-month certification instead of 6-month certification.
- Establish new exit eligibility criteria for families with income exceeding 145 percent of the Federal Poverty Level (FPL).
  - Expand the period for job search from 1 month to 3 months for families who experience a temporary change in employment or education.
    - Allow for assistance to continue for 12 months regardless of temporary changes.
    - Provide that family assistance may only be canceled after a nontemporary change (after 3 month job search period).
  - Add a family resource/asset limit of \$1 million.
  - Change the provider rate table to add higher rates for Quality Rating System (QRS) Level 5 providers.

These proposed amendments also allow payments to out-of-state providers without the need for the family to request an exception to policy.

Families receiving assistance will get annual eligibility certifications. Families will be able to keep child care benefits during temporary breaks in employment or education. By utilizing the new exit eligibility criteria, families will also be able to keep child care benefits if their income exceeds program limits. Child care providers who are participating in QRS and are rated a Level 5 will be reimbursed at a higher rate than other providers.

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

Any interested person may make written comments on the proposed amendments on or before April 5, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 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 do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6 and Child Care and Development Block Grant (42 U.S.C. 9858).

The following amendments are proposed.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “Child with special needs,” as follows:

“*Child with special needs*” means a child with one or more of the following conditions:

1. No change.
2. The child has been determined by a qualified ~~mental-retardation~~ intellectual disability professional to have a condition which impairs the child's intellectual and social functioning.
3. No change.

ITEM 2. Amend paragraph **170.2(1)“a”** as follows:

*a. Income limits.* For initial and ongoing eligibility, a an applicant family's nonexempt gross monthly income as established in paragraph 170.2(1)“c” cannot exceed; the amounts in subparagraphs 170.2(1)“a”(1) to (3). If, at the time of eligibility redetermination as described in subrule 170.3(5), a family's nonexempt gross monthly income exceeds the limits established in 170.2(1)“a”(1) or (2) but not (3), the family shall remain eligible for an additional 12-month period or until their income exceeds that stated in (3), whichever comes first.

(1) to (3) No change.

ITEM 3. Adopt the following **new** paragraph **170.2(1)“g”**:

*g. Resource limits.* For initial and ongoing eligibility, family resources may not exceed \$1 million.

ITEM 4. Amend paragraph **170.2(2)“a”** as follows:

*a. Age.* Child care shall be provided only to children up to age 13, unless they are children with special needs, in which case child care shall be provided up to age 19. When a child reaches the age of 13, or, as applicable, the age of 19, during the certification period, eligibility shall continue until the end of the approved certification period.

ITEM 5. Amend paragraph **170.2(2)“b”** as follows:

*b. Need for service.* Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents' coinciding hours of participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) to (3) No change.

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician.

1. Eligibility under this paragraph is limited to parents who become medically incapacitated while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)“b”(1) or 170.2(2)“b”(2).

2. Child care assistance shall continue to be available for up to ~~30~~ 90 consecutive days after the parent becomes medically incapacitated. Assistance beyond ~~30~~ 90 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

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

- For a single parent family or for a two-parent family where both parents are incapacitated, the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where only one parent is incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

(5) The parent is looking for employment. Child care for job search hours shall be limited to only those hours the parent is actually looking for employment including travel time.

1. ~~A~~ For applicants, a job search plan shall be approved by the department and be limited to a maximum of 30 consecutive calendar days in a 12-month period. EXCEPTION: Additional job search hours may be paid for PROMISE JOBS participants if approved by the PROMISE JOBS worker.

2. ~~Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation.~~ For ongoing participants, job search shall be limited to a maximum of 90 consecutive calendar days.

(6) to (8) No change.

(9) Family eligibility shall continue during an approved certification period when a temporary lapse in need for service for a parent established under this subparagraph occurs. A temporary lapse is defined as a period of not more than 3 consecutive months, and the lapse is due to one or more of the following reasons:

1. Maternity leave.

2. Family Medical Leave Act (FMLA) situations for household members.

3. Participation in a treatment/rehabilitation program.

4. Employment or education/training hours fall below the minimum number required at 170.2(2) "b"(1), (2) or (8).

5. Normal breaks between school terms.

(10) Family eligibility shall be canceled if the lapse in need is not temporary because the family eligibility will continue for more than 3 consecutive months.

ITEM 6. Adopt the following **new** paragraph **170.2(4)"c"**:

c. Exception: Changes in income do not need to be reported during the approved certification period unless the family's gross monthly income exceeds 85 percent of Iowa's median family income.

ITEM 7. Amend paragraph **170.3(1)"d"** as follows:

d. Families who are determined eligible for child care assistance shall be approved for a certification period of ~~no longer than six~~ at least 12 months. Families who fail to complete the review and redetermination process as described at subrule 170.3(5) will lose eligibility at the end of the certification period.

ITEM 8. Amend subrule 170.3(5) as follows:

**170.3(5) Review and redetermination.** The department shall redetermine a family's financial and general eligibility for child care assistance at least every ~~six~~ 12 months. EXCEPTION: The department shall redetermine only general eligibility for recipients of the family investment program (FIP), persons whose earned income was taken into account in determining the needs of FIP recipients, and parents who have children with protective needs, because these families are deemed financially eligible so long as the FIP eligibility or need for protective services continues.

a. to c. No change.

d. Families who ~~are receiving~~ apply for child care assistance because the parent is seeking employment are not subject to review requirements because eligibility is limited to 30 consecutive calendar days. This waiver of the review requirement applies only when the parent who is seeking employment does not have another need for service.

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

ITEM 9. Adopt the following **new** paragraph **170.4(3)“c”**:

*c. Out-of-state provider.* A child care provider who is not located in Iowa may be selected by the parent so long as the out-of-state child care provider verifies that the provider meets all of the requirements to be a provider in the state in which the provider operates.

ITEM 10. Amend paragraph **170.4(7)“a”** as follows:

*a. Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Age Group	Child Care Center		Child Development Home Category A or B		Child Development Home Category C		Nonregistered Family Home
	Basic	QRS 5	Basic	QRS 5	Basic	QRS 5	
Infant and Toddler	\$16.78	<u>\$20.50</u>	\$12.98	<u>\$13.75</u>	\$12.44	<u>\$15.00</u>	\$8.19
Preschool	\$13.53	<u>\$17.50</u>	\$12.18	<u>\$13.50</u>	\$12.18	<u>\$13.75</u>	\$7.19
School Age	\$12.18	<u>\$14.75</u>	\$10.82	<u>\$12.50</u>	\$10.82	<u>\$13.00</u>	\$7.36

Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	\$51.94	\$17.05	\$13.40	\$10.24
Preschool	\$30.43	\$15.83	\$13.40	\$ 8.99
School Age	\$30.34	\$14.61	\$12.18	\$ 9.20

The following definitions apply in the use of the rate tables:

- (1) “Child care center” shall mean those providers as defined in 170.4(3)“~~a.~~” and “~~g.~~” “Registered child development home” shall mean those providers as defined in 170.4(3)“~~b.~~” “Nonregistered family child care home” shall mean those providers as defined in 170.4(3)“~~f.~~”“e.”
- (2) No change.
- (3) “QRS 5” shall mean a provider who has achieved a rating of Level 5 under the quality rating system.

**ARC 2449C****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, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

This amendment revises the child care assistance (CCA) fee chart based on the new federal poverty levels recently received by the Department.

The annual poverty level increase will allow families that have received raises to maintain eligibility for CCA without paying increased fees.

Any interested person may make written comments on the proposed amendment on or before April 5, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 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).

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 234.6.

The following amendment is proposed.

Amend paragraph **170.4(2)“a”** as follows:

*a. Sliding fee schedule.*

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2015~~ 2016:

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
A	\$932	\$1,262	\$1,591	\$1,920	\$2,250	\$2,579	\$2,908	\$3,238	\$3,567	\$3,896	\$4,226	\$4,555	\$4,884	\$0.00	\$0.00	\$0.00
	\$941	\$1,268	\$1,596	\$1,924	\$2,252											
B	\$981	\$1,328	\$1,675	\$2,021	\$2,368	\$2,715	\$3,061	\$3,408	\$3,755	\$4,101	\$4,448	\$4,795	\$5,141	\$0.20	\$0.45	\$0.70
	\$990	\$1,335	\$1,680	\$2,025	\$2,370											
C	\$1,008	\$1,365	\$1,722	\$2,078	\$2,434	\$2,791	\$3,147	\$3,503	\$3,860	\$4,216	\$4,573	\$4,929	\$5,285	\$0.45	\$0.70	\$0.95
	\$1,018	\$1,372	\$1,727	\$2,082	\$2,436											
D	\$1,036	\$1,402	\$1,769	\$2,134	\$2,501	\$2,867	\$3,232	\$3,599	\$3,965	\$4,331	\$4,697	\$5,064	\$5,429	\$0.70	\$0.95	\$1.20
	\$1,045	\$1,410	\$1,774	\$2,138	\$2,503											
E	\$1,065	\$1,442	\$1,818	\$2,194	\$2,571	\$2,947	\$3,323	\$3,700	\$4,076	\$4,452	\$4,829	\$5,205	\$5,581	\$0.95	\$1.20	\$1.45
	\$1,075	\$1,449	\$1,824	\$2,198	\$2,573											
F	\$1,094	\$1,481	\$1,868	\$2,254	\$2,641	\$3,028	\$3,413	\$3,800	\$4,187	\$4,573	\$4,960	\$5,347	\$5,733	\$1.20	\$1.45	\$1.70
	\$1,104	\$1,489	\$1,873	\$2,258	\$2,643											
G	\$1,125	\$1,522	\$1,920	\$2,317	\$2,715	\$3,112	\$3,509	\$3,907	\$4,305	\$4,701	\$5,099	\$5,497	\$5,893	\$1.45	\$1.70	\$1.95
	\$1,135	\$1,530	\$1,926	\$2,321	\$2,717											
H	\$1,155	\$1,564	\$1,972	\$2,380	\$2,789	\$3,197	\$3,605	\$4,013	\$4,422	\$4,829	\$5,238	\$5,647	\$6,054	\$1.70	\$1.95	\$2.20
	\$1,166	\$1,572	\$1,978	\$2,385	\$2,791											
I	\$1,188	\$1,608	\$2,028	\$2,447	\$2,867	\$3,287	\$3,706	\$4,126	\$4,546	\$4,964	\$5,385	\$5,805	\$6,223	\$1.95	\$2.20	\$2.45
	\$1,198	\$1,616	\$2,034	\$2,451	\$2,869											
J	\$1,220	\$1,651	\$2,083	\$2,513	\$2,945	\$3,376	\$3,806	\$4,238	\$4,669	\$5,100	\$5,531	\$5,963	\$6,393	\$2.20	\$2.45	\$2.70
	\$1,231	\$1,660	\$2,089	\$2,518	\$2,947											
K	\$1,254	\$1,698	\$2,141	\$2,584	\$3,027	\$3,471	\$3,913	\$4,357	\$4,800	\$5,243	\$5,686	\$6,130	\$6,572	\$2.45	\$2.70	\$2.95
	\$1,266	\$1,707	\$2,148	\$2,589	\$3,030											
L	\$1,288	\$1,744	\$2,200	\$2,654	\$3,110	\$3,565	\$4,020	\$4,475	\$4,931	\$5,385	\$5,841	\$6,297	\$6,751	\$2.70	\$2.95	\$3.20
	\$1,300	\$1,753	\$2,206	\$2,659	\$3,112											
M	\$1,324	\$1,793	\$2,261	\$2,728	\$3,197	\$3,665	\$4,132	\$4,601	\$5,069	\$5,536	\$6,005	\$6,473	\$6,940	\$2.95	\$3.20	\$3.45
	\$1,336	\$1,802	\$2,268	\$2,734	\$3,199											
N	\$1,360	\$1,842	\$2,323	\$2,803	\$3,284	\$3,765	\$4,245	\$4,726	\$5,207	\$5,687	\$6,168	\$6,649	\$7,129	\$3.20	\$3.45	\$3.70
	\$1,373	\$1,851	\$2,330	\$2,808	\$3,286											
O	\$1,398	\$1,893	\$2,388	\$2,881	\$3,376	\$3,870	\$4,364	\$4,858	\$5,353	\$5,846	\$6,341	\$6,835	\$7,329	\$3.45	\$3.70	\$3.95
	\$1,411	\$1,903	\$2,395	\$2,887	\$3,379											
P	\$1,437	\$1,945	\$2,453	\$2,959	\$3,468	\$3,976	\$4,482	\$4,991	\$5,499	\$6,005	\$6,513	\$7,022	\$7,528	\$3.70	\$3.95	\$4.20
	\$1,450	\$1,955	\$2,460	\$2,965	\$3,471											

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

Level	Monthly Income According to Family Size													Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	11	12	13+	1	2	3 or more
Q	<u>\$1,477</u>	<u>\$1,999</u>	<u>\$2,521</u>	<u>\$3,042</u>	<u>\$3,565</u>	\$4,087	\$4,608	\$5,130	\$5,653	\$6,173	<u>\$6,696</u>	<u>\$7,218</u>	<u>\$7,739</u>	\$3.95	\$4.20	\$4.45
	<u>\$1,490</u>	<u>\$2,010</u>	<u>\$2,529</u>	<u>\$3,048</u>	<u>\$3,568</u>											
R	<u>\$1,517</u>	<u>\$2,054</u>	<u>\$2,590</u>	<u>\$3,125</u>	<u>\$3,662</u>	\$4,198	\$4,733	\$5,270	\$5,807	\$6,342	<u>\$6,878</u>	<u>\$7,415</u>	<u>\$7,950</u>	\$4.20	\$4.45	\$4.70
	<u>\$1,531</u>	<u>\$2,064</u>	<u>\$2,598</u>	<u>\$3,131</u>	<u>\$3,665</u>											
S	<u>\$1,559</u>	<u>\$2,111</u>	<u>\$2,663</u>	<u>\$3,213</u>	<u>\$3,764</u>	\$4,316	\$4,866	\$5,418	\$5,969	\$6,519	<u>\$7,071</u>	<u>\$7,622</u>	<u>\$8,172</u>	\$4.45	\$4.70	\$4.95
	<u>\$1,574</u>	<u>\$2,122</u>	<u>\$2,671</u>	<u>\$3,219</u>	<u>\$3,767</u>											
T	<u>\$1,602</u>	<u>\$2,169</u>	<u>\$2,735</u>	<u>\$3,300</u>	<u>\$3,867</u>	\$4,433	\$4,998	\$5,565	\$6,132	\$6,697	<u>\$7,263</u>	<u>\$7,830</u>	<u>\$8,395</u>	\$4.70	\$4.95	\$5.20
	<u>\$1,617</u>	<u>\$2,180</u>	<u>\$2,743</u>	<u>\$3,307</u>	<u>\$3,870</u>											
U	<u>\$1,647</u>	<u>\$2,229</u>	<u>\$2,812</u>	<u>\$3,393</u>	<u>\$3,975</u>	\$4,558	\$5,138	\$5,721	\$6,303	\$6,884	<u>\$7,467</u>	<u>\$8,049</u>	<u>\$8,630</u>	\$4.95	\$5.20	\$5.45
	<u>\$1,662</u>	<u>\$2,241</u>	<u>\$2,820</u>	<u>\$3,399</u>	<u>\$3,978</u>											
V	<u>\$1,692</u>	<u>\$2,290</u>	<u>\$2,888</u>	<u>\$3,485</u>	<u>\$4,083</u>	\$4,682	\$5,278	\$5,877	\$6,475	\$7,072	<u>\$7,670</u>	<u>\$8,269</u>	<u>\$8,865</u>	\$5.20	\$5.45	\$5.70
	<u>\$1,707</u>	<u>\$2,302</u>	<u>\$2,897</u>	<u>\$3,492</u>	<u>\$4,087</u>											
W	<u>\$1,739</u>	<u>\$2,354</u>	<u>\$2,969</u>	<u>\$3,583</u>	<u>\$4,198</u>	\$4,813	\$5,426	\$6,041	\$6,656	\$7,270	<u>\$7,885</u>	<u>\$8,500</u>	<u>\$9,113</u>	\$5.45	\$5.70	\$5.95
	<u>\$1,755</u>	<u>\$2,367</u>	<u>\$2,978</u>	<u>\$3,590</u>	<u>\$4,201</u>											
X	<u>\$1,786</u>	<u>\$2,418</u>	<u>\$3,050</u>	<u>\$3,680</u>	<u>\$4,312</u>	\$4,944	\$5,574	\$6,206	\$6,838	\$7,468	<u>\$8,100</u>	<u>\$8,732</u>	<u>\$9,362</u>	\$5.70	\$5.95	\$6.20
	<u>\$1,803</u>	<u>\$2,431</u>	<u>\$3,059</u>	<u>\$3,687</u>	<u>\$4,316</u>											
Y	<u>\$1,836</u>	<u>\$2,486</u>	<u>\$3,136</u>	<u>\$3,783</u>	<u>\$4,433</u>	\$5,082	\$5,730	\$6,380	\$7,029	\$7,677	<u>\$8,326</u>	<u>\$8,976</u>	<u>\$9,624</u>	\$5.95	\$6.20	\$6.45
	<u>\$1,853</u>	<u>\$2,499</u>	<u>\$3,145</u>	<u>\$3,791</u>	<u>\$4,437</u>											
Z	<u>\$1,886</u>	<u>\$2,554</u>	<u>\$3,221</u>	<u>\$3,886</u>	<u>\$4,554</u>	\$5,221	\$5,886	\$6,553	\$7,221	\$7,886	<u>\$8,553</u>	<u>\$9,221</u>	<u>\$9,886</u>	\$6.20	\$6.45	\$6.70
	<u>\$1,904</u>	<u>\$2,567</u>	<u>\$3,231</u>	<u>\$3,894</u>	<u>\$4,557</u>											
AA	<u>\$1,939</u>	<u>\$2,625</u>	<u>\$3,311</u>	<u>\$3,995</u>	<u>\$4,681</u>	\$5,367	\$6,051	\$6,737	\$7,423	\$8,107	<u>\$8,793</u>	<u>\$9,479</u>	<u>\$10,163</u>	\$6.45	\$6.70	\$6.95
	<u>\$1,957</u>	<u>\$2,639</u>	<u>\$3,321</u>	<u>\$4,003</u>	<u>\$4,685</u>											
BB	<u>\$1,992</u>	<u>\$2,697</u>	<u>\$3,401</u>	<u>\$4,104</u>	<u>\$4,809</u>	\$5,513	\$6,216	\$6,920	\$7,625	\$8,328	<u>\$9,000</u>	<u>\$10,000</u>	<u>\$11,000</u>	\$6.70	\$6.95	\$7.20
	<u>\$3,000</u>	<u>\$4,000</u>	<u>\$5,000</u>	<u>\$6,000</u>	<u>\$7,000</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,000</u>	<u>\$8,500</u>						

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) To use the chart:
  1. No change.
  2. Move across the monthly income table to the column headed by that number. (See paragraph "5" if the family has more than ten members.)
  3. and 4. No change.
  5. ~~When a family has more than ten members, determine the income level by multiplying the figures in the four-member column for the rows closest to the family's income level by 0.03. Round the numbers to the nearest dollar and multiply by the number of family members in excess of ten. Add the results to the amounts in the ten-member column to determine the threshold amounts.~~

## ARC 2456C

### PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

#### 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 546.3 and 546.10, the Professional Licensing and Regulation Bureau hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Chapter 3, "Vendor Appeals," Chapter 5, "Waivers and Variances from Rules," Chapter 7, "Contested Cases," Chapter 8, "Denial of Issuance or Renewal of License for Nonpayment of Child Support, Student Loan, or State Debt," Chapter 9, "Petition for Rule Making," Chapter 10, "Declaratory Orders," and Chapter 13, "Public Records and Fair Information Practices," Iowa Administrative Code.

The Professional Licensing and Regulation Bureau of the Banking Division of the Department of Commerce coordinates the functions of seven professional licensing boards. In 2001, the Bureau (which was then a Division within the Department of Commerce), with the consent of the six boards then in existence, adopted a series of procedural chapters that would be applicable to all boards within the Bureau. At the same time, procedural rules were removed from the chapters of rules dedicated to individual boards. This initiative streamlined the rules and afforded stronger consistency among boards on procedural matters.

The amendments proposed herein are a result of the five-year rolling review of administrative rules as outlined in Iowa Code section 17A.7(2). Board staff, with the assistance of legal counsel, reviewed all 14 chapters of the Bureau's rules to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The proposed amendments were then shared with all seven boards and with others who may be impacted, such as the Administrative Hearings Division of the Department of Inspections and Appeals.

The amendments to Chapter 1 remove the references to specific chapters of each board's rules, update the Bureau's physical address, add applicant contact information, and remove newsletter advertising. Amendments in Chapters 3, 5, 9, 10, and 13 allow for e-mail and electronic notice. Amendments in Chapters 7 and 8 revise contested case rules to align with changes in procedure, including recent amendments to the Iowa Rules of Civil Procedure, and to merge rules regarding the denial or suspension of a license associated with the collection of state debt, college student loans, and child support.

Consideration will be given to all written suggestions or comments received on or before April 5, 2016. Comments should be directed to Lori SchraderBachar, Iowa Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to [lori.schraderbachar@iowa.gov](mailto:lori.schraderbachar@iowa.gov).

A public hearing will be held on April 5, 2016, at 9 a.m. in the Bureau Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

give the person's name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend a public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Bureau and advise of specific needs.

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

The proposed amendments were approved by the Accountancy Examining Board on February 11, 2016; the Architectural Examining Board on January 12, 2016; the Engineering and Land Surveying Examining Board on January 13, 2016; the Interior Design Examining Board on February 11, 2016; the Landscape Architectural Examining Board on January 19, 2016; the Real Estate Commission on February 4, 2016; and the Real Estate Appraiser Examining Board on February 9, 2016.

After analysis and review of this rule making, the Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 546.10, as well as the statutes identified in each chapter, including Iowa Code chapters 17A, 252J, 272C, 272D, 542, 542B, 543B, 543D, 544A, 544B, and 544C and Iowa Code sections 261.126 and 261.127.

The following amendments are proposed.

ITEM 1. Amend rule 193—1.4(546) as follows:

**193—1.4(546) Purpose of the bureau.** The bureau exists to coordinate the administrative support for the following seven professional licensing boards:

**1.4(1)** The engineering and land surveying examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of four professional engineers, one land surveyor, and two public members. The board administers Iowa Code chapter 542B, Professional Engineers and Land Surveyors, and board rules published under agency number [193C]—~~Chapters 1 to 13,~~ in the Iowa Administrative Code.

**1.4(2)** The accountancy examining board is an eight-member board appointed by the governor and confirmed by the senate. The board is composed of five certified public accountants, two public members, and one licensed public accountant. The board administers Iowa Code chapter 542, Public Accountants, and board rules published under agency number [193A]—~~Chapters 1 to 19,~~ in the Iowa Administrative Code.

**1.4(3)** The real estate commission is a seven-member commission appointed by the governor and confirmed by the senate. It is composed of five members, one of whom must be a salesperson, licensed under Iowa Code chapter 543B and two public members. The commission administers Iowa Code chapters 543B, Real Estate Brokers and Salespersons; 543C, Sales of Subdivided Land Outside of Iowa; 557A, Time-Shares; and commission rules published under agency number [193E]—~~Chapters 1 to 21,~~ in the Iowa Administrative Code.

**1.4(4)** The architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five registered architects and two public members. The board administers Iowa Code chapter 544A, Registered Architects, and board rules published under agency number [193B]—~~Chapters 1 to 7,~~ in the Iowa Administrative Code.

**1.4(5)** The landscape architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five registered landscape architects and two public members. The board administers Iowa Code chapter 544B, Landscape Architects, and board rules published under agency number [193D]—~~Chapters 1 to 4,~~ in the Iowa Administrative Code.

**1.4(6)** The real estate appraiser examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five certified real estate appraisers and two public members. The board administers Iowa Code chapter 543D, Real Estate Appraisals and Appraisers, and board rules published under agency number [193F]—~~Chapters 1 to 15,~~ in the Iowa Administrative Code.

**1.4(7)** The interior design examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five registered interior designers and two public members. The board administers Iowa Code chapter 544C, Registered Interior Designers, and board rules published under agency number [193G]—~~Chapters 1 and 2,~~ in the Iowa Administrative Code.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

ITEM 2. Amend rule 193—1.5(546) as follows:

**193—1.5(546) Offices and communications.** Correspondence and communications with the bureau or the boards in the bureau shall be addressed or directed to their offices at ~~1920 S.E. Hulsizer Road, Ankeny, Iowa 50021~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. Each of the boards may be contacted through the bureau telephone number ~~(515)281-5910~~ (515)725-9022.

ITEM 3. Amend subrule 1.7(3) as follows:

**1.7(3)** To hire, allocate, develop, and supervise members of the staff employed to perform the duties assigned to the bureau and the boards in the bureau, including hiring a bureau chief to perform such administrative duties as may be assigned by the administrator and designating staff to act as the executive officer, who may be referred to as the board administrator, for and lawful custodian of the records of each board in the bureau.

ITEM 4. Renumber rule **193—1.9(272C,542,542B,543B,543D,544A,544B,544C)** as **193—1.10(272C,542,542B,543B,543D,544A,544B,544C)**.

ITEM 5. Adopt the following new rule 193—1.9(272C,542,542B,543B,543D,544A,544B,544C):

**193—1.9(272C,542,542B,543B,543D,544A,544B,544C) Applicant contact information.** In addition to the mailing address(es) that must be provided in accordance with the individual board's rules, applicants of the boards within the bureau must provide a telephone number and, if applicable, an e-mail address. The boards within the bureau will honor the "safe at home" address issued by any state's program and protective orders in domestic abuse proceedings or otherwise issued to preserve confidentiality of a person's physical location.

ITEM 6. Amend renumbered rule 193—1.10(272C,542,542B,543B,543D,544A,544B,544C) as follows:

**193—1.10(272C,542,542B,543B,543D,544A,544B,544C) Newsletter.**

**1.10(1)** The administrator or administrator's designee may publish or contract with a vendor to publish a newsletter as a nonpublic forum to disseminate official information related to the regulated professions. This official information may include statutory requirements, statutory changes, rules, rule changes, proposed or pending rule changes, licensing requirements, license renewal procedures, board action, board interpretative rulings or guidelines, office procedures, disciplinary action, ethical or professional standards, education requirements, education opportunities (prelicense education, continuing education, and professional development), board business, board meetings, board news, and matters related thereto.

**1.10(2)** When boards are required or allowed to ~~mail notices to~~ notify licensees about matters such as license renewal, the boards may include such notices in the newsletter.

**1.10(3)** ~~The newsletter may include vendor advertising to:~~

~~a. Enable the boards to communicate with licensees and other interested persons without expending moneys appropriated from the state's general fund; and~~

~~b. Provide a targeted opportunity for licensees to receive profession-specific information to facilitate entry into the profession and enhance professional performance.~~

~~**1.10(4)** All newsletter advertising must be consistent with the boards' missions. The primary mission of the boards in the bureau is to provide progressive, efficient and professional regulation and enforcement of the professions; to protect the public through examination, licensing and regulation of the professions; and to enhance economic growth through the responsible, competent, and ethical performance of the professions.~~

~~**1.10(5)** All newsletter advertising must be professional and respectful of the nature of the regulated professions, established as a nonpublic forum, and consistent with guidelines established by the administrator. Advertising shall be restricted to commercial offerings of goods and services directly related to the lawful practice of the professions or the regulation of the professions. Political, advocacy or issue-oriented advertising shall not be permitted.~~

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

~~1.10(6)~~ Newsletter advertising shall be considered consistent with the boards' missions if it pertains to commercial offerings of goods or services in one or more of the following areas:

- ~~a.~~—Entry into the profession, such as prelicense education or internship opportunities.
- ~~b.~~—A licensee's compliance with statutes or rules, such as continuing education courses or publications containing professional standards.
- ~~c.~~—The lawful and competent performance of the profession, e.g., errors and omissions insurance, or goods or services uniquely used in the profession, such as land surveying equipment or seals for design professionals.
- ~~d.~~—Employment opportunities in the profession.
- ~~e.~~—A professional's marketing of professional services to other professionals, e.g., a design professional's advertising the availability of specialized design services for other design professionals.
- ~~f.~~—Education programs designed to enhance credentials of professionals, or profession-specific degrees.

~~1.10(7)~~ Newsletter advertising shall be clearly separated from the substantive sections of each newsletter. Vendors authorized to solicit newsletter advertising must do so consistent with the administrator's advertising guidelines in a manner which is viewpoint neutral and nondiscriminatory in all respects. Goods or services advertised in a newsletter must be lawful for all possible readers of any age to view, use or buy. The front page of each newsletter containing advertising must include a prominent disclaimer notifying the reader that the boards play no role in the solicitation of advertising, and do not explicitly or implicitly endorse any advertiser or any good or service advertised in the newsletter.

~~1.10(8)~~ Commencing with the first bureau newsletter distributed on or after July 1, 2008, newsletter circulation may, at the administrator's sole discretion, include additional licensees within the division of banking, including but not limited to the following: state banks (Iowa Code chapter 524), debt management companies (Iowa Code chapter 533A), money services providers (Iowa Code chapter 533C), delayed deposit services providers (Iowa Code chapter 533D), mortgage bankers, mortgage brokers, and mortgage originators (Iowa Code chapter 535B), regulated loan companies (Iowa Code chapter 536), industrial loan companies (Iowa Code chapter 536A), and state chartered savings and loans (Iowa Code chapter 534). If the administrator expands the circulation as provided in this subrule, the newsletter may include advertising consistent with this rule on the topics listed in subrule 1.9(6) as such topics would apply to the additional types of licensees.

ITEM 7. Amend rule 193—3.1(546) as follows:

**193—3.1(546) Purpose.** This chapter outlines a uniform process for vendor appeals for all boards in the bureau. The process shall be applicable only when board services are acquired through a formal bidding procedure not handled by the department of administrative services or the office of the chief information officer.

ITEM 8. Amend rule 193—3.2(546) as follows:

**193—3.2(546) Vendor appeals.** Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the board may appeal by filing a written notice of appeal with the board within five days of the date of the award, exclusive of Saturdays, Sundays, and legal state holidays. A written notice may be filed by ~~fax transmission to (515)281-7414~~ e-mail. The notice of appeal must be received by the board within the time frame specified to be considered timely. The notice of appeal must state the vendor's complete legal name, street address, telephone number, ~~fax number,~~ e-mail address and the specific grounds upon which the vendor challenges the board's award, including legal authority, if any. The notice of appeal commences a contested case.

ITEM 9. Amend subrule 3.3(1) as follows:

**3.3(1)** Upon receipt of a notice of vendor appeal, the board shall issue a written notice of the date, time and location of the appeal hearing to both the aggrieved vendor or vendors and the successful vendor. Service of the written notice of hearing shall be sent to the e-mail address provided by the appellant unless

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

the appellant specifically requests that notice be mailed or sent by certified mail. Hearing shall be held within 60 days of the date the notice of appeal was received by the board.

ITEM 10. Amend rule 193—5.6(17A,546) as follows:

**193—5.6(17A,546) Content of petition.** A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, e-mail address, and telephone number of the entity or person for whom a waiver is requested and the case number of any related contested case.

2. to 6. No change.

7. The name, address, e-mail address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

8. The name, address, e-mail address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

9. The name, address, e-mail address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. No change.

ITEM 11. Amend rule 193—5.8(17A,546) as follows:

**193—5.8(17A,546) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided. Notice may be provided by e-mail or similar electronic means.

ITEM 12. Amend subrule 5.10(9) as follows:

**5.10(9) Service of order.** Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law. Service of the written notice shall be sent to the e-mail address provided by the petitioner unless the petitioner specifically requests a mailed copy.

ITEM 13. Renumber rules **193—5.11(17A,546)** to **193—5.16(17A,546)** as **193—5.12(17A,546)** to **193—5.17(17A,546)**.

ITEM 14. Adopt the following **new** rule 193—5.11(17A):

**193—5.11(17A) Interim rulings.**

**5.11(1)** The board chair, or vice chair, if the chair is unavailable, may rule on a petition for waiver or variance if (a) the petition was not filed in a contested case, (b) the ruling would not be timely if made at the next regularly scheduled board meeting, and (c) the ruling can be based on board precedent or a reasonable extension of prior board action on similar requests.

**5.11(2)** The board chair or vice chair may call a special telephonic meeting of the board if a ruling cannot be made under subrule 5.11(1) and the practical result of waiting until the next regularly scheduled board meeting would be denial of the request due to timing issues.

**5.11(3)** Interim rulings are effective when made, but they shall also be placed on the agenda at the next regularly scheduled board meeting and recorded in the minutes.

ITEM 15. Amend rule 193—7.1(17A,542,542B,543B,543D,544A,544B,544C) as follows:

**193—7.1(17A,542,542B,543B,543D,544A,544B,544C) Definitions.** Except where otherwise specifically defined by law:

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“*Board*” includes the engineering and land surveying examining board (Iowa Code chapter 542B), the accountancy examining board (Iowa Code chapter 542), the real estate commission (Iowa Code chapter 543B), the real estate appraiser examining board (Iowa Code chapter 543D), the architectural examining board (Iowa Code chapter 544A), the landscape architectural examining board (Iowa Code chapter 544B), and the interior design examining board (Iowa Code chapter 544C).

“*Contested case*” means any adversary proceeding before a board to determine whether disciplinary action should be taken against a licensee under Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C; an adversary proceeding requested by against a nonlicensee pursuant to Iowa Code section 542.14, 542B.27, 543B.34, 543D.21, or 544A.15; or any other proceeding designated a contested case by any provision of law, including but not limited to adversary proceedings involving license applicants and the reinstatement of a suspended, revoked or voluntarily surrendered license.

“*Issuance*” means the date of mailing of a decision or order, or date of delivery if service is by other means unless another date is specified by rule or in the order.

“*License*” means a license, registration, certificate, permit or other form of practice permission required or authorized by Iowa Code chapter 542, 542B, 543B, 543D, 544A, 544B, or 544C.

“*Party*” means the state, as represented by the assistant attorney general assigned to prosecute the case on behalf of the public interest, the respondent or applicant, or an intervenor.

“*Presiding officer*” means the board and, when applicable, a panel of board members; or an administrative law judge assigned to render a proposed decision in a nondisciplinary contested case.

“*Probable cause*” means a reasonable ground for belief in the existence of facts which would support a specified proceeding under applicable law and rules.

“*Quorum*” means a majority of the members of the board. Action may generally be taken upon a majority vote of board members present at a meeting who are not disqualified, although discipline may only be imposed by a majority vote of the members of the board who are not disqualified and, for the engineering and land surveying examining board, only upon an affirmative vote of at least five members of the board.

ITEM 16. Amend rule 193—7.2(17A,542,542B,543B,543D,544A,544B,544C,546) as follows:

**193—7.2(17A,542,542B,543B,543D,544A,544B,544C,546) Scope and applicability of the Iowa Rules of Civil Procedure.** This chapter applies to contested cases conducted by all boards in the bureau. Except as expressly provided in Iowa Code chapter 17A and these rules, the Iowa Rules of Civil Procedure do not apply to contested case proceedings. However, upon application by a party, the board may permit the use of procedures provided for in the Iowa Rules of Civil Procedure unless doing so would unreasonably complicate the proceedings or impose an undue hardship on a party.

ITEM 17. Amend rule 193—7.3(17A,272C) as follows:

**193—7.3(17A,272C) Probable Commencement of a contested case and probable cause.** ~~In the event the board finds there is probable cause for taking disciplinary action against a licensee, the board shall order a~~ A contested case hearing in a disciplinary proceeding is commenced by the filing and service of a statement of charges and notice of hearing. A contested case in a nondisciplinary proceeding is commenced by the filing and service of a notice of hearing. A contested case may only be commenced by the board upon a finding of probable cause to do so by a quorum of the board.

ITEM 18. Amend subrule 7.6(1) as follows:

**7.6(1) Contents of notice of hearing.** Unless the hearing is waived, all contested cases shall commence with the service of a notice of hearing fixing the time and place for hearing. The notice, including any incorporated or attached statement of charges, shall contain those items specified in Iowa Code section 17A.12(2) and, if applicable, Iowa Code section 17A.18(3), and the following:

1. to 9. No change.

10. A statement requiring or authorizing the respondent to submit an answer of the type specified in rule 193—7.9(17A,272C) within 20 days after service of the notice of hearing.

11. No change.

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12. Information on who to contact if, because of a disability, auxiliary aids or services are needed for a party to participate in the matter.

13. If applicable, the date, time, and manner of conduct of a prehearing conference under rule 193—7.21(17A,272C).

14. The mailing address and e-mail address for filing with the board and notice of the option of e-mail service as provided in subrule 7.17(6).

ITEM 19. Amend rule 193—7.7(13,272C) as follows:

**193—7.7(13,272C) Legal representation.**

7.7(1) Every statement of charges and notice of hearing prepared by the board shall be reviewed and approved by the office of the attorney general, which shall be responsible for the legal representation of the public interest in all proceedings before the board. The assistant attorney general assigned to prosecute a contested case before the board shall not represent the board in that case but shall represent the public interest.

7.7(2) The respondent or applicant may be represented by an attorney. The attorney shall file an appearance in the contested case. If the attorney is not licensed to practice law in Iowa, the attorney shall comply with Iowa Court Rule 31.14. Business entities may be represented in a contested case by a nonlawyer partner, officer, director, shareholder, member, director, or other owner or manager.

ITEM 20. Amend subrule 7.9(1), introductory paragraph, as follows:

7.9(1) ~~The~~ Unless otherwise provided in the notice of hearing, the answer shall contain the following information:

ITEM 21. Amend rule 193—7.13(17A,272C) as follows:

**193—7.13(17A,272C) Telephone and electronic proceedings.** The presiding officer may, on the officer's own motion or as requested by a party, order hearings or argument to be held by telephone conference or other electronic means in which all parties have an opportunity to participate. The presiding officer will determine the location of the parties and witnesses for telephone or other electronic hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen. Disciplinary hearings will generally not be held by telephone or electronic means in the absence of consent by all parties, but the presiding officer may permit any witness to testify by telephone or other electronic means. Parties shall disclose at or before the prehearing conference if any witness will be testifying by telephone or other electronic means. Objections, if any, shall be filed with the board and served on all parties at least three business days in advance of hearing.

ITEM 22. Amend subrule 7.14(2) as follows:

7.14(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. A person voluntarily appearing before the board or a committee of the board waives any objection to a board member or board staff both participating in the appearance and later participating as a decision maker or aid to the decision maker in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17(3) and subrule 7.28(9).

ITEM 23. Amend subrule 7.14(4) as follows:

7.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.14(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code ~~section~~ sections

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17A.11(3) and 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

ITEM 24. Amend subrule 7.14(6) as follows:

**7.14(6)** A motion to disqualify a board member or other person shall first be directed to the affected board member or other person for determination. If the board member or other person determines that disqualification is appropriate, the board member or other person shall withdraw from further participation in the case. If the board member or other person determines that withdrawal is not required, the presiding officer shall promptly review that determination, provided that, if the person at issue is an administrative law judge, the review shall be by the board. If the presiding officer determines that disqualification is appropriate, the ~~presiding officer~~ board member or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 193—7.31(17A), if applicable, and seek a stay under rule 193—7.34(17A).

ITEM 25. Amend subrule 7.17(4) as follows:

**7.17(4)** Filing—*how and when made.* Except where otherwise provided by law, a document is deemed filed at the time it is received by the board. Parties may file documents with the board by hand delivery or mail or by electronic transmission to the e-mail address specified in the notice of hearing. If a document required to be filed within a prescribed period or on or before a particular date is received by the board after such period or such date, the document shall be deemed filed on the date it is mailed by first-class mail or state interoffice mail, so long as there is proof of mailing. Filing by electronic transmission is complete upon transmission unless the party making the filing learns that the attempted filing did not reach the board. The board will not provide a mailed file-stamped copy of documents filed by e-mail or other approved electronic means.

ITEM 26. Amend subrule 7.17(6) as follows:

**7.17(6)** Electronic service. The presiding officer may by order or a party or a party's attorney may by consent permit service or filing of particular documents by ~~facsimile~~, e-mail or similar electronic means, unless precluded by a provision of law. In the absence of such an order or consent, ~~facsimile or~~ electronic transmission shall not satisfy service or filing requirements, but may be used to supplement service or filing when rapid notice is desirable. Consent to electronic service by a party or a party's attorney shall be in writing, may be accomplished through electronic transmission to the board and other parties, and shall specify the e-mail address for such service. Service by electronic transmission is complete upon transmission unless the board or party making service learns that the attempted service did not reach the party to be served.

ITEM 27. Amend rule 193—7.18(17A) as follows:

**193—7.18(17A) Discovery.**

**7.18(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

**7.18(2)** Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.18(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**7.18(3)** Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

**7.18(1)** The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings.

**7.18(2)** The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written

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questions; written interrogatories; production of documents, electronically stored information, and things; and requests for admission. Unless lengthened or shortened by the presiding officer, the time frames for discovery in the specific Iowa Rules of Civil Procedure govern those specific procedures.

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in a contested case proceeding. Any party taking a deposition in a contested case shall be responsible for any deposition costs, unless otherwise specified or allocated in an order. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in a contested case proceeding.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things in a contested case proceeding.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in a contested case proceeding. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in a contested case proceeding.

7.18(3) The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to a contested case proceeding. However, upon application by a party, the board may order the parties to comply with these procedures unless doing so would unreasonably complicate the proceeding or impose an undue hardship. As a practical matter, the purpose of the disclosure requirements and discovery conference is served by the board's obligation to supply the information described in Iowa Code section 17A.13(2) upon request while a contested case is pending and the mutual exchange of information required in a prehearing conference under rule 193—7.22(17A).

7.18(4) Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to a contested case proceeding.

7.18(5) Discovery shall be served on all parties to the contested case proceeding, but shall not be filed with the board.

7.18(6) A party may file a motion to compel or other motion related to discovery in accordance with this subrule. Any motion filed with the board relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve with the opposing party the discovery issues involved. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is lengthened or shortened by the presiding officer. The presiding officer may rule on the basis of the written motion and any response or may order argument on the motion.

7.18(7) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

ITEM 28. Amend rule 193—7.19(17A,272C) as follows:

**193—7.19(17A,272C) Issuance of subpoenas in a contested case.**

**7.19(1)** Subpoenas issued in a contested case may compel the attendance of witnesses at deposition or hearing, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or each command may be issued separately. Subpoenas shall be issued by the executive officer or designee upon a written request that complies with this rule. In the case of a request for a subpoena of mental health records, the request must confirm compliance with the following conditions prior to the issuance of the subpoena:

*a. to d.* No change.

**7.19(2)** A request for a subpoena shall include the following information, as applicable:

*a.* The name, address, e-mail address, and telephone number of the person requesting the subpoena;

*b. to g.* No change.

**7.19(3)** No change.

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**7.19(4)** The executive officer or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena. If a subpoena is requested to compel testimony or documents for rebuttal or impeachment at hearing, the person requesting the subpoena shall so state in the request and may ask that copies of the subpoena not be mailed to the parties in the contested case.

**7.19(5)** Any person who is aggrieved or adversely affected by compliance with the subpoena, or any party to the contested case who desires to challenge the subpoena, must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits. However, if a subpoena solely requests the production of books, papers, records, or other real evidence and does not also seek to compel testimony, the person who is aggrieved or adversely affected by compliance with the subpoena may alternatively serve written objection on the requesting party before the earlier of the date specified for compliance or 14 days after the subpoena is served. The serving party may then file a motion asking the presiding officer to issue an order compelling production.

**7.19(6)** Upon receipt of a timely motion to quash or modify a subpoena or motion to compel production, the board may issue a decision or may request an administrative law judge to issue a decision. The administrative law judge or the board may quash or modify the subpoena, deny or grant the motion, or issue an appropriate protective order. Prior to ruling on the motion, the board or administrative law judge may schedule oral argument or hearing by telephone or in person.

**7.19(7)** No change.

**7.19(8)** If the person contesting the subpoena is not ~~the person under investigation~~ a party to the contested case proceeding, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is ~~the person under investigation~~ a party to the contested case proceeding, the board's decision is not final for purposes of judicial review until there is a final decision in the contested case.

ITEM 29. Amend subrules 7.20(4) and 7.20(5) as follows:

**7.20(4)** Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ~~five~~ seven days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the board or an order of the presiding officer.

**7.20(5)** Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure ~~237~~ 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

ITEM 30. Amend rule 193—7.21(17A,272C) as follows:

**193—7.21(17A,272C) Prehearing conference and disclosures.**

**7.21(1)** No change.

**7.21(2)** Each party shall ~~bring the following~~ disclose at or prior to the prehearing conference:

*a.* to *c.* No change.

**7.21(3)** No change.

**7.21(4)** Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference. Unless otherwise provided in the order setting a prehearing conference, the prehearing conference shall be conducted by an administrative law judge.

**7.21(5)** The parties shall exchange copies of all exhibits marked for introduction at hearing in the manner provided in subrule 7.26(4) no later than three business days in advance of hearing, or as ordered by the presiding officer at the prehearing conference.

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ITEM 31. Amend rule 193—7.25(17A,272C) as follows:

**193—7.25(17A,272C) Hearings.** The presiding officer shall be in control of the proceedings and shall have the authority to administer oaths and to admit or exclude testimony or other evidence and shall rule on all motions and objections. The board may request that an administrative law judge assist the board by performing any of these functions. Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney at the party's expense.

**7.25(1)** No change.

**7.25(2) Public hearing.** The hearing shall be open to the public unless a licensee or licensee's attorney requests in writing that a licensee disciplinary hearing be closed to the public. At the request of a party or on the presiding officer's own motion, the presiding officer may issue a protective order to protect all or a part of a record or information which is privileged or confidential by law.

**7.25(3) to 7.25(7)** No change.

**7.25(8) Witness representation.** Witnesses are entitled to be represented by an attorney at their own expense. In a closed hearing, the attorney may be present only when the client testifies. The attorney may assert legal privileges personal to the client, but may not make other objections. The attorney may only ask questions of the client to prevent a misstatement from entering the record.

**7.25(9) Depositions.** Depositions may be used at hearing to the extent permitted by Iowa Rule of Civil Procedure 1.704.

**7.25(10) Witness fees.** The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing, unless otherwise specified or allocated in an order. The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. Witnesses are entitled to reimbursement for mileage and may be entitled to reimbursement for meals and lodging, as incurred.

ITEM 32. Amend subrule 7.26(4) as follows:

**7.26(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents shall be provided to opposing parties. Copies should also be furnished to members of the board. All exhibits admitted into evidence shall be appropriately marked and be made part of the record. The state's exhibits shall be marked numerically, and the applicant's or respondent's exhibits shall be marked alphabetically.

ITEM 33. Amend subrule 7.27(6) as follows:

**7.27(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.977.

ITEM 34. Amend subrule 7.30(1) as follows:

**7.30(1) Final decision.** When a quorum of the board presides over the reception of evidence at the hearing, the decision is a final decision. The final decision of the board shall be filed with the executive officer. A copy of the final decision and order shall immediately be sent by certified mail, return receipt requested, to the licensee's or other respondent's last-known U.S. Postal Service address or may be served as in the manner of original notices. A party's attorney may waive formal service and accept service in writing for the party. Copies shall be mailed by interoffice mail or first-class mail to the prosecutor and counsel of record.

ITEM 35. Amend subrule 7.32(2) as follows:

**7.32(2) Appeal by party.** Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision. Such an appeal is required to exhaust administrative remedies and is a jurisdictional prerequisite to seeking judicial review.

ITEM 36. Amend paragraph **7.34(1)"b"** as follows:

*b.* Any party to a contested case proceeding may petition the board for a stay or other temporary remedies, pending judicial review of all or part of that proceeding. The petition shall state the reasons

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justifying a stay or other temporary remedy. Seeking a stay from the board is required to exhaust administrative remedies before a stay may be sought from the district court.

ITEM 37. Amend rule 193—7.38(17A,272C) as follows:

**193—7.38(17A,272C) Reinstatement.**

**7.38(1)** The term “reinstatement” as used in this rule shall include both the reinstatement of a suspended license and the issuance of a new license following the revocation or voluntary surrender of a license. Reinstating a license to active status under this rule is a two-step process:

*a.* First, the board must determine whether the suspended, revoked, or surrendered license may be reinstated under the terms of the order revoking or suspending the license or accepting the surrender of the license and under the two-part test described in subrule 7.38(5).

*b.* Second, if the board grants the application to reinstate, the licensee must complete and submit an application to demonstrate satisfaction of all administrative preconditions for reinstatement of the license to active status, including verification of completion of all continuing education and payment of reinstatement and renewal fees.

**7.38(2)** and **7.38(3)** No change.

**7.38(4)** All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for reinstatement of the respondent’s license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including the matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board. In addition, the board may grant an applicant’s request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

**7.38(5)** An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis of revocation, suspension or voluntary surrender of the respondent’s license no longer exists and that it will be in the public interest for the license to be reinstated. Compliance with subrule 7.30(3) must also be established. The burden of proof to establish such facts shall be on the respondent. An order of reinstatement may include such conditions as the board deems reasonable under the circumstances. The board may grant the application without hearing, but may not deny the application in whole or part without setting the matter for hearing or providing the applicant the opportunity to request a contested case hearing if aggrieved by a term of the reinstatement order.

**7.38(6)** No change.

ITEM 38. Rescind and reserve rules **193—7.43(252J)** to **193—7.45(272D)**.

ITEM 39. Amend **193—Chapter 8** as follows:

CHAPTER 8

DENIAL OF ISSUANCE OR RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE FOR NONPAYMENT OF CHILD SUPPORT, STUDENT LOAN, OR STATE DEBT

**193—8.1(252J) Nonpayment of child support.** The board shall deny the issuance or renewal of a license or suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

**8.1(1)** No change.

**8.1(2)** The effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

**8.1(3)** and **8.1(4)** No change.

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**8.1(5)** All board fees for applications, license renewal or reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license or suspended or revoked a license pursuant to Iowa Code chapter 252J.

**8.1(6)** In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**8.1(7)** The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, and shall similarly notify the licensee or applicant when the license is issued, ~~or~~ renewed or reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

**193—8.2(261) Nonpayment of student loan.** The board shall deny the issuance or renewal of a license or suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code ~~chapter 261~~ section 261.126. In addition to those procedures, this rule shall apply.

**8.2(1)** No change.

**8.2(2)** The effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or licensee.

**8.2(3)** and **8.2(4)** No change.

**8.2(5)** All board fees required for application, license renewal or license reinstatement must be paid by applicants or licensees, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or suspended or revoked a license pursuant to Iowa Code chapter 261.

**8.2(6)** In the event an applicant or licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**8.2(7)** The board shall notify the applicant or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, and shall similarly notify the applicant or licensee when the license is issued, ~~or~~ renewed or reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

**193—8.3(272D) Nonpayment of state debt.** The board shall deny the issuance or renewal of a license or suspend or revoke a license upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

**8.3(1)** No change.

**8.3(2)** The effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee or applicant.

**8.3(3)** and **8.3(4)** No change.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

**8.3(5)** All board fees required for applications application, license renewal or reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license or suspended or revoked a license pursuant to Iowa Code chapter 272D.

**8.3(6)** In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**8.3(7)** The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license or the suspension or revocation of a license, and shall similarly notify the licensee or applicant when the license is issued, or renewed or reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

These rules are intended to implement Iowa Code chapters 252J and 272D and Iowa Code sections 261.126 and 261.127.

ITEM 40. Amend rule 193—9.1(17A) as follows:

**193—9.1(17A) Petition for rule making.** Any person, board or other state agency may file a petition for rule making with the board.

A petition is deemed filed when it is received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)	
Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}
PETITION FOR RULE MAKING	

The petition must provide the following information:

- 1. to 4. No change.
- 5. The names, and addresses, and e-mail addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
- 6. No change.

**9.1(1)** The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, e-mail address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**9.1(2)** No change.

ITEM 41. Amend subrule 9.4(2) as follows:

**9.4(2)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Service of the written notice shall be sent to the e-mail address provided by the petitioner unless the petitioner specifically requests a mailed copy.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Petitioner shall be deemed notified of the denial or granting of the petition on the date when the board mails e-mails or delivers the required notification to petitioner.

ITEM 42. Amend rule 193—10.1(17A) as follows:

**193—10.1(17A) Petition for declaratory order.** Any person may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board at the board's offices. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)

Petition by (Name of Petitioner) for  
Declaratory Order on (Cite provisions  
of law involved).

}

PETITION FOR  
DECLARATORY ORDER

The petition must provide the following information:

1. to 6. No change.
7. The names, ~~and~~ addresses, and e-mail addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions in the petition.
8. Any request by petitioner for a meeting provided for by 193—10.7(17A). The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, e-mail address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 43. Amend rule 193—10.2(17A) as follows:

**193—10.2(17A) Notice of petition.** Within ten days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to 193—10.6(17A) to whom notice is required by any provision of law. The board may also give notice to any other persons. Notice may be provided by e-mail or similar electronic means.

ITEM 44. Amend subrule 10.3(3) as follows:

**10.3(3)** A petition for intervention shall be filed at the board's offices. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)

Petition by (Name of Original Petitioner)  
for Declaratory Order on (Cite provisions  
of law cited in original petition).

}

PETITION FOR  
INTERVENTION

The petition for intervention must provide the following information:

1. to 4. No change.
5. The names, ~~and~~ addresses, and e-mail addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. No change.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, e-mail address, and telephone number of the intervenor and

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

intervenor's representative, and a statement indicating the person to whom communications should be directed.

ITEM 45. Amend subrule 10.8(1) as follows:

**10.8(1)** Within the time allowed after receipt of a petition for a declaratory order, the board shall take action on the petition within 30 days after receipt as required by Iowa Code section 17A.9. Within 30 days after receipt of a petition for a declaratory order, an agency shall, in writing, do one of the following:

a. Issue an order declaring the applicability of the statute, rule, or order in question to the specified circumstances;

b. Set the matter for specified proceedings;

c. Agree to issue a declaratory order by a specified time; or

d. Decline to issue a declaratory order, stating the reasons for its action.

ITEM 46. Amend rule 193—10.11(17A) as follows:

**193—10.11(17A) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order shall be ~~mailed~~ e-mailed promptly to the original petitioner and all intervenors unless the petitioner specifically requests a mailed copy.

ITEM 47. Amend subrule 13.3(1) as follows:

**13.3(1) Location of record.** A request for access to a record should be directed to the board which owns or is in physical possession of the record. The request shall be directed to the appropriate board at ~~1920 S.E. Hulsizer, Ankeny, Iowa 50021~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

ITEM 48. Amend subrule 13.3(3) as follows:

**13.3(3) Request for access.** Requests for access to open records may be made in writing, in person, by facsimile, e-mail, or other electronic means, or by telephone. Requests shall identify the particular record sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, e-mail address, and telephone number of the person requesting the information to facilitate the board's response, unless other arrangements are made to permit production to a person wishing to remain anonymous. A person shall not be required to give a reason for requesting an open record.

ITEM 49. Amend subrule 13.4(3) as follows:

**13.4(3) Notice to subject of record and opportunity to obtain injunction.** After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address, e-mail address, or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

ITEM 50. Amend subrule 13.5(2) as follows:

**13.5(2) Request.** A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, e-mail address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

A person filing such a request shall, if possible, accompany the request with a copy of the record in question with those portions deleted for which such confidential record treatment has been requested. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

ITEM 51. Amend rule 193—13.6(17A,22) as follows:

**193—13.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.** Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the board at ~~1920 S.E. Hulsizer, Ankeny, Iowa 50021~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by the requester, and shall include the current address and telephone number of the requester or the requester's representative.

ITEM 52. Amend subrule 13.8(4) as follows:

**13.8(4)** Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services, centralized collection unit of the department of revenue for state debt, and college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code chapter 252J, sections 261.126 and 261.127 and chapter 272D.

ITEM 53. Amend subrule 13.11(1) as follows:

**13.11(1)** The subject of a confidential record may file a written request to review confidential records about that person. However, the agency need not release the following records to the subject:

*a.* to *c.* No change.

*d.* All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding, except those files the board can provide to the licensee before charges are filed pursuant to rules adopted under Iowa Code section 546.10(9).

~~*e.* Confidential personnel records of licensees and examination candidates. (Iowa Code section 22.7(11))~~

*f. e.* As otherwise authorized by law.

ITEM 54. Amend subrule 13.12(2) as follows:

**13.12(2) Confidential records.** The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

*a.* Personal related information in confidential personnel records of board staff, and board members and licensees. (Iowa Code section 22.7(11))

~~*b.* Personal related information in confidential personnel records of applicants for licensure. (Iowa Code section 22.7(11))~~

~~*e. b.*~~ *b.* All information in complaint and investigation files maintained by the board for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing or those files the board can provide to the licensee before charges are filed pursuant to rules adopted under Iowa Code section 546.10(9). Unlicensed complaint files are open to the public.

~~*d. c.*~~ *c.* The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders. Unlicensed hearing files are open to the public.

~~e.~~ d. Information relating to the examination results other than final score, except for information about the results of an examination which is given to the person who took the examination. (Iowa Code sections 542.17, 542B.32, 543B.52, 544A.27, and 544B.8)

~~f.~~ e. Information relating to the contents of an examination for licensure. (Iowa Code sections 542.17, 542B.32, 543B.52, 544A.27, and 544B.8)

~~g.~~ f. Minutes and tapes of closed meetings of the board. (Iowa Code section 21.5(4))

~~h.~~ g. Information or records received from a restricted source and any other information or records made confidential by law, such as academic transcripts or substance abuse treatment information.

~~i.~~ h. References for examination or licensure applicants. (Iowa Code section 22.7(18))

~~j.~~ i. Records which constitute attorney work products or attorney-client communications or which are otherwise privileged pursuant to Iowa Code sections section 22.7, 272C.6(4), 622.10 or 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.

~~k.~~ j. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

~~l.~~ k. Those portions of agency staff manuals, instructions or other statements issued which set forth the criteria or guidelines to be used by agency staff in auditing, making inspections, or in selecting or handling cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the board. (Iowa Code sections 17A.2 and 17A.3)

l. E-mail addresses of licensees when solicited for the purpose of mass communication. An e-mail address may be open to the public when given as part of a specific, individual e-mail correspondence.

ITEM 55. Amend rule 193—13.13(17A,22), introductory paragraph, as follows:

**193—13.13(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 193—13.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information. ~~Most records~~ Records are stored on paper ~~only, but information from paper records may also be stored~~ and in electronic form ~~and some records may also be stored only in electronic form.~~ The bureau's records retention schedule shall permit the destruction of paper records once the records are converted to an electronic format. Data regarding licensees is stored in a data processing system that permits the comparison of personally identifiable information in one record system with personally identifiable information in another system. Some information is may also be placed on the board's Web site or in its newsletter or shared with others to display in databases, national registries, and similar systems. The record systems maintained by the agency are:

ITEM 56. Amend rule 193—13.14(22), introductory paragraph, as follows:

**193—13.14(22) Other groups of records.** This rule describes groups of records maintained by the agency other than record systems as defined in rule 193—13.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, the records listed in rule 193—13.13(17A,22) may contain information about individuals. ~~All records~~ Records are stored on paper and electronic and may be stored and in automated data processing systems ~~unless otherwise noted.~~ The bureau's records retention schedule shall permit the destruction of paper records once the records are converted to an electronic format.

## PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

ITEM 57. Amend subrule 13.14(4) as follows:

**13.14(4)** Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to subrule 13.12(2), paragraphs “e” “b” and “d” “c.” These records may contain information about individuals collected under the authority of Iowa Code sections 542.10, 542B.21, 543B.29, 543D.17, 544A.13, 544B.15, and 544C.9.

ITEM 58. Renumber subrules **13.14(8)** to **13.14(14)** as **13.14(9)** to **13.14(15)**.

ITEM 59. Adopt the following **new** subrule 13.14(8):

**13.14(8)** Declaratory orders.

ITEM 60. Amend subrule 13.17(2) as follows:

**13.17(2)** *Home address*. License applicants and licensees are requested to provide both home and business addresses. Both addresses are treated as open records. The boards within the bureau will honor the “safe at home” address issued by any state’s program and protective orders in domestic abuse proceedings or otherwise issued to preserve confidentiality of a person’s physical location. If a license applicant or licensee has a basis to shield a home address from public disclosure, such as a domestic abuse protective order, written notification should be provided to the board office. Absent a court order, the board may not have a basis under Iowa Code chapter 22 to shield the home address from public disclosure, but the board may refrain from placing the home address on its Web site and may notify the applicant or licensee before the home address is released to the public to provide an opportunity for the applicant or licensee to seek injunction.

**ARC 2467C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**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 147.76 and 157.14, the Board of Cosmetology Arts and Sciences hereby gives Notice of Intended Action to amend Chapter 60, “Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences,” Iowa Administrative Code.

This amendment was approved by the Board of Cosmetology Arts and Sciences at its scheduled meeting held on December 7, 2015.

This amendment is intended to provide regulatory clarity to estheticians licensed by the Board of Cosmetology about the settings in which medical aesthetics can be practiced. Medical aesthetics are regulated by the Iowa Board of Medicine (IBOM), not the Board of Cosmetology. The IBOM has an existing rule which states that medical aesthetics can only be performed in a medical spa under the supervision of a medical director. This amendment simply references IBOM’s existing regulation so that licensees of the Iowa Board of Cosmetology know where to look to find the regulations relevant to the type of practice the licensee wishes to engage in.

Consideration will be given to all written comments on the proposed amendment received no later than Wednesday, April 6, 2016. Such written materials should be addressed to Venus Vendoures Walsh, Professional Licensure Division, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; e-mail [venus.vendoures-walsh@idph.state.ia.us](mailto:venus.vendoures-walsh@idph.state.ia.us).

A public hearing will be held on Wednesday, April 6, 2016, from 1 to 1:30 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapters 147, 157 and 272C.

The following amendment is proposed.

Adopt the following **new** subrule 60.5(6):

**60.5(6)** Licensed estheticians shall only perform medical aesthetic services in a medical spa under the delegation and supervision of a medical director as set forth by the Iowa board of medicine in rule 653—13.8(148,272C). The Iowa board of cosmetology arts and sciences does not license medical aestheticians.

**ARC 2465C****PROFESSIONAL LICENSURE DIVISION[645]****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 147.7, 147.76 and 157.14, the Board of Cosmetology Arts and Sciences hereby gives Notice of Intended Action to amend Chapter 61, “Licensure of Salons and Schools of Cosmetology Arts and Sciences,” and Chapter 63, “Sanitation for Salons and Schools of Cosmetology Arts and Sciences,” Iowa Administrative Code.

These amendments were approved by the Board of Cosmetology Arts and Sciences at its scheduled meeting held on December 7, 2015.

These proposed amendments promote a more business-friendly environment for cosmetology salons in the state of Iowa by reducing regulation in a number of areas. The amendments also continue to ensure that salon regulations are sufficient to protect the health and safety of salon clients.

These amendments remove the current requirement to keep jars of disinfectant at each work station and replace it with a requirement to keep disinfectant centrally available for use in a salon dispensary. The amendments would not prohibit salon owners from continuing the current practice, but would provide additional flexibility while still requiring disinfection of used implements prior to use of the same implements on another client.

Additionally, these amendments eliminate the current requirement to use disinfectant containing a tuberculocidal agent and replace it with a requirement to use an EPA-registered disinfectant instead. The requirement to use disinfectant with a tuberculocidal agent was added to the administrative rules over 20 years ago, during the height of the AIDS epidemic. More and more states are moving away from requiring the use of tuberculocidal disinfectant, opting instead to require EPA-registered disinfectants, due to a common belief that the tuberculocidal disinfecting agents are too harsh for use in the salon environment. Iowa is one of only six states (Virginia, New Jersey, Tennessee, Vermont, Minnesota and Iowa) that still require the use of a tuberculocidal agent for disinfection of implements and surfaces in salons and schools. Minnesota, like Iowa, has also recently proposed changes to its requirements to remove the tuberculocidal agent requirement.

These amendments update the disinfection rules to reflect that immersion is not a realistic method of disinfection for certain implements, such as clippers and shears, and allow for the use of disinfecting

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

wipes or sprays in situations where immersion is not feasible. Further, these amendments combine the disinfection and sterilization rules into one rule for the purpose of regulatory clarity.

Finally, these amendments remove the requirement to post the administrative rules regulating salon sanitation in the front of the salon and replace the requirement with a more business-friendly rule requiring provision of the information to salon clients upon request. The current posting regulation is burdensome and is no longer necessary due to the ready availability of the regulations over the Internet, which was not widely available at the time the regulation was initially adopted.

Consideration will be given to all written comments on the proposed amendments received no later than Wednesday, April 6, 2016. Such written materials should be addressed to Venus Vendoures Walsh, Professional Licensure Division, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; e-mail [venus.vendoures-walsh@idph.state.ia.us](mailto:venus.vendoures-walsh@idph.state.ia.us).

A public hearing will be held on Wednesday, April 6, 2016, from 1:30 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, 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 and to confine their remarks to the subject of the proposed amendments.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions in 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 147, 157, and 272C.

The following amendments are proposed.

ITEM 1. Amend subrules 61.5(2) and 61.5(3) as follows:

**61.5(2)** The most current salon license renewal card shall be posted in the salon front entrance area at eye level so that it is visible to provide the public a full, unobstructed view of the license. Photo and electronic copies are not acceptable.

**61.5(3)** The most current license renewal card for each licensee working in the salon shall be visibly displayed posted in the salon front entrance area at eye level to provide the public a full, unobstructed view of the license. Photo and electronic copies are not acceptable.

ITEM 2. Amend **645—Chapter 63**, title, as follows:

~~SANITATION~~ INFECTION CONTROL FOR SALONS AND SCHOOLS OF COSMETOLOGY  
ARTS AND SCIENCES

ITEM 3. Amend rule 645—63.1(157) as follows:

**645—63.1(157) Definitions.** For purposes of these rules, the following definitions shall apply:

“Cleaning” refers to removing visible debris and disposable parts, washing the surface or item with water and soap or detergent, rinsing the surface or item thoroughly and drying the surface or item. Cleaning must occur before disinfection can begin.

“Disinfectant” means ~~an agent~~ an EPA-registered bactericidal, virucidal, fungicidal, pseudomonacidal chemical solution, spray or wipe that is effective against HIV-1 and human hepatitis B virus and is intended to destroy or irreversibly inactivate specific viruses, bacteria, or pathogenic fungi, but not necessarily their spores, on ~~inanimate~~ nonporous items and surfaces.

“Disinfection” means the procedure that kills pathogenic microorganisms, but not necessarily their spores.

“Dispensary” means a separate physical location or area in a salon or school to be used for the storing and dispensing of supplies and ~~sanitizing~~ cleaning and disinfecting of all implements. The dispensary is where products, chemicals and disinfectants are prepared, measured, mixed, portioned, and disposed of.

“FDA” means the federal Food and Drug Administration.

“Germicide” means an agent that destroys germs.

“Nonporous” means an item that lacks minute openings or crevices that keep air, water and bacteria from entering the item, such as glass, processed metals, leather, vinyl and plastics.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“Porous” means an item that contains minute openings or crevices that allow air, water and bacteria to enter the item, such as untreated wood, paper and cardboard.

~~“Sanitization” means the procedure that reduces the level of microbial contamination so that the item or surface is considered safe.~~

“School” means a school of cosmetology arts and sciences.

“Sterilization” means the procedure that kills all microorganisms, including their spores.

“Universal precautions” means practices consistently used to prevent exposure to blood-borne pathogens and the transmission of disease.

“Wash hands” means the process of thoroughly washing hands and the exposed portions of the arms up to the elbow with soap or detergent and water and drying with a single-use towel or air dryer. Bar soap shall not be used in a salon.

ITEM 4. Rescind rule 645—63.2(157) and adopt the following **new** rule in lieu thereof:

**645—63.2(157) Infection control rules and inspection report.** Upon request, the licensee shall make Chapter 63, Infection Control for Salons and Schools of Cosmetology Arts and Sciences, and the most recent inspection report available to the board, agents of the board, all persons employed or studying in a salon or school, and the general public.

ITEM 5. Amend rule 645—63.6(157) as follows:

**645—63.6(157) Building standards.** Salons and schools shall have and maintain:

1. A service area that is equipped with exhaust fans or air filtration equipment that is of sufficient capacity to be capable of removing chemical fumes from the air. Salons and schools shall not permit the opening of doors or windows that could prevent these systems from working properly or cause fumes to be held closer to the ground;

2. ~~An area for the storing and dispensing of supplies and sanitizing of all implements~~ A dispensary;

3. A reception area;

4. Hot and cold running water and clean lavatory facilities;

5. Safe drinking water;

6. Hand-washing facilities;

7. Adequate lighting;

8. Work surfaces that are easily cleaned; and

9. A complete first-aid kit in a readily accessible location on the premises. At a minimum, the first-aid kit must include adhesive dressings, gauze and antiseptic, tape, triple antibiotics, eyewash, and gloves.

ITEM 6. Amend subrules 63.11(1) and 63.11(2) as follows:

**63.11(1)** Students and licensees shall thoroughly wash hands ~~and the exposed portions of arms up to the elbow with antibacterial soap and water~~ after smoking, eating, or using the restroom and before providing services to each client. Hand sanitizers or gloves are not an acceptable substitute for hand washing.

**63.11(2)** Every salon shall have a biohazard sharps container for disposing of used needles, razor blades and other sharp instruments. These containers shall be located as close to the use area as is practical. These containers shall not be filled above designated “fill line” and shall be disposed of in accordance with guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

ITEM 7. Rescind and reserve subrule **63.11(3)**.

ITEM 8. Amend subrules 63.11(4), 63.11(5), 63.11(7) and 63.11(8) as follows:

**63.11(4)** Licensees and students shall wear disposable gloves ~~to prevent exposure to blood, bodily fluids containing visible blood, or bodily fluids to which universal precautions apply~~ or may refuse to provide the service when encountering clients with open sores. Gloves shall only be used on a single

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

client and shall be disposed of after the client's service. Any time gloves are used during a service, licensees and students shall wash hands both before gloves are worn and after they are removed.

**63.11(5)** Licensees and students shall refrain from all direct client care and from handling client-care equipment if the licensee or student has ~~weeping dermatitis or draining lesions~~ open sores that cannot be effectively covered.

**63.11(7)** Instruments and supplies that have been used on a client or soiled in any manner shall be placed in the proper receptacles: clearly labeled "used." All used items shall be kept separate from items that are disinfected and ready for use.

**63.11(8)** Disinfectant solution shall be stored in the dispensary ~~and at each work station~~.

ITEM 9. Rescind rule 645—63.12(157) and adopt the following **new** rule in lieu thereof:

**645—63.12(157) Blood exposure procedures.**

**63.12(1)** If a student or licensee injures oneself, the following steps shall be taken before the student or licensee returns to service:

- a. Stop service.
- b. Clean the injured area by washing the area with soap and water. Use antiseptic or ointment as appropriate.
- c. In the case of mucous membrane exposure, wash or rinse the affected area with plenty of water.
- d. Cover the injury with the appropriate dressing.
- e. Clean the client and station as necessary. First, remove all visible debris and then clean the client with an antiseptic that is appropriate for the skin and clean the station with disinfectant.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

**63.12(2)** If a client injury occurs, the following steps shall be taken:

- a. Stop service.
- b. Glove hands of students or licensees.
- c. Clean injured area and use antiseptic or ointment as appropriate.
- d. Cover the injury with the appropriate dressing to prevent further blood exposure.
- e. Clean station by removing all visible debris and using disinfectant that is appropriate for the soiled surface.
- f. Bag any blood-soiled porous articles and dispose of articles in the trash.
- g. Wash and disinfect all nonporous items.
- h. Wash hands before returning to service.

ITEM 10. Rescind rule 645—63.13(157) and adopt the following **new** rule in lieu thereof:

**645—63.13(157) Disinfecting and sterilizing instruments and equipment.** All nonporous tools and implements must be either disinfected or sterilized according to the requirements of this rule before use upon a client in schools and salons.

**63.13(1) Disinfection.**

a. Nonporous tools and implements.

(1) Immersion method. After each use, all immersible nonporous tools and implements shall be disinfected by cleaning the tools and implements followed by complete immersion in a disinfectant. Disinfectant solutions shall be mixed according to manufacturer label instructions. The manufacturer's listed contact time for effectively eliminating all pathogens listed shall be adhered to at all times.

(2) Nonimmersion method. After each use, any nonporous item that cannot be immersed in a disinfectant shall be cleaned with soap or detergent and water to remove all organic material and then sprayed or wiped with disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed. Nonimmersible tools and implements include but are not limited to scissors, trimmers, clippers, handles of hair dryers and curling/flat irons.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Disinfected implements shall be stored in a disinfected, dry, covered container and shall be isolated from contaminants. Such container shall be disinfected at least once each week and whenever visibly dirty.

c. Disinfectant solutions shall be changed as instructed on the solution's manufacturer label or whenever visibly dirty.

d. Electric file bits.

(1) After each use, all visible debris shall be removed from diamond, carbide, natural and metal bits by cleaning with either an ultrasonic cleaner or immersion of each bit in acetone for 5 to 10 minutes.

(2) After they are cleaned, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant. Minimum disinfectant contact time as listed on the manufacturer's label shall be followed.

**63.13(2) Sterilization.** UV sterilizers or light boxes are prohibited and are not an acceptable method of sterilization.

a. Tools and implements may be sterilized by one of the following methods:

(1) Steam sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If steam sterilization, moist heat, is utilized, heat exposure shall be at a minimum of 121°C/250°F, for at least 30 minutes;

(2) Dry heat sterilizer, registered and listed with the FDA and used according to the manufacturer's instructions. If dry heat sterilization is utilized, heat exposure shall be at a minimum of 171°C/340°F, for at least 60 minutes;

(3) Autoclave sterilization equipment, calibrated to ensure that it reaches the temperature required by the manufacturer's instructions. If autoclave sterilization equipment is utilized, spore testing by a contracted independent laboratory shall be performed at least every 30 days. If a positive spore test is received, the autoclave may not be used until a negative spore test is received. The salon must maintain a log of each autoclave use, all testing samples and results, and a maintenance log of all maintenance performed on the device. Maintenance shall be performed according to the manufacturer's instructions. The salon must have available for inspection the autoclave maintenance log for the most recent 12 months; or

(4) Chemical sterilization with a hospital grade liquid which, if used, shall be used according to the directions on the label. When chemical sterilization is used, items shall be fully submerged for at least 10 minutes.

b. Sterilization equipment shall be maintained in working order. The equipment shall be checked at least monthly and calibrated to ensure that it reaches the temperature required by the manufacturer's instructions.

This rule is intended to implement Iowa Code section 157.6.

ITEM 11. Amend rule 645—63.14(157) as follows:

**645—63.14(157) Instruments Porous instruments and supplies that cannot be disinfected.** ~~Instruments~~ Porous instruments and supplies that come into direct contact with a ~~patron~~ and client cannot be disinfected, ~~for example,~~ These instruments and supplies include but are not limited to cotton pads, sponges, wooden applicators, emery boards, pumice stones, nail buffers, buffing bits, arbor or sanding bands, sleeves, toe separators and neck strips, These are single-use items and shall be disposed of in a waste receptacle immediately after use.

ITEM 12. Rescind and reserve rule ~~645—63.15(157)~~.

ITEM 13. Amend rule 645—63.16(157) as follows:

**645—63.16(157) Sanitary Infection control methods for creams, cosmetics and applicators.**

**63.16(1)** Liquids, creams, waxes, powders and cosmetics used for ~~patrons~~ clients must be kept in closed, labeled containers.

**63.16(2)** All fluids, semifluids and powders must be dispensed with an applicator or from a shaker, dispenser pump, or spray-type container.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* Applicators made of a washable, nonabsorbent material shall be ~~sanitized~~ cleaned and disinfected before being used on a client and shall only be dipped into the container one time before being cleaned and disinfected again; and

*b.* Applicators made of wood shall be discarded after a single dip, which would be one use.

*c.* Roll-on wax products are prohibited.

ITEM 14. Amend subrules 63.18(2) and 63.18(3) as follows:

**63.18(2)** ~~No salon or school shall have on the premises any razor-edged device or tool which is designed to remove skin.~~ All metal pedicure instruments designed to remove skin from the bottoms and sides of feet are prohibited. Prohibited metal pedicure instruments include but are not limited to any razor-edged, grating or rasp microplaner. The presence of such equipment shall be prima facie evidence of the equipment's use.

**63.18(3)** ~~Fish pedicures~~ Procedures involving any animal (e.g., fish, leeches, snails) are prohibited in salons and schools.

ITEM 15. Adopt the following new subrule 63.18(5):

**63.18(5)** No salon or school shall use plastic sleeves or envelopes to store cleaned and disinfected implements unless the implements stored in the plastic sleeves or envelopes have actually been sterilized pursuant to paragraph 63.13(2)“a.”

ITEM 16. Amend rule 645—63.19(157) as follows:

**645—63.19(157) Proper protection of neck.** A shampoo apron, haircloth, or similar article shall not be placed directly against the neck of a ~~patron~~ client but shall be kept from direct contact with the ~~patron~~ client by means of a paper neckband or clean towel. A neckband of paper shall not be used more than once. Towels or cloth neckbands shall not be used more than once without proper laundering.

ITEM 17. Amend rule 645—63.20(157) as follows:

**645—63.20(157) Proper laundering and storage.** All cloth towels, robes and similar items shall be laundered in a washing machine with laundry detergent used according to the manufacturer's directions. All linens shall be dried until hot to the touch. No moisture shall be left in laundered items. A clean storage area shall be provided for clean towels and linen, and a covered hamper or receptacle marked “used” shall be provided for all soiled towels, robes and linens.

ITEM 18. Amend rules 645—63.24(157) to 645—63.26(157) as follows:

**645—63.24(157) Salons and schools providing electrology or esthetics.** A salon or school in which electrology or esthetics is practiced shall follow the ~~sanitation~~ infection control rules and requirements pertaining to all salons and schools and shall also meet the following requirements:

1. The electrology or esthetics room shall have adequate space, lighting and ventilation.
2. The floors in the immediate area where the electrology or esthetics is performed shall have an impervious, smooth, washable surface.
3. All service table surfaces shall be constructed of impervious, easily cleanable disinfected material.
4. Needles, probes and lancets shall be single-client use and disposable.

**645—63.25(157) Cleaning and disinfecting circulating and noncirculating tubs, bowls, and spas.**

**63.25(1)** After use for each client:

- a.* Drain the water and remove any visible debris;
- b.* Clean the surfaces according to the manufacturer's instructions, use a brush to remove all film, and rinse the tub, bowl, or spa basin;
- c.* Fill the tub, bowl, or spa basin with water and add ~~an EPA-registered, bactericidal, virucidal, fungicidal, pseudomonacidal, and tuberculoecidal~~ disinfectant that is effective against HIV-1 and human Hepatitis B virus. ~~The disinfectant shall be mixed and used according to the manufacturer's directions.;~~

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. Allow the disinfectant to stand for noncirculating tubs, bowls, or basins or to circulate for circulating tubs, bowls, or basins for the time specified according to the manufacturer's instructions; and

e. After disinfection, drain and rinse with clean water.

**63.25(2)** At the end of the day, remove all removable parts from circulating tubs, such as filters, screens, drains, and jets, and clean and disinfect the removable parts as follows:

a. Scrub with a brush and soap or detergent until free from debris, and then rinse.

b. Completely immerse in ~~an EPA-registered, bactericidal, virucidal, fungicidal, pseudomonacidal, and tuberculocidal~~ disinfectant that is effective against HIV-1 and human Hepatitis B virus. ~~The disinfectant shall be mixed and used according to the manufacturer's directions.~~

c. Rinse and air dry.

d. Replace the disinfected parts into the tubs, bowl, or basin or store the parts in a disinfected, dry, covered container that is isolated from contaminants.

**63.25(3)** For each pedicure station, a record shall be made of the date and time of the daily cleaning and disinfecting. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a ~~patient~~ client, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event. Foot spa records shall be maintained for two years from the date of the cleaning.

**645—63.26(157) Paraffin wax.** Paraffin wax shall be used according to the manufacturer's instructions and shall be used in such a manner so as not to contaminate the remaining wax in the paraffin bath. The following procedures apply:

1. The client shall be free of broken skin or any skin disorder;

2. Hands or feet of a client shall be cleaned ~~and sanitized~~ before being dipped into paraffin wax. The client's hands and feet shall not be dipped into the original wax container. The wax shall be removed from the original container and placed in a single-use bag before dipping. Any unused wax remaining in the single-use bag shall be discarded after dipping;

3. Paraffin wax that has been removed from a client's hands or feet shall be discarded after each use; and

4. Paraffin wax shall be kept free of any debris and kept covered when not in use.

**ARC 2440C**

**PROFESSIONAL LICENSURE DIVISION[645]**

**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 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 327, “Practice of Physician Assistants,” Iowa Administrative Code.

This rule making proposes to restore the language previously removed by the Board of Physician Assistants from subrule 327.4(2) regarding the frequency of visits to remote medical sites required of physicians supervising physician assistants working at the remote medical sites. Originally, subrule 327.4(2) required a supervising physician providing supervision to a physician assistant working at a remote medical site to personally visit the remote medical site at least once every two weeks, unless there were unusual or emergency circumstances that justified a deviation from the requirement. In July

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

of 2014, the Centers for Medicare and Medicaid Services (CMS) removed the federal requirement for supervising physicians to visit remote medical sites at least once every two weeks.

Following CMS's removal of the federal regulation, the Board of Physician Assistants took action to remove the requirement from its administrative rules as well. Amendments to subrule 327.4(2) were proposed under Notice of Intended Action and published in the November 26, 2014, Iowa Administrative Bulletin as **ARC 1741C**. The amendments were Adopted and Filed and published in the March 18, 2015, Iowa Administrative Bulletin as **ARC 1909C** and would become effective April 22, 2015. At a meeting of the Administrative Rules Review Committee (ARRC) on April 20, 2015, the ARRC imposed a session delay on **ARC 1909C**. Subsequently, 2015 Iowa Acts, Senate File 505, division XXXI, section 113, required the Board of Medicine and the Board of Physician Assistants to jointly adopt rules pursuant to Iowa Code chapter 17A to establish specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. Subcommittees of the Board of Physician Assistants and the Board of Medicine met numerous times throughout the fall of 2015. On January 20, 2016, the Board of Physician Assistants voted to file Notice of Intended Action **ARC 2417C** (IAB 2/17/16), which is the joint rule mandated by the Legislature during the 2015 session. Finally, on February 5, 2016, the ARRC voted to impose an additional 70-day delay on the effective date of **ARC 1909C** and also authorized the Board of Physician Assistants to utilize emergency rule-making procedures to restore verbatim the text of subrule 327.4(2) that was in effect prior to the Board's adoption of **ARC 1909C**.

Any interested person may make written comments on the proposed amendments no later than April 5, 2016, addressed to Susan Reynolds, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [susan.reynolds@idph.iowa.gov](mailto:susan.reynolds@idph.iowa.gov).

A public hearing will be held on April 6, 2016, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa, 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 and to confine their remarks to the subject of the proposed amendment.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 2436C**. The content of that submission is incorporated by reference.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found. This rule making maintains status quo since **ARC 1909C** has been placed under session delay and has never gone into effect.

This amendment is intended to implement Iowa Code section 148C.3.

**ARC 2446C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Get Screened Colorectal Cancer Program,” Iowa Administrative Code.

The proposed amendments remove references to the Centers for Disease Control and Prevention (CDC), its screening guidelines, and data requirements. This change is the result of a change in funding priority made by the CDC for the five-year period beginning June 30, 2015. This funding change also

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

removes the requirement of the Medical Advisory Board (MAB), and the proposed amendments remove reference to the MAB and its associated definitions. The proposed amendments change the program's screening eligibility requirements for income levels up to 300 percent of the Federal Poverty Level (FPL) from 250 percent of the FPL and for the screening age from 64 years of age to 75 years of age to encourage access to services. The proposed amendments remove references to IowaCare and replace them with references to the health insurance marketplace and Medicaid. The proposed amendments allow for contractor calls instead of site visits for the provision of technical assistance and evaluations. The proposed amendments remove requirements to reflect current programming, such as professional development, in-reach at Federally Qualified Health Centers, and coalition development.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 5, 2016. Such written comments should be directed to Victoria Brenton, Iowa Get Screened Reporting and Coordinating Manager, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [victoria.brenton@idph.iowa.gov](mailto:victoria.brenton@idph.iowa.gov).

Also, a public hearing will be held on April 5, 2016, from 1 to 2 p.m., at which time persons may present their views either orally or in writing. The public hearing will originate from Rooms 517 and 518 on the Fifth Floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, and will be accessible over the teleconference system. The call-in number is 1-866-685-1580, and the conference code to enter when prompted is 0009990303. 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 amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing impairments, should contact the Department of Public Health and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.11 and 2015 Iowa Acts, Senate File 505, section 3(3h).

The following amendments are proposed.

ITEM 1. Amend rule 641—10.1(135) as follows:

**641—10.1(135) Purpose.** The Iowa get screened (IGS): colorectal cancer program ~~was established in 2009 through a cooperative agreement with the Centers for Disease Control and Prevention and is~~ administered by the department. The goal of the IGS program is to reduce the incidence, mortality and prevalence of colorectal cancer in Iowa by increasing the number of men and women who receive colorectal cancer screenings. Through the program, fecal immunochemical tests (FITs) and colonoscopies ~~will be~~ are provided to eligible Iowans. Along with providing screenings, the program also facilitates supportive services and referral for diagnosis and treatment to Iowans with abnormal screening results. Iowans who are eligible to enter the program must be 50 to ~~64~~ 75 years of age, be underinsured or uninsured, have incomes of up to ~~250~~ 300 percent of the federal poverty level (FPL) and have an average or increased risk for developing colorectal cancer.

ITEM 2. Amend the following definitions in rule **641—10.2(135)**:

*“Colorectal cancer data elements”* or *“CCDE”* means a set of standardized data elements ~~developed by the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control, used to~~ ensure that consistent and complete information is collected on participants whose screening or diagnosis was paid for through the IGS program with ~~federal~~ state funding.

*“Eligibility criteria”* means a set of questions that a potential participant is asked to ensure the participant meets program qualifying standards including targeted age, income guidelines, level of risk for colorectal cancer and screening determination guidelines. Qualifying standards ~~are outlined in the CDC's Colorectal Control Cancer Program Policies and Procedures and~~ are based on recommendations from the United States Preventive Services Task Force (USPSTF).

*“In-reach”* means the method that will be used in the local program to recruit participants. In-reach targets existing clients through the Iowa care for yourself program ~~and federally qualified health centers.~~

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

~~“Iowa get screened: colorectal cancer program” or “IGS program” means the state program, which provides limited screening services to eligible Iowans and funded through the federal Colorectal Cancer Control Program (CRCCP). This program requires policy and systems change, public education and awareness and limited screening activities. The IGS program has been made possible in Iowa through a cooperative agreement awarded to the department through the competitive bid grants procurement process by the United States Department of Health and Human Services, Division of the Centers for Disease Control and Prevention.~~

~~“Polyp” means a growth from a mucous membrane commonly found in organs such as the colon and rectum, the uterus and the nose. Certain types of polyps, such as adenomas, may develop into cancer.~~

~~“Underinsured” means an individual with income at 250 300 percent of the federal poverty guideline or lower with health insurance that has unreasonably high copayments, deductibles or coinsurance.~~

ITEM 3. Rescind the definitions of “Federally qualified health center,” “Medical advisory board” and “Radiologist” in rule **641—10.2(135)**.

ITEM 4. Amend subparagraph **10.3(2)“a”(2)** as follows:

(2) Colonoscopy every 10 years from initial screen or as prescribed by a physician for surveillance in accordance with USPSTF recommendations;

ITEM 5. Amend subparagraph **10.3(2)“b”(4)** as follows:

(4) Surgery or surgical staging, ~~unless specifically required and approved by the IGS program’s MAB to provide a histological diagnosis of cancer;~~

ITEM 6. Amend subparagraph **10.3(2)“b”(11)** as follows:

(11) Use of propofol as anesthesia during endoscopy, unless specifically required and approved by the IGS program’s MAB program in cases where the participant cannot be sedated with standard moderate sedation; and

ITEM 7. Amend paragraphs **10.3(5)“e”** to **“i”** as follows:

*e.* Accurate data collection and documentation.

~~(1) Colorectal cancer data elements (CCDEs) are reported to CDC semiannually by the department.~~

~~(2) Site visits Contractor calls are conducted at local program sites with staff to provide technical assistance, give feedback on program performance, evaluate case management process and if needed conduct a walk-through of current services to provide feedback.~~

~~*f.* Evaluation Program evaluation. Workplans shall be reviewed and surveys conducted in the community and with program partners. Reports on progress and face-to-face meetings shall be conducted routinely and on an as-needed basis to assess how the IGS program is meeting CDC program objectives.~~

~~*g.* Process improvement and systems change activities.~~

~~*h.* Adherence to CDC policies and guidelines.~~

~~*i.* Approval and utilization of additions to the local program allowable procedures list.~~

ITEM 8. Amend subrules 10.3(6) to 10.3(10) as follows:

~~**10.3(6)** Professional development shall be provided by the IGS program and contracted local program staff through a variety of channels including educational activities that enable professionals to perform their jobs competently, to identify needs and resources, and to ensure that health care delivery systems provide appropriate clinical outcomes for colorectal cancer screening services.~~

~~**10.3(7) 10.3(6)** The IGS program and contracted local program staff shall provide in-reach education and recruitment that involve the systematic design and delivery of clear and consistent messages about colorectal cancer (CRC) and the benefits of early detection using a variety of methods and strategies. In-reach activities shall focus on men and women who have never or rarely been screened for CRC and shall work toward the removal of barriers to care screening (e.g., by providing respite care, interpreter services and transportation) through collaborative activities with other community organizations. In-reach shall be targeted toward the participants already being served through the IA CFY program and patients at FQHCs. Public education and outreach activities for community awareness of CRC are supported and mandatory for the project.~~

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

~~10.3(8)~~ The IGS program may develop coalitions and partnerships to establish a common agreement for sharing resources and responsibilities to achieve the common goal of reducing colorectal cancer mortality.

~~10.3(9)~~ **10.3(7)** The IGS program shall conduct surveillance utilizing continuous, proactive, timely and systematic collection, analysis, interpretation and dissemination of colorectal cancer screening prevalence, survival and mortality rates. Studies shall be conducted utilizing minimum data elements and other data sources to establish trends of disease, diagnosis, treatment, and research needs. IGS program planning, implementation and evaluation shall be based on the data.

~~10.3(10)~~ **10.3(8)** Evaluation by the IGS program evaluator shall be conducted through documentation of services, operation processes at the state and local program levels and outcomes of the IGS program. ~~The evaluation shall include face-to-face interviews with state and local IGS program staff involved in IGS program delivery. IGS program evaluation shall include suggestions to help IGS and local program staff meet the recommendations as set in the CRCCP program manual. Recommendations shall then be incorporated into the program workplan by the state staff.~~

ITEM 9. Rescind and reserve rule **641—10.4(135)**.

ITEM 10. Amend rule 641—10.5(135) as follows:

**641—10.5(135) Participant eligibility criteria.** An applicant for the IGS program must satisfy the criteria outlined in this rule. If an applicant does not meet these criteria, the applicant shall be provided information by contracted local program staff regarding ~~IowaCare, free care~~ the health insurance marketplace, Medicaid or sliding-fee clinics available in the area in which the applicant lives.

**10.5(1) Age.** Individuals 50 through ~~64~~ 75 years of age shall be the target population to receive colorectal cancer screening.

**10.5(2) Income.**

a. The IGS program income guidelines are based upon ~~250~~ 300 percent of the federal poverty level (FPL), which is set annually by the Centers for Medicare and Medicaid Services (CMS). New IGS program income guidelines will be adjusted following any change in CMS guidelines.

b. Self-declaration of income may be accepted.

c. Eligibility shall be based on net income for the household.

d. Assets shall not affect income status and shall not be counted when eligibility under the IGS program is determined.

**10.5(3) Insurance.**

a. The IGS program shall determine individuals to be uninsured if they do not have health insurance coverage.

b. The IGS program shall determine individuals to be underinsured if they have health insurance with unreasonably high copayments, deductibles or coinsurance or the insurance does not cover the IGS program's covered services.

c. Individuals who have Medicaid or Medicare Part B are not eligible. ~~Individuals who have IowaCare, Medicaid with spend down, or Iowa family planning network may be eligible.~~

**10.5(4) Residency.**

a. Individuals must reside in the state of Iowa.

b. Individuals shall have an established address and contact information as needed for program staff to provide screening results, rescreens, and follow-up services.

**10.5(5) Risk level.** Individuals with an average or increased risk for developing colorectal cancer as defined by the recommendations of the USPSTF may qualify for IGS program services.

**10.5(6) Ineligible.** The IGS program does not provide coverage for:

a. Individuals with Medicare Part B coverage.

b. Individuals 49 years of age and younger.

c. Individuals ~~65~~ 76 years of age and older.

d. Individuals who do not have a primary care provider.

e. Individuals at high risk for developing colorectal cancer. Individuals at high risk include:

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- (1) A genetic diagnosis of familial adenomatous polyposis (FAP) or hereditary nonpolyposis colorectal cancer (HNPCC),
  - (2) A clinical diagnosis or suspicion of FAP or HNPCC, or
  - (3) A history of inflammatory bowel disease (ulcerative colitis or Crohn's disease).
- f.* Individuals experiencing the following gastrointestinal symptoms:
- (1) Rectal bleeding, bloody diarrhea, or very dark blood in the stool within the past six months;
  - (2) Prolonged change in bowel habits;
  - (3) Persistent/ongoing abdominal pain;
  - (4) Recurring symptoms of bowel obstruction; or
  - (5) Significant unintentional weight loss.

ITEM 11. Amend subrule 10.7(1) as follows:

**10.7(1)** In the event the IGS program director certifies that there are inadequate funds to meet participants' needs, either attributable to a reduction in federal funding from the CDC or to a projected enrollment of participants in excess of anticipated enrollment, the program director may restrict new applicants' participation in the IGS program. First priority shall be given to individuals who have never been screened for CRC.

ITEM 12. Amend rule 641—10.9(135) as follows:

**641—10.9(135) Colorectal cancer treatment.** The IGS program does not pay for colorectal cancer treatment services. ~~A participant will be assisted with enrolling in the IowaCare program, in the event treatment services are needed.~~ If a participant needs treatment, the local program coordinator will refer the participant to an American Cancer Society patient navigator to identify and coordinate resources for the participant who may require physical, emotional, financial or other support through the cancer journey. The patient navigator and IGS program staff will work together to assist a participant needing treatment. It is an expectation of the cooperative agreement that a participant gets help obtaining treatment services free or at an affordable cost based on the participant's annual income and ability to pay for the services.

ITEM 13. Amend **641—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~sections~~ section 135.11(1) and ~~135.39 and 42 U.S.C. Section 241(a), as amended~~ 2015 Iowa Acts, Senate File 505, section 3(3h).

**ARC 2447C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.22, the Department of Public Health hereby amends Chapter 21, “Central Registry for Brain and Spinal Cord Injuries,” Iowa Administrative Code.

Required reportable conditions were revised in Iowa Code section 135.22 to align with a rule for eligibility for the home- and community-based services waiver for persons with brain injury under the medical assistance program. The proposed amendments update these reportable conditions. As a result, the current hospital reporting structure does not meet these revised requirements. The Department receives information from the Iowa Hospital Association through the In Patient Out Patient (IPOP) database, which contains all the required components needed from the hospitals. These proposed amendments remove the old injury reporting method and replace it to align with hospital reporting requirements for IPOP. This change will result in no additional burden on hospital reporting and will

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provide the Department with the necessary data to be compliant with Iowa Code section 135.22. The proposed amendments also strike the word “traumatic” in reference to brain injury to align with the Iowa Code. Additional amendments reflect the reportable conditions for brain and spinal cord injury to transition to the International Classification of Diseases, 10th Revision, Clinical Modification.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 5, 2016. Such written comments should be directed to Maggie Ferguson, Brain Injury and Disability Program Manager, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [maggie.ferguson@idph.iowa.gov](mailto:maggie.ferguson@idph.iowa.gov).

A public hearing will be held on April 5, 2016, from 3 to 4 p.m., 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 and to confine their remarks to the subject of the amendments.

The public hearing will originate from Room 518 on the fifth floor of the Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, and will be accessible by calling 1-866-685-1580 and entering the conference code 0009990482 when prompted.

Any person who intends to attend the public hearing and needs an ADA accommodation should contact the Department of Public Health and specify the type of accommodation required.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.22.

The following amendments are proposed.

ITEM 1. Amend rule 641—21.1(135) as follows:

**641—21.1(135) Purpose.** This chapter describes the central registry for brain and spinal cord injuries. Data from the registry shall be utilized to facilitate prevention strategies and the provision of appropriate rehabilitative services by the department and other state agencies.

ITEM 2. Strike “agency” and “agency’s” wherever they appear in rules **641—21.2(135)**, **641—21.4(135)** and **641—21.5(135)**, subrule **21.6(1)**, the introductory paragraph of subrule **21.6(2)**, and paragraphs **21.6(2)“a”** to **“d”** and **“g”** and insert “department” or “department’s” in lieu thereof, as the context requires.

ITEM 3. Amend rule **641—21.2(135)**, definitions of “Brain injury” and “Reportable case,” as follows:

*“Brain injury”* means ~~any clinically evident brain damage resulting from trauma or anoxia which temporarily or permanently impairs a person’s physical or cognitive functions~~ clinically evident damage to the brain resulting directly or indirectly from trauma, infection, anoxia, vascular lesions, or tumor of the brain, not primarily related to a degenerative disease or aging process, which temporarily or permanently impairs a person’s physical, cognitive, or behavioral functions and is diagnosed by a physician.

*“Reportable case”* means a person who is ~~admitted or transferred to a hospital~~ discharged from a hospital inpatient acute care, medical rehabilitation or skilled nursing care visit with a diagnosis of acute traumatic brain or spinal cord injury or a person who is pronounced dead in the emergency department of a seen during an outpatient visit to an Iowa hospital with an acute traumatic brain or spinal cord injury.

ITEM 4. Amend rule 641—21.3(135), introductory paragraph, as follows:

**641—21.3(135) Reportable brain and spinal cord injuries.** The brain and spinal cord injuries listed below are required to be reported to the Iowa Department of Public Health, ~~Division of Health Protection,~~ Lucas State Office Building, Des Moines, Iowa 50319-0075, or its designee, as part of a statewide population-based registry.

ITEM 5. Rescind subrule 21.3(1) and adopt the following **new** subrule in lieu thereof:

**21.3(1) Brain injuries.**

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a. Reportable cases of brain injuries are those that are identified by the following codes from the International Classification of Diseases, 9th Revision, Clinical Modification, or the International Classification of Diseases, 10th Revision, Clinical Modification:

	<b>International Classification of Diseases, 9th Revision, Clinical Modification</b>		<b>International Classification of Diseases, 10th Revision, Clinical Modification</b>
191.00	Malignant neoplasms of brain, cerebrum	C71.0	Malignant neoplasm of cerebrum, except lobes and ventricles
191.10	Malignant neoplasms of brain, frontal lobe	C71.1	Malignant neoplasm of frontal lobe
191.02	Malignant neoplasms of brain, temporal	C71.2	Malignant neoplasm of temporal
191.30	Malignant neoplasms of brain, parietal lobe	C71.3	Malignant neoplasm of parietal lobe
191.40	Malignant neoplasms of brain, occipital lobe	C71.4	Malignant neoplasm of occipital lobe
191.50	Malignant neoplasms of brain, ventricles	C71.5	Malignant neoplasm of cerebral ventricle
191.60	Malignant neoplasms of brain, cerebellum	C71.6	Malignant neoplasm of cerebellum
191.70	Malignant neoplasms of brain, brain stem	C71.7	Malignant neoplasm of brain stem
191.80	Malignant neoplasms of brain, other part of brain, includes midbrain, peduncle, and medulla oblongata	C71.8	Malignant neoplasm of overlapping sites of brain
192.00	Malignant neoplasms of brain, cranial nerves	C72.50	Malignant neoplasm of unspecified cranial nerve
		C72.59	Malignant neoplasm of other cranial nerves
192.10	Malignant neoplasms of brain, cerebral meninges	C70.0	Malignant neoplasm of cerebral meninges
198.30	Secondary malignant neoplasm of brain	C79.31	Secondary malignant neoplasm of brain
198.40	Secondary malignant neoplasm of other parts of the nervous system, includes cerebral meninges	C79.32	Secondary malignant neoplasm of cerebral meninges
		C79.49	Secondary malignant neoplasm of other parts of nervous system
225.00	Benign neoplasm of brain and other parts of the nervous system, brain	D33.2	Benign neoplasm of brain, unspecified
225.10	Benign neoplasm of brain and other parts of the nervous system, cranial nerves	D33.3	Benign neoplasm of cranial nerves
225.20	Benign neoplasm of brain and other parts of nervous system, cerebral meninges	D32.0	Benign neoplasm of cerebral meninges
		D32.9	Benign neoplasm of meninges, unspecified
323.01-323.9	Encephalitis, myelitis and encephalomyelitis	G04.00-G05.4	Encephalitis, myelitis and encephalomyelitis
324.00	Intracranial and intraspinal abscess	G06.0	Intracranial abscess and granuloma
		G06.1	Intraspinal abscess and granuloma
348.10	Anoxic brain damage	G93.1	Anoxic brain damage, not elsewhere classified
430.00	Subarachnoid hemorrhage	I60.00-I60.8	Nontraumatic subarachnoid hemorrhage
431.00	Intracerebral hemorrhage	I61.0-I61.9	Nontraumatic intracerebral hemorrhage
432.00	Other and unspecified intracranial hemorrhage	I62.1	Nontraumatic extradural hemorrhage
433.00	Occlusion and stenosis of precerebral arteries	I65.01-I65.9	Occlusion and stenosis of precerebral arteries, not resulting in cerebral infarction

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434.00	Occlusion of cerebral arteries	I66.01-I66.9	Occlusion and stenosis of cerebral arteries, not resulting in cerebral infarction
435.00	Transient cerebral ischemia	G45.0-G45.9	Transient cerebral ischemic attacks and related syndromes
436.00	Acute, but ill-defined, cerebrovascular disease	I67.89	Other cerebrovascular disease
		I67.9	Cerebrovascular disease, unspecified
437.00	Other and ill-defined cerebrovascular disease	I67.89	Other cerebrovascular disease
		I67.9	Cerebrovascular disease, unspecified
800.00-800.99	Fracture of vault of skull	S02.0X XA;S02.0X XB	Fracture of vault of skull
801.00-801.99	Fracture of base of skull	S02.1-S02.19	Fracture of base of skull
803.00-803.99	Other and unqualified skull fractures	S02.91 XA	Unspecified fracture of skull
804.00-804.99	Multiple fractures involving skull or face with other bones	S02.91 XA	Unspecified fracture of skull
850.00-850.99	Concussion	S06.0X 0A-S06.0X 9A	Concussion
851.00-851.99	Cerebral laceration and contusion	S06.31-S06.33	Contusion and laceration of cerebrum
852.00-852.59	Subarachnoid, subdural, and extradural hemorrhage following injury	S06.4; S06.5; S06.6	Traumatic epidural, subdural, and subarachnoid hemorrhage
853.00-853.19	Other and unspecified intracranial hemorrhage following injury	S06.36	Traumatic hemorrhage of cerebrum, unspecified
854.00-854.19	Intracranial injury of other and unspecified nature	S06.8-S06.9	Other specified intracranial injuries and unspecified intracranial injuries

*b.* Reportable cases of brain injury are those that are identified by the following codes from the International Classification of Diseases, 9th Revision, Clinical Modification, or the International Classification of Diseases, 10th Revision, Clinical Modification, only to the extent the injury or condition resulted in a brain injury.

	<b>International Classification of Diseases, 9th Revision, Clinical Modification</b>		<b>International Classification of Diseases, 10th Revision, Clinical Modification</b>
960-979	Poisoning by drugs, medicinal and biological substances	T41-T44	Poisoning by, adverse effect of and underdosing of drugs and gases
980-989	Toxic effects of substances	T51; T58	Toxic effect of alcohol; toxic effect of carbon monoxide
990-995	Effects of external causes	T71	Asphyxiation
994.7	Asphyxiation and strangulation		
994.1	Drowning and nonfatal submersion	T75.1X XA	Unspecified effects of drowning and nonfatal submersion
995.50-995.59	Child maltreatment syndrome	T74.1; T74.4	Physical abuse, confirmed; shaken infant syndrome
995.80-995.89	Adult maltreatment syndrome		

ITEM 6. Rescind subrule 21.3(2) and adopt the following **new** subrule in lieu thereof:

**21.3(2) Spinal cord injuries.** Reportable cases of spinal cord injuries are those that are identified by the following codes from the International Classification of Diseases, 9th Revision, Clinical Modification, or the International Classification of Diseases, 10th Revision, Clinical Modification:

*a.* Fracture.

(1) International Classification of Diseases, 9th Revision, Clinical Modification:

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806.00-806.9	Fracture of vertebral column with spinal cord injury
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## (2) International Classification of Diseases, 10th Revision, Clinical Modification:

S12.000A	Unspecified displaced fracture of the first cervical vertebra, initial encounter for closed fracture
S12.000B	Unspecified displaced fracture of first cervical vertebra, initial encounter for open fracture
S12.001A	Unspecified nondisplaced fracture of first cervical vertebra, initial encounter for closed fracture
S12.001B	Unspecified nondisplaced fracture of first cervical vertebra, initial encounter for open fracture
S12.100A	Unspecified displaced fracture of second cervical vertebra, initial encounter for closed fracture
S12.100B	Unspecified displaced fracture of second cervical vertebra, initial encounter for open fracture
S12.101A	Unspecified nondisplaced fracture of second cervical vertebra, initial encounter for closed fracture
S12.101B	Unspecified nondisplaced fracture of second cervical vertebra, initial encounter for open fracture
S12.200A	Unspecified displaced fracture of third cervical vertebra, initial encounter for closed fracture
S12.200B	Unspecified displaced fracture of third cervical vertebra, initial encounter for open fracture
S12.201A	Unspecified nondisplaced fracture of third cervical vertebra, initial encounter for closed fracture
S12.201B	Unspecified nondisplaced fracture of third cervical vertebra, initial encounter for open fracture
S12.300A	Unspecified displaced fracture of fourth cervical vertebra, initial encounter for closed fracture
S12.300B	Unspecified displaced fracture of fourth cervical vertebra, initial encounter for open fracture
S12.301A	Unspecified nondisplaced fracture of fourth cervical vertebra, initial encounter for closed fracture
S12.301B	Unspecified nondisplaced fracture of fourth cervical vertebra, initial encounter for open fracture
S12.400A	Unspecified displaced fracture of fifth cervical vertebra, initial encounter for closed fracture
S12.400B	Unspecified displaced fracture of fifth cervical vertebra, initial encounter for open fracture
S12.401A	Unspecified nondisplaced fracture of fifth cervical vertebra, initial encounter for closed fracture
S12.401B	Unspecified nondisplaced fracture of fifth cervical vertebra, initial encounter for open fracture
S12.500A	Unspecified displaced fracture of sixth cervical vertebra, initial encounter for closed fracture
S12.500B	Unspecified displaced fracture of sixth cervical vertebra, initial encounter for open fracture
S12.501A	Unspecified nondisplaced fracture of sixth cervical vertebra, initial encounter for closed fracture
S12.501B	Unspecified nondisplaced fracture of sixth cervical vertebra, initial encounter for open fracture
S12.600A	Unspecified displaced fracture of seventh cervical vertebra, initial encounter for closed fracture
S12.600B	Unspecified displaced fracture of seventh cervical vertebra, initial encounter for open fracture
S12.601A	Unspecified nondisplaced fracture of seventh cervical vertebra, initial encounter for closed fracture
S12.601B	Unspecified nondisplaced fracture of seventh cervical vertebra, initial encounter for open fracture
S12.9XXA	Fracture of neck, unspecified, initial encounter
S14.101A	Unspecified injury at C1 level of cervical spinal cord, initial encounter
S14.102A	Unspecified injury at C2 level of cervical spinal cord, initial encounter
S14.103A	Unspecified injury at C3 level of cervical spinal cord, initial encounter
S14.104A	Unspecified injury at C4 level of cervical spinal cord, initial encounter
S14.105A	Unspecified injury at C5 level of cervical spinal cord, initial encounter
S14.106A	Unspecified injury at C6 level of cervical spinal cord, initial encounter
S14.107A	Unspecified injury at C7 level of cervical spinal cord, initial encounter
S14.109A	Unspecified injury at unspecified level of cervical spinal cord, initial encounter
S14.111A	Complete lesion at C1 level of cervical spinal cord, initial encounter
S14.112A	Complete lesion at C2 level of cervical spinal cord, initial encounter
S14.113A	Complete lesion at C3 level of cervical spinal cord, initial encounter
S14.114A	Complete lesion at C4 level of cervical spinal cord, initial encounter
S14.115A	Complete lesion at C5 level of cervical spinal cord, initial encounter

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S14.116A	Complete lesion at C6 level of cervical spinal cord, initial encounter
S14.117A	Complete lesion at C7 level of cervical spinal cord, initial encounter
S14.121A	Central cord syndrome at C1 level of cervical spinal cord, initial encounter
S14.122A	Central cord syndrome at C2 level of cervical spinal cord, initial encounter
S14.123A	Central cord syndrome at C3 level of cervical spinal cord, initial encounter
S14.124A	Central cord syndrome at C4 level of cervical spinal cord, initial encounter
S14.125A	Central cord syndrome at C5 level of cervical spinal cord, initial encounter
S14.126A	Central cord syndrome at C6 level of cervical spinal cord, initial encounter
S14.127A	Central cord syndrome at C7 level of cervical spinal cord, initial encounter
S14.131A	Anterior cord syndrome at C1 level of cervical spinal cord, initial encounter
S14.132A	Anterior cord syndrome at C2 level of cervical spinal cord, initial encounter
S14.133A	Anterior cord syndrome at C3 level of cervical spinal cord, initial encounter
S14.134A	Anterior cord syndrome at C4 level of cervical spinal cord, initial encounter
S14.135A	Anterior cord syndrome at C5 level of cervical spinal cord, initial encounter
S14.136A	Anterior cord syndrome at C6 level of cervical spinal cord, initial encounter
S14.137A	Anterior cord syndrome at C7 level of cervical spinal cord, initial encounter
S14.151A	Other incomplete lesion at C1 level of cervical spinal cord, initial encounter
S14.152A	Other incomplete lesion at C2 level of cervical spinal cord, initial encounter
S14.153A	Other incomplete lesion at C3 level of cervical spinal cord, initial encounter
S14.154A	Other incomplete lesion at C4 level of cervical spinal cord, initial encounter
S14.155A	Other incomplete lesion at C5 level of cervical spinal cord, initial encounter
S14.156A	Other incomplete lesion at C6 level of cervical spinal cord, initial encounter
S14.157A	Other incomplete lesion at C7 level of cervical spinal cord, initial encounter
S22.009A	Unspecified fracture of unspecified thoracic vertebra, initial encounter for closed fracture
S22.009B	Unspecified fracture of unspecified thoracic vertebra, initial encounter for open fracture
S22.019A	Unspecified fracture of first thoracic vertebra, initial encounter for closed fracture
S22.019B	Unspecified fracture of first thoracic vertebra, initial encounter for open fracture
S22.029A	Unspecified fracture of second thoracic vertebra, initial encounter for closed fracture
S22.029B	Unspecified fracture of second thoracic vertebra, initial encounter for open fracture
S22.039A	Unspecified fracture of third thoracic vertebra, initial encounter for closed fracture
S22.039B	Unspecified fracture of third thoracic vertebra, initial encounter for open fracture
S22.049A	Unspecified fracture of fourth thoracic vertebra, initial encounter for closed fracture
S22.049B	Unspecified fracture of fourth thoracic vertebra, initial encounter for open fracture
S22.059A	Unspecified fracture of T5-T6 vertebra, initial encounter for closed fracture
S22.059B	Unspecified fracture of T5-T6 vertebra, initial encounter for open fracture
S22.069A	Unspecified fracture of T7-T8 vertebra, initial encounter for closed fracture
S22.069B	Unspecified fracture of T7-T8 vertebra, initial encounter for open fracture
S22.079A	Unspecified fracture of T9-T10 vertebra, initial encounter for closed fracture
S22.079B	Unspecified fracture of T9-T10 vertebra, initial encounter for open fracture
S22.089A	Unspecified fracture of T11-T12 vertebra, initial encounter for closed fracture
S22.089B	Unspecified fracture of T11-T12 vertebra, initial encounter for open fracture
S24.101A	Unspecified injury at T1 level of thoracic spinal cord, initial encounter
S24.102A	Unspecified injury at T2-T6 level of thoracic spinal cord, initial encounter
S24.103A	Unspecified injury at T7-T10 level of thoracic spinal cord, initial encounter
S24.104A	Unspecified injury at T11-T12 level of thoracic spinal cord, initial encounter

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S24.109A	Unspecified injury at unspecified level of thoracic spinal cord, initial encounter
S24.111A	Complete lesion at T1 level of thoracic spinal cord, initial encounter
S24.112A	Complete lesion at T2-T6 level of thoracic spinal cord, initial encounter
S24.113A	Complete lesion at T7-T10 level of thoracic spinal cord, initial encounter
S24.114A	Complete lesion at T11-T12 level of thoracic spinal cord, initial encounter
S24.131A	Anterior cord syndrome at T1 level of thoracic spinal cord, initial encounter
S24.132A	Anterior cord syndrome at T2-T6 level of thoracic spinal cord, initial encounter
S24.133A	Anterior cord syndrome at T7-T10 level of thoracic spinal cord, initial encounter
S24.134A	Anterior cord syndrome at T11-T12 level of thoracic spinal cord, initial encounter
S24.151A	Other incomplete lesion at T1 level of thoracic spinal cord, initial encounter
S24.152A	Other incomplete lesion at T2-T6 level of thoracic spinal cord, initial encounter
S24.153A	Other incomplete lesion at T7-T10 level of thoracic spinal cord, initial encounter
S24.154A	Other incomplete lesion at T11-T12 level of thoracic spinal cord, initial encounter
S32.009A	Unspecified fracture of unspecified lumbar vertebra, initial encounter for closed fracture
S32.009B	Unspecified fracture of unspecified lumbar vertebra, initial encounter for open fracture
S32.10XA	Unspecified fracture of sacrum, initial encounter for closed fracture
S32.10XB	Unspecified fracture of sacrum, initial encounter for open fracture
S32.019A	Unspecified fracture of first lumbar vertebra, initial encounter for closed fracture
S32.019B	Unspecified fracture of first lumbar vertebra, initial encounter for open fracture
S32.029A	Unspecified fracture of second lumbar vertebra, initial encounter for closed fracture
S32.029B	Unspecified fracture of second lumbar vertebra, initial encounter for open fracture
S32.039A	Unspecified fracture of third lumbar vertebra, initial encounter for closed fracture
S32.039B	Unspecified fracture of third lumbar vertebra, initial encounter for open fracture
S32.049A	Unspecified fracture of fourth lumbar vertebra, initial encounter for closed fracture
S32.049B	Unspecified fracture of fourth lumbar vertebra, initial encounter for open fracture
S32.059A	Unspecified fracture of fifth lumbar vertebra, initial encounter for closed fracture
S32.059B	Unspecified fracture of fifth lumbar vertebra, initial encounter for open fracture
S32.2XXA	Fracture of coccyx, initial encounter for closed fracture
S32.2XXB	Fracture of coccyx, initial encounter for open fracture
S34.101A	Unspecified injury to L1 level of lumbar spinal cord, initial encounter
S34.102A	Unspecified injury to L2 level of lumbar spinal cord, initial encounter
S34.103A	Unspecified injury to L3 level of lumbar spinal cord, initial encounter
S34.104A	Unspecified injury to L4 level of lumbar spinal cord, initial encounter
S34.105A	Unspecified injury to L5 level of lumbar spinal cord, initial encounter
S34.109A	Unspecified injury to unspecified level of lumbar spinal cord, initial encounter
S34.111A	Complete lesion of L1 level of lumbar spinal cord, initial encounter
S34.112A	Complete lesion of L2 level of lumbar spinal cord, initial encounter
S34.113A	Complete lesion of L3 level of lumbar spinal cord, initial encounter
S34.114A	Complete lesion of L4 level of lumbar spinal cord, initial encounter
S34.115A	Complete lesion of L5 level of lumbar spinal cord, initial encounter
S34.119A	Complete lesion of unspecified level of lumbar spinal cord, initial encounter
S34.121A	Incomplete lesion of L1 level of lumbar spinal cord, initial encounter
S34.122A	Incomplete lesion of L2 level of lumbar spinal cord, initial encounter
S34.123A	Incomplete lesion of L3 level of lumbar spinal cord, initial encounter
S34.124A	Incomplete lesion of L4 level of lumbar spinal cord, initial encounter

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S34.125A	Incomplete lesion of L5 level of lumbar spinal cord, initial encounter
S34.129A	Incomplete lesion of unspecified level of lumbar spinal cord, initial encounter
S34.131A	Complete lesion of sacral spinal cord, initial encounter
S34.132A	Incomplete lesion of sacral spinal cord, initial encounter
S34.139A	Unspecified injury to sacral spinal cord, initial encounter
S34.3XXA	Injury of cauda equina, initial encounter

*b.* Spinal cord injury.

## (1) International Classification of Diseases, 9th Revision, Clinical Modification:

952.00-952.9	Spinal cord injury without evidence of spinal bone injury
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## (2) International Classification of Diseases, 10th Revision, Clinical Modification:

S14.101A	Unspecified injury at C1 level of cervical spinal cord, initial encounter
S14.102A	Unspecified injury at C2 level of cervical spinal cord, initial encounter
S14.103A	Unspecified injury at C3 level of cervical spinal cord, initial encounter
S14.104A	Unspecified injury at C4 level of cervical spinal cord, initial encounter
S14.105A	Unspecified injury at C5 level of cervical spinal cord, initial encounter
S14.106A	Unspecified injury at C6 level of cervical spinal cord, initial encounter
S14.107A	Unspecified injury at C7 level of cervical spinal cord, initial encounter
S14.108A	Unspecified injury at C8 level of cervical spinal cord, initial encounter
S14.109A	Unspecified injury at unspecified level of cervical spinal cord, initial encounter
S14.111A	Complete lesion at C1 level of cervical spinal cord, initial encounter
S14.112A	Complete lesion at C2 level of cervical spinal cord, initial encounter
S14.113A	Complete lesion at C3 level of cervical spinal cord, initial encounter
S14.114A	Complete lesion at C4 level of cervical spinal cord, initial encounter
S14.115A	Complete lesion at C5 level of cervical spinal cord, initial encounter
S14.116A	Complete lesion at C6 level of cervical spinal cord, initial encounter
S14.117A	Complete lesion at C7 level of cervical spinal cord, initial encounter
S14.118A	Complete lesion at C8 level of cervical spinal cord, initial encounter
S14.121A	Central cord syndrome at C1 level of cervical spinal cord, initial encounter
S14.122A	Central cord syndrome at C2 level of cervical spinal cord, initial encounter
S14.123A	Central cord syndrome at C3 level of cervical spinal cord, initial encounter
S14.124A	Central cord syndrome at C4 level of cervical spinal cord, initial encounter
S14.125A	Central cord syndrome at C5 level of cervical spinal cord, initial encounter
S14.126A	Central cord syndrome at C6 level of cervical spinal cord, initial encounter
S14.127A	Central cord syndrome at C7 level of cervical spinal cord, initial encounter
S14.128A	Central cord syndrome at C8 level of cervical spinal cord, initial encounter
S14.131A	Anterior cord syndrome at C1 level of cervical spinal cord, initial encounter
S14.132A	Anterior cord syndrome at C2 level of cervical spinal cord, initial encounter
S14.133A	Anterior cord syndrome at C3 level of cervical spinal cord, initial encounter
S14.134A	Anterior cord syndrome at C4 level of cervical spinal cord, initial encounter
S14.135A	Anterior cord syndrome at C5 level of cervical spinal cord, initial encounter
S14.136A	Anterior cord syndrome at C6 level of cervical spinal cord, initial encounter
S14.137A	Anterior cord syndrome at C7 level of cervical spinal cord, initial encounter
S14.138A	Anterior cord syndrome at C8 level of cervical spinal cord, initial encounter

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S14.151A	Other incomplete lesion at C1 level of cervical spinal cord, initial encounter
S14.152A	Other incomplete lesion at C2 level of cervical spinal cord, initial encounter
S14.153A	Other incomplete lesion at C3 level of cervical spinal cord, initial encounter
S14.154A	Other incomplete lesion at C4 level of cervical spinal cord, initial encounter
S14.155A	Other incomplete lesion at C5 level of cervical spinal cord, initial encounter
S14.156A	Other incomplete lesion at C6 level of cervical spinal cord, initial encounter
S14.157A	Other incomplete lesion at C7 level of cervical spinal cord, initial encounter
S14.158A	Other incomplete lesion at C8 level of cervical spinal cord, initial encounter
S24.101A	Unspecified injury at T1 level of thoracic spinal cord, initial encounter
S24.102A	Unspecified injury at T2-T6 level of thoracic spinal cord, initial encounter
S24.103A	Unspecified injury at T7-T10 level of thoracic spinal cord, initial encounter
S24.104A	Unspecified injury at T11-T12 level of thoracic spinal cord, initial encounter
S24.109A	Unspecified injury at unspecified level of thoracic spinal cord, initial encounter
S24.111A	Complete lesion at T1 level of thoracic spinal cord, initial encounter
S24.112A	Complete lesion at T2-T6 level of thoracic spinal cord, initial encounter
S24.113A	Complete lesion at T7-T10 level of thoracic spinal cord, initial encounter
S24.114A	Complete lesion at T11-T12 level of thoracic spinal cord, initial encounter
S24.131A	Anterior cord syndrome at T1 level of thoracic spinal cord, initial encounter
S24.132A	Anterior cord syndrome at T2-T6 level of thoracic spinal cord, initial encounter
S24.133A	Anterior cord syndrome at T7-T10 level of thoracic spinal cord, initial encounter
S24.134A	Anterior cord syndrome at T11-T12 level of thoracic spinal cord, initial encounter
S24.151A	Other incomplete lesion at T1 level of thoracic spinal cord, initial encounter
S24.152A	Other incomplete lesion at T2-T6 level of thoracic spinal cord, initial encounter
S24.153A	Other incomplete lesion at T7-T10 level of thoracic spinal cord, initial encounter
S24.154A	Other incomplete lesion at T11-T12 level of thoracic spinal cord, initial encounter
S34.109A	Unspecified injury to unspecified level of lumbar spinal cord, initial encounter
S34.139A	Unspecified injury to sacral spinal cord, initial encounter
S34.3XXA	Injury of cauda equina, initial encounter

ITEM 7. Strike “traumatic” wherever it appears in rule **641—21.4(135)**, subrule **21.6(1)**, and paragraph **21.6(2)“g.”**

ITEM 8. Rescind rule 641—21.5(135) and adopt the following **new** rule in lieu thereof:

**641—21.5(135) Method and frequency of reporting.**

**21.5(1)** To the extent possible, activities conducted under this chapter shall be coordinated with other health data collection methods. The department shall obtain brain and spinal cord injury data from the Iowa Hospital Association pursuant to 641—Chapter 177, and the association shall serve as the department’s intermediary in the collection of brain and spinal cord injury data.

**21.5(2)** Hospitals shall report to the Iowa Hospital Association the required information for any reportable case of brain injury or spinal cord injury no later than 45 days after the end of the quarter during which the patient was discharged, transferred to another acute care hospital, or pronounced dead in the emergency department.

**21.5(3)** Reports shall meet the data quality, format, and timeliness standards prescribed by the department and the Iowa Hospital Association.

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

ITEM 9. Amend subrule 21.6(2), introductory paragraph, as follows:

**21.6(2)** A registry report of a ~~traumatic~~ brain or spinal cord injury ~~that~~ which is submitted to the ~~agency that~~ department and which can be associated with a particular individual shall be released as follows solely by the department and only under the following conditions:

ITEM 10. Rescind paragraph **21.6(2)“e”** and adopt the following **new** paragraph in lieu thereof:

*e.* To an authorized representative of a study or research project that shall be reviewed and approved by the department’s research and ethics review committee and approved by the director of the division of behavioral health. If information identifies individuals with brain or spinal cord injuries, the release of such information for research purposes shall be subject to the terms and conditions set by the department. Such study or research project shall maintain the identifying information as confidential and privileged.

ITEM 11. Rescind paragraph **21.6(2)“f.”**

ITEM 12. Reletter paragraph **21.6(2)“g”** as **21.6(2)“f.”**

ITEM 13. Amend **641—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 135.22 ~~as amended by 1994 Iowa Acts, House File 2145.~~

**ARC 2459C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.37, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 22, “Practice of Tattooing,” Iowa Administrative Code.

The proposed amendments to Chapter 22 update definitions, update application requirements and fee schedules, clarify general provisions for tattoo artists and tattoo establishments, clarify and update sanitation and infection control provisions, clarify tattoo equipment requirements and tattooing procedures, clarify establishment permit requirements, propose guidelines for guest artists, propose that no new mobile tattoo units will be permitted, clarify inspection and inspector requirements, and clarify enforcement actions. The proposed amendments resulted from discussions held with a tattoo artist stakeholder group.

The following summary further describes the proposed amendments.

The amendments to rule 641—22.2(135) add new definitions and strike and modify existing definitions to clarify the terms used throughout the rules and proposed amendments; no new requirements are added.

The amendments to rule 641—22.3(135) clarify that a person must be at least 18 years of age to receive a tattoo and clarify where tattoo artists can engage in the practice of tattooing and make other clarifications to the existing rule language.

The amendments to rule 641—22.4(135) clarify the existing rule language and specify that the establishment owner shall not allow a non-permitted artist to perform tattooing in the establishment.

The amendments to rule 641—22.5(135) provide further clarification of the type of container that should be used for disposal of sharps in accordance with industry standards. The amendments also add language regarding steam sterilization of tattoo equipment as steam sterilization is a preferred method of sterilizing equipment and results in fewer user errors.

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

The amendments to rule 641—22.6(135) strike subrules 22.6(10) and 22.6(11) and add the content of those subrules to subrule 22.6(9) and clarify the procedure of tattooing related to the cleaning of tattoo equipment and the prevention of infections.

The amendments to rule 641—22.7(135) add instructions for completing an online application that will be available at the January 1, 2017, renewal cycle and modify the requirements for documentation of medical conditions and criminal convictions to align the requirements with those of other licensing programs. At the recommendation of the tattoo artist stakeholder group, deactivation and reinstatement fees have been added to encourage tattoo artists to renew in a timely manner.

At the recommendation of the tattoo artist stakeholder group, the fees for temporary tattoo establishments are increased from \$50 regardless of size to \$100 for up to 10 artists, \$200 for 11 to 100 artists, and \$300 for more than 100 artists. Temporary tattoo establishment events significantly increase the workload of program staff who must verify that all tattoo artists are properly licensed and are in adequate compliance with appropriate rules. These fees and other fees related to tattooing are included in one fee schedule in new rule 641—22.8(135). A fee for the newly created guest tattoo artist permit is also established and included in the fee schedule. The fee is equal to the fee for a resident tattoo artist permit.

Provisions for the collection and retention of client records currently in rule 641—22.15(135) are reorganized as new subrule 22.9(5) in the rule on tattoo establishment requirements, and a requirement that the establishment submit a floorplan with its application is added in order to assist inspectors during their inspections of establishments. The tattoo artist stakeholder group also recommended that the rules pertaining to change of ownership and change of establishment location be revised to clarify inspection requirements. The proposed revisions clarify that an inspection will be conducted when there is a change in establishment location to ensure that the establishment meets the requirements of Chapter 22 and that an inspection will be conducted when there is new ownership so that education and guidance can be provided to the new owner.

The amendments to the rule relating to tattoo artist permit requirements clarify existing language and establish qualifications and a special permit for guest tattoo artists at the recommendation of the tattoo artist stakeholder group.

The amendments to the rule on temporary establishment permits clarify what constitutes a temporary establishment and increase the number of calendar days for which a temporary permit can be issued for a temporary establishment from 7 days to 14 days. The amendments also add a requirement that the organizer of a temporary event must submit a list of all participating tattoo artists one week prior to the event; this requirement was added to ensure that all participating artists have current permits.

At the recommendation of the tattoo artist stakeholder group, effective July 1, 2016, no new mobile tattoo units will be permitted. Current licensed mobile tattoo units will be allowed to operate. There are five mobile units licensed in Iowa. It was the opinion of the tattoo artist stakeholder group that although mobile tattoo units are inspected annually, they are not closely monitored during actual events and may present potential public health consequences. The rule setting forth mobile tattoo unit permit requirements is revised to reflect this change. In addition, a requirement that existing mobile tattoo unit owners provide promotional documentation of the event they are attending is added so that the Department can ensure that the event is open to the public.

The rule on inspection requirements is revised to clarify that an inspecting agency must maintain inspection reports for three years.

The amendments to rule 641—22.16(135) clarify existing requirements relating to enforcement, and the amendments to rule 641—22.17(135) provide clarification that the Department can revoke a permit with just cause.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 5, 2016. Such written materials should be directed to Carmily Stone, Chief of Bureau of Environmental Health Services, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail [carmily.stone@idph.iowa.gov](mailto:carmily.stone@idph.iowa.gov).

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

Also, there will be a public hearing on April 8, 2016, on the fifth floor of the Lucas State Office Building, Des Moines, Iowa, in Rooms 517 and 518 from 1 to 3 p.m., at which time persons may present their views either orally or in writing. Persons may join the meeting by dialing the toll-free telephone number 1-866-685-1580 and entering code number 0009991863 when prompted. 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 amendments.

Persons with disabilities who require assistive services or devices in order to observe or participate should contact the Bureau of Environmental Health Services at (515)242-6337 in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.37.

The following amendments are proposed.

Amend **641—Chapter 22** as follows:

CHAPTER 22  
PRACTICE OF TATTOOING

**641—22.1(135)** No change.

**641—22.2(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Aftercare” means written instructions given to a client, specific to the procedures rendered, on care for the tattoo and surrounding area and guidance on when to seek medical treatment.

“Department” means the Iowa department of public health.

“Director” means the director of the Iowa department of public health.

“Disinfectant” means a U.S. Environmental Protection Agency (EPA)-registered antimicrobial product that is applied to surfaces to destroy microorganisms that are living on the surface, with the exception of bacterial spores that demonstrate tuberculocidal activity.

“Guest tattoo artist” means a tattoo artist who resides out of state and will be tattooing in Iowa for no more than 14 consecutive days.

“Imminent health threat” means a condition or conditions that exist in a tattoo establishment and require immediate action to prevent endangering the health of people.

“Impervious” means nonporous, impenetrable, smooth, and washable.

“Inspection agency” means the department or a city, county or district board of health that has executed an agreement with the department pursuant to the authority of a city, county or district board of health to inspect tattoo establishments and enforce these rules. The authority of a city, county or district board of health is limited to the geographic area defined in the agreement executed with the department. Within the defined geographic area, the city, county or district board of health is the “local inspection agency.”

“Minor” means a person who is under the age of 18 years.

“Mobile tattoo unit” means a mobile establishment or unit that is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.

“Permanent color technology” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes.

“Residential dwelling” is a place or structure intended to be occupied as a residence.

“Single use” means intended for one-time use and disposed of after use on a client. Single-use products or items include, but are not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, disposable razors, tattoo needles, scalpel blades, stencils, ink cups, and protective gloves. Cloth towels and linens are not included as “single use” and are prohibited.

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

“Sterilization” means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores that demonstrate tuberculocidal activity.

“Tattoo artist” means any person, including a permanent color technologist, engaged in the practice of tattooing within the state of Iowa.

“Tattoo establishment” means the building, or portion of the building designated by the owner, or mobile unit where tattooing is practiced.

“Tattooing” means to puncture the skin of a person with a needle and insert indelible permanent colors through the puncture to leave permanent marks or designs. “Tattooing” includes permanent color technology that is the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into the dermis portion of the skin so as to form indelible marks for cosmetic purposes. “Tattooing” does not include applying a tattoo for radiological purposes.

~~“Tattoo mobile unit” means a mobile establishment or unit which is self-propelled or otherwise movable from place to place, is self-sufficient for utilities such as gas, water, electricity and liquid waste disposal, and operates at a fixed location where a permitted artist performs tattooing procedures for no more than 14 days in conjunction with a single event.~~

“Temporary establishment permit” means a permit issued by the department to perform tattoo procedures at a temporary event.

“Temporary event” means any place or premises operating at a fixed location where a tattoo artist performs tattooing procedures for no more than seven 14 days consecutively in conjunction with a single event or celebration to which the general public is invited.

**641—22.3(135) General provisions.**

**22.3(1)** No change.

**22.3(2)** No person shall tattoo ~~a minor~~ any person under the age of 18. Violators shall be guilty of a serious misdemeanor.

**22.3(3)** No ~~tattoo artist person~~ shall engage in the practice of tattooing without first ~~obtaining~~ applying for and receiving a tattoo artist permit from the department.

**22.3(4)** No change.

**22.3(5)** Tattooing shall be practiced only in facilities that have applied for and received a tattoo establishment permit from the department.

**22.3(6)** ~~Tattooing~~ Notwithstanding local zoning codes, where zoning codes exist, tattooing shall not be practiced in a residential dwelling, inclusive of an attached garage, pursuant to local zoning codes. Beginning January 1, 2010, all new tattoo establishments must be in a building that is zoned commercial where zoning ordinances exist. A waiver shall be granted to any tattoo establishment which is in a residential dwelling and which has been operating continuously since being granted a permit prior to January 1, 2010.

**22.3(7)** No change.

**641—22.4(135) Sanitation and infection control.**

**22.4(1)** Tables, chairs, and other general-use equipment in the tattoo area shall be constructed of impervious ~~or~~ smooth and easily cleanable material.

**22.4(2)** A sink for hand washing supplied with potable hot and cold running water under pressure to a mixing-type faucet shall be ~~available~~ easily accessible in the tattooing area. Hand-washing facilities shall be supplied with liquid soap and single-use ~~paper~~ towels or hand dryer.

**22.4(3)** ~~Toilet~~ Easily accessible toilet facilities with a sink for hand washing must be available for employee use and patron use.

**22.4(4)** The tattoo establishment shall have an area of ~~not less than~~ at least 300 square feet and shall be adequately lighted and ventilated.

**22.4(5)** Floors in the ~~immediate area where the tattoo procedure is to be performed~~ tattoo area shall be finished with an impervious, smooth, washable surface.

**22.4(6)** and **22.4(7)** No change.

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

**22.4(8)** Closed cabinets or containers shall be exclusively used for the exclusive storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.

**22.4(9)** The following prohibitions apply to tattoo establishments:

- a. No change.
- b. Consumption of food or drink shall not be allowed in ~~any area where the actual tattoo area procedure is being performed.~~
- c. The owner or tattoo artist must not use, consume or serve intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed.~~
- d. The owner or tattoo artist must not allow any other person to use, consume, or serve intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed.~~
- e. The owner or tattoo artist shall not in any manner possess or distribute or allow any other person to possess or distribute intoxicating beverages or controlled substances on the establishment's premises ~~during the hours the establishment is open to the public or while any procedure is being performed.~~
- f. The tattoo establishment owner shall not allow a tattoo artist who is not currently permitted in the state of Iowa to tattoo in the establishment.

**22.4(10)** No animals, except service ~~dogs for visually or hearing impaired persons~~ animals, shall be permitted in a tattoo establishment. Aquariums containing fish shall be allowed in waiting rooms and ~~nonprocedural~~ non-tattoo areas.

**641—22.5(135) Equipment.** All equipment shall be maintained in a clean and sanitary condition.

**22.5(1)** Cups to hold ink or dye shall be for single-patron use. Any ink or dye, once dispensed into an ink cup, must be disposed of immediately following use.

**22.5(2)** No change.

**22.5(3)** All tubes, tips and ~~needle bars~~ grips used for the tattoo procedure which are not sterile, not for single-patron use, and not disposable shall be physically cleaned with a detergent according to manufacturers' recommendations and then steam-sterilized or dry-heat sterilized before use on another patron.

**22.5(4)** Steam sterilization shall be at 250 degrees Fahrenheit (121 degrees Celsius) for 15 minutes at a minimum pressure of 15 pounds per square inch. Steam sterilization is the preferred method of sterilization.

**22.5(5)** No change.

**22.5(6)** All instruments must be sterilized on site. All instruments to be sterilized shall be placed in closed pouches ~~and the instruments must be sterilized on site.~~ The pouches must be dated effective for 30 days, after which the instruments must be resterilized and the pouches redated.

**22.5(7)** and **22.5(8)** No change.

**22.5(9)** Each tattoo establishment shall be equipped with a puncture-resistant, leakproof container designated for disposal of used needles and other sharps. The container shall be red and labeled with the "biohazard" symbol and shall be closeable for handling, storage, transportation and disposal. A written plan for disposal shall be maintained in the establishment ~~and be made available upon request by the inspection agency.~~

**22.5(10)** and **22.5(11)** No change.

**22.5(12)** Topical ointments shall be prepared for single-patron use.

**641—22.6(135) Procedures.**

**22.6(1)** to **22.6(3)** No change.

**22.6(4)** Tattoo artists shall wear clean garments when performing tattoo procedures. Tattoo artists shall wear disposable latex, nitrile, or vinyl gloves during the tattoo procedure. Gloves shall be changed after each tattoo. Tattoo artists shall wash their hands before and after each tattoo procedure.

**22.6(5)** All items with which the gloved hands of the tattoo artist would normally come into contact during the tattooing procedure shall have appropriate barrier films covering them. These items include,

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

but are not limited to, ~~machine heads, clip cords, spray squeeze bottles, seat adjustment controls, power control dials or buttons, and work lamps.~~

~~22.6(6) and 22.6(7) No change.~~

~~22.6(8) Tattooing shall not be performed on any area where there is evidence of skin infection, irritation, or abnormalities.~~

~~22.6(9) After the tattooing is completed, an adequate dressing shall be applied to the tattoo area. the tattoo artist shall:~~

~~a. Apply an adequate dressing or bandage to the tattoo area.~~

~~b. Provide to the persons tattooed printed aftercare instructions regarding tattoo care during the healing process.~~

~~c. Thoroughly clean the machine head with an acceptable disinfectant and spray an acceptable surface disinfectant over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.~~

~~22.6(10) Persons tattooed shall be provided with printed instructions regarding tattoo care during the healing process and shall be instructed to consult a physician if signs and symptoms of an infection develop.~~

~~22.6(11) After the tattoo is finished, an acceptable surface disinfectant shall be sprayed over the work area during the clean-up procedures before the area is set up for the next tattoo procedure.~~

**641—22.7(135) Permit issuance and renewal.** The following criteria shall apply to application for a permit to practice as a tattoo artist or as a tattoo establishment.

~~22.7(1) Applications may be obtained from the department's Web site at <http://www.idph.state-ia.us/eh/tattoo.asp> or are available upon request from the Iowa Department of Public Health, Division of Environmental Health, Tattoo Permit Program, Lucas State Office Building, Des Moines, Iowa 50319-0075. Online or paper applications.~~

~~a. An applicant shall complete either an online application or a paper application according to the instructions contained in the application.~~

~~b. Paper applications are available to download at <http://www.idph.iowa.gov/Tattoo> or may be obtained from the tattoo office by writing to Tattoo Program, Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075, or by calling (515)242-6337.~~

~~c. Fees. In order to be processed, each application must be accompanied by the appropriate fee as determined in the fee schedule listed in subrule 22.8(2). All fees are nonrefundable. An application that includes insufficient or incorrect fees shall be considered incomplete.~~

~~d. A paper application shall be accompanied by the appropriate fee payable by check or money order to the Iowa Department of Public Health.~~

~~e. Online application fees shall be paid by credit card only.~~

~~f. If the applicant is notified that the application is incomplete, the applicant must contact the tattoo office within 90 days. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.~~

~~22.7(2) The department will act within 60 days upon receiving a completed application. If an applicant satisfies permit requirements, satisfies the requirements of this chapter, and complies with inspection requirements, the department will issue a permit. Documentation of medical conditions and criminal convictions related to the practice of the profession shall include a full explanation from the applicant. No application shall be considered complete until the applicant responds to any program requests for additional information regarding the applicant's medical condition or criminal conviction.~~

~~22.7(3) If the applicant has been convicted of a felony or misdemeanor, the department shall review evidence including but not limited to the following:~~

~~a. Official court record, which includes charges and disposition;~~

~~b. Copies of arrest records;~~

~~c. A letter from the applicant explaining the nature of the conviction;~~

~~d. All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug- or alcohol-related offense and if treatment was obtained or required; and~~

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

~~e.~~—A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

~~22.7(4)~~ **22.7(3)** All permits expire on December 31 of each year, regardless of date of issuance for the year issued. Permits shall be renewed annually upon acceptance of a renewal application provided by the department and receipt of the renewal fee. The applicant shall submit a completed application, supporting documentation and renewal fee by December 1. The permit holder must have a current permit in possession before performing tattooing. Applicants who submit applications for renewal received ~~An~~ applicant who submits a renewal application after December 31 1 will be required to pay an additional \$25 for each month delinquent.

~~22.7(5)~~ The department shall send a renewal notice by regular mail to each permit holder at the address on record at least 60 days prior to the expiration of the permit.

~~22.7(6)~~ **22.7(4)** The permit holder is responsible for renewing the permit prior to its expiration. Failure of the permit holder to receive the notice does not relieve the permit holder of the responsibility for renewing the permit.

**22.7(5)** A permit which has not been renewed within 90 days of the permit expiration date will automatically be deactivated. There will be a \$25 reinstatement fee charged for reactivating a permit. This reactivation fee will be in addition to the renewal fee.

**641—22.8(135) Fees.**

**22.8(1)** All fees are nonrefundable.

**22.8(2)** Fees for all initial and renewal applications are as follows:

- a. Tattoo artist - \$75.
- b. Guest tattoo artist - \$75.
- c. Tattoo establishment - \$100.
- d. Temporary tattoo establishment:
  - (1) 0 to 10 participating artists - \$100.
  - (2) 11 to 100 participating artists - \$200.
  - (3) 101 or more participating artists - \$300.
- e. Mobile tattoo unit - \$100.
- f. Mobile tattoo event - \$25 per event.
- g. Tattoo establishment change of ownership - \$25.
- h. Tattoo establishment change of location - \$25.
- i. Mobile tattoo unit change of location - \$25.

**641—22.8 641—22.9(135) Establishment Tattoo establishment permit requirements.**

~~22.8(1)~~ **22.9(1)** No tattoo establishment shall be operated in the state without having a permit to operate issued by the department. Permits shall be posted in a conspicuous location in the tattoo establishment.

~~22.8(2)~~ **22.9(2)** Each person acquiring or establishing a tattoo establishment shall apply for a permit prior to beginning operation and shall submit a floor plan of the establishment with the application.

~~22.8(3)~~ **22.9(3)** A permit to operate shall be issued to a new establishment when the department or its representative has successfully completed an on-site inspection. ~~Permits shall be posted in a conspicuous place in the tattoo establishment.~~

~~22.8(4)~~ An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo establishment permit application.

~~22.8(5)~~ **22.9(4)** Tattoo establishment permits are nontransferable.

**22.9(5)** Client records. A tattoo establishment shall retain a record of all persons who have had tattoo procedures performed at the establishment.

a. Records shall include the client's name and date of birth, copy of client's identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client.

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

*b.* Records shall be retained in a confidential manner for a minimum of three years and shall be available to the department and the inspection agency upon request.

~~22.8(6)~~ 22.9(6) Change in ownership. Within 30 days of a change in ownership of a tattoo establishment, the new owner shall submit an a change in ownership application and fee for a new permit. When a change of ownership occurs, an on-site inspection must be completed by the inspection agency before a permit to operate will be issued. The new permit must be posted in a conspicuous location in the establishment.

~~22.8(7)~~ 22.9(7) Change in location. Within 30 days of a change of location of a tattoo establishment, the owner shall submit a new change of location application and a nonrefundable fee of \$25 for a new permit. When a change of location occurs, an on-site inspection must be completed by the inspection agency before a permit to operate will be issued. The new permit must be posted in a conspicuous location in the establishment.

**641—22.9 641—22.10(135) Tattoo artist permit requirements.**

~~22.9(1)~~ 22.10(1) An annual, nonrefundable application fee of \$75, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal tattoo artist permit application. No person shall perform tattooing without a current permit to operate issued by the department. Each person shall apply for a permit prior to beginning operation.

~~22.9(2)~~ 22.10(2) Each permit issued shall be in effect solely for the tattoo artist named thereon and shall remain with the tattoo artist upon change of employment. Tattoo artist permits are nontransferable.

~~22.9(3)~~ 22.10(3) An applicant for a tattoo artist permit shall be at least 18 years of age and must submit a photocopy documentation of a birth certificate or other equivalent document to show proof of attaining the age of 18 years.

~~22.9(4)~~ 22.10(4) Applicants An applicant must have show proof of a high school diploma or general educational development certificate (GED) high school equivalency diploma. (NOTE: Tattoo artists granted a permit prior to January 1, 2010, will not be required to obtain a high school diploma or GED high school equivalency diploma.) A degree from an accredited college will be accepted in lieu of a high school diploma or high school equivalency diploma.

~~22.9(5)~~ 22.10(5) Upon initial application and permit renewal application, a tattoo artists artist must complete and be current in the following possess and show proof of current certification of American Red Cross or equivalent nationally recognized certifications: for blood-borne pathogens and standard first aid.

*a.* Bloodborne pathogens; and

*b.* Standard first aid.

~~22.9(6)~~ Applicants must submit proof of successful completion of the certification programs listed in subrules 22.9(4) and 22.9(5).

~~22.9(7)~~ 22.10(6) Each permit issued shall be in effect solely for the artist named thereon and shall remain with the artist upon change of employment. Guest tattoo artist permits. Effective July 1, 2016, guest tattoo artist permits will be available to tattoo artists who wish to tattoo at a temporary event in Iowa. Guest tattoo artist permits will be valid for 14 consecutive days. To obtain a guest tattoo artist permit, an applicant shall:

*a.* Apply for a permit prior to beginning operation.

*b.* Be at least 18 years of age. The applicant must submit legal identification showing proof of age.

*c.* Possess and show proof of current certification of American Red Cross or equivalent nationally recognized certifications for blood-borne pathogens and standard first aid.

*d.* Provide the name and date(s) of the temporary event where tattooing will be performed.

~~22.9(8)~~ 22.10(7) Permits shall be posted in a conspicuous place in the tattoo establishment.

**641—22.10 641—22.11(135) Temporary establishment permit requirements.**

~~22.10(1)~~ 22.11(1) A person who wishes to obtain a temporary establishment permit for a temporary event must submit a nonrefundable application fee of \$50, payable by check or money order to the Iowa

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

~~Department of Public Health, and submit a floor plan(s) of the facility temporary tattoo establishment application form, a floor plan of the facility, promotional documentation for the event, and the appropriate fee at least 30 days prior to the event. Fees shall be based on the number of participating tattoo artists. The request application shall specify the following:~~

- ~~a. The purpose for which the permit is requested;~~
- ~~b. The period of time during which the permit is needed (not to exceed 7 14 calendar days per event, without reapplication);~~
- ~~c. The fulfillment of tattoo artist requirements as specified in 641—22.9(135); and 641—22.10(135). A list of participating tattoo artists shall be sent to the tattoo program no later than one week prior to the event.~~

~~d. The location for at which the temporary permit event will be used held.~~

~~22.10(2) 22.11(2) The temporary event must be contained in a completely enclosed, nonmobile facility such as inside a permanent building.~~

~~22.10(3) 22.11(3) The temporary establishment shall comply with the following:~~

~~a. Conveniently located hand-washing facilities with liquid soap, single-use towels or hand dryers and potable hot and cold water under adequate pressure to a mixing-type faucet shall be provided. Drainage in accordance with local plumbing codes shall be provided. Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this paragraph must be available in each booth.~~

~~b. A minimum of 80 square feet of floor space shall be provided for each booth.~~

~~c. There shall be at least 100 foot-candles of light at the level sufficient lighting where the tattoo procedure is being performed.~~

~~d. Facilities to properly sterilize instruments and evidence of a spore test performed on sterilization equipment 30 days or less prior to the date of the event must be provided; or only single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed. All tubes, tips and grips used for the tattoo procedure that are not single use must be properly sterilized and dated 30 days or less prior to the date of the event. Evidence of a spore test performed on the sterilization equipment must be dated 30 days or less prior to the date of the event. Single-use, prepackaged, sterilized equipment obtained from reputable suppliers or manufacturers will be allowed.~~

~~e. Tattoo artists must properly clean and sanitize the area used for tattoo procedures.~~

~~f. Floors of the facility the tattooing area(s) shall be smooth and impervious or be covered with an impermeable barrier.~~

~~22.10(4) 22.11(4) The facility where the temporary establishment permit is needed event will be held must be inspected by the designated inspection agency and be issued a permit prior to the performance of any tattoo procedures. A \$50 inspection fee for each booth shall be made payable to the inspection agency.~~

~~22.10(5) 22.11(5) No animals, except service animals of clients, shall be allowed in the temporary establishment at any time.~~

~~22.10(6) 22.11(6) Temporary establishment permits issued under the provisions of these rules may be suspended by the department for failure of the holder to comply with the requirements of these rules.~~

~~22.10(7) 22.11(7) Permits Temporary establishment permits and tattoo artist permits shall be posted in a conspicuous place in the temporary establishment.~~

**641—22.11 641—22.12(135) Mobile tattoo unit permit requirements.** Effective July 1, 2016, no new mobile tattoo units will be permitted. (NOTE: Mobile tattoo units granted a permit prior to July 1, 2016, may continue to operate with a current permit provided they remain compliant with the rules of this chapter.)

**22.11(1) 22.12(1)** Mobile tattoo unit permits shall be in compliance with all of the following requirements:

~~a. No mobile tattoo unit shall be operated in the state without having a permit to operate issued by the department.~~

~~b. Each person acquiring or establishing a mobile unit shall apply for a permit prior to beginning operation. All tattoo artists working in a mobile tattoo unit must have a permit and must comply with~~

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

the permit requirements of these rules. Artist permits shall be posted in a conspicuous location in the mobile tattoo unit.

~~c. A permit to operate shall be issued to a new mobile unit when the department or its representative has successfully completed an on-site inspection. Permits~~ Mobile tattoo unit permits shall be posted in a conspicuous place in the mobile tattoo unit.

~~d. An annual, nonrefundable application fee of \$100, payable by check or money order to the Iowa Department of Public Health, shall be remitted with the initial or renewal mobile unit permit application.~~

~~e. d.~~ Mobile tattoo unit permits are nontransferable.

~~f. Change in ownership. Within 30 days of a change in ownership of a mobile unit, the new owner shall submit an application and fee for a new permit.~~

~~g. e.~~ Change in address location. Within 30 days of a change of location of a address of where the mobile tattoo unit is housed, the owner shall submit a new application and a ~~nonrefundable fee of \$25~~ for a new permit.

f. Inspections will be conducted by the local jurisdiction in which the mobile tattoo unit is housed. Out-of-state mobile tattoo units must have a current Iowa mobile tattoo unit permit and will be required to have an annual inspection.

~~22.11(2) 22.12(2) Tattoo mobile~~ Mobile tattoo units and tattoo artists working from a mobile tattoo unit shall also comply with all of the following requirements.

a. Mobile tattoo units are permitted for use only at special temporary events lasting 14 calendar days or less. Permits must be obtained at least 14 days prior to the event, and no tattoo procedures shall be performed before a permit is issued. Promotional documentation of the event must be included with the application. Permit holders are responsible for compliance with all other local regulations including but not limited to zoning and business license requirements.

b. The mobile tattoo unit shall be maintained in a clean and sanitary condition at all times. Doors shall be tight-fitting. Openable windows shall have tight-fitting screens.

~~c. Mobile tattoo units must have approved meet the sterilization equipment available, requirements in accordance with all requirements of 641—22.5(135).~~

d. Mobile tattoo units shall be used only for the purpose of performing tattoo procedures. No habitation or food preparation is permitted inside the vehicle unless the tattoo work station is separated from culinary or domicile areas by walls, an impervious floor-to-ceiling, from culinary or domicile areas barrier.

e. Mobile tattoo units shall be equipped with a hand sink for use of the tattoo artist for hand washing and preparing the client for the tattoo procedures.

(1) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer.

(2) An adequate supply of potable water shall be maintained for the mobile tattoo unit at all times during operation.

(3) The source of the water and storage of the tank(s) shall also be identified.

~~(4) Tuberculocidal, single-use hand wipes to augment the hand-washing requirements of this subrule must be available.~~

f. All liquid wastes shall be stored in an adequate storage tank with a capacity at least 15 percent greater than the capacity of the on-board potable water supply. Liquid wastes shall be disposed of at a publicly owned treatment works site approved by the department of natural resources (IDNR).

g. Restroom facilities must be available at the special temporary event or within the mobile tattoo unit.

(1) A hand sink must be available inside within a reasonably acceptable distance from the restroom cubicle.

(2) The hand sink shall be supplied with hot and cold running water under pressure to a mixing-type faucet, as well as liquid soap and single-use towels in dispensers or hand dryer.

(3) Restroom doors Restrooms must be self-closing, and adequate ventilation must be available adequately ventilated.

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

*h.* All tattoo artists working in a mobile tattoo unit must have a permit and must comply with the permit requirements of these rules. Permits shall be posted in a conspicuous location in the mobile tattoo unit

*i.* No animals, except service animals of clients, shall be allowed in the mobile tattoo unit at any time.

*j.* ~~Permits shall be posted in a conspicuous place in the mobile unit.~~

~~641—22.12~~ **641—22.13(135) Agreements.** The department may enter into agreements with the local boards of health to provide inspections and enforcement. An inspection agency shall:

1. Ensure that its inspectors will meet the educational requirements of ~~641—22.14(135)~~ ~~641—22.15(135)~~.

2. No change.

~~641—22.13~~ **641—22.14(135) Inspection requirements.**

~~22.13(1)~~ 22.14(1) The inspection agency shall bill the owner of a tattoo establishment \$250 upon completion of an inspection. Inspection fees are due upon receipt of a notice of payment due.

~~22.13(2)~~ 22.14(2) Tattoo establishments shall be inspected annually, and inspection reports shall be maintained for three years by the inspection agency.

~~22.13(3)~~ 22.14(3) When the tattoo establishment is located within the jurisdiction of a local inspection agency, the local inspection agency may establish fees needed to defray the costs of inspection and enforcement under this chapter. Inspection fees billed by a local inspection agency shall be paid to the local inspection agency or its designee.

~~22.13(4)~~ 22.14(4) When an inspection agency determines that a special inspection is required, such as a follow-up inspection or an inspection generated by complaints, the inspection agency may charge a special inspection fee, which shall be based on the actual cost of providing the inspection.

~~22.13(5)~~ 22.14(5) Unpaid inspection fees will be considered delinquent 30 days after the date of the bill. A late fee of \$30 per month will be assessed to the establishment owner after a 30-day notice. If inspection fees remain unpaid after 60 days, an order to cease and desist operations will be issued by the department.

~~22.13(6)~~ 22.14(6) Failure to permit allow an inspection is grounds for denial of an initial tattoo establishment permit or for issuance of an order requiring suspension of a tattoo establishment's existing operations.

~~22.13(7)~~ 22.14(7) If an imminent health hazard threat exists, the inspection agency or the department may, pursuant to Iowa Code section 17A.18A, order the establishment to cease operation immediately. Operation shall not be resumed until authorized by the inspection agency or the department.

~~22.13(8)~~ 22.14(8) ~~Material safety~~ Safety data sheets (MSDS SDS) for the chemicals used at the tattoo establishment shall be maintained at the establishment in a location known and readily accessible to the establishment staff and shall be made available upon request of the inspection agency.

~~22.13(9)~~ 22.14(9) An establishment inspected under this chapter shall post the most recent routine inspection report, along with any ~~current complaint~~ or reinspection reports, in a location at the establishment that is readily visible to the public.

~~641—22.14~~ **641—22.15(135) Tattoo inspector qualifications.** Each person designated as a tattoo inspector shall have successfully completed a blood-borne pathogen certification course from the American Red Cross or an equivalent nationally recognized organization. A copy of current certification shall be maintained by the local inspection agency.

~~641—22.15(135)~~ **Client records.** A tattoo establishment shall keep a record of all persons who have had tattoo procedures performed.

~~22.15(1)~~ Records shall include the client name, date of birth, photocopy of identification, date of the procedure, name of the tattoo artist who performed the procedure(s), and signature of client.

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

~~22.15(2) Records shall be retained in a confidential manner for a minimum of three years and shall be available to the department and the inspection agency upon request.~~

**641—22.16(135) Enforcement.**

**22.16(1)** No change.

**22.16(2)** The inspection agency ~~shall~~ may take the following steps when enforcement of these rules is necessary.

*a.* and *b.* No change.

*c. Failure to comply.* If the owner of a tattoo establishment, ~~or~~ mobile tattoo unit, or temporary establishment fails to comply with conditions of the written notice, the inspection agency may take enforcement action in accordance with Iowa Code chapter 135 or in accordance with local ordinances.

**641—22.17(135) Adverse actions and the appeal process.**

**22.17(1)** The department may deny an application for a permit, ~~may~~ revoke a permit, order that a tattoo establishment not be operated, ~~may~~ order a tattoo artist to cease engaging in the practice of tattooing, or ~~may~~ refer the case to the office of the county attorney or attorney general for possible criminal penalties when the department finds that an establishment is not operated in accordance with these rules or that a permitted person or a person who is not permitted has committed any of the following acts:

*a.* to *y.* No change.

**22.17(2)** Notice of issuance of a denial, ~~revocation,~~ or order to cease operations shall be served by certified mail, return receipt requested, or by personal service.

**22.17(3)** Upon receipt of the order, the aggrieved party may request an appeal. The appeal shall be made in writing to the department within 20 days from the date of the aggrieved party's receipt of the department's order. The appeal shall be addressed to Iowa Department of Public Health, Division of ~~Environmental Health~~ ADPER and EH, Tattoo Permit Program, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 20-day time period, the order shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the order upon satisfaction that the reason for the order has been or will be removed. After the hearing, or upon default of the aggrieved party, the administrative law judge shall affirm, modify or set aside the order. If no request for appeal is received within the 20-day time period, the department's order shall become the department's final agency action.

**22.17(4) to 22.17(10)** No change.

**22.17(11)** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The copy shall be directed to Iowa Department of Public Health, Division of ~~Environmental Health~~ ADPER and EH, Tattoo Permit Program, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

**22.17(12)** No change.

These rules are intended to implement Iowa Code section 135.37.

## ARC 2461C

**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.11(26), the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 24, “Private Well Testing, Reconstruction, and Plugging—Grants to Counties,” Iowa Administrative Code.

The following paragraphs summarize the proposed amendments:

Item 1 adds language for the Department to be able to reallocate funds that are not being spent. This change was made due to a request from the Legislature in 2015 to better utilize these funds. All counties participating in the grant program will receive an original appropriation, and only those counties that demonstrate an underutilization of funding (based on current and historical practices) will receive a midcontract reduction in funding. Midyear reallocations will allow for a more effective and complete use of funding for private well services while at the same time direct funding to areas of Iowa that have demonstrated a need for additional funding.

Items 2 clarifies training, training reimbursement, and the costs that will be reimbursed to the well owner, cistern owner and the county.

Item 3 allows the Department to receive the 28E agreements between counties that have multicounty applications.

Item 4 rescinds the rule pertaining to record-keeping and retention requirements because these requirements are outlined in the general conditions of the contract.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 5, 2016. Such written materials should be directed to Carmily Stone, Chief of Bureau of Environmental Health Services, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail [carmily.stone@idph.iowa.gov](mailto:carmily.stone@idph.iowa.gov).

A public hearing will be held on April 5, 2016, from 11 a.m. to 12 noon in Room 142 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. Interested persons may join the meeting by telephone in the United States and Canada, toll-free, by dialing 1-866-685-1580 and entering access code 0009991863 when prompted. During the hearing, persons may present their views either orally or in writing and will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. All interested persons may participate in this proceeding. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Bureau of Environmental Health Services at (515)281-3548 in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 455E.11 and 135.11(26).

The following amendments are proposed.

ITEM 1. Amend subrule 24.4(2) as follows:

**24.4(2) Allocation of funds.**

*a.* During each fiscal year, the amount granted each eligible applicant shall be the total funds available as defined in Iowa Code section 455E.11 divided by the number of eligible counties applying.

*b.* The department will annually determine the potential for unused funds from contracts. If funds are available, reallocation of the funds to eligible counties for grant purposes shall be at the discretion of the department.

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

ITEM 2. Amend rule 641—24.5(135) as follows:

**641—24.5(135) Eligible grant costs.** The following are annual eligible costs for which the department will reimburse participating counties:

**24.5(1)** ~~Up~~ Actual costs up to \$1,000 will be paid to the participating county for private water well-related training expenses, including registration, mileage, and per diem lodging, and meals for employees attending department-approved trainings. Training approval is granted to water well-related training sponsored by the department, the Iowa Environmental Health Association, the Iowa Public Health Association, the Iowa Water Well Association, the Iowa department of natural resources, or the Iowa Ground Water Association. The annual conference sponsored by the Iowa Onsite Waste Water Association is also approved. Other trainings must receive approval of the department before a voucher for expenses is submitted.

**24.5(2)** ~~Up~~ Actual costs up to \$500 will be paid to the participating county for supplies related to the grants to counties program. Eligible supplies include, but are not limited to, Global Positioning System (GPS) units, private water well data software, inspection supplies, cameras, and sampling equipment.

**24.5(3)** ~~Up~~ Actual costs up to \$1,000 will be paid to the participating county for advertising and promotional expenses to educate county residents about the availability of funds for private water well testing, abandoned well plugging, and private water well reconstruction.

**24.5(4)** Actual costs will be paid to the participating county for each private water well test conducted under the program, including \$60 for administrative expenses. At a minimum, well sampling shall include analyses for total nitrate (including nitrite) and total coliform bacteria. Optional analyses may also include arsenic.

**24.5(5)** ~~Up~~ The total maximum reimbursement to the county for a well plugging is \$575. Actual costs up to \$575 \$500 will be paid for each abandoned private water well plugging conducted in accordance with 567—Chapter 39, including \$75 for administrative expenses. The county shall directly reimburse these costs to the well owner. An administrative expense of \$75 shall be retained by the participating county. Private water well plugging must be conducted by a certified individual as defined in 567—Chapter 82 or by the well owner under direct supervision by the county.

**24.5(6)** ~~Up~~ The total maximum reimbursement to the county for a cistern plugging is \$375. Actual costs up to \$375 \$300 will be paid for each cistern plugging but only for those cisterns deemed by the administrative authority to impact groundwater, including \$75 for administrative expenses. The county shall directly reimburse these costs to the cistern owner. An administrative expense of \$75 shall be retained by the participating county. Cistern plugging must be conducted by a certified individual as defined in 567—Chapter 82 or by the well owner under direct supervision by the county.

**24.5(7)** ~~Up~~ The total maximum reimbursement to the county for a well reconstruction is \$1,330. Actual costs up to \$1,000 in reconstruction costs plus will be paid for each reconstruction. The county shall directly reimburse these costs to the well owner. An administrative expense of 33 percent of the actual reconstruction costs for administrative purposes will be paid for each private water well reconstruction will be retained by the participating county. Grant funds may be used to conduct reconstruction intended to preclude contamination due to surface water intrusion by coliform or other infectious bacteria. Examples include repairs of casing, well caps, or pitless adapters and elimination of well pits.

ITEM 3. Amend subrule 24.8(4) as follows:

**24.8(4)** For multicounty applications, signed Iowa Code chapter 28E agreements between each participating county and the applicant upon request from the department.

ITEM 4. Rescind and reserve rule **641—24.12(135).**

**ARC 2460C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of 2015 Iowa Acts, Senate File 505, section 68, the Iowa Department of Public Health hereby gives Notice of Intended Action to adopt Chapter 107, “Board-Certified Behavior Analyst and Board-Certified Assistant Behavior Analyst (BCBA/BCaBA) Grants Program,” Iowa Administrative Code.

The proposed new chapter establishes rules to implement the board-certified behavior analyst and board-certified assistant behavior analyst grants program. The program provides grants to Iowa resident and nonresident applicants who have been accepted for admission to or are attending a board of regents university, a community college, or an accredited private institution; are enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst; and demonstrate financial need. The purpose of the program is to increase access to certified behavior analyst and certified assistant behavior analyst professionals. These rules were written in cooperation with the Department of Education and the Department of Human Services’ Autism Support Program.

Any interested person may make written comments or suggestions on the proposed rules on or before April 5, 2016. Such written comments should be directed to Doreen Chamberlin, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)242-6384; e-mail may be sent to [doreen.chamberlin@idph.iowa.gov](mailto:doreen.chamberlin@idph.iowa.gov).

A public hearing is scheduled for April 5, 2016, from 3 to 4:30 p.m. on the fourth floor of the Lucas State Office Building, Room 415, 321 East 12th Street, 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 chapter.

After analysis and review of this rule making, it is projected that these rules will positively impact employment opportunities for board-certified behavior analysts and board-certified assistant behavior analysts in Iowa. The Department of Education and the Department of Human Services’ Autism Support Program have determined that there are insufficient numbers of board-certified behavior analysts and board-certified assistant behavior analysts to provide services to clients of the Autism Support Program and the public. Health care professionals have a greater likelihood of starting a practice in the state where they completed their training. It is assumed that the establishment of this new program will provide health care agencies that are recruiting these practitioners opportunities to recruit behavior analysts after the analysts have completed their training in Iowa. No formal estimates on the number of jobs are available.

These rules are intended to implement 2015 Iowa Acts, Senate File 505, section 68 [Iowa Code section 135.181].

Adopt the following **new** 641—Chapter 107:

**CHAPTER 107****BOARD-CERTIFIED BEHAVIOR ANALYST AND BOARD-CERTIFIED ASSISTANT BEHAVIOR ANALYST (BCBA/BCaBA) GRANTS PROGRAM**

**641—107.1(135) Scope and purpose.** The board-certified behavior analyst and board-certified assistant behavior analyst (BCBA/BCaBA) grants program is established to increase access for Iowans to applied behavior analysis services by providing grants to Iowa resident and nonresident applicants who have been accepted for admission to or are attending a board of regents university, a

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

community college, or an accredited private institution; are enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst; and demonstrate financial need.

**641—107.2(135) Definitions.** For the purposes of these rules, the following definitions shall apply:

*“Board-certified assistant behavior analyst”* or *“BCaBA”* means a person who has a bachelor’s degree from an accredited university, has completed approved coursework as defined by the national Behavior Analyst Certification Board, has completed a defined period of supervised practical experience, and has passed the BCaBA examination.

*“Board-certified behavior analyst”* or *“BCBA”* means a person who has an acceptable graduate degree from an accredited university as defined by the national Behavior Analyst Certification Board, has completed acceptable graduate coursework in behavior analysis, has completed a defined period of supervised practical experience, and has passed the BCBA examination.

*“Department”* means the Iowa department of public health.

*“Director”* means the director of the Iowa department of public health.

*“Full-time enrollment”* means the applicant is enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst with at least 12 semester credit hours.

*“Nonresident”* means a person who is not a resident.

*“Part-time enrollment”* means the applicant is enrolled in a program to be eligible for board certification as a behavior analyst or assistant behavior analyst with 11 semester credit hours or less.

*“Resident”* means a natural person who physically resides in Iowa as the person’s principal and primary residence and who establishes evidence of such residency by providing the department with one of the following:

1. A valid Iowa driver’s license,
2. A valid Iowa nonoperator’s identification card,
3. A valid Iowa voter registration card,
4. A current Iowa vehicle registration certificate,
5. A utility bill,
6. A statement from a financial institution,
7. A residential lease agreement,
8. A check or pay stub from an employer,
9. A child’s school or child care enrollment documents,
10. Valid documentation establishing a filing for homestead or military tax exemption on property located in Iowa, or
11. Other valid documentation as deemed acceptable by the department to establish residency.

**641—107.3(135) Eligibility criteria.** To be eligible for a grant, the applicant shall:

**107.3(1)** Be an Iowa resident or nonresident.

**107.3(2)** Be accepted for admission to or attending a board of regents university, a community college, or an accredited private institution; be enrolled in a program to be eligible for board certification as a BCBA or BCaBA; and demonstrate financial need.

**107.3(3)** Have on file with the college student aid commission a current Free Application for Federal Student Aid (FAFSA) and Iowa Financial Aid Application and submit documentation of financial need as described in the department’s request for proposal process.

**641—107.4(135) Priority in grant awards.** Priority in the awarding of a grant shall be given to resident applicants.

**641—107.5(135) Amount of a grant.** The department shall award funds based upon the amount set aside in the special fund, as identified in 2015 Iowa Acts, Senate File 505, section 68 [Iowa Code section 135.181]. Moneys appropriated to, and all other moneys specified for deposit in, the fund shall be dedicated to the board-certified behavior analyst and board-certified assistant behavior analyst (BCBA/BCaBA) grants program as established in Iowa Code section 135.181. These rules shall be

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

implemented only to the extent that funding is available. The total amount of a grant awarded to an applicant shall be based on enrollment status (full-time enrollment or part-time enrollment), the number of applicants and the availability of funds. Awarded grant funds will be payable to the student and prorated on the number of semesters or other terms of study to complete the program.

**641—107.6(135) Use of funds.** Funding shall be used to offset the cost of tuition, fees and housing to an accredited behavior analyst program within the state of Iowa.

**641—107.7(135) Review process.**

**107.7(1)** An applicant shall complete and submit an application to the program in the manner specified by the department. An applicant, if awarded a grant, shall enter into a contract with the department for up to a four-year period. The department shall follow requirements for competitive selection contained in 641—Chapter 176 in awarding these funds.

**107.7(2)** The department shall establish an application process for applicants eligible to receive funding. The application review process and review criteria for preference in awarding the grants shall be described in a request for proposal.

**107.7(3)** An applicant may appeal the denial of a properly submitted grant application. Appeals shall be governed by rule 641—176.8(135).

These rules are intended to implement Iowa Code section 135.181.

**ARC 2443C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 135, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 114, “Preparedness Advisory Committee,” Iowa Administrative Code.

The proposed amendments are being made to align rules associated with the councils and committees that advise the Department’s Bureau of Emergency and Trauma Services. The rules relating to the Preparedness Advisory Committee currently reference Committee memberships from regions that no longer exist. The proposed amendments clarify and update the Committee membership provisions as well as:

- Update definitions.
- Expand the purpose of the Committee to include a reference to the hospital preparedness program.
- Refine language related to absences.
- Refine the duties of Committee officers.
- Outline meeting requirements, including removing the reference to Robert’s Rules of Order, defining a quorum, and updating the process used to present information to the Committee.
- Allow the Committee additional flexibility in identifying subcommittees.
- Remove reference to gender balance and instead reference Iowa Code chapter 69 to define the Committee’s composition.

The Preparedness Advisory Committee reviewed and approved the proposed amendments on January 27, 2016.

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

Any interested person may make written comments or suggestions on the proposed amendments on or before April 5, 2016. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [rebecca.curtiss@idph.iowa.gov](mailto:rebecca.curtiss@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 135.

The following amendments are proposed.

ITEM 1. Amend rule 641—114.1(135) as follows:

**641—114.1(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Chairperson*” means the chairperson of the preparedness advisory committee, who has been elected by a majority of advisory committee members.

“*Department*” means the Iowa department of public health.

“*Designee*” means the individual designated by the director.

“*Director*” means the director of the Iowa department of public health.

“*PAC*” means the preparedness advisory committee.

“*Quorum*” means a simple majority of the voting membership of the preparedness advisory committee.

“*Regions*” means the six multicounty geographic areas of the state as identified by the preparedness advisory committee or the department to provide support services to the public health and hospital preparedness programs.

ITEM 2. Amend rule 641—114.2(135) as follows:

**641—114.2(135) Purpose.** The preparedness advisory committee (PAC) shall provide technical assistance and make recommendations for the planning and implementation of the public health emergency preparedness program and hospital preparedness programs for the department. The committee shall advise the department on matters of policy, plan development, funding allocations, and coordination of state, regional and local entities that are responsible for promoting and protecting the health and safety of all Iowans prior to, during, or after a public health emergency or disaster.

ITEM 3. Amend rule 641—114.3(135) as follows:

**641—114.3(135) Appointment and membership.**

**114.3(1)** The voting members of the PAC shall be appointed by the director or designee as nominated by the member organizations.

**114.3(2)** The appointments shall be for three-year staggered terms, which shall expire on June 30.

**114.3(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

**114.3(4) Absences.**

*a.* If a member is unable to attend a scheduled meeting, an alternate may be designated by the member organization to serve in the absence of the regular member.

*b.* Three consecutive unexcused absences shall be grounds for the director or designee to request nomination of an alternate representative to fill the position.

*c.* The chairperson of the preparedness advisory committee shall be charged with providing notification of absences to the department.

**114.3(4) Membership.** The voting membership of the PAC shall be comprised of individuals nominated from, but not limited to, the following organizations:

*a.* American Red Cross.

*b.* Indian Health Services.

*c.* Upper Midwest Preparedness and Emergency Response Learning Center.

*d.* Three representatives identified by the Iowa Counties Public Health Association representing one small, one midsized, and one large public health agency.

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

- e. Two representatives identified by the Iowa Environmental Health Association.
- f. Iowa Emergency Management Association.
- g. Iowa Emergency Medical Services Association.
- h. Six representatives identified by the Iowa Hospital Association representing two rural, two regional, and two urban hospitals.
- i. Iowa Medical Society.
- j. Iowa Primary Care Association.
- k. Iowa Nurses Association.
- l. Iowa Osteopathic Medical Association.
- m. Iowa Pharmacy Association.
- n. Iowa Poison Control Center.
- o. Three representatives identified by the Iowa Public Health Association representing one small, one midsized, and one large public health agency.
- p. Iowa National Guard.
- q. State hygienic laboratory.
- r. Veterans Health Administration.
- s. Safeguard Iowa Partnership.
- t. School Administrators of Iowa.
- u. A mental health association.
- v. American Academy of Pediatrics.

**114.3(5)** The PAC may also include, as nonvoting members, representation from the following agencies:

- a. The Iowa department of public health.
- b. The Iowa department of human services.
- c. The Iowa homeland security and emergency management department.
- d. The Iowa department of natural resources.
- e. The Iowa department of agriculture and land stewardship.
- f. The Iowa department on aging.
- g. The Iowa department of education.

**114.3(6)** Absences.

- a. Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternate representative to fill the position.
- b. Absences may be excused by notification provided to the chairperson prior to the meeting.
- c. The chairperson of the PAC shall be charged with providing notification of absences to the department.

ITEM 4. Rescind rule **641—114.4(135)**.

ITEM 5. Renumber rules **641—114.5(135)** to **641—114.9(135)** as **641—114.4(135)** to **641—114.8(135)**.

ITEM 6. Amend renumbered rule 641—114.4(135) as follows:

**641—114.4(135) Officers.**

**114.4(1)** Officers of the PAC shall consist of a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year.

- a. Officers may serve no more than three consecutive terms as chairperson or vice chairperson.
- ~~a. b.~~ Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.
- ~~b. c.~~ Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

**114.4(2)** Duties of officers.

- a. The chairperson shall:
  - (1) Preside at all meetings of the ~~advisory committee~~ PAC,
  - (2) Appoint such subcommittees as deemed necessary, and

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

(3) ~~Ratify~~ Designate the chairperson of each subcommittee ~~following elections.~~

b. The vice chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

ITEM 7. Amend renumbered rule 641—114.5(135) as follows:

**641—114.5(135) Meetings.**

**114.5(1)** The PAC shall establish a meeting schedule on an annual basis to conduct its business. There shall be a minimum of four meetings per year.

a. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date unless action is required by the PAC on an emergency basis.

b. ~~A four week notice~~ Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

**114.5(2)** Any PAC member who is unable to attend the meeting will notify the chairperson.

~~114.5(2) 114.5(3) Robert's Rules of Order shall govern all meetings.~~ A majority of appointed members constitutes a quorum.

**114.5(4)** When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.

**114.5(5)** Persons wishing to make a presentation to the PAC shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made at the discretion of the chairperson.

**114.5(6)** Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that PAC members have adequate time to receive and evaluate the materials.

**114.5(7)** The PAC may conduct meetings by electronic means pursuant to Iowa Code section 21.8.

ITEM 8. Amend renumbered rule 641—114.6(135) as follows:

**641—114.6(135) Subcommittees.** The PAC may designate one or more subcommittees to perform such duties as may be deemed necessary.

~~114.6(1) The PAC may designate one or more subcommittees pertinent to the priorities and activities of the public health and hospital preparedness program. Subcommittee members shall perform such duties as may be deemed necessary.~~

~~a. Each subcommittee shall include one voting member of the PAC.~~

~~b. The chairperson of each subcommittee shall be elected by the subcommittee membership and ratified by the PAC.~~

~~114.6(2) The designated subcommittees shall include but are not limited to:~~

~~a. Planning,~~

~~b. Epidemiology,~~

~~c. Lab,~~

~~d. Communications/information technology,~~

~~e. Risk communication, and~~

~~f. Education/exercises.~~

~~114.6(3) The PAC may establish ad hoc subcommittees for a specified time of duration for special projects or where special expertise is needed.~~

ITEM 9. Amend renumbered rule 641—114.8(135) as follows:

**641—114.8(135) Gender balance Committee composition.** ~~All advisory committees of the department appointed by the governor, director or designee, if not otherwise provided by law, shall be~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~gender-balanced.~~ The committee's composition shall be developed and maintained pursuant to Iowa Code chapter 69.

ARC 2444C

## PUBLIC HEALTH DEPARTMENT[641]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 130, "Emergency Medical Services Advisory Council," Iowa Administrative Code.

The proposed amendments are being made to align rules associated with the councils and committees that advise the Department's Bureau of Emergency and Trauma Services. The proposed amendments:

- Update definitions.
- Clarify and update provisions pertaining to Council membership.
- Refine language related to absences.
- Refine the duties of Council officers.
- Clearly outline meeting requirements, including removing the reference to Robert's Rules of Order, defining a quorum, and updating the process used to present information to the Council.
- Remove the reference to gender balance and reference instead Iowa Code chapter 69 to define the Council's composition.

The Emergency Medical Services Advisory Council reviewed and unanimously approved the proposed amendments on January 13, 2016.

Any interested person may make written comments or suggestions on the proposed amendments on or before April 5, 2016. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [rebecca.curtiss@idph.iowa.gov](mailto:rebecca.curtiss@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147A.2 and 147A.3.

The following amendments are proposed.

ITEM 1. Amend rule **641—130.1(147A)**, definitions of "Emergency medical care provider" and "Emergency medical services," as follows:

~~"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist, or other certification level recognized by the department before 1984 and who has been issued a certificate by the department~~ emergency medical care provider as defined in rule 641—131.1(147A).

~~"Emergency medical services" or "EMS" means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance~~ emergency medical services as defined in rule 641—131.1(147A).

ITEM 2. Amend rule 641—130.3(147A) as follows:

**641—130.3(147A) Appointment and membership.**

**130.3(1)** The EMS advisory council shall be appointed by the director.

**130.3(2)** The appointments shall be for three-year staggered terms, which shall expire on June 30.

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

**130.3(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

~~130.3(2)~~ **130.3(4)** Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations:

a. One physician from each of the following organizations:

- (1) Iowa Osteopathic Medical Association.
- (2) Iowa Medical Society.
- (3) American College of Emergency Physicians.
- (4) Iowa Academy of Family Physicians.
- (5) University of Iowa Hospitals and Clinics.
- (6) American Academy of Emergency Medicine.
- (7) American Academy of Pediatrics.

b. ~~Representatives~~ A representative from each of the following organizations:

- (1) Iowa Physician Assistant Society.
- (2) EMS Education Programs Committee.
- ~~(3) Rescinded IAB 2/9/11, effective 3/16/11.~~
- (4) (3) Iowa Nurses Association.
- ~~(5)~~ (4) Iowa Hospital Association.
- ~~(6)~~ (5) Iowa State Association of Counties.

c. Two out-of-hospital emergency medical care providers from the Iowa ~~Firemen's~~ Firefighters Association.

d. One out-of-hospital emergency medical care provider from the Iowa Professional Firefighters.

e. Three out-of-hospital emergency medical care providers, with at least one representing volunteer EMS and one representing a private service program, from the Iowa EMS Association.

f. Two at-large volunteer emergency medical care providers.

**130.3(5) Absences.**

a. Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternative representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson shall be charged with providing notification of absences to the department.

ITEM 3. Rescind rule ~~641—130.4(147A)~~.

ITEM 4. Renumber rules ~~641—130.5(147A)~~ to ~~641—130.9(147A)~~ as ~~641—130.4(147A)~~ to **641—130.8(147A)**.

ITEM 5. Amend renumbered rule 641—130.4(147A) as follows:

**641—130.4(147A) Officers.**

**130.4(1)** Officers of the advisory council shall be a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year ~~unless they are designated as officers at the time of their appointment.~~

a. Officers may serve no more than three consecutive terms as ~~an officer~~ chairperson or vice chairperson.

b. Vacancies in the office of chairperson shall be filled by the vice chairperson.

c. Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

**130.4(2)** Duties of officers. ~~The chairperson shall preside at all meetings of the advisory council, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.~~

a. The chairperson shall:

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

- (1) Preside at all meetings of the advisory council,
- (2) Appoint such subcommittees as deemed necessary, and
- (3) Designate the chairperson of each subcommittee.

b. The vice chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

ITEM 6. Amend renumbered rule 641—130.5(147A) as follows:

**641—130.5(147A) Meetings.**

**130.5(1)** ~~The advisory council shall establish a meeting schedule on an annual basis to conduct business. There shall be a minimum of four meetings per year. Meetings may be scheduled as business requires, but notice to members must be at least five working days prior to the meeting date. Four weeks' notice is encouraged to accommodate the schedules of professional members.~~

a. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date.

b. Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

~~**130.5(2)** Robert's Rules of Order shall govern all meetings. Any advisory council member who is unable to attend a meeting will notify the chairperson.~~

~~**130.5(3)** A majority of appointed members shall be considered constitutes a quorum.~~

~~**130.5(4)** Any advisory council member who is unable to attend a meeting will notify the chairperson; there may not be a meeting if a quorum is not present.~~

~~**130.5(5)** **130.5(4)** When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.~~

~~**130.5(6)** **130.5(5)** Persons wishing to make a presentation to the advisory council shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made either at the discretion of the chairperson or upon matters appearing on the agenda.~~

~~**130.5(7)** **130.5(6)** Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that advisory council members have adequate time to receive and evaluate the materials.~~

~~**130.5(8)** **130.5(7)** The advisory council may conduct a meeting by electronic means ~~only in circumstances in which an in-person meeting is impossible or impractical,~~ pursuant to Iowa Code section 21.8.~~

ITEM 7. Amend renumbered rule 641—130.8(147A) as follows:

~~**641—130.8(147A) Gender balance Council composition.** If not otherwise provided by law, all advisory bodies of the department appointed by the governor, director or designee shall be gender-balanced. The council's composition shall be developed and maintained pursuant to Iowa Code chapter 69.~~

**ARC 2448C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147A.27, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 138, “Trauma System Evaluation Quality Improvement Committee,” and to adopt a new Chapter 138, “Trauma System Advisory Council,” Iowa Administrative Code.

Iowa Code section 147A.25, which provided for the creation of the Trauma System Evaluation Quality Improvement Committee, was repealed by 2013 Acts, chapter 129, section 57. Relevant sections pertaining to confidentiality and documentation were added to Iowa Code section 147A.24, which establishes the Trauma System Advisory Council. Proposed new Chapter 138:

- Defines the purpose and duties of the Trauma System Advisory Council.
- Outlines appointment to and membership of the Council.
- Identifies parameters for meetings and subcommittees and the duties of Council officers.
- Outlines confidentiality requirements and documentation associated with data and peer review.
- Identifies reimbursable expenses of Council members.
- Defines Council composition.

The proposed new chapter provides the Council structure and direction to serve as an advisory role to the Department. The Trauma System Advisory Council reviewed and unanimously approved the proposed new chapter on January 19, 2016.

Any interested person may make written comments or suggestions on the proposed rules on or before April 5, 2016. Such written comments or suggestions should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [rebecca.curtiss@idph.iowa.gov](mailto:rebecca.curtiss@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 147A.24.

The following amendment is proposed.

Rescind 641—Chapter 138 and adopt the following **new** chapter in lieu thereof:

CHAPTER 138  
TRAUMA SYSTEM ADVISORY COUNCIL

**641—138.1(147A) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Emergency medical care provider*” means emergency medical care provider as defined in rule 641—131.1(147A).

“*Trauma care system*” means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.

“*TSAC*” means the trauma system advisory council established pursuant to Iowa Code section 147A.24.

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

**641—138.2(147A) Purpose and duties.**

**138.2(1)** The TSAC shall advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state.

**138.2(2)** Duties of the TSAC shall include, but not be limited to:

*a.* Annually reviewing Iowa Administrative Code rules related to the trauma care system to make recommendations to the department for changes to further promote optimal trauma care, including but not limited to review of this chapter and the following chapters:

- (1) 641—Chapter 134, Trauma Care Facility Categorization and Verification.
- (2) 641—Chapter 135, Trauma Triage and Transfer Protocols.
- (3) 641—Chapter 136, Trauma Registry.
- (4) 641—Chapter 137, Trauma Education and Training.

*b.* Assisting the department in development and implementation of an Iowa trauma care plan inclusive of all aspects of the statewide trauma system utilizing a system assessment and annual benchmarking.

*c.* Developing and maintaining criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities. These categories shall be for Levels I, II, III, and IV, based on the most current guidelines published by the American College of Surgeons' committee on trauma, the American College of Emergency Physicians, and the model trauma care plan of the U.S. Department of Health and Human Services' Health Resources and Services Administration. These criteria are established in 641—Chapter 134, and TSAC shall, pursuant to paragraph 138.2(2)“*a*,” annually review the criteria.

*d.* Developing and maintaining a process for the verification of the trauma care capacity of each facility and the issuance of a certificate of verification. This process is established in 641—Chapter 134, and TSAC shall, pursuant to paragraph 138.2(2)“*a*,” annually review the process.

*e.* Developing and maintaining standards for medical direction, trauma care, and triage and transfer protocols. These standards are established in 641—Chapter 135, and TSAC shall, pursuant to paragraph 138.2(2)“*a*,” annually review these standards.

*f.* Developing and maintaining standards for trauma registries. These standards are established in 641—Chapter 136, and TSAC shall, pursuant to paragraph 138.2(2)“*a*,” annually review these standards.

*g.* Collaborating with the department to develop trauma standards for medical direction, procedures, and protocols to support a statewide trauma system.

*h.* Developing, implementing, and conducting trauma care system evaluation, quality assessment, and quality improvement in coordination with the department.

*i.* Partnering with the department to promote public information and educational activities for injury prevention and in support of the statewide trauma system.

**641—138.3(147A) Appointment and membership.**

**138.3(1)** The members of TSAC shall be appointed by the director from the recommendations of the organizations listed in subrule 138.3(4).

**138.3(2)** Appointments shall be for two-year staggered terms, which shall expire on June 30.

**138.3(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

**138.3(4)** Membership. The voting membership of the TSAC shall be comprised of one representative nominated from each of the following organizations:

- a.* American Academy of Pediatrics.
- b.* American College of Emergency Physicians, Iowa chapter.
- c.* American College of Surgeons, Iowa chapter.
- d.* Department of public health.
- e.* Governor's traffic safety bureau.
- f.* Iowa Academy of Family Physicians.
- g.* Iowa Emergency Medical Services Association.

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

- h.* Iowa Emergency Nurses Association.
- i.* Iowa Hospital Association representing rural hospitals.
- j.* Iowa Hospital Association representing urban hospitals.
- k.* Iowa Medical Society.
- l.* Iowa Osteopathic Medical Society.
- m.* Iowa Physician Assistant Society.
- n.* Iowa Society of Anesthesiologists.
- o.* Orthopedic System Advisory Council of the American Academy of Orthopedic Surgeons, Iowa representative.
- p.* Rehabilitation services delivery representative.
- q.* Iowa's Medicare quality improvement organization.
- r.* State medical examiner.
- s.* Trauma nurse coordinator representing a trauma registry hospital.
- t.* University of Iowa, Injury Prevention Research Center.

**138.3(5) Absences.**

- a.* Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternate representative to fill the position.
- b.* Absences may be excused by notification provided to the chairperson prior to the meeting.
- c.* The chairperson of the TSAC shall be charged with providing notification of absences to the department.

**641—138.4(147A) Officers.**

**138.4(1)** Officers of the TSAC shall consist of a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year.

- a.* Officers may serve no more than three consecutive terms as chairperson or vice chairperson.
- b.* Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.
- c.* Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

**138.4(2) Duties of officers.**

- a.* The chairperson shall:
  - (1) Preside at all meetings of the TSAC,
  - (2) Appoint such subcommittees as deemed necessary, and
  - (3) Designate the chairperson of each subcommittee.
- b.* The vice chairperson shall:
  - (1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.
  - (2) Perform such other duties as may be assigned by the chairperson.

**641—138.5(147A) Meetings.**

**138.5(1)** The TSAC shall establish a meeting schedule on an annual basis to conduct its business. There shall be a minimum of four meetings per year.

- a.* Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date.
- b.* Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

**138.5(2)** Any TSAC member who is unable to attend the meeting will notify the chairperson.

**138.5(3)** A majority of appointed members constitutes a quorum.

**138.5(4)** When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.

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

**138.5(5)** Persons wishing to make a presentation to the TSAC shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made at the discretion of the chairperson.

**138.5(6)** Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that TSAC members have adequate time to receive and evaluate the materials.

**138.5(7)** TSAC may conduct meetings by electronic means pursuant to Iowa Code section 21.8.

**641—138.6(147A) Subcommittees.** TSAC may designate one or more subcommittees to perform such duties as may be deemed necessary.

**641—138.7(147A) Confidentiality.**

**138.7(1)** The data collected by and furnished to the department pursuant to Iowa Code section 147A.26 are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, and shall not be public record under Iowa Code chapter 22. The confidentiality of patients is to be protected, and the laws of this state shall apply with regard to patient confidentiality.

**138.7(2)** Proceedings, records, and reports reviewed or developed pursuant to Iowa Code section 147A.24 constitute peer review records under Iowa Code section 147.135 and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital or emergency care facility under Iowa Code chapter 147A shall be confidential pursuant to Iowa Code section 272C.6(4).

**138.7(3)** TSAC or subcommittees of TSAC may enter into closed session proceeding pursuant to Iowa Code section 21.5.

**138.7(4)** All council and subcommittee members shall sign a confidentiality agreement not to divulge or discuss information obtained during a TSAC or subcommittee closed session proceeding. The signed confidentiality statements shall be kept on file at the department.

**641—138.8(147A) Documentation.**

**138.8(1)** The department, pursuant to Iowa Code section 21.3, shall keep minutes of open session proceedings.

**138.8(2)** The department, pursuant to Iowa Code section 21.5, shall also maintain minutes and tape recordings of closed session proceedings.

**641—138.9(147A) Expenses of advisory council members.** The following may be considered necessary expenses for reimbursement of TSAC members when the expenses are incurred on behalf of TSAC business and are subject to established state reimbursement rates:

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses, including sales tax on lodging and meals.
3. Actual expense of public transportation.

**641—138.10(147A) Council composition.** The council's composition shall be developed and maintained pursuant to Iowa Code chapter 69.

These rules are intended to implement Iowa Code chapter 147A.

**ARC 2458C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of 1996 Iowa Acts, chapter 1212, section 5, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 177, “Health Data,” Iowa Administrative Code.

The rules in Chapter 177 describe the Department’s ability to collect and provide access to health information, including inpatient, outpatient and ambulatory data. These proposed amendments allow patient names to be collected, which will enable Department programs to more reliably link vital records, Medicaid and other databases with the inpatient and outpatient databases to assess patient care and outcomes. Personal identifiers and demographic information (e.g., social security number, address, age, sex) are already part of the inpatient and outpatient data sets of the Department. For a large portion of records, however, some or all of these identifiers are missing or entered incorrectly. These proposed amendments will allow unique identifiers to be created for patients that protect personal identity but still allow important research and surveillance to be completed across health care settings, including the study of readmission patterns, cost of care, emergency care, and patient transfers between health care settings. Confidentiality of patient identity will continue to be ensured through the use of secure computer software and hardware, the limiting of access to files with patient identifiers, staff training, and signed confidentiality agreements for those who wish to access data. In addition, these proposed amendments update the implementation sentence of Chapter 177 and rescind the definitions of “contractor” and “payor.”

Any interested person may make written comments or suggestions on the proposed amendments on or before April 5, 2016. Such written comments should be directed to Betsy Richey, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [betsy.richey@idph.iowa.gov](mailto:betsy.richey@idph.iowa.gov).

Also, a public hearing will be held on Tuesday, April 5, 2016, from 2 to 3 p.m., 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 and to confine their remarks to the subject of the amendments. The public hearing will originate from Room 518 on the fifth floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa.

Any persons who intend to attend the public hearing and need an Americans with Disabilities Act (ADA) accommodation should contact the Department of Public Health and specify the type of accommodation required.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 1996 Iowa Acts, chapter 1212, section 5 and Iowa Code section 135.166.

The following amendments are proposed.

ITEM 1. Rescind the definitions of “Contractor” and “Payor” in rule **641—177.2(76GA,ch1212)**.

ITEM 2. Adopt the following **new** subrule 177.3(3):

**177.3(3)** The Iowa Hospital Association shall collect, maintain, and disseminate hospital inpatient, outpatient, and ambulatory information pursuant to a memorandum of understanding with the department. The Iowa Hospital Association shall submit data to the department pursuant to the memorandum of understanding.

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

ITEM 3. Amend rule 641—177.4(76GA,ch1212) as follows:

**641—177.4(76GA,ch1212) Department studies.** The department ~~shall~~ may conduct special studies consistent with the intent of 1996 Iowa Acts, chapter 1212, using data collected in accordance with subrule 177.3(1). In conducting such studies, the department may utilize the services of a contractor.

ITEM 4. Amend rule 641—177.6(76GA,ch1212) as follows:

**641—177.6(76GA,ch1212) Patient confidentiality.** The department shall protect patient confidentiality. Confidential records or parts of such records collected as a part of this process shall be kept confidential. ~~Individual patient names shall not be collected to protect patient confidentiality.~~ All health data shall be collected, maintained, and disseminated only in accordance with Iowa and federal law.

ITEM 5. Rescind and reserve rule **641—177.7(76GA,ch1212)**.

ITEM 6. Amend rule 641—177.8(76GA,ch1212) as follows:

**641—177.8(76GA,ch1212) Address and specification for data submissions.** Data required to be submitted pursuant to this chapter shall be sent by agencies and health care providers, or their representatives, to the Iowa Department of Public Health, ~~Center for Health Statistics, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319~~ by the means and time frame specified by the department.

~~Data required to be submitted pursuant to this rule shall be sent in the form designated by the department within 30 days following the six-month calendar periods ending in June and December.~~

ITEM 7. Amend **641—Chapter 177**, implementation sentence, as follows:

These rules are intended to implement 1996 Iowa Acts, chapter 1212, section 5, and Iowa Code section 135.166.

**ARC 2457C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 8A.504, the Department of Public Health hereby gives Notice of Intended Action to adopt Chapter 179, “Collection of Delinquent Debts,” Iowa Administrative Code.

The Department currently does not have rules established for the collection of delinquent debts owed to the Department. The proposed rules outline the Department’s procedures for collection of debt owed to the Department and will allow the Department to participate in the Department of Administrative Services’ income offset program. The proposed rules also outline the appeal process for a person or entity that receives notification of pending collection.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 5, 2016. Such written comments should be directed to Stacey Hewitt, Bureau of Finance, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [stacey.hewitt@idph.iowa.gov](mailto:stacey.hewitt@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 8A.504.

The following amendment is proposed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Adopt the following new 641—Chapter 179:

CHAPTER 179  
COLLECTION OF DELINQUENT DEBTS

**641—179.1(8A) Authorization.** The department may participate in the department of administrative services' income offset program.

**641—179.2(8A) Definitions.** For purposes of this rule, the following definitions apply:

“*Debtor*” means any person who owes a debt to the department.

“*Department*” means the Iowa department of public health.

“*Income offset program*” means the program established in Iowa Code section 8A.504 through which the department of administrative services coordinates with state agencies to satisfy liabilities owed to those state agencies.

“*Liability*” or “*debt*” means a “qualifying debt” as defined in Iowa Code section 8A.504(1) or any liquidated sum due, owing, and payable by a debtor to the department. Such liquidated sum may be accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

“*Liquidated*” means that the amount of the claim or debt is definite, determined, and fixed by agreement of the parties, by operation of law, or through court or administrative proceedings.

“*Notification of offset*” means receipt of actual notice by the department from the department of administrative services that the debtor is entitled to a payment that qualifies for offset.

“*Offset*” means to set off liabilities owed by a person to the department against claims owed to persons by public agencies.

“*Person*” means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

“*Preoffset notice*” means the notice required by rule 641—179.4(8A).

**641—179.3(8A) Liability file.** The department may provide the department of administrative services a liability file.

**179.3(1) Contents.** With respect to each individual debtor, the liability file shall contain the following:

a. Information relevant to the identification of the debtor, as required by the department of administrative services and including the debtor's name and social security number or federal identification number,

b. The amount of liability, and

c. A written statement declaring the debt to have occurred.

**179.3(2) Certification.** The department shall certify the liability file at least semiannually, as required by the department of administrative services.

**179.3(3) Updates.** The department shall update the liability file:

a. When necessary to reflect new debtors, and

b. When the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

**179.3(4) Due diligence.**

a. Before submitting debtor information to the outstanding liability file, the department shall make a good-faith attempt to collect from the debtor. Such attempt shall include at least all of the following:

(1) A telephone call requesting payment.

(2) A letter to the debtor's last discernible address requesting payment within 15 days.

b. The department shall document due diligence and retain such documentation.

**641—179.4(8A) Notification of offset.** Within 10 calendar days of receiving notification from the department of administrative services that the debtor is entitled to a payment, the department shall:

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

**179.4(1)** Send a preoffset notice to the debtor. The preoffset notice shall inform the debtor of the amount the department intends to claim and shall include all of the following information:

- a.* The department's right to the payment in question.
- b.* The department's right to recover the payment through the offset procedure.
- c.* The basis of the department's case in regard to the debt.
- d.* The right of the debtor to request, in accordance with rule 641—179.5(8A) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.
- e.* The debtor's right to appeal the offset, in accordance with rule 641—179.6(8A) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.
- f.* The department's contact information, including a telephone number, for the debtor to contact in case of questions.

**179.4(2)** Notify the department of administrative services that the preoffset notice has been sent to the debtor and supply a copy of the preoffset notice to the department of administrative services.

**641—179.5(8A) Request to divide a jointly or commonly owned right to payment.**

**179.5(1)** A debtor who receives a preoffset notice may request release of a joint or common owner's share if the request is received by the department within 15 days of the date the preoffset notice is mailed.

**179.5(2)** In conjunction with such a request, the debtor shall provide to the department the full name and social security number of any joint or common owner.

**179.5(3)** Upon receipt of such a request, the department shall notify the department of administrative services of the request.

**641—179.6(8A) Appeal process.**

**179.6(1)** A debtor who receives a preoffset notice may request an appeal of the existence or amount of the underlying debt if such request is made within 15 days of the date the preoffset notice is mailed.

**179.6(2)** Request for appeal must be submitted in writing to the Iowa Department of Public Health, Bureau of Finance, Attn: Offset Appeals, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

**179.6(3)** If a request for appeal is timely made, the department shall issue a notice of hearing to the debtor and provide a copy of the notice of hearing to the assistant attorney general for the department.

**179.6(4)** The appeal shall be conducted as a contested case proceeding pursuant to 641—Chapter 173.

**179.6(5)** If a request for appeal is timely made, the department shall notify the department of administrative services within 45 days of the notification of offset. The department shall hold a payment in abeyance until the final disposition of the contested liability or offset.

**641—179.7(8A) Notice of offset.** Once any offset has been completed, the department shall notify the debtor of the action taken, and of what balance, if any, still remains owing to the department.

These rules are intended to implement Iowa Code section 8A.504.

**ARC 2466C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 427.1(40), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

The subject matter of new rule 701—80.31(427) is the broadband infrastructure property tax exemption. The rule is intended to implement 2016 Iowa Code section 427.1(40), which allows a property tax exemption for the installation of broadband infrastructure that meets certain requirements.

Any interested person may make written suggestions or comments on this proposed amendment on or before April 6, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue at (515)218-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

A public hearing will be held on April 6, 2016, at 10 a.m. in the Wallace State Office Building, First Floor Auditorium, 502 E. 9th Street, Des Moines, Iowa, 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 and to confine their remarks to the subject of the proposed amendment.

The Department finds that the property tax exemption for broadband infrastructure will have no fiscal impact on local property tax revenues, as the exemption is only for the value added by new infrastructure.

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

After analysis and review of this rule making, a positive impact on jobs may exist. This rule implements a property tax exemption for the installation of new broadband infrastructure and furthers the goals of the Connect Every Acre initiative to provide broadband services to underserved areas in the state.

This amendment is intended to implement Iowa Code section 427.1.

The following amendment is proposed.

Adopt the following new rule 701—80.31(427):

**701—80.31(427) Broadband infrastructure.**

**80.31(1) Definitions.** For purposes of this rule, the following definitions shall govern.

“*Broadband*” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.

“*Broadband infrastructure*” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

“*Certified project*” means the installation of broadband infrastructure certified by the office of the chief information officer to serve a targeted service area.

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

*“Date of commencement”* means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.

*“Date of completion”* means the date that the entire targeted service area receives broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

*“Installation of the broadband infrastructure”* means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

*“Targeted service area”* means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of June 22, 2015.

**80.31(2) Exemption.** An exemption from property tax shall be allowed for each certified project in the amount equal to 100 percent of the actual value added by installation of the broadband infrastructure in a targeted service area that facilitates broadband service for the public at or above 25 megabits per second of download speed and 3 megabits per second of upload speed, as certified by the office of the chief information officer. The exemption shall be allowed beginning January 1 of the assessment year in which an application for exemption is approved until the exemption is revoked or at the expiration of ten years, whichever occurs earlier.

**80.31(3) Calculation of actual value added by installation of the broadband infrastructure.** The actual value added by installation of the broadband infrastructure is the amount of increase in the actual assessed value of the property that is directly attributable to the installation of broadband infrastructure in a targeted service area for the assessment year in which the property receives the exemption. Changes in the value of the property which are attributable to general market fluctuations are not to be included in the calculation of the actual value added by installation of the broadband infrastructure. Installation of broadband infrastructure that is not part of a certified project is not eligible to receive the exemption.

Broadband infrastructure in general may be assessed locally or by the department of revenue. Broadband infrastructure that qualifies as telephone or telegraph property under Iowa Code chapter 433 is centrally assessed by the department of revenue. Broadband infrastructure that does not qualify as telephone or telegraph property under Iowa Code chapter 433 is locally assessed under Iowa Code chapter 441. The owner of the property must separately report property that is centrally assessed from property that is locally assessed.

*a. Locally assessed property.* The local assessor shall determine the actual value added by installation of broadband infrastructure using the methodologies required under Iowa Code section 441.21.

*b. Centrally assessed property.* The department of revenue shall determine the actual value added by installation of the broadband infrastructure by using the appropriate methodologies set forth in 701—Chapter 77.

The department shall calculate the actual value added by installation of the broadband infrastructure as part of the total unit value of the operating property of the company. The exemption attributable to the installation of the broadband infrastructure shall be applied to each unit before any other exemption or credit. In no case shall the taxable value of the property be reduced below zero. The department shall certify the exemption value per line mile for each company to the county auditor pursuant to Iowa Code section 433.8.

**80.31(4) Commencement and completion of project.** To be eligible for the exemption, the date of commencement of the installation of the broadband infrastructure must occur on or after July 1, 2015, and the date of completion of the installation of the broadband infrastructure must occur on or before July 1, 2020.

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

**80.31(5) Application for exemption.** The owner of broadband infrastructure shall file one application with the department of revenue. The department shall forward the application to the appropriate county boards of supervisors for approval or denial for broadband infrastructure associated with property subject to local assessment. The department shall retain the application for approval or denial for broadband infrastructure associated with property subject to central assessment.

*a. Application deadline.* The owner of the property shall file the application with the department of revenue by February 1 of the year in which the broadband infrastructure is first assessed for taxation or by February 1 of the following two assessment years. If approved, the exemption shall be allowed for ten years from January 1 of the assessment year in which the application is filed or until revoked without further application. However, at any time prior to the completion of the installation of the broadband infrastructure, an owner may submit a proposal to the department requesting that the owner be allowed to file an application for exemption by February 1 of any other assessment year following completion of the installation of broadband infrastructure. The department shall approve the proposal for property that is centrally assessed. The board of supervisors shall approve the proposal by resolution for property that is locally assessed. If approved, the exemption shall be allowed for ten years from January 1 of the assessment year in which the application is approved or until revoked without further application. If an exemption that was revoked is reinstated on appeal, the exemption shall remain in effect only for the remaining period of exemption. No property shall receive an exemption for the installation of broadband infrastructure for a period greater than ten years.

Neither the department nor the board of supervisors shall approve an application for exemption that is missing any of the requirements listed in this subrule. The department or the board of supervisors may consult with the office of the chief information officer in order to obtain additional information necessary to review an application for exemption.

*b. Application requirements.* The owner shall submit the application to the department of revenue. It is the responsibility of the owner to ensure that the application is complete and accurate. The application must be made on forms prescribed by the department. In addition, the application must contain the following information, certifications and documentation:

(1) The nature of the broadband infrastructure installation, including the number of new line miles installed within the jurisdiction of the assessing authority to which the owner is applying for exemption, and a description of the property and how it is directly related to delivering broadband services.

(2) The percentage of homes, farms, schools, and businesses in the targeted service area that will be provided access to broadband service.

(3) The actual cost of installing the broadband infrastructure under the project, if available. The application shall contain supporting documents demonstrating actual cost.

(4) Certification from the office of the chief information officer pursuant to Iowa Code section 8B.10 that the installation is being performed or was completed in a targeted service area and that it facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

(5) Certification by the company of the date of commencement and actual or estimated date of completion. If an application contains only an estimated date of completion, the owner must notify the department of the actual completion date once the certified project is completed. If the actual completion date occurs after July 1, 2020, the exemption may be revoked.

(6) A copy of any nonwireless broadband-related permit issued by a political subdivision, if applicable.

*c. Special application requirements.* If an owner submits a proposal to the department prior to the completion of the installation of broadband infrastructure requesting to file an application for exemption in any other assessment year following completion of the project, the owner must provide the following information and documentation in addition to those required under paragraph 80.31(5) "b."

(1) The actual cost already incurred for installation of broadband infrastructure, if any, with supporting documentation demonstrating the actual cost.

(2) The estimated costs for project completion.

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

(3) The estimated date of project completion. Once the project has been completed, the owner must notify the department of the actual completion date. If the actual completion date occurs after July 1, 2020, the exemption may be revoked.

*d. Approval or denial of application.* All applications shall be submitted to the department of revenue. The department shall forward applications for property subject to local assessment to the board of supervisors of the county in which the exempt property is located. The department shall retain the applications for centrally assessed property. The department and the board of supervisors, as applicable, shall notify an applicant of approval or denial of an application for exemption by March 1 of the assessment year in which the application was submitted. The notification shall include a notification of the applicant's right to appeal. The board of supervisors shall forward all approved applications and any necessary information regarding the applications to the appropriate local assessor by March 1 of the assessment year in which the application was submitted.

**80.31(6) Revocation of exemption.** The department or board of supervisors may revoke the exemption at any time after the exemption is granted if the department or board of supervisors determines that the property owner no longer provides the broadband service to a targeted service area at the speeds required under Iowa Code section 427.1(40). The property owner has the responsibility to provide the department, the board of supervisors or the office of the chief information officer the information required to substantiate that the broadband infrastructure meets the requirements of the exemption. The department or board of supervisors, as applicable, shall provide notice of revocation to the property owner. An owner may appeal the decision to revoke the exemption within 30 days of the issuance of the notice of revocation.

**80.31(7) Appeals.**

*a. Appeal of denial of application for exemption.* An applicant for the exemption under this rule whose application is denied may appeal the denial within 30 days of its issuance.

(1) Denial by board of supervisors. An applicant may appeal the denial of its application for exemption by the board of supervisors to the property assessment appeal board within 30 days of the issuance of the denial.

(2) Denial by the department of revenue. An applicant may appeal the denial of its application for exemption by the department of revenue to the director of revenue within 30 days of the issuance of the denial.

*b. Appeal of revocation of exemption.* An owner whose exemption is revoked may appeal the revocation within 30 days of its issuance.

(1) Denial by board of supervisors. An owner may appeal the revocation of its exemption by the board of supervisors to the property assessment appeal board within 30 days of the issuance of the revocation.

(2) Denial by the department of revenue. An owner may appeal the revocation of its exemption by the department of revenue to the director of revenue within 30 days of the issuance of the revocation.

*c. Appeal of value of exemption.* A property owner who is dissatisfied with the value of the owner's exemption may appeal the value assigned by the local assessor using the protest procedures under Iowa Code section 441.37. A property owner who is dissatisfied with the value of the owner's exemption may appeal the value assigned by the department using the appeal procedures under Iowa Code section 429.2.

This rule is intended to implement Iowa Code section 427.1(40).

**ARC 2464C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.4 and 421.1A(4)“e,” the Property Assessment Appeal Board hereby gives Notice of Intended Action to amend Chapter 126, “Property Assessment Appeal Board,” Iowa Administrative Code.

The proposed amendments are necessary to fully implement rules for the use of the Board’s electronic filing system and to address the applicability of changes to the Iowa Rules of Civil Procedure in cases before the Board.

Item 1 amends subrule 126.1(2) to adopt definitions relating to the Board’s electronic filing system.

Item 2 amends subrule 126.1(4) to address good cause for lengthening or shortening time in appeals before the Board.

Item 3 amends subrule 126.2(1) relating to the appeal and certification. The amendment clarifies that appeals are filed with the Board and how appeals may be filed, including through the Board’s electronic filing system.

Item 4 amends subrule 126.2(2) to clarify the form of the appeal and to require less documentation from the appealing party for the initial filing.

Item 5 amends subrule 126.2(4) to provide that a local board of review will receive notice of any appeal filed in its jurisdiction through the electronic filing system.

Item 6 amends subrule 126.2(5) to lessen the documentation required from the local board of review when it certifies its record. The new documentation for certification will include an answer, the taxpayer’s protest filed with the local board of review, the board of review’s final decision letter, and a notice of assessment, if any. The local board of review is no longer required to file its entire record with the Board.

Item 7 amends subrule 126.2(6) to address the docketing of appeals through the Board’s electronic filing system and maintenance of the Board’s records.

Item 8 amends subrule 126.2(8) to clarify that attorneys and designated representatives both shall file a notice of appearance in an appeal.

Item 9 amends rule 701—126.3(421,441) regarding applicability of the rule for nonelectronic service on parties filing with the Board. The amendments clarify procedures used when a party is not participating in an appeal using the electronic filing system.

Item 10 adopts new rule 701—126.4(421,441) regarding the Board’s electronic filing system. The rule sets forth procedures for registration, format and filing of documents using the system, service upon the parties, and filing by the Board in appeals using the electronic filing system.

Item 11 amends rule 701—126.5(421,441) to clarify how the Board issues orders and how parties may file motions and settlements.

Item 12 amends rule 701—126.6(421,441) regarding hearing scheduling and discovery plans. The amendments require that parties to the appeal confer and file a hearing scheduling and discovery plan, in certain cases, 60 days after receiving the notice of appeal. The amendments also allow the Board to require a hearing scheduling and discovery plan in any case for which the Board deems it necessary. The rule also addresses prehearing conferences and failure to comply with the requirements.

Item 13 amends rule 701—126.7(421,441) to exempt appeals before the Board from amendments to Iowa Rules of Civil Procedure 1.500 and 1.507 regarding mandatory disclosure and discovery conference requirements. The rule also clarifies the applicability of other provisions of the Iowa Rules of Civil Procedure in appeals before the Board, addresses rebuttal evidence offered by the party, and requires the local board of review to submit the property record card or cost report as a labeled exhibit.

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

Item 14 amends subrule 126.8(2) to clarify that the Board shall serve notice of any hearing.

Item 15 amends subrule 126.8(3) to clarify that a waiver should not be e-mailed to the Board.

Item 16 amends subrule 126.8(4) to clarify what constitutes good cause for filing a continuance and to notify the parties that the party requesting the continuance may be required to substantiate the request with additional materials.

Item 17 amends subrule 126.8(6) to clarify that a partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent. The amendment also notes that witnesses to a hearing may be sequestered during the hearing.

Item 18 amends subrule 126.10(1) to explain how and when the Board's final agency action is filed and to address the time period for appeal to the district court.

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

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

Any interested person may make written suggestions or comments on the proposed amendments on or before April 5, 2016. Such written comments should be directed to the Property Assessment Appeal Board, P.O. Box 10486, Des Moines, Iowa 50306, or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov). Persons who want to convey their views orally should contact the Property Assessment Appeal Board at (515)725-0338 or at the Property Assessment Appeal Board offices at the Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319.

Requests for a public hearing must be received by April 5, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 421.1A and 441.37A.

The following amendments are proposed.

ITEM 1. Amend subrule 126.1(2) as follows:

**126.1(2) Definitions.** For the purpose of these rules, the following definitions shall apply:

"Appellant" means the party filing the notice of appeal with ~~the secretary of the property assessment appeal board.~~

"Board" means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

"Department" means the Iowa department of revenue.

"Electronic filing" means the electronic transmission of a document to the electronic filing system together with the production and transmission of a notice of electronic filing.

"Electronic filing system" means the system established by the board for the filing of papers and service of the same to opposing parties.

"Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

"Electronic service" means the electronic transmission of a notification to the registered users who are entitled to receive notice of the filing.

"Local board of review" means the board of review as defined by Iowa Code section 441.31.

"Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the board.

"Notice of electronic filing" means an e-mail notification generated by the electronic filing system when a document is electronically filed.

"Party" means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"PDF" means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the ~~property assessment appeal board.~~

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

“Public access terminal” means a computer located at the board’s office where the public may view, print, and electronically file documents.

“Registered user” means an individual who can electronically file documents and electronically view and download files through the use of a username and password.

“Remote access” means a registered user’s ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the board’s office.

“Secretary” means the secretary for the property assessment appeal board.

“Signature” means a registered user’s username and password accompanied by one of the following:

1. “Digitized signature” means an embeddable image of a person’s handwritten signature;
2. “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
3. “Nonelectronic signature” means a handwritten signature applied to an original document.

ITEM 2. Amend subrule 126.1(4) as follows:

**126.1(4) Time requirements.** Time shall be computed as provided in Iowa Code section 4.1(34). For good cause, the board may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the board shall afford all parties an opportunity to be heard or to file written arguments.

ITEM 3. Amend subrule 126.2(1) as follows:

**126.2(1) Appeal and jurisdiction.** The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by ~~written notice of appeal given to the secretary~~ filing an appeal with the board. The ~~written notice of~~ appeal shall include a petition setting forth the basis of the appeal and the relief sought. The ~~written notice of~~ appeal shall be filed with the ~~secretary~~ board within 20 calendar days after the date of adjournment of the local board of review or May 31, whichever is later. Appeals postmarked within this time period shall also be considered to have been timely filed. For an appeal filed through the electronic filing system to be timely, the appeal must be filed by 11:59 p.m. on the last day for filing.

b. ~~Notice of~~ The appeal may be filed through the board’s electronic filing system, delivered in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery; or e-mailed to the board at ~~paab@iowa.gov~~.

c. ~~For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 126.2(1)“a.”~~

ITEM 4. Amend subrule 126.2(2) as follows:

**126.2(2) Form of appeal.** The ~~notice of~~ appeal shall include:

- a. The appellant’s name, mailing address, e-mail address, and telephone number;
- b. The address of the property being appealed and its parcel number;
- ~~c. A copy of the letter of disposition by the local board of review;~~
- ~~d. c.~~ A short and plain statement of the claim showing that the appellant is entitled to relief;
- ~~e. d.~~ The relief sought; and
- ~~f. e.~~ If the party is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, e-mail address, and telephone number.

ITEM 5. Amend subrule 126.2(4) as follows:

**126.2(4) Notice to local board of review.** The ~~secretary~~ board shall ~~mail~~ serve, through the electronic filing system, a copy of the appellant’s ~~written notice of appeal and petition~~ appeal to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is ~~provided to~~ served on the local board of review.

ITEM 6. Amend subrule 126.2(5) as follows:

**126.2(5) Certification Answer and certification by local board of review.**

a. ~~Initial certification.~~

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

~~(1) Within 21 days after notice of appeal is given, the local board of review shall certify to the board the original notice of assessment if any, the petition to the board of review, and a copy of the board of review's letter of disposition.~~

~~(2) The local board of review shall also submit to the board in writing the name, address, telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at [paab@iowa.gov](mailto:paab@iowa.gov).~~

~~b. Full record certification prior to hearing.~~

~~(1) At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest.~~

~~(2) The local board of review shall also send a copy of the full record to the opposing party. Using the form provided by the board or a conforming document, the local board of review's attorney or representative shall file an answer and certification within 21 days after service of the notice of appeal. The answer and certification shall include a statement setting forth the local board of review's position on the appeal and include the following attachments:~~

- ~~1. The taxpayer's protest to the local board of review;~~
- ~~2. The final decision of the local board of review; and~~
- ~~3. The notice of assessment, if any.~~

ITEM 7. Amend subrule 126.2(6) as follows:

**126.2(6) Docketing.** Appeals shall be assigned consecutive docket numbers. ~~Records~~ Electronic records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the ~~secretary~~ board, as well as all filings made in the appeal. ~~The records of each case shall also include each action and each act done, with the proper dates, as follows:~~

- ~~a. The title of the appeal including jurisdiction and parcel identification number;~~
- ~~b. Brief statement of the grounds for the appeal and the relief sought;~~
- ~~c. Postmarked date of the local board of review's letter of disposition;~~
- ~~d. The manner and date/time of service of notice of appeal;~~
- ~~e. Date of notice of hearing;~~
- ~~f. Date of hearing; and~~
- ~~g. The decision by the board, or other disposition of the case, and date thereof.~~

ITEM 8. Amend subrule 126.2(8) as follows:

**126.2(8) Appearances.** Any party may appear and be heard on its own behalf, or by its attorney or designated representative. ~~A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. Attorneys and designated representatives both shall file a notice of appearance with the board for each appeal. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.~~

ITEM 9. Amend rule 701—126.3(421,441) as follows:

**701—126.3(421,441) Service Nonelectronic service on parties and filing with the board.**

**126.3(1) Applicability.** This rule applies to all nonelectronic filings made with the board by parties not voluntarily using the electronic filing system or in all other cases for which the board has not ordered the conversion of the case to an electronic file. Electronic filing and service of documents using the board's electronic filing system is governed by rule 701—126.4(421,441).

**126.3(1) 126.3(2) Service and filing of papers paper documents.** After the ~~notice of appeal and petition have~~ has been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

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

~~a. Service on a party—how and when made parties to the appeal. The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing; or sent electronically if the parties have agreed to service by such means.~~

~~b. Filing with the board—when made. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by this chapter. A registered user of the board's electronic filing system may electronically file documents with the board pursuant to rule 701—126.4(421,441).~~

~~(1) For most filings in a docket made with the board, only an original is required.~~

~~(2) For exhibits and other documents to be introduced at hearing, three copies are required. For a nonoral submission, only one copy is required.~~

~~(3) The board or presiding officer may request additional copies.~~

~~c. Proof of mailing. Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:~~

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).

(Date) (Signature)

~~126.3(2) 126.3(3) Reserved. Board-generated documents. The board will mail copies of all board-generated documents to any party not served by the board's electronic filing system.~~

~~126.3(4) Conversion of filed paper documents. The board will convert all filed paper documents to an electronic format viewable to registered users of the electronic filing system.~~

~~126.3(5) Form of paper documents. Each document delivered to the board must be printed on only one side and have no tabs, staples, or permanent clips. The document may be organized with paperclips, clamps, or another type of temporary fastener or be contained in a file folder.~~

~~126.3(6) Return of copies by mail. If a party requests that a document filed in paper form be returned by mail, the party must deliver to the board a self-addressed envelope, with proper postage, large enough to accommodate the returned document.~~

ITEM 10. Adopt the following new rule 701—126.4(421,441):

**701—126.4(421,441) Electronic filing system.**

**126.4(1) Electronic filing and applicability.**

a. *Electronic filing.* The board will maintain an electronic filing system, which shall be the preferred method for filing documents with the board.

b. *Applicability.* This rule applies to electronic filing and service of documents using the board's electronic filing system. Nonelectronic filing and service is governed by rule 701—126.3(421,441).

(1) The board may order the conversion of any case to an electronic file. Upon such an order, all future filings must be made using the board's electronic filing system in compliance with this rule, unless a filing is subject to the exception in paragraph 126.4(1) "c."

(2) In all other cases, a party or parties to a proceeding may voluntarily choose to use the electronic filing system in compliance with this rule.

c. *Exceptions.* Any item that is not capable of electronic filing shall be filed in a nonelectronic format pursuant to rule 701—126.3(421,441).

**126.4(2) Registration.**

a. *Registration required.* Every individual who is filing documents or viewing or downloading documents filed in an appeal must register as a registered user of the electronic filing system.

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

*b. How to register.* To register, an individual must complete the registration process online at <https://efile-paab.iowa.gov/>, consent to the user agreement, and obtain a username and password for the electronic filing system.

*c. Changing passwords.* Once registered, the user may change the user's password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately. The board may require password changes periodically.

*d. Changes in a registered user's contact information.* If a registered user's e-mail address, mailing address, or telephone number changes, the registered user must promptly make the necessary changes to the registered user's information contained in the electronic filing system. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

*e. Duties of a registered user.* Each registered user shall ensure that the user's e-mail account information is current, that the account is monitored regularly, and that e-mail notices sent to the account are timely opened.

*f. Canceling registration.* Withdrawal from participation in the electronic filing system cancels the registered user's profile but does not authorize nonelectronic filing of documents and is not a withdrawal from a proceeding.

*g. Use of username and password.* A registered user is responsible for all documents filed with the registered user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

*h. Username and password security.* If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username and password shall notify the board promptly.

*i. Denial of access.* The board may refuse to allow an individual to electronically file or download information in the electronic filing system due to misuse, fraud or other good cause.

**126.4(3) Signatures.**

*a. Registered user.* A username and password accompanied by a digitized, electronic, or nonelectronic signature serve as the registered user's signature on all electronically filed documents.

*b. Documents requiring oaths, affirmations or verifications.* Any document filed requiring a signature under oath or affirmation or with verification may be signed electronically or nonelectronically but shall be filed electronically.

*c. Format.* Any filing requiring a signature must be signed, with either a nonelectronic signature (actual signature scanned), an electronic signature (the symbol "/s/" or "/registered user's name/"), or a digitized signature (an inserted image of a handwritten signature).

*d. Multiple signatures.* By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

**126.4(4) Format and redaction of electronic documents.** All documents must be converted to a PDF format before they are filed in the electronic filing system. Prior to filing any document, the registered user shall ensure that the document is certified as confidential or that the confidential information is omitted or redacted.

**126.4(5) Exhibits and other attachments.** Any attachments to a filing, such as an exhibit, shall be uploaded and electronically attached to the filing. Each exhibit shall be filed as a separate PDF. Exhibits shall be labeled as required by paragraph 126.7(3) "d."

**126.4(6) Filing and service using electronic filing.**

*a. What constitutes filing.* The electronic transmission of a document to the electronic filing system consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes the filing of the document.

*b. Electronic file stamp.* Electronic documents are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

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

*c. E-mail or fax.* The e-mailing or faxing of a document to the board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ordered by the board.

*d. Public access terminal.* The board shall maintain a public access terminal at the board's office.

*e. Service of filings.* When a document is electronically filed, the electronic filing system will produce and transmit a notice of electronic filing to all parties to the appeal who are registered users. The notice of electronic filing shall constitute service of the filing on registered users. No other service is required on registered users unless ordered by the board. The filing party is responsible for ensuring service, pursuant to paragraph 126.3(2) "a," on any party that is not a registered user. Notices of electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the users have filed a withdrawal of appearance.

*f. Proof of service of nonelectronic filings.* Parties filing a document nonelectronically pursuant to paragraph 126.4(2) "c" and rule 701—126.3(421,441) shall electronically file a notice of nonelectronic filing along with proof of service.

*g. Electronic filing and service of board-generated documents.* All board-generated documents issued in an appeal governed by this chapter shall be electronically filed and served. The board shall only mail paper copies of documents as provided in subrule 126.3(3).

**126.4(7) Filing by the board on behalf of a party.**

*a.* Where the circumstances and administrative efficiency requires, board staff may file a motion on behalf of a party to an appeal pursuant to this subrule.

*b.* When a party to an appeal contacts board staff via telephone or other means and indicates the party's desire to file a motion or request specified in paragraph 126.4(7) "c," board staff may file the request or motion in the electronic filing system on behalf of the party. The request or motion shall be consistent with the instructions and information provided by the party and shall only be filed with the permission of the party. Board staff shall not file any motions or requests on behalf of a party if any opposing party requires nonelectronic service under subrule 126.3(2).

*c.* Only the following motions or requests may be filed by board staff on behalf of a party:

- (1) Motion for telephone hearing;
- (2) Motion to appear in person at hearing;
- (3) Motion for hearing;
- (4) Motion for continuance;
- (5) Motion to withdraw appeal.

*d.* Upon filing of the motion or request, board staff will provide a courtesy copy of the filing to the party.

ITEM 11. Amend rule 701—126.5(421,441) as follows:

**701—126.5(421,441) Motions and settlements.**

**126.5(1) Authority of board to issue procedural orders.** The board may issue preliminary orders regarding procedural matters. ~~The secretary shall mail copies of all procedural orders to the parties.~~

**126.5(2) Motions.** No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the secretary board and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

*a. and b.* No change.

*c. Motions to withdraw.* An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing ~~or by e-mail to paab@iowa.gov~~ and signed by the appellant or the appellant's designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board's granting of a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

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

**126.5(3) Settlements.** Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed ~~in writing or by an electronic copy e-mailed to paab@iowa.gov~~ with the board. The board will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

ITEM 12. Amend rule 701—126.6(421,441) as follows:

**701—126.6(421,441) Hearing scheduling and discovery plan.**

**126.6(1) When required.** For appeals involving properties classified ~~commercial or industrial~~ commercial, industrial, or multiresidential and assessed at \$2 million or more, ~~a scheduling order shall be sent to the parties to set dates for discovery, designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing~~ the parties shall confer and file a hearing scheduling and discovery plan within 60 days of the notice provided in subrule 126.2(4). In any other appeal, the parties may jointly ~~enter a scheduling order~~ file a hearing scheduling and discovery plan or the board may, on its own motion, ~~issue a scheduling order~~ require parties to file a hearing scheduling and discovery plan. The dates established in a ~~scheduling order~~ hearing scheduling and discovery plan under this rule shall supersede any dates set forth in any other rule in this chapter.

**126.6(2) Prehearing conference.** A party may request a prehearing conference to resolve ~~scheduling~~ issues any disputed issue pertaining to the hearing scheduling and discovery plan.

**126.6(3) Modification.** The parties may jointly agree to modify ~~a scheduling order~~ the plan. If one party seeks to modify ~~a scheduling order~~ the plan, the party must show good cause for the modification.

**126.6(4) Failure to comply.** A party that fails to comply with a ~~scheduling order~~ plan shall be required to show good cause for failing to comply ~~with the order~~ and that the other party is not substantially prejudiced. Failing to comply with a ~~scheduling order~~ plan may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

ITEM 13. Amend rule 701—126.7(421,441) as follows:

**701—126.7(421,441) Discovery and evidence.**

**126.7(1) Discovery procedure.** ~~Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; entry upon land for inspection and other purposes; and requests for admission. The time frames for discovery in specific Iowa Rules of Civil Procedure govern those specific procedures, unless lengthened or shortened by the board.~~

*a.* Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in an appeal. Any party taking a deposition in an appeal shall be responsible for any deposition costs. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

*b.* Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in an appeal.

*c.* Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things; and entry upon land for inspection and other purposes in an appeal.

*d.* Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in an appeal. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in an appeal.

*e.* The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to appeals before the board.

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

f. Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to an appeal.

g. Discovery shall be served on all parties to the appeal, but shall not be filed with the board. Parties shall file a notice with the board when a notice of deposition or a discovery request or response is served on another party. The notice filed with the board shall include the date, the manner of service, and the names and addresses of the persons served. Other discovery materials shall not be filed unless ordered by the presiding officer.

**126.7(2)** No change.

**126.7(3)** *Evidence.*

a. to c. No change.

d. *Exhibits, exhibit and witness lists, and briefs.* The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have ~~entered a scheduling order~~ filed a hearing scheduling and discovery plan under rule 701—126.6(421,441). Rebuttal evidence need not be exchanged or served on the opposing party prior to the hearing. All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark ~~exhibits~~ each exhibit with consecutive numbers. The appellee shall mark ~~exhibits~~ each exhibit with consecutive letters. The local board of review's Exhibit A shall be the subject property's property record card or cost report.

e. and f. No change.

**126.7(4)** *Subpoenas.*

a. *Issuance of subpoena for witness.*

(1) ~~An agency~~ A subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least ~~40~~ 14 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

b. *Issuance of subpoena for production of documents.*

(1) ~~An agency~~ A subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least ~~20~~ 14 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas.

c. *Motion to quash or modify.* Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

ITEM 14. Amend subrule 126.8(2) as follows:

**126.8(2)** *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the ~~secretary~~ board shall ~~mail~~ serve a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 126.8(3). The notice of hearing shall contain the following information:

- a. A statement of the date, time, and place of the hearing;
- b. A statement of legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. That the parties may appear and present oral arguments;
- e. That the parties may submit evidence and briefs;
- f. That the hearing will be electronically recorded by the board;

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

- g. That a party may obtain a certified court reporter for the hearing at the party's own expense;
- h. That audiovisual aids and equipment are to be provided by the party intending to use them;
- i. A statement that, upon submission of the appeal, the board will take the matter under advisement. ~~A letter of disposition~~ An order will be mailed issued to the parties; and
- j. A compliance notice required by the Americans with Disabilities Act (ADA).

ITEM 15. Amend subrule 126.8(3) as follows:

**126.8(3) *Waiver of 30-day notice.*** The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be ~~in writing or by e-mail to paab@iowa.gov~~ and signed by the parties or their designated representatives and filed with the board. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

ITEM 16. Amend subrule 126.8(4) as follows:

**126.8(4) *Continuance.*** Any hearing may be continued for "good cause." "Good cause" is equated to any cause not growing out of the fault or negligence of the movant, which satisfies the board that substantial justice will more nearly be obtained if the case is continued. ~~Requests for continuance prior to the hearing~~ A motion to continue the hearing shall be in writing or by e-mail to paab@iowa.gov and promptly filed with the secretary of the and, except in exigent or other unusual circumstances, filed not later than 7 days before the board or immediately upon "the cause" becoming known. The motion must contain sufficient specific information or be supported by sufficient evidentiary materials or both to allow the board to determine whether there is "good cause" and whether the alleged cause grows out of the fault or negligence of the moving party. An emergency oral continuance may be obtained from the board or presiding officer based on "good cause" and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors, including the existence of a ~~scheduling order~~ hearing scheduling and discovery plan.

ITEM 17. Amend subrule 126.8(6) as follows:

**126.8(6) *Hearing procedures.*** A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

- a. No change.
- b. *Representation.* Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative. A partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent.
- c. and d. No change.
- e. *Conduct of the hearing.* The presiding officer shall conduct the hearing in the following manner:
  - (1) to (3) No change.
  - (4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. Witnesses may be sequestered during the hearing. The presiding officer may limit questioning in a manner consistent with law; and
  - (5) No change.

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

ITEM 18. Amend subrule 126.10(1) as follows:

**126.10(1) Appeals of board decisions.** A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the ~~letter of disposition of the appeal by the board is mailed~~ board's final agency action is postmarked to the appellant or the final agency action is filed in the board's electronic filing system. Iowa Code chapter 17A applies to judicial review of the board's final decision. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

**ARC 2451C****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 307.12, 307A.2 and 321.187, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Item 1 updates the facsimile number and adds a reference to the Department's Web site. Items 2 to 5, 7 to 15, 18 to 20 and 24 update Iowa Code citations to remove references to 2015 Iowa Acts. Item 16 implements third-party testing by Iowa-based motor carriers as authorized by Iowa Code section 321.187 and will increase access to commercial driver's license skills testing for Iowa-based motor carriers and their trainee drivers. Item 17 authorizes the acceptance of skills test results from certified third-party testers. Item 18 corrects the implementation sentence to add a reference to Iowa Code section 321.187. Item 20 increases the period of time in which a commercial driver may renew a commercial driver's license before expiration from 30 days to 90 days, which conforms to current practice and gives drivers more time to complete their renewal transaction before expiration. Item 20 also changes the period of time in which a driver may renew before expiration when faced with circumstances that render doing so within 90 days before expiration impractical from one year to 364 days, which conforms with a Federal Motor Carrier Safety Administration interpretation of federal rules that dictates a commercial driver's license may not be valid more than eight years and 364 days. The proposed amendments within Item 20 also correct a Code of Federal Regulations (CFR) citation and make changes for clarity. Item 21 corrects an Iowa Code citation. Item 22 addresses restricted commercial driver's licenses and changes the definition of "good driving record" to add consistency in the identification and enumeration of disqualifying acts and violations, improve the safety of persons allowed to operate a commercial motor vehicle under a restricted commercial driver's license, and make nonsubstantive changes to add clarity and create consistency. The proposed amendments within Item 22 also change the attribution of the 180-day period of validity from two set periods, one during spring planting and one during fall harvest, to a flexible 180-day period that may be taken at any time during the calendar year and may be taken in up to three increments at the election of the driver. This change will be effective on January 1, 2017, and is responsive to requests from suppliers of agricultural inputs that sought more flexibility in the administration of the 180-day period. Three individual periods of validity will allow suppliers and their drivers to craft periods of validity that correspond to yearly fluctuations in planting and harvest demands without being restricted to defined periods that may or may not correspond, and will also allow agricultural suppliers to add drivers in mid-year when needed to respond to demand or weather events that affect the application of agricultural inputs. Item 23 eliminates an outdated subrule concerning self-certification procedures which were required before January 30, 2014.

The proposed amendments within Item 6 update the citation in 49 CFR Part 383. The amendments to 49 CFR Part 383 that have become effective since the 2014 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

TRANSPORTATION DEPARTMENT[761](cont'd)

**Part 383 (FR Vol. 79, No. 191, Pages 59450-59458, 10-02-14)**

This final rule amends Federal Motor Carrier Safety Administration's (FMCSA) regulations by making technical corrections throughout 49 CFR, Subtitle B, Chapter III. The FMCSA is making minor changes to correct errors and omissions, ensure conformity with the Office of the Federal Register style guidelines, update references, and improve clarity and consistency of certain regulatory provisions. This rule does not make any substantive changes to the affected regulations. Effective date: October 2, 2014.

**Part 383 (FR Vol. 80, No. 78, Pages 22790-22825, 4-23-15)**

This final rule amends the Federal Motor Carrier Safety Regulations (FMCSR) to require certified medical examiners performing physical examinations of commercial motor vehicle (CMV) drivers to use a newly developed Medical Examination Report Form, MCSA-5875, in place of the current form and to use Form MCSA-5876 for the Medical Examiner's Certificate and to report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar day following the examination. The reporting of results includes all CMV drivers who are required to be medically certified to operate in interstate commerce, not only those who hold or apply for commercial learner's permits (CLP) or commercial driver's licenses (CDL), and results of any examinations performed in accordance with the FMCSRs with any applicable state variances (which will be valid for intrastate operations only). For holders of CLP/CDLs (interstate and intrastate), FMCSA will electronically transmit driver identification, examination results, and restriction information from examinations performed from the national registry to the state driver's licensing agencies. FMCSA will also transmit medical variance information for all CMV drivers electronically to the state driver's licensing agencies. Effective date: June 22, 2015.

**Part 383 (FR Vol. 80, No. 119, Pages 35577-35596, 06-22-15)**

This final rule makes corrections to a rule that appeared in the Federal Register on April 23, 2015 (80 FR 22790), which is summarized in the preceding paragraph. That final rule was a follow-on rule to the medical certification requirements as part of the CDL final rule, published on December 1, 2008, and the National Registry of Certified Medical Examiners final rule, published on April 20, 2012. Effective date: June 22, 2015.

**Part 383 (FR Vol. 80, No. 190, Pages 59065-59075, 10-01-15)**

This final rule amends FMCSA regulations by making technical corrections and ministerial corrections throughout 49 CFR, Subtitle B, Chapter III. The FMCSA is making minor changes to correct errors and omissions, ensure conformity with the Office of the Federal Register style guidelines, update cross references, restore an inadvertent deletion of the reference to an Underwriters Laboratories' (UL) standard, and improve clarity and consistency of certain regulatory provisions. This rule does not make any substantive changes to the affected regulations, except to remove one obsolete provision. Effective date: October 1, 2015.

These amendments 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.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

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

5. Be received by the Office of Policy and Legislative Services no later than April 5, 2016.

A meeting to hear requested oral presentations is scheduled for Thursday, April 7, 2016, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, 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 18, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 321.176B, 321.187 and 321.188. The following amendments are proposed.

ITEM 1. Amend rule 761—607.2(17A) as follows:

**761—607.2(17A) Information.**

**607.2(1)** *Information and location.* Applications, forms and information about the commercial driver's license (CDL) are available at any driver's license examination station. Assistance is also available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (800)532-1121 or (515)244-8725; or by facsimile at (515)237-3071 239-2837; or on the department's Web site at www.iowadot.gov.

**607.2(2)** *Manual.* A copy of a study manual for the commercial driver's license tests is available upon request at any driver's license examination station and on the department's Web site.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 2. Amend rule 761—607.3(321), introductory paragraph, as follows:

**761—607.3(321) Definitions.** The definitions in Iowa Code section 321.1 as ~~amended by 2015 Iowa Acts, House File 635, section 44,~~ apply to this chapter of rules. In addition, the following definitions are adopted:

ITEM 3. Amend rule **761—607.3(321)**, definition of "CDLIS," as follows:

"CDLIS" means "commercial driver's license information system" as defined in Iowa Code section 321.1 ~~as amended by 2015 Iowa Acts, House File 635, section 44.~~

ITEM 4. Amend rule **761—607.3(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1 ~~as amended by 2015 Iowa Acts, House File 635, section 44,~~ 321.174, 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53,~~ 321.191, 321.193, 321.207 and 321.208.

ITEM 5. Amend rule **761—607.7(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 22.11, 321.12 ~~as amended by 2015 Iowa Acts, House File 635, section 46,~~ and 321.199.

ITEM 6. Amend paragraph **607.10(1)"c,"** introductory paragraph, as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2014~~ 2015):

ITEM 7. Amend rule **761—607.10(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.187, 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53,~~ 321.207, 321.208 and 321.208A.

ITEM 8. Amend rule 761—607.15(321) as follows:

**761—607.15(321) Application.** An applicant for a commercial driver's license shall comply with the requirements of Iowa Code sections 321.180(2) "~~e,~~" ~~as amended by 2015 Iowa Acts, House File 635, section 50,~~ 321.182 and 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53,~~ and 761—Chapter 601, and must provide the proofs of citizenship or lawful permanent residence and state

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

of domicile required by 49 CFR Section 383.71. If the applicant is domiciled in a foreign jurisdiction and applying for a nondomiciled commercial driver's license, the applicant must provide a document required by 49 CFR Section 383.71(f).

This rule is intended to implement Iowa Code sections 321.180 as amended by 2015 Iowa Acts, House File 635, section 50, 321.182 and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

ITEM 9. Amend subrule 607.17(3) as follows:

**607.17(3) Tank vehicle.** A tank vehicle endorsement (N) is required to operate a tank vehicle as defined in Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44. A vehicle transporting a tank, regardless of the tank's capacity, which does not otherwise meet the definition of a commercial motor vehicle in Iowa Code section 321.1 is not a tank vehicle.

ITEM 10. Amend rule 761—607.17(321), implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.1 as amended by 2015 Iowa Acts, House File 635, section 44, 321.176A, and 321.189.

ITEM 11. Amend rule 761—607.18(321), implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.189 and 321.191 as amended by 2015 Iowa Acts, House File 635, section 55.

ITEM 12. Amend rule 761—607.20(321) as follows:

**761—607.20(321) Commercial learner's permit.**

**607.20(1) Validity.**

a. A commercial learner's permit allows the permit holder to operate a commercial motor vehicle when accompanied as required by Iowa Code section 321.180(2) "d." as amended by 2015 Iowa Acts, House File 635, section 50.

b. A commercial learner's permit is valid for 180 days and may be renewed for an additional 180 days without retaking the general and endorsement knowledge tests required by Iowa Code section 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

c. to e. No change.

**607.20(2) Requirements.**

a. An applicant for a commercial learner's permit must hold a valid Class A, B, C, or D driver's license issued in this state other than that is not an instruction permit, a special instruction permit, a motorized bicycle license or a temporary restricted license; must be at least 18 years of age; and must meet the requirements to obtain a valid commercial driver's license, including the requirements set forth in Iowa Code section 321.188 as amended by 2015 Iowa Acts, House File 635, section 53. However, the applicant does not have to complete the driving skills tests required for a commercial driver's license to obtain a commercial learner's permit.

b. No change.

**607.20(3) Endorsements.** A commercial learner's permit may include the following endorsements. All other endorsements are prohibited on a commercial learner's permit.

a. An applicant for a passenger endorsement (P) must take and pass the passenger endorsement knowledge test. A commercial learner's permit holder with a passenger endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d." as amended by 2015 Iowa Acts, House File 635, section 50.

b. An applicant for a school bus endorsement (S) must take and pass the school bus endorsement knowledge test. A commercial learner's permit holder with a school bus endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d." as amended by 2015 Iowa Acts, House File 635, section 50.

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

c. No change.

**607.20(4) Restrictions.** A commercial learner's permit may include the air brake (L), medical variance (V), Class A passenger vehicle (M), Class A and B passenger vehicle (N) and intrastate only (K) restrictions described in rule 761—607.18(321). In addition, a commercial learner's permit may include the following restrictions that are specific to the commercial learner's permit:

a. *Passenger.* The passenger restriction (P, no passengers in CMV bus) applies to a permit holder who has a commercial learner's permit with a passenger or school bus endorsement and prohibits the operation of a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d." ~~as amended by 2015 Iowa Acts, House File 635, section 50.~~

b. No change.

This rule is intended to implement Iowa Code sections 321.180 ~~as amended by 2015 Iowa Acts, House File 635, section 50~~, 321.186, and 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53.~~

ITEM 13. Amend rule **761—607.27(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186 and 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53.~~

ITEM 14. Amend subrule 607.28(6) as follows:

**607.28(6) Military waiver.** The department may waive the requirement that an applicant pass a required skills test for an applicant who is on active duty in the military service or who has separated from such service in the past year, provided the applicant meets the requirements of Iowa Code subsection 321.188(6) ~~as amended by 2015 Iowa Acts, House File 635, section 53.~~

ITEM 15. Amend rule **761—607.28(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 321.186 and ~~section~~ 321.188 ~~as amended by 2015 Iowa Acts, House File 635, section 53.~~

ITEM 16. Adopt the following new rule 761—607.30(321):

**761—607.30(321) Third-party testing.**

**607.30(1) Purpose and definitions.** The skills test required by rule 761—607.28(321) may be administered by third-party testers and third-party skills test examiners approved and certified by the department. For the purpose of administering third-party skills testing and this rule, the following definitions shall apply:

"*Community college*" means an Iowa community college established under Iowa Code chapter 260C.

"*Iowa-based motor carrier*" means a motor carrier or its subsidiary that has its principal place of business in the state of Iowa and operates a permanent commercial driver training facility in the state of Iowa.

"*Motor carrier*" means the same as defined in 49 CFR Section 390.5.

"*Permanent commercial driver training facility*" means a facility dedicated to a program of commercial driving instruction that is offered to employees or potential employees of the motor carrier as incident to the motor carrier's commercial operations, that requires at least 40 hours of instruction, and that includes fixed and permanent structures and facilities for the off-road portions of commercial driving instruction, including classroom, pre-trip inspection, and basic vehicle control skills. A permanent commercial driver training facility must include a fixed and paved or otherwise hard-surfaced area for basic vehicle control skills testing that is permanently marked and capable of inspection and measurement by the department.

"*Skills test*" means the skills test required by rule 761—607.28(321).

"*Subsidiary*" means a company that is partly or wholly owned by a motor carrier that holds a controlling interest in the subsidiary company.

"*Third-party skills test examiner*" means the same as defined in 49 CFR Section 383.5.

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

“*Third-party tester*” means the same as defined in 49 CFR Section 383.5.

**607.30(2)** *Certification of third-party testers.*

a. The department may certify as a third-party tester a community college or Iowa-based motor carrier to administer skills tests. A community college or Iowa-based motor carrier that seeks certification as a third-party tester shall contact the department’s office of driver services and schedule a review of the proposed testing program, which shall include the proposed testing courses and facilities, information sufficient to identify all proposed third-party skills test examiners, and any other information necessary to demonstrate compliance with 49 CFR Section 383.75.

b. No community college or Iowa-based motor carrier shall be certified to conduct third-party testing unless and until the community college or Iowa-based motor carrier enters an agreement with the department that meets the requirements of 49 CFR Section 383.75 and demonstrates sufficient ability to conduct skills tests in a manner that consistently meets the requirements of 49 CFR Section 383.75.

c. The department shall issue a certified third-party tester a certificate of authority that identifies the classes and types of vehicles for which skills tests may be administered. The certificate shall be valid for the duration of the agreement executed pursuant to paragraph 607.30(2) “b,” unless revoked by the department for engaging in fraudulent activities related to conducting skills tests or failing to comply with the requirements, qualifications, and standards of this chapter, the agreement, or 49 CFR Section 383.75.

**607.30(3)** *Certification of third-party skills test examiners.*

a. A certified third-party tester shall not employ or otherwise use as a third-party skills test examiner a person who has not been approved and certified by the department to administer skills tests. Each certified third-party tester shall submit for approval the names of all proposed third-party skills test examiners on a form provided by the department. The department shall not approve as a third-party skills test examiner a person who does not meet the requirements, qualifications and standards of 49 CFR Sections 383.75 and 384.228, including but not limited to all required training and examination and a nationwide criminal background check. The criteria for passing the nationwide criminal background check shall include no felony convictions within the last ten years and no convictions involving fraudulent activities.

b. The department shall issue a certificate of authority for each person certified as a third-party skills test examiner that identifies the certified third-party tester for which the person will administer skills tests and the classes and types of vehicles for which the person may administer skills tests. The certificate shall be valid for a period of four years from the date of issuance of the certificate.

c. The department shall revoke the certificate if the person holding the certificate does not administer skills tests to at least ten different applicants per calendar year; does not successfully complete the refresher training required by 49 CFR Section 384.228 every four years; is involved in fraudulent activities related to conducting skills tests; or otherwise fails to comply with and meet the requirements, qualifications and standards of this chapter or 49 CFR Sections 383.75 and 384.228.

d. A third-party skills test examiner who is also a skills instructor shall not administer a skills test to an applicant who received skills training from that third-party skills test examiner.

**607.30(4)** *Bond.* As a condition of certification, an Iowa-based motor carrier must maintain a bond in the amount of \$50,000 to pay for the retesting of drivers in the event that the third-party tester or one or more of its third-party skills test examiners is involved in fraudulent activities related to conducting skills tests of applicants for a commercial driver’s license.

**607.30(5)** *Limitation applicable to Iowa-based motor carriers.* An Iowa-based motor carrier certified as a third-party tester may only administer the skills test to persons who are enrolled in the Iowa-based motor carrier’s commercial driving instruction program, and shall not administer skills tests to persons who are not enrolled in that program.

**607.30(6)** *Training and refresher training for third-party skills test examiners.* All training and refresher training required under this rule shall be provided by the department, in a form and content that meets the recommendations of the American Association of Motor Vehicle Administrators’ International Third-Party Examiner/Tester Certification Program.

This rule is intended to implement Iowa Code section 321.187.

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ITEM 17. Adopt the following **new** subrule 607.31(4):

**607.31(4) Skills test results from certified third-party testers.** A third-party skills tester certified under rule 761—607.30(321) shall transmit the skills test results of tests administered by the third-party tester through secure electronic means determined by the department. The department may retest any person who has passed a skills test administered by a certified third-party tester if it appears to the department that the skills test administered by the third-party tester was administered fraudulently or improperly, and as needed to meet the third-party skills test examiner oversight requirements of 49 CFR Section 383.75(a)(5).

ITEM 18. Amend rule **761—607.31(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 321.186, 321.187 and ~~section 321.188~~ as amended by 2015 Iowa Acts, House File 635, section 53.

ITEM 19. Amend rule 761—607.35(321) as follows:

**761—607.35(321) Issuance of commercial driver's license and commercial learner's permit.** A commercial driver's license or commercial learner's permit issued by the department shall include the information and markings required by Iowa Code section 321.189(2) "b." as amended by 2015 Iowa Acts, House File 635, section 54.

This rule is intended to implement Iowa Code section 321.189 as amended by 2015 Iowa Acts, House File 635, section 54.

ITEM 20. Amend rule 761—607.37(321) as follows:

**761—607.37(321) Commercial driver's license renewal.** The department shall administer commercial driver's license renewals as required by 49 CFR Section 383.73.

**607.37(1) Licensee requirements.** To renew a commercial driver's license, the licensee shall apply at a driver's license examination station and complete the following requirements:

a. Make ~~The licensee shall make~~ a written self-certification of type of driving as required by rule 761—607.50(321) and provide a current medical examiner's certificate if required.

b. No change.

c. Provide ~~The licensee shall provide~~ proof of citizenship or lawful permanent residency and state of domicile as required by rule 761—607.15(321) and ~~49 CFR 383.71(d)(7)~~ 49 CFR 383.73(d)(7). Proof of citizenship or lawful permanent residency is not required if the licensee provided such proof at initial issuance or a previous renewal or upgrade of the license and the department has a notation on the licensee's record confirming that the required proof of legal citizenship or legal presence check was made and the date on which it was made.

d. If the ~~applicant~~ licensee is domiciled in a foreign jurisdiction and renewing a non-domiciled commercial driver's license, the ~~applicant~~ licensee must provide a document required by 49 CFR 383.71(f) at each renewal.

**607.37(2) Early renewal.** A valid commercial driver's license may be renewed ~~30~~ 90 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed ~~one year~~ 364 days prior to the expiration date. The department may allow renewal earlier than ~~one year~~ 364 days prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.

This rule is intended to implement Iowa Code sections 321.186, 321.188 as amended by 2015 Iowa Acts, House File 635, ~~section 53~~, and 321.196.

ITEM 21. Amend subrule 607.39(2) as follows:

**607.39(2) Notice.** A 30-day advance notice of disqualification shall be served by the department in accordance with rule 761—615.37(321). Pursuant to Iowa Code subsection ~~321.208(9)~~ 321.208(12), a peace officer on behalf of the department may serve the notice of disqualification immediately.

ITEM 22. Amend subrules 607.49(5) and 607.49(6) as follows:

**607.49(5) Good driving record.** A "good driving record" means a driving record showing:

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

- a.* and *b.* No change.
- c.* No convictions in any type of motor vehicle for:
- (1) to (4) No change.
- (5) Reckless driving, drag racing, or eluding or attempting to elude a law enforcement officer.
- (6) and (7) No change.
- (8) ~~Accident-connected traffic law violations~~ A moving violation that contributed to a motor vehicle accident.
- (9) A violation deemed serious under rule 761—615.17(321).
- d.* No record of ~~at-fault accidents~~ contributive accidents, as defined in rule 761—615.1(321).
- 607.49(6) Issuance.**
- a.* No change.
- b.* A restricted commercial driver's license shall be coded with restriction "W" on the face of the driver's license, with the restriction explained in text on the back of the driver's license. In addition, the license shall be issued with a restriction stating the license's period of validity.
- c.* to *e.* No change.
- f.* ~~There~~ On or before December 31, 2016, there are two periods of validity for commercial motor vehicle operation: March 15 through June 30, and October 4 through December 14. These are referred to as "seasonal periods." Validity shall not exceed 180 days in any 12-month period. Any period of validity authorized previously by another state's license shall be considered a part of the 180-day maximum period of validity.
- g.* On or after January 1, 2017, a licensee may have up to three individual periods of validity for a restricted commercial driver's license, provided the cumulative period of validity for all individual periods does not exceed 180 days in any calendar year. An individual period of validity may be 60, 90, or 180 consecutive days, at the election of the licensee. A licensee may add 30 days to an individual period of validity by applying for an extension, subject to the 180-day cumulative maximum period of validity. A request for extension must be made no later than the date of expiration of the individual period of validity for which an extension is requested; a request for extension made after that date shall be treated as a request for a new individual period of validity. An extension shall be calculated from the date of expiration of the individual period of validity for which an extension is requested. Any period of validity authorized previously by another state's license shall be considered a part of the 180-day cumulative maximum period of validity.
- ~~*g.*~~ *h.* A restricted commercial driver's license must be validated for commercial motor vehicle operation for each seasonal individual period of validity. This means that the applicant/licensee must appear at a driver's license examination station during the current seasonal period or not more than 30 days before the beginning of the period to have the person's good driving record confirmed at each application for an individual period of validity. Upon confirmation, the department shall issue a replacement license with a restriction validating the license for that seasonal individual period of validity, provided the person is otherwise eligible for the license. The fee for a replacement license shall be as specified in Iowa Code section 321.195.
- ~~*h.*~~ *i.* The same process must be repeated for each seasonal individual period of validity within a calendar year.

ITEM 23. Amend rule 761—607.50(321) as follows:

**761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.**

**607.50(1)** No change.

~~**607.50(2) Enrollment of existing CDL holders.** Every person who holds a commercial driver's license on or after January 30, 2012, and up to January 30, 2014, and who has not otherwise made a self-certification of type of driving under subrule 607.50(1) shall make to the department a self-certification of type of driving. The self-certification may be made on or after January 30, 2012, but must be made no later than January 29, 2014.~~

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~~607.50(3)~~ **607.50(2)** *Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving.* Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate. A person who fails to provide a required medical examiner's certificate shall not be allowed to proceed with an initial issuance, transfer, renewal, or upgrade of a license until the person gives the department a medical examiner's certificate that complies with the requirements of this subrule, or changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. For persons submitting a current medical examiner's certificate, the department shall post a medical certification status of "certified" on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver's record.

~~607.50(4)~~ **607.50(3)** *Maintaining certified status.* To maintain a medical certification status of "certified," a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner's certificate valid for the person. The copy must be given to the department at least ten days before the previous medical examiner's certificate expires.

~~607.50(5)~~ **607.50(4)** *CDL downgrade.* If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of "not certified" to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of "certified" as required by subrule ~~607.50(4)~~ **607.50(3)** shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. to c. No change.

d. If the person fails to take the action in either paragraph ~~607.50(5)~~ **607.50(4)** "b" or "c" before the end of the 60-day period, the department shall remove the commercial motor vehicle privileges from the person's commercial driver's license or commercial learner's permit and shall leave the person's medical certification status as "not certified" on the person's CDLIS driver's record.

~~607.50(6)~~ *CDL downgrade of existing CDL holders who fail to enroll before January 30, 2014.* Every person subject to subrule ~~607.50(2)~~ who fails to make a self-certification of type of driving or fails to give the department a copy of the person's medical examiner's certificate as required by subrule ~~607.50(3)~~ before January 30, 2014, shall be subject to a CDL downgrade. The department shall post a medical certification status of "not certified" to the CDLIS driver's record and shall initiate a downgrade of the driver's commercial driver's license following the procedure set forth in subrule ~~607.50(5)~~. In such cases, the 60-day period shall begin January 30, 2014, and the person shall be required to make an initial self-certification of type of driving to terminate the CDL downgrade and to avoid removal of the commercial driver's license privilege. The person's status and privilege under subrule ~~607.50(5)~~ shall be determined according to the certification made or not made.

~~607.50(7)~~ **607.50(5)** *Establishment or reestablishment of "certified" status.* A person who has no medical certification status or whose medical certification status has been posted as "not certified" on the person's CDLIS driver's record may establish or reestablish the status as "certified" by submitting a current medical examiner's certificate or medical variance to the department. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record.

~~607.50(8)~~ **607.50(6)** *Reestablishment of the CDL privilege.* A person whose commercial motor vehicle privileges have been removed from the person's commercial driver's license or commercial learner's permit under the provisions of paragraph ~~607.50(5)~~ **607.50(4)** "d" may reestablish the commercial motor vehicle privileges by either of the following methods:

a. and b. No change.

~~607.50(9)~~ **607.50(7)** *Change of type of driving.* A person may change the person's self-certification of type of driving at any time. As required by subrule ~~607.50(3)~~ **607.50(2)**, a person certifying to

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

non-accepted interstate driving must give the department a copy of the person's current medical examiner's certificate prepared by a medical examiner.

~~607.50(10)~~ **607.50(8)** *Record keeping.* The department shall comply with the medical record-keeping requirements set forth in 49 CFR Section 383.73.

This rule is intended to implement Iowa Code sections 321.182, 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, and 321.207 as amended by 2015 Iowa Acts, House File 635, section 60.

ITEM 24. Amend rule ~~761~~—**607.51(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44.

## ARC 2436C

## PROFESSIONAL LICENSURE DIVISION[645]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants amends Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code.

This rule making restores the language previously removed by the Board of Physician Assistants from subrule 327.4(2) regarding the frequency of visits to remote medical sites required of physicians supervising physician assistants working at the remote medical sites. Originally, subrule 327.4(2) required a supervising physician providing supervision to a physician assistant working at a remote medical site to personally visit the remote medical site at least once every two weeks, unless there were unusual or emergency circumstances that justified a deviation from the requirement. In July of 2014, the Centers for Medicare and Medicaid Services (CMS) removed the federal requirement for supervising physicians to visit remote medical sites at least once every two weeks.

Following CMS's removal of the federal regulation, the Board of Physician Assistants took action to remove the requirement from its administrative rules as well. Amendments to subrule 327.4(2) were proposed under Notice of Intended Action and published in the November 26, 2014, Iowa Administrative Bulletin as **ARC 1741C**. The amendments were Adopted and Filed and published in the March 18, 2015, Iowa Administrative Bulletin as **ARC 1909C** and would become effective April 22, 2015. At a meeting of the Administrative Rules Review Committee (ARRC) on April 20, 2015, the ARRC imposed a session delay on **ARC 1909C**. Subsequently, 2015 Iowa Acts, Senate File 505, division XXXI, section 113, required the Board of Medicine and the Board of Physician Assistants to jointly adopt rules pursuant to Iowa Code chapter 17A to establish specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. Subcommittees of the Board of Physician Assistants and the Board of Medicine met numerous times throughout the fall of 2015. On January 20, 2016, the Board of Physician Assistants voted to file Notice of Intended Action **ARC 2417C** (IAB 2/17/16), which is the joint rule mandated by the Legislature during the 2015 session. Finally, on February 5, 2016, the ARRC voted to impose an additional 70-day delay on the effective date of **ARC 1909C** and also authorized the Board of Physician Assistants to utilize emergency rule-making procedures to restore verbatim the text of subrule 327.4(2) that was in effect prior to the Board's adoption of **ARC 1909C**.

Pursuant to Iowa Code section 17A.4(3), the Board of Physician Assistants finds that notice and public participation are unnecessary because on February 5, 2016, the ARRC authorized the filing of an emergency rule making for the purpose of removing regulatory uncertainty while new supervisory rules required by 2015 Iowa Acts, Senate File 505, division XXXI, section 113, move through the rule-making process.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a) and (b), the Board of Physician Assistants also finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective February 15, 2016, because the rule making confers a benefit on the regulated community by removing regulatory uncertainty and confusion that exist due to the procedural history of subrule 327.4(2), the Board's efforts to amend the subrule, and the 2015 legislative mandate to file joint rules with the Board of Medicine.

This amendment is also published herein under Notice of Intended Action as **ARC 2440C** to allow for public comment.

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

The Board of Physician Assistants adopted this amendment on February 15, 2016.

After analysis and review of this rule making, no impact on jobs has been found. This rule making maintains status quo since **ARC 1909C** has been placed under session delay and has never gone into effect.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

This amendment is intended to implement Iowa Code section 148C.3.

This amendment became effective February 16, 2016.

The following amendment is adopted.

Rescind subrule 327.4(2) and adopt the following **new** subrule in lieu thereof:

**327.4(2)** A supervising physician must visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.

[Filed Emergency 2/16/16, effective 2/16/16]

[Published 3/16/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

## ARC 2439C

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 189A.7(8), the Department of Agriculture and Land Stewardship hereby amends Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

The amendments update references to federal regulations in order to retain recognition of the state meat and poultry program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2369C** on January 20, 2016.

The adopted amendments are identical to the noticed amendments.

No comments were received from the public.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code section 159.5(8) and chapter 189A.

These amendments will become effective April 20, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

**21—76.1(189A) Federal Wholesome Meat Act regulations adopted.** Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

ITEM 2. Amend rule 21—76.2(189A) as follows:

**21—76.2(189A) Federal Wholesome Meat Act regulations adopted.** Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~March 7, 2013~~ January 1, 2016, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

**21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted.** Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, is hereby adopted in its entirety with the following exceptions: Sections 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, and 381.128, Subpart R, Subpart T, Subpart V, and Subpart W; and in addition thereto, the following subsections shall be expanded to include:

ITEM 4. Amend rule 21—76.4(189A) as follows:

**21—76.4(189A) Inspection required.** Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 5. Amend rule 21—76.13(189A) as follows:

**21—76.13(189A) Voluntary inspections of exotic animals.** Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

ITEM 6. Amend rule **21—76.14(189A)**, numbered paragraph “2,” as follows:

2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, ~~2013~~ 2016.

[Filed 2/24/16, effective 4/20/16]

[Published 3/16/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

**ARC 2438C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 225C.6, the Department of Human Services amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

These amendments establish standards for mental health advocates who provide services under Iowa Code chapter 229, “Hospitalization of Persons with Mental Illness.” New Division X in Chapter 25 includes standards for definitions, appointment and qualifications, assignment, advocate and county responsibilities, data collection requirements, and quality assurance for mental health advocate services.

Prior to July 1, 2015, mental health advocates were appointed by the judicial branch and paid by the counties. 2015 Iowa Acts, House File 468, amended Iowa Code chapter 229 to make mental health advocates county employees, effective July 1, 2015. Prior to July 1, 2015, procedures varied from judicial region to judicial region and from county to county. These amendments will provide consistency in requirements for hiring the advocate and for performance standards.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 2350C** on January 6, 2016.

The Department received 46 comments from eight respondents during the public comment period. Many of the comments received by the Department were duplicative. The public comments and Department responses shown below include the five comments that resulted in changes to the amendments. A full electronic copy of the public comments and Department responses may be found on the Department’s Web site, [www.dhs.iowa.gov](http://www.dhs.iowa.gov), under the rules section.

**Comment 1:** Two comments from two respondents stated that the definition of “Conflict of interest” should end after the words “impartial judgment.” Two additional respondents stated that “the advocate is a professional who should be allowed to use their judgment to determine if a conflict of interest exists” and that dual relationships happen frequently when advocate services are provided.

**Department response 1:** The Department agrees that advocates may be unable to avoid conflicts of interest. Subrule 25.103(2) provides for a mechanism to monitor anticipated issues of conflict of interest. The Department has revised the definition of “Conflict of interest” as suggested. The definition now reads as follows:

“*Conflict of interest*’ means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.”

**Comment 2:** One respondent stated that the wording that follows the words “other treatment facility” in the definition of “County where the individual is located” should be deleted. The respondent stated that the Department’s proposed language does not address advocates who refuse to transfer and does

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

not allow for short-term appointment prior to six months and creates increased costs and decreased responsiveness to the client.

**Department response 2:** The definition of “County where the individual is located” does not state that an advocate cannot request a transfer to another advocate and in another location prior to six months. Subrule 25.103(1) provides the mechanism for an advocate to request a transfer. The Department has changed the definition as suggested to provide clarity. The definition now reads as follows:

“*County where the individual is located*’ means the individual’s county of residence as defined in Iowa Code section 331.394, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.”

**Comment 3:** One respondent pointed out the language in proposed paragraphs 25.104(5)“b” and “c” seems redundant.

**Department response 3:** The Department agrees that the language in proposed paragraphs 25.104(5)“b” and “c” relating to correspondence retained in an individual’s file is redundant and, therefore, did not adopt proposed paragraph 25.104(5)“b” and has relettered the subsequent paragraphs accordingly.

**Comment 4:** Three comments from three respondents stated that the rules do not adequately address the issue of workforce coverage, particularly when there is only one advocate for each county or for multiple counties. Specific concerns mentioned involved staff other than an advocate performing advocate duties on a temporary basis and coverage of advocate duties while an advocate is on vacation.

**Department response 4:** The Department agrees and has changed the language of subrule 25.105(8) to clarify that an advocate must cover the caseload as follows:

“**25.105(8)** Provide advocate staff to cover the county’s caseload at all times, according to, but not limited to, each county’s unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available and extended staff absences.”

**Comment 5:** Three comments from three respondents stated that the quality assurance section is unnecessary, intrusive or redundant as it duplicates the county’s employee evaluation process. One respondent also stated that advocate files are confidential. One respondent asked about the source of funding for quality assurance requirements.

**Department response 5:** Iowa Code section 229.19 requires that the rules address quality assurance measures. Quality assurance is a process that reviews the delivery of the services in the system. The performance of the individual advocate is not the subject of a quality assurance process. The Department views a quality assurance system as being separate from an employee evaluation. Any individual involved in the review of advocate files would be bound by all confidentiality laws and rules. Implementation and funding would be determined by individual counties. The Department has removed the phrase “as the employer of the advocate,” from the introductory paragraph of rule 441—25.107(229) to provide clarity. The introductory paragraph now reads as follows:

“**441—25.107(229) Quality assurance system.** The county shall implement a quality assurance system which:”

In addition to the changes noted above, references to 2015 Iowa Acts, House File 468, have been removed from the rules because the amendments in 2015 Iowa Acts, House File 468, are now codified in Iowa Code chapter 229.

These amendments were adopted by the Mental Health and Disability Services Commission on February 18, 2016.

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

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 229.

These amendments will become effective May 1, 2016.

The following amendments are adopted.

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

ITEM 1. Reserve rules **441—25.97** to **441—25.100**.

ITEM 2. Adopt the following **new** 441—Chapter 25, division title, as follows:

DIVISION X  
MENTAL HEALTH ADVOCATES

ITEM 3. Adopt the following **new** 441—Chapter 25, Division X, Preamble, as follows:

PREAMBLE

This division establishes definitions, appointment and qualifications, assignment, responsibilities of the advocate and the county, data collection requirements, and quality assurance for mental health advocate services under Iowa Code chapter 229.

ITEM 4. Adopt the following **new** rules 441—25.101(229) to 441—25.107(229):

**441—25.101(229) Definitions.**

“*Advocate*” means mental health advocate as defined in Iowa Code section 229.1.

“*Conflict of interest*” means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.

“*County of residence*” means the same as defined in Iowa Code section 331.394.

“*County of venue*” means the county in which the Iowa Code chapter 229 commitment was filed pursuant to Iowa Code section 229.44.

“*County where the individual is located*” means the individual’s county of residence as defined in Iowa Code section 331.394, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.

“*Individual*” means the respondent who is receiving mental health advocate services under Iowa Code chapter 229.

“*Judicial district*” means the same as defined in Iowa Code section 602.6107.

“*Mental health and disability services region*” means the same as defined in Iowa Code section 331.389.

**441—25.102(229) Advocate appointment and qualifications.** The board of supervisors of each county shall appoint a person to act as an advocate representing the interests of individuals involuntarily hospitalized by the court under Iowa Code chapter 229. The advocate is hired by the board of supervisors and employed by the county.

**25.102(1)** A person may be appointed and employed or contracted with as the advocate by one county or by multiple counties. Advocates may be appointed for counties in more than one judicial district or more than one mental health and disability services region.

**25.102(2) Qualifications.**

a. The advocate shall meet the following qualifications:

(1) Possess a bachelor’s degree with 30 semester hours or equivalent quarter hours in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy) and at least one year of experience in the delivery of services to persons with mental illness; or

(2) Hold an Iowa license to practice as a registered nurse and have at least three years of experience in delivery of services to persons with mental illness.

b. A person employed as an advocate on or before July 1, 2015, who does not meet the requirements of subparagraph 25.102(2)“a”(1) or (2) shall be considered to meet those requirements so long as the person is continuously appointed as an advocate in the employing county.

c. A person employed as an advocate must pass criminal background, sex offender registry, and child and dependent adult abuse registry checks before hire.

**441—25.103(229) Advocate assignment.** The committing court shall assign the advocate from the county where the individual is located.

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

**25.103(1)** If the advocate assigned cannot serve the individual in an effective and efficient manner, the advocate may request another advocate to perform advocate duties on the individual's behalf. In the event that another advocate can better represent the individual on a longer term basis, the advocate shall request that the court transfer the individual to another advocate.

**25.103(2)** When a conflict of interest is identified between an advocate and an individual, the court and the advocate's county of employment shall be notified and an alternative advocate shall be assigned. The advocate's direct supervisor is responsible to monitor and ensure that the advocate does not have a conflict of interest. In instances when dual or multiple relationships are unavoidable, advocates should take steps to protect individuals and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Advocates who anticipate a conflict of interest among the individuals receiving services should clarify the advocate's role with the parties involved and take appropriate action to minimize any conflict of interest.

**25.103(3)** When the advocate assigned is not the advocate from the individual's county of residence, the advocate's county of employment may seek reimbursement from the region in which the individual's county of residence is located as outlined in Iowa Code section 229.19(1) "b."

**25.103(4)** An advocate shall only be assigned to a child 17 years of age or under when the child is not represented by an attorney due to an existing child in need of assistance (CINA) or other juvenile court action pursuant to the Iowa Code.

**441—25.104(229) Advocate responsibilities.** The minimum duties of the advocate are outlined in Iowa Code section 229.19. The role of the advocate is to ensure that the rights of the individual are upheld.

**25.104(1)** The advocate shall be readily accessible to communication from the individual and shall initiate contact within 5 days of the individual's commitment. The advocate shall inform the individual regarding the role of the advocate.

**25.104(2)** The advocate shall meet the individual in person within 15 days of the individual's commitment. The advocate shall present the county grievance procedure process, in writing, to the individual. The presentation shall include the county grievance procedure and contact information and the contact information for the citizens' aide/ombudsman. The advocate shall inform the individual about the mental health crisis services that are available.

**25.104(3)** The advocate shall review each report submitted to the court and communicate with the individual's medical and treatment team. Advocates shall abide by all federal, state, and local confidentiality laws.

**25.104(4)** The advocate shall file with the court Iowa Ct. R. 12.36—Form 30, quarterly reports for each individual assigned to the advocate. The report shall state the actions taken with the individual and amount of time spent on behalf of the individual.

**25.104(5)** The advocate shall maintain an organized confidential and secure file for each individual served. The file shall contain but not be limited to:

- a. Copies of quarterly reports submitted to the court.
- b. Copies of correspondence sent to and received from the individual, family members, providers and others.
- c. Releases of information.
- d. Case notes describing the date, time and type of contact with the individuals or others and a brief narrative summary of the content or outcome of the contact.
- e. Documents filed with the court electronically shall be considered as part of the individual's file.

**25.104(6)** The advocate shall register as provided in Iowa Ct. R. 16.305(1) to participate in the court's electronic document management system and shall submit all documents to be filed with the court electronically. The documents will be stored as electronic records that are retrievable and readable through the electronic document management system.

**25.104(7)** The advocate, as an employee of the county, shall comply with all county policies and procedures, including but not limited to hiring, supervision, grievance procedures, and training.

**25.104(8)** All advocate records are the property of the county, which is responsible for the provision of confidential storage, transfer, and destruction of client files, including those maintained on electronic

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

and digital devices, with access limited according to the county's policy on confidentiality as described in subrule 25.105(6).

**25.104(9)** The advocate may attend the hospitalization hearing of an individual represented by an attorney; however, payment for the advocate's attendance is at the discretion of the county of employment.

**441—25.105(229) County responsibilities.** As the employer of the advocate, the county shall provide qualified staff to support and facilitate the provision of quality advocate services. The county shall:

**25.105(1)** Assign a single supervisor, a single contract manager, or the county board of supervisors as the supervising entity to carry out responsibilities in this chapter.

**25.105(2)** Have a job description in the personnel file of the advocate that clearly defines the advocate's responsibilities and qualifications as defined in Iowa Code section 229.19 and in rule 441—25.104(229).

**25.105(3)** Have a process to verify, within 90 days of the advocate's hire, qualification of the advocate, including degrees and certifications obtained from a primary source.

**25.105(4)** Provide to the advocate training and education relevant to the position, including but not limited to overview of mental health diagnosis and treatment, the mental health and disability services delivery system, confidentiality, individual rights, professional conduct, the role of advocacy and service coordination within an interdisciplinary team, Iowa Code and administrative rules, and court procedures.

**25.105(5)** Provide approved training on child and dependent adult abuse reporter requirements.

**25.105(6)** Provide to any employee with access to individuals' files training on state and federal laws regarding nondisclosure and confidentiality of client protected health information during and after employment and maintain in the personnel files a signed document indicating the employee's awareness of the county's policy on confidentiality.

**25.105(7)** Complete criminal background, sex offender registry and child and dependent adult abuse registry checks before employment of the advocate. Any person who does not pass these checks is prohibited from being hired, or continuing to serve, as an advocate.

**25.105(8)** Provide advocate staff to cover the county's caseload at all times, according to, but not limited to, each county's unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available and extended staff absences.

**441—25.106(229) Data collection requirements.**

**25.106(1)** Beginning in 2016 and by December 1 each year, each county shall submit to the department of human services data regarding each individual who received advocate services during the previous state fiscal year.

**25.106(2)** As defined in rule 441—25.41(331), the data to be submitted are as follows:

*a.* Basic information about the individual, including a unique identifier and county of residence.  
*b.* Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA).

*c.* Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility the individual is committed to, any subsequent changes in treatment facility, and date commitment is terminated.

**441—25.107(229) Quality assurance system.** The county shall implement a quality assurance system which:

1. Annually measures and assesses advocates' activities and services.
2. Gathers feedback from stakeholders including individuals using advocate services, family members, court staff, service provider staff, and regional staff regarding advocate services.
3. Implements an internal review of individual records.

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

4. Identifies areas in need of improvement.
5. Develops a plan to address the areas in need of improvement.
6. Implements the plan and documents the results.

ITEM 5. Adopt the following **new** implementation sentence for 441—Chapter 25, Division X: These rules are intended to implement Iowa Code chapter 229.

[Filed 2/19/16, effective 5/1/16]

[Published 3/16/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

**ARC 2435C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 151, "Juvenile Court Services Directed Programs," Iowa Administrative Code.

These amendments improve the understanding of current juvenile justice services. The amendments also describe the expansion of those services to juveniles aged 18 to 21.

These amendments are necessary because juvenile justice services have evolved over time. Additionally, 2015 Iowa Acts, Senate File 412, has extended juvenile court services to juveniles aged 18 to 21. Finally, these amendments will provide better transition services for 18- to 21-year-old youths who are juvenile court services clients when they reach the age of 18.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2357C** on January 6, 2016. The Department did not receive any comments from the public during the comment period. These amendments are identical to those published under the Notice of Intended Action.

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

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 232.

These amendments will become effective May 1, 2016.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 151**, preamble, as follows:

These rules prescribe services for ~~children~~ eligible children for reimbursement from funds appropriated specifically for juvenile court services directed programs. The state court administrator and chief juvenile court officers have primary responsibility for the administration of court-ordered services (COS) and graduated sanction services for eligible children. The graduated sanction services are also known as "early intervention and follow-up services" or "community-based delinquency programs." The COS and graduated sanction funds shall also be used to enhance the education and performance of those employees who are directly involved with the clients and their programs.

The juvenile court services directed programs addressed in this chapter include court-ordered services and ~~four~~ three graduated sanction programs: ~~life skills community-based interventions; school-based supervision; supervised community treatment; and tracking, monitoring, and outreach and supportive enhancements.~~ The rules establish the criteria for the allocation of funds and the procedures for administration, application, eligibility, appeals, service delivery, and billing and payment.

ITEM 2. Amend rule **441—151.1(232)**, definitions of "Case file," "Child" and "Graduated sanction services," as follows:

"*Case file*" means a paper or electronic file that includes referral information, information generated during assessment, documentation of court proceedings, other eligibility determinations, case plans, and case reports, including quarterly progress reports. Case files of providers also include records of provider-child contact that document provision of services.

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

“Child” means a person under 18 years of age. “Child” also includes a person up to 19½ years of age when (1) the person is adjudicated delinquent and the dispositional order is entered while the person is 17 years of age (in which case, the order terminates 18 months after the date of disposition), or (2) the person, as an adult, has been transferred to the jurisdiction of the juvenile court and is adjudicated as having committed a delinquent act before becoming an adult (in which case, the dispositional order automatically terminates 18 months after the last date upon which jurisdiction could attach). Also included is a juvenile who has been adjudicated by the court to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age, if the child and juvenile court services determine the child should remain under the guidance of juvenile court services.

“*Graduated sanction services*” means ~~life skills community-based interventions; school-based supervision; supervised community treatment; and tracking, monitoring, and outreach and supportive enhancements.~~ Graduated sanction services are provided in community-based settings to ~~children an eligible child who are is~~ adjudicated delinquent or who ~~are is~~ at risk of adjudication. Services are directed to help ~~children~~ the child transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. Graduated sanction services are also known as “early intervention and follow-up services” or “community-based delinquency programs.” and are intended to enhance life skills of eligible children by providing quality services and purchasing goods to achieve individual and programmatic outcomes. Purchase of goods and services shall be monitored to ensure compliance with state and federal limitations on use of funds.

ITEM 3. Amend subrule 151.2(2) as follows:

**151.2(2)** *Allocations for graduated sanction services.* Graduated sanction services are funded by an appropriation to the department. The department allocates the funds to the state court administrator and to the chief juvenile court officers for administration. The funds are allocated and administered as follows:

*a.* The department shall allocate a set-aside amount up to, but not to exceed, ~~40~~ 20 percent of the total allocation for graduated sanction services for the state court administrator to pay the administrative costs of the graduated sanction services, including the costs of a ~~court accountant auditor~~ contract administrator accountant position established in each judicial district. The contract administrator accountant is responsible to assist in producing data, promoting fiscal efficiencies related to criminogenic risk factors, and monitoring outcome measurements for eligible children served. The contract administrator accountant will also support ongoing development, implementation, and monitoring of evidence-based practices.

*b.* The state court administrator shall:

(1) Establish and implement a written job classification and pay schedule for the ~~court accountant auditor~~ contract administrator accountant positions; and

(2) Administer the set-aside for the eight judicial districts.

*c.* The department shall allocate the ~~funds for each of the four~~ graduated sanction ~~programs~~ services funds, minus the administrative set-aside, among the eight judicial districts based on each district’s respective portion of the statewide population of children as reported in current census data. The source of the census data shall be determined and agreed upon by the department and the chief juvenile court officers.

ITEM 4. Amend subrule 151.2(4) as follows:

**151.2(4)** *Availability of funds.* The chief juvenile court officers, the state court administrator, and the department shall monitor the availability of the court-ordered services funds to ensure that funds are available within each district throughout the state fiscal year. The chief juvenile court officers and the department shall monitor the availability of the graduated sanction services funds to ensure that the funds are available within each district throughout the state fiscal year.

*a.* The department shall provide to each ~~court accountant auditor~~ contract administrator accountant at the start of each state fiscal year a blank electronic report, known as the “Y” form, as well as a spreadsheet showing the amount of the district’s allocations for graduated sanction services. The state

HUMAN SERVICES DEPARTMENT[441](cont'd)

court administrator shall determine and provide to each district at the start of each state fiscal year the amount of the district's allocation for court-ordered services.

~~b. The state court administrator shall determine and provide to each district at the start of each state fiscal year the amount of the district's allocation for court-ordered services.~~

~~e. b. Each court accountant auditor contract administrator accountant shall: enter on the "Y" form the annual allocation and expenditures of funds of each service.~~

~~(1) Enter the beginning annual allocation on the "Y" form for court-ordered services and for each graduated sanction service;~~

~~(2) Enter on the "Y" form each month the monthly expenditures and transfers of funds to and from each service; and~~

~~(3) Submit each month to the department's division of fiscal management the "Y" form showing the monthly balance of service funds, as well as the cumulative expenditures and fund transfers for each service for the district.~~

~~c. The department shall:~~

~~(1) Use the information provided by each court accountant auditor contract administrator accountant to prepare each month an annual electronic report, known as the Form Y Summary, showing the statewide balance of service funds, as well as the cumulative expenditures and fund transfers for each service for each district; and~~

~~(2) Distribute the Form Y Summary monthly annually to the state court administrator and to department and juvenile court services management.~~

~~e. d. The chief juvenile court officers, in consultation with the department or the state court administrator, shall reallocate funds as needed to ensure the availability of graduated sanction services and court-ordered services on a statewide basis throughout the state fiscal year.~~

~~f. e. If funding for either graduated sanction services or court-ordered services is exhausted in any district, the respective services within that district shall be discontinued.~~

ITEM 5. Amend rule 441—151.4(232) as follows:

**441—151.4(232) Billing and payment.** The chief juvenile court officer shall ensure that billing and payment are in compliance with department requirements and the requirements of the accounting policies and procedures manual of the department of administrative services, state accounting enterprise. A claim that meets the requirements of this chapter becomes a state liability on the date of a claim's accrual. The date of a claim's accrual is the date the service was provided, the end of the agreed-upon billing interval specified in the contract, or the date of a determination of liability for the claim.

**151.4(1) Claim forms and instructions.** The instructions and forms used for billing shall be available to the provider from each chief's juvenile court services judicial district office. Electronic versions of all forms are available.

*a. Court-ordered services.*

(1) The provider shall prepare a claim for court-ordered services on Form GAX, General Accounting Expenditure, and Form 470-1691, Claim for Juvenile Court Services Programs, or a facsimile thereof. An original, itemized invoice may be substituted for Form 470-1691 accompany a Form GAX in lieu of a claimant's original signature.

(2) ~~The provider shall attach a copy of the applicable court order with each initial claim for court-ordered services. Each subsequent claim shall include the first page of the applicable court order, or the case number of the applicable court order shall be entered on Form GAX or Form 470-1691. Juvenile court services shall maintain an approved application with court order to validate payment for services.~~

*b. Life skills, supervised community treatment, and tracking, monitoring, and outreach Community-based intervention and supportive enhancements.*

(1) The provider shall prepare a claim for ~~life skills, supervised community treatment, and tracking, monitoring, and outreach~~ community-based intervention and supportive enhancements on Form GAX, General Accounting Expenditure.

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(2) The provider shall also submit ~~Form 470-1691, Claim for Juvenile Court Services Programs, a facsimile thereof, an original, itemized an approved invoice,~~ or a copy of the provider's list of the eligible children for whom the claim is made. The document submitted shall include the name of each child and the number of units of service provided to that child each month.

c. No change.

**151.4(2) Preparation of claim.** Form GAX, General Accounting Expenditure, shall be submitted with all claims. The Form GAX submitted shall not include claims for more than one fiscal year. The provider, as vendor, must enter on Form GAX:

a. and b. No change.

c. The vendor's ~~invoice date and number~~ service month,

d. A short description of the item or service that was purchased, and

~~e. Either the provider's social security number, federal identification number, or tax identification number, and~~

~~f. e.~~ A claimant original signature of the provider unless an original invoice is submitted.

**151.4(3) Support of claim.** The provider bears ultimate responsibility for the completeness and accuracy of each claim submitted. The provider must maintain a record of the days and times during which each service was provided for each eligible child. The provider's record must correspond to the units billed.

**151.4(4) Submittal of claims to juvenile court services.** Providers shall submit claims to the ~~chief juvenile court officer~~ contract administrator accountant in the judicial district in which the service was provided. The provider shall submit the original Form GAX and any required ~~supporting documents to the chief juvenile court officer for each claim~~ support of claim pursuant to subrule 151.4(3).

a. No change.

b. To ensure payment from funds appropriated for the fiscal year, claims shall be submitted timely to allow the ~~chief juvenile court officer~~ contract administrator accountant to submit the claim to the department within 45 calendar days of fiscal year end, June 30.

**151.4(5) Review and approval of claims.** The chief juvenile court officer is responsible for accuracy and disposition of claims. The ~~chief juvenile court officer~~ contract administrator accountant shall verify the accuracy of the provider's billings and approve the claims.

a. and b. No change.

**151.4(6) Juvenile court services submittal of claims to department.** The ~~chief juvenile court officer~~ contract administrator accountant shall prepare and submit claims to the department. Juvenile court services shall make the required number of copies for submittal and shall submit the required documents to the Department of Human Services, Division of Fiscal Management, Bureau of Purchasing, Payments and Receipts, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The documents required to be submitted are as follows:

a. *New contract and any contract amendments.* For the first claim submitted for a new contract or a contract amendment, juvenile court services must submit:

(1) Two copies of the signed contract or signed contract amendment.

(2) ~~Three~~ Two copies of ~~Form 470-0022, the~~ Pre-Contract Questionnaire.

(3) The original and ~~two copies~~ one copy of Form GAX, showing the contract number, if applicable.

b. *Ongoing contract.* For subsequent claims for contract payment, juvenile court services shall submit the original and ~~two copies~~ one copy of Form GAX, which shall include the ~~following information:~~ contract number, if applicable.

(1) ~~The contract number.~~

(2) ~~The warrant number.~~

(3) ~~The paid date, which is the date the first claim was processed through the I-3 system and is stamped on the first warrant the provider receives through the contract.~~

(4) ~~The reference document number of the initial voucher of the series to which the contract is attached (the reference document number is the 11-digit number listed under "Departmental Reference Numbers" on the warrant, starting with "413").~~

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~~(5) The payment number of the total contracted sequence, if known, such as “payment 7 of 12 payments.”~~

~~e. Contract amendment. For each contract amendment, juvenile court services must submit:~~

~~(1) The original and two copies of Form GAX;~~

~~(2) Two copies of the signed amendment; and~~

~~(3) Three copies of Form 470-0022, Pre-Contract Questionnaire.~~

**151.4(7) Claim records.** The chief juvenile court officer or approved administrator shall have responsibility for retention of records, maintenance of records, and authorized access to records.

a. and b. No change.

**151.4(8)** No change.

ITEM 6. Amend rule 441—151.6(232), introductory paragraph, as follows:

**441—151.6(232) District program reviews and audits.** Each chief juvenile court officer shall establish procedures to review and audit the provision of the graduated sanction services to ensure that the requirements of this chapter and the contracts are met. The ~~court accountant auditor~~ contract administrator accountant as established according to subrule 151.2(2) shall conduct the reviews and audits.

ITEM 7. Amend subrule 151.6(3) as follows:

**151.6(3) Scope.** The ~~court accountant auditor~~ contract administrator accountant shall review and audit the provider’s service and financial records, including the client case records and case files, to ensure that the records contain the required documentation of the provision of the contracted service for each individual child for whom a claim is made. The reviews and audits shall include:

a. to c. No change.

ITEM 8. Amend paragraph **151.6(4)“e”** as follows:

e. If the provider does not make payment within 45 60 days, the chief juvenile court officer shall submit to the department a copy of the notice to the provider for the department’s review and further action if necessary.

ITEM 9. Amend subrule 151.6(5) as follows:

**151.6(5) Report.** Each ~~chief juvenile court officer~~ contract administrator accountant shall submit to the department an annual report of the district’s review and audit activities for each state fiscal year.

a. and b. No change.

ITEM 10. Amend subrule 151.20(2) as follows:

**151.20(2)** Any services that are provided without the signed approval of the chief juvenile court officer ~~or the chief juvenile court officer’s designee~~ approved administrator may be denied payment, unless there is an emergency or after-hours situation and no other provision exists for handling emergency or after-hours situations or transports.

ITEM 11. Amend rule 441—151.21(232), introductory paragraph, as follows:

**441—151.21(232) Certification process.** The chief juvenile court officer or approved administrator shall determine the certification of the court for each ordered service.

ITEM 12. Amend subrule 151.21(1) as follows:

**151.21(1) Application for court-ordered services.** Any party intending to request court-ordered services funds shall complete an application and receive approval for the funding request from the chief juvenile court officer ~~before making the request to the court~~ or approved administrator.

a. and b. No change.

c. The chief juvenile court officer or approved administrator may establish procedures for handling emergency or after-hours situations and for the handling of transports.

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ITEM 13. Amend subrule 151.21(2) as follows:

**151.21(2) Determination.** The chief juvenile court officer or approved administrator shall determine whether the requested service is eligible for reimbursement and shall certify that there are sufficient funds available to pay for the service. The chief juvenile court officer or approved administrator shall determine whether:

a. and b. No change.

ITEM 14. Amend subrule 151.21(4) as follows:

**151.21(4) Certification.** The chief juvenile court officer or ~~designee~~ approved administrator shall approve or disapprove the request for funds and shall sign and return the application to the applicant.

a. and b. No change.

ITEM 15. Amend subrule 151.21(5) as follows:

**151.21(5) Allowable rates not available.** When the department has been unable to establish an allowable rate of reimbursement for a service or a provider, the chief juvenile court officer or approved administrator shall negotiate a reimbursement rate with the provider to obtain the service at a reasonable cost based on available community or statewide rates.

ITEM 16. Amend subparagraph **151.22(1)“b”(8)** as follows:

(8) Evaluation of parents pursuant to a ~~CINA~~ delinquent adjudication unless the diagnosis and evaluation is provided by a person or agency with a contract with the department for that service for which the child is eligible.

ITEM 17. Amend subrule 151.22(3) as follows:

**151.22(3) Services not listed.** If a court orders a service not currently listed in subrule 151.22(1), the chief juvenile court officer or approved administrator shall review the order and shall consult with the department. If reimbursement for the service expense is not in conflict with current law or administrative rules and meets the criteria for certification of the court, the chief juvenile court officer or approved administrator shall authorize reimbursement to the provider.

ITEM 18. Amend **441—Chapter 151**, Division III, preamble, as follows:

The graduated sanction services are early intervention and follow-up services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors likely to result in a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. The services are provided in the child's home community.

The graduated sanction services are ~~life skills community-based intervention~~, school-based supervision, ~~supervised community treatment, and tracking, monitoring, and outreach and supportive enhancement services~~. Together this mix of services and the flexibility allowed in tailoring the services to meet specific needs offer a choice of treatment to meet the specific needs of the child.

ITEM 19. Amend rule 441—151.30(232) as follows:

**441—151.30(232) Life skills Community-based interventions.** ~~“Life skills”~~ “Community-based interventions” means individual or group instruction which includes, but is not limited to, ~~specific training to develop and enhance personal skills, problem solving, accountability, acceptance of responsibility, victim empathy, activities of daily living, and job skills.~~ supervised educational support, treatment and outreach services to an eligible child who is experiencing social, behavioral, or emotional problems that placed the child at risk of group care or state institutional placement. A program for a child may be funded from multiple sources, but the funding sources may not duplicate or overlap. The components and activities shall be described in the contract. Services offered may provide individualized and intensive interventions to assist a child in establishing positive behavior patterns and to help the child maintain accountability in a community-based setting.

**151.30(1) Service eligibility.** Children shall be eligible for ~~life skills community-based intervention~~ services without regard to individual or family income when they are adjudicated delinquent or are

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determined by a juvenile court officer to be at risk and to be in need of the service provided by a life skills community-based intervention program. Juvenile court services shall maintain in the child's case record or case file documentation of the child's adjudication or at-risk status as well as the child's need for services.

a. The chief juvenile court officer shall establish written procedures for screening and approving referrals for life skills community-based intervention services and make the procedures available to the district's juvenile court officers.

b. The juvenile court officer shall determine the child's child to be in need for individual or group instruction in any of the life skills service components and shall refer the child for the service. of services as evidenced by one or more of the following situations:

(1) Schools, parents or community organizations, due to complaints of delinquent activities, indicate the need for monitoring and guidance of the child.

(2) A petition has been filed alleging delinquent behavior.

(3) Juvenile court services action has been initiated including, but not limited to, diversion, informal adjustment agreements, adjudication and disposition proceedings.

c. The chief juvenile court officer may approve life skills community-based intervention services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

d. Referrals shall not be made or accepted when funds for the program are not available.

e. The child shall not require more extensive treatment than is provided in the community-based intervention program.

**151.30(2) Service components.**

a. ~~Life skills components include specific training to develop and enhance:~~ Community-based interventions provide treatment to an eligible child as well as an opportunity for the eligible child to participate in state-funded educational programming. Therapy or counseling and skill development services may be provided through this program to the child's family; components include specific training to develop and enhance:

(1) Personal skills, including anger management, stress reduction, and self-esteem.

(2) ~~Rescinded IAB 11/9/05, effective 1/1/06~~ Child and parent relationships.

(3) Problem solving.

(4) Accountability and acceptance of responsibility.

(5) Victim empathy and self-advocacy.

(6) Activities of daily living and time management.

(7) Job skills including job-seeking skills as well as training for specific jobs and on-the-job training experiences.

(8) Parenting skills.

b. The contract must specify what is required of the provider.

c. Services may be co-located with school programs. Although the costs of the state-funded educational programming shall not be funded through the graduated sanctions appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational components.

d. Services shall include one or more of the following components:

(1) Skill-building services focusing on social skills, recreation activities, employment readiness, independent living, and other areas related to a child's treatment needs.

(2) Individual, group and family therapy and counseling as determined appropriate by the program director and referral source. Staff that provide individual, group and family therapy shall meet applicable state licensing standards.

(3) Snacks and meals as necessary during the non-state-funded educational portion of the program day.

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(4) Supervision and support services, such as transportation to the non-state-funded educational program, family outreach, telephone contact, and electronic monitoring of the eligible child.

(5) Transition service planning upon admission so that timely transition services are available upon discharge, if needed.

(6) Supervision and support services when necessary to help the eligible child transition out of the program.

e. Community support services are directed toward the child's maintaining accountability and may include multiple daily contacts with the child through direct face-to-face contact, telephone or technology.

f. Outreach activities provide guidance and advocacy for the child and may include individualized interventions with the child's family as well as assistance in accessing the following types of resources:

(1) Referral to community organizations.

(2) Health services (physical and mental).

(3) Education.

(4) Employment.

(5) Legal.

(6) Case conferences and services planning.

(7) Diagnostic assessment services.

(8) Family competency-building services.

g. Outreach activities may also include recreation and transportation when guidance and advocacy are a part of the service component.

h. Providers of community-based interventions shall submit progress reports on each child receiving services to the assigned juvenile court officer at intervals specified in the contract. The contractor shall complete progress reports not more than one month after services are initiated and within 30 days of the termination of service. Progress reports shall describe the child's school attendance and progress toward desired goals identified by the provider and referral source. Progress reports shall also describe the specific instruction provided to the child and the child's response to the instruction.

i. The juvenile court officer shall file the provider progress report in the child's case file. Providers of community-based intervention services shall prepare an initial treatment plan in consultation with the referral source within 30 days of the child's admission and shall prepare a minimum of quarterly progress reports on each child receiving services.

(1) Additional reports may be prepared when requested by the juvenile judge or the child's juvenile court officer.

(2) All reports shall be submitted to the juvenile court officer responsible for monitoring the child's progress. All reports shall, at a minimum, describe the child's attendance, adjustment, and progress in achieving the desired goals and objectives established in the treatment plan.

**151.30(3)** No change.

**151.30(4)** *Monitoring of service delivery.* The juvenile court officer shall monitor the delivery of ~~life skills~~ community-based intervention services to children for whom the officer is responsible.

*a. to c.* No change.

**151.30(5)** *Billable unit and rate setting.* Rates for ~~life skills~~ community-based intervention services shall be established through an agreement between the provider and the chief juvenile court officer based on the provider's proposed budget. Rates may vary among providers for various types of ~~life skills~~ community-based intervention services. The billable unit and unit costs shall be specified in the contract.

*a. Life skills* Community-based intervention service shall be billed on the basis of units of instruction provided to eligible children during specified time frames.

*b.* The ~~life skills~~ community-based intervention instruction may be provided on an individual or group basis. See paragraph 151.35(2) "c" for rate-setting requirements when more than one child is served at a time.

*c. and d.* No change.

**151.30(6)** *Provider standards.* Providers shall have a contract with juvenile court services and the department for ~~life skills~~ community-based intervention services and agree to abide by all required

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instructional, reporting, rate-setting, and billing and payment procedures for life skills community-based intervention services. The chief juvenile court officer shall review provider staff qualifications and training activities. Providers of life skills community-based intervention services shall meet all of the following conditions. Providers shall:

a. Be selected and approved by the chief juvenile court officer or designee within each judicial district to provide life skills community-based intervention services.

b. Use staff who, in the opinion of the chief juvenile court officer, have the necessary training and experience qualifications to provide quality services on the topic about which they will be delivering instruction.

c. Use a curriculum approved by the chief juvenile court officer for life skills community-based interventions.

d. Have the educational and instructional ability, as determined by the chief juvenile court officer, to deliver life skills community-based intervention services to eligible children in the settings most suited to each child's needs.

~~151.30(7) Provider progress reports.~~

~~a. Providers of life skills shall submit progress reports on each child receiving services to the assigned juvenile court officer at intervals specified in the contract. The contract shall specify progress reports not more than one month after services are initiated and at the termination of service. Progress reports shall describe the specific instruction provided, the child's attendance, response to instruction, and progress toward achieving desired goals and objectives identified by the provider and referral source.~~

~~b. The juvenile court officer shall file the provider progress report in the child's case file.~~

~~c. Rescinded IAB 11/9/05, effective 1/1/06.~~

~~151.30(8) 151.30(7) Outcome measures.~~ Each contract for purchase of life skills community-based intervention services shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract.

~~a. and b. No change.~~

~~c. Juvenile court services shall determine whether the child has reoffended within the 12 six-month period following the date of discharge from life skills community-based interventions. Service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation during the 12 six-month period following discharge from life skills community-based interventions.~~

~~d. Data collected on the children served and discharged shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop information to make decisions regarding service provision and contracting.~~

ITEM 20. Amend rule 441—151.32(232) as follows:

**441—151.32(232) Supervised community treatment Supportive enhancements.** “Supervised community treatment” means a program that provides supervised educational support and treatment during the day to children who are experiencing social, behavioral, or emotional problems that place them at risk of group care or state institutional placement. A supervised community treatment program for a child may be funded from multiple sources, but the funding sources for components of the service may not duplicate or overlap payment or service activities so as to pay for the same or parts of the same service twice or pay for overlapping services. A program whose components and activities are funded from multiple sources must be capable of tracking the receipt and expenditure of funds for the components and activities, and these funding streams must be described in the contract. “Supportive enhancements” means a category of services, real goods or incentives matched to the risk needs of a child and which supports a child in a way to reduce or eliminate antisocial behavior. All services in this category are predicated on a planning and individualized goal development process which elicits input from the juvenile court officer, service providers, and the child and the family. Services are to build constructive relationships and support networks around the eligible child, within the child's community or during transition, and with the child's family. Supportive enhancements are community-based,

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culturally relevant, individualized, strength-based, and family-centered. Supportive enhancements may also be called supportive enhancement services. Supportive enhancements are individualized to address the child's comprehensive and multiple life domains across home, school, and community, including:

- Living environment.
- Accountability.
- Basic needs.
- Safety.
- Social needs.
- Educational needs.
- Cultural needs.

**151.32(1) Service eligibility.** ~~Children shall be eligible~~ The eligible child shall be qualified for supervised community treatment supportive enhancement services without regard to individual or family income when they are the child is adjudicated delinquent or are is determined by a chief juvenile court officer to be at risk and to be in need of service provided by a supervised community treatment program supportive enhancements. Juvenile court services shall maintain documentation in the child's case file of the adjudication or at-risk status as well as of the need for services.

a. The chief juvenile court officer shall establish written procedures for screening and approving referrals for ~~supervised community treatment~~ supportive enhancement services and shall make the procedures available to the district's juvenile court officers.

b. The juvenile court officer shall determine the ~~child's need for supervised community treatment and shall refer the child for service.~~ child is in need of services as evidenced by one of the following situations which is tied into the individualized case plan:

(1) Schools, parents or community organizations, due to complaints of delinquent activities, indicate a need for monitoring and guidance of the child.

(2) A petition has been filed alleging delinquent behavior.

(3) Juvenile court services action has been initiated including, but not limited to, informal adjustment agreements, adjudication and dispositional proceedings.

c. ~~The child shall not require more extensive treatment than is provided in the supervised community treatment program.~~ Juvenile court services shall maintain in the child's case record or case file documentation of the child's adjudication or at-risk status as well as the child's need for services.

d. The chief juvenile court officer may approve ~~supervised community treatment~~ supportive enhancement services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall ~~reevaluate~~ reauthorize the child's eligibility and need for these services in accordance with the procedures established by the chief respective juvenile court officer services district.

e. Referrals shall not be made or accepted when funds for the program are not available.

**151.32(2) Service components.** ~~Supervised community treatment programs provide treatment to children as well as an opportunity for children to participate in state-funded educational programming. Supportive therapy or counseling and skill development services may be provided through this program to the child's family.~~ Supportive enhancement services are to complement other services or interventions for a child served by the juvenile court services or other provider. These supports allow the juvenile court services to intervene immediately with a support or incentive that is expected to reduce misbehavior or truancy and will lead to improved outcomes. Alternative funds or services shall be utilized prior to supportive enhancements when available. Supportive enhancements may include, but are not limited to:

- a. Education-related services.
- b. Restitution.
- c. Crisis intervention.
- d. Transportation.
- e. Clothing and grooming supplies.
- f. Enrollment for prosocial activities.

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~~g. Other expenses as approved by the chief juvenile court officer.~~

~~a. Supervised community treatment programs may be co-located with school programs. Although the costs of the state-funded educational programming shall not be funded through the supervised community treatment appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational components.~~

~~b. Supervised community treatment programs shall include one or more of the following components:~~

~~(1) Skill building services focusing on social skills, recreational activities, employment readiness, independent living, and other areas related to a child's treatment needs.~~

~~(2) Individual, group, and family therapy and counseling as determined appropriate by the program director and referral source. Staff that provide individual, group, or family therapy shall meet applicable state licensing standards.~~

~~(3) Snacks and meals as necessary during the non-state-funded educational portion of the program day.~~

~~(4) Supervision and support services, such as transportation to the non-state-funded educational program, family outreach, telephone contact, and electronic monitoring of children.~~

~~(5) Aftercare service planning upon admission, so that timely aftercare services are available upon discharge, if needed.~~

~~(6) Supervision and support services when necessary to help children transition out of the program.~~

~~e. The contract must specify the responsibilities of the provider.~~

**151.32(3) Service referral and follow-up.** The juvenile court officer shall:

~~a. Determine which service and service provider can best meet the child's needs.~~

~~b. Refer the child to the provider.~~

~~e. b. Assist in the child's transition to receive the service.~~

~~d. c. Follow up after the service has been provided with the eligible child, the family, and the provider.~~

**151.32(4) Monitoring of service delivery.** The juvenile court officer shall monitor the delivery of supervised community treatment services supportive enhancements to children the eligible child for whom the officer is responsible.

~~a. The juvenile court officer shall review provider progress reports and maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.~~

~~b. a. The juvenile court officer shall report problems in service delivery to the chief juvenile court officer.~~

~~e. b. The provider, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer.~~

**151.32(5) Billable unit and rate setting.** Rates for supervised community treatment supportive enhancements shall be established through an agreement between the provider and the chief juvenile court officer, based on the provider's proposed budget. The billable unit and costs shall be specified in the contract. actual expenses and allowed administration costs. Rates may vary.

~~a. Supervised community treatment shall be billed on the basis of units of service provided to eligible children during specified time frames.~~

~~b. The supervised community treatment service may be provided on an individual or group basis. See paragraph 151.35(2) "c" for rate setting requirements when more than one child is served at a time.~~

~~c. Rates shall be established and reimbursed based on delivery of one-half hour, one hour, or per diem of specified supervised community treatment service.~~

~~d. The rate for any supervised community treatment service delivered in the same room by staff with the same qualifications as any other comparable treatment or supportive service program shall be the applicable rate established for the other comparable treatment or supportive services program.~~

~~e. Different rates may be established for the different components of the supervised community treatment program, and different sources of payment may be used for the different components.~~

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~~(1) Provision may be made in the contract for the billing and payment of telephone or transportation costs to be included in the unit cost, or the provider may, in an attachment to the contract, identify the expenses to be billed separately from the unit cost.~~

~~(2) Telephone calls may be reimbursed according to receipts or at a set rate per call.~~

**151.32(6) Provider standards.** ~~Providers of supervised community treatment shall meet all of the following conditions. Agencies or organizations shall: Providers shall have a contract with juvenile court services and the department for supportive enhancements and agree to abide by all required instructional reporting, rate-setting, and billing and payment procedures.~~

~~a. Have a current purchase of services or rehabilitative treatment and supportive services contract with the department.~~

~~b. Be selected by the chief juvenile court officer of the judicial district within the geographic area where the program is located to provide supervised community treatment services within all or a portion of the judicial district.~~

~~c. Agree to provide services in compliance with the programmatic standards established by the rules of this division.~~

~~d. Enter into a contract with juvenile court services and the department that establishes expectations, rates, and billing and payment procedures for the supervised community treatment program.~~

~~e. Agree to report supervised community treatment program costs separately on all cost reports.~~

~~f. Agree to comply with higher staff qualifications for specific components of these programs when the chief juvenile court officer outlines the expected qualifications in the request for proposal and program contract. In addition:~~

~~(1) The minimum standard for staff qualifications for staff employed to deliver services in a supervised community treatment program shall be graduation from high school or possession of a GED certificate and the equivalent of one year of full-time experience in the delivery of human services in a public or private agency.~~

~~(2) Providers shall ensure that staff has experience in working with the target population of children and shall provide planned opportunities for ongoing staff development and in-service training.~~

~~(3) Staff qualifications shall be monitored by juvenile court services as part of monitoring the contract.~~

**151.32(7) Provider progress reports.** ~~Providers of supervised community treatment services shall prepare an initial treatment plan in consultation with the referral source within 30 days of the child's admission and shall prepare a minimum of quarterly progress reports on each child receiving services.~~

~~a. Additional reports may be prepared when requested by the juvenile judge or the child's juvenile court officer.~~

~~b. All reports shall be submitted to the juvenile court officer responsible for monitoring the child's progress. All reports shall, at a minimum, describe the child's attendance, adjustment, and progress in achieving the desired goals and objectives established in the treatment plan.~~

~~c. Rescinded IAB 11/9/05, effective 1/1/06.~~

**151.32(8) 151.32(7) Outcome measures.** ~~Each contract for purchase of supportive enhancements shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract. The contract will detail expected outcomes of the service.~~

~~a. Juvenile court services, and the department, and the provider shall collaborate to determine the criteria and data needed to track and record the outcomes.~~

~~b. The provider shall report data as requested by juvenile court services.~~

~~c. The department shall make a determination six months following each child's discharge as to whether the child is in foster family care, group care, or institutional placement. Service to a child shall be considered successful if: Juvenile court services shall determine whether the child has reoffended within the six-month period following the date of discharge from supportive enhancements.~~

~~(1) The child is living at home even when less intensive services are provided; or~~

~~(2) The child is in supervised apartment living.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~d. Data collected on the children served and discharged shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop information to make decisions regarding service provision and contracting. Service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation or removed from the child's home during the six-month period following discharge.~~

~~e. The data shall be used to develop information to make decisions regarding service provision and contracting.~~

ITEM 21. Rescind and reserve rule **441—151.33(232)**.

ITEM 22. Amend subrule 151.34(1) as follows:

**151.34(1) Requirements.** Each chief juvenile court officer shall:

- a. Establish minimum qualifications for providers of graduated sanction services;
- b. Establish criteria and procedures for determining when and where to develop contracts with providers to best meet the service needs of the children in the judicial district; ~~and~~
- c. Require providers to comply with applicable professional standards; ~~and~~
- d. Ensure that use of graduated sanction funds for education and performance for juvenile court staff can be shown to benefit the eligible child.

ITEM 23. Amend rule 441—151.35(232), introductory paragraph, as follows:

**441—151.35(232) Contract development for graduated sanction services.** The chief juvenile court officer shall have the responsibility to purchase graduated sanction services (~~life skills community-based interventions; school-based supervision; supervised community treatment; or tracking, monitoring, and outreach~~ or supportive enhancement services).

ITEM 24. Amend paragraph **151.35(1)“b”** as follows:

b. The chief juvenile court officer or designee shall develop selection criteria for choosing providers to ensure that resources are targeted effectively within the district. Multiple providers may be selected to address the needs within the district.

ITEM 25. Amend subparagraph **151.35(1)“c”(3)** as follows:

(3) The chief juvenile court officer or designee is responsible for distributing a copy of the signed contract or amendment to the provider.

ITEM 26. Amend subrule 151.35(2) as follows:

**151.35(2) Contract content.** Contracts for purchasing graduated sanction services shall be developed using contract forms approved as to legal form by the assistant attorney general assigned to work with juvenile court services contracts. Contracts with providers shall incorporate all applicable requirements in Iowa Code section 8.47 as well as the administrative and program requirements of this chapter.

- a. No change.
- b. Contracts with providers of ~~life skills, supervised community treatment, or tracking, monitoring, and outreach services~~ community-based interventions or supportive enhancements shall establish and define the unit of service and the cost of the unit of service to be provided and billed per child. The contract shall specify the payment amount for the unit of service and may specify a maximum number of units but shall not ensure a provider reimbursement for a specific rate of utilization. Payment shall be made only for units of service provided to and billed for specific children.
- c. Contracts with providers of ~~life skills, supervised community treatment, or tracking, monitoring, and outreach services~~ community-based interventions or supportive enhancements may establish individual or group rates. The contract shall establish a group rate when the service is provided to more than one child at a time. A minimum and a maximum number of participants shall be established when a group rate is set.

(1) and (2) No change.

d. Contracts with providers of ~~supervised community treatment, or tracking, monitoring, and outreach~~ community-based interventions or supportive enhancements may establish per diem rates when the intensity of service provision per child is variable but the total cost of the provision of the

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service is known. The range of coverage of the intensity of service provision shall be described in the contract.

[Filed 2/15/16, effective 5/1/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

## ARC 2463C

### INSPECTIONS AND APPEALS DEPARTMENT[481]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 231C.3(1) and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 67, "General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services," Chapter 69, "Assisted Living Programs," and Chapter 70, "Adult Day Services," Iowa Administrative Code.

These amendments are the result of a five-year review of the chapters by the Department. The amendments make the following changes:

- Implement suggestions by the Department of Public Safety, State Fire Marshal Division, related to the submission of blueprints and delayed-egress specialized locking systems; rescind the requirement for minimum square footage of common space in new or remodeled buildings; and rescind the requirement for minimum square footage of operable windows in sleeping rooms.
- Amend certain definitions and add a definition of "restraints."
- Add a provision that tenants have the right to be free from restraints.
- Add a requirement that medications must be administered as prescribed.
- Add a requirement that dependent adult abuse training must be provided as required by Iowa Code section 235B.16.
- Add clarification of requirements for dementia-specific programs by definition.
- Add a requirement for policies and procedures to address head injuries and certain sexual relationships.
- Amend the rule for involuntary transfer from an assisted living program.
- Add a requirement that service plans updated within 30 days of the tenant's occupancy in an assisted living program must be signed and dated by all parties.
- Amend the nurse review rule in Chapter 69.
- Amend the rule requiring dementia-specific continuing education in assisted living programs.

The Department does not believe that the amendments pose a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 14, 2015, as **ARC 2200C**. Comments were received from the Iowa Health Care Association/Iowa Center for Assisted Living with proposed revisions to language in Items 2 and 26, which specifically deal with restraints and awake staff. After consideration of the proposed revisions, the Department was unable to accept the suggested language offered by the Association to revise the definition of "restraints" in Item 2.

Staff in the Department's Adult Service Bureau is aware of only a couple of instances when adaptive clothing was used by or for a tenant with impaired decision-making ability. In both cases, it appears that the care needed by the tenants involved clearly exceeded the level of care (LOC) offered by the assisted living programs. In general, by the time a tenant requires the use of adaptive clothing, the tenant may already have exceeded the LOC and might best be cared for in a nursing facility.

Rather than changing the definition of "restraints" in Item 2, the Department suggests that assisted living programs file a request for a waiver of criteria for retention of a tenant in the program pursuant to rule 481—67.7(231B,231C,231D). The waiver process might be the most expedient method to address this issue on a case-by-case basis without amending the definition of "restraints."

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

Regarding the Association's second proposed revision, the Department agrees that expanding the "awake staff" rule from dementia-specific programs to all assisted living programs may be a hardship on programs, especially those operating in rural Iowa. Therefore, the Department accepted the proposed language and has revised subrule 69.29(4) in Item 26 accordingly.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2).

These amendments shall become effective April 20, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **481—67.1(231B,231C,231D)**, definitions of "Impaired decision-making ability" and "Part-time or intermittent care," as follows:

*"Impaired decision-making ability"* means a lack of capacity to make safe and prudent decisions regarding one's own routine safety as determined by the program manager or nurse or means having a GDS score of ~~four~~ five or above.

*"Part-time or intermittent care"* means licensed nursing services and professional therapies that are provided ~~no more than 5 days per week; or licensed nursing services and professional therapies that are provided 6 or 7 days per week for a temporary period of time with a predictable end within 21 days; or licensed nursing services and professional therapies that~~ in combination with nurse-delegated assistance with medications or activities of daily living and do not exceed 28 hours per week or, for adult day services, 4 hours per day and are provided in combination with nurse-delegated assistance with medications or activities of daily living.

ITEM 2. Adopt the following new definition of "Restraints" in rule **481—67.1(231B,231C,231D)**:  
*"Restraints"* means any chemical or manual method which restricts freedom of movement or normal access to one's body or any physical or mechanical device, material or equipment which is attached or adjacent to the tenant's body that the tenant cannot remove easily and which restricts freedom of movement or normal access to one's body.

ITEM 3. Adopt the following new subrule 67.3(9):  
**67.3(9)** To be free from restraints.

ITEM 4. Adopt the following new paragraph **67.5(6)"d"**:  
*d.* Medications shall be administered as prescribed by the tenant's physician, advanced registered nurse practitioner or physician assistant.

ITEM 5. Adopt the following new subrule 67.7(5):  
**67.7(5) Appeals.** The denial of a waiver request may be appealed by the program pursuant to Iowa Code chapter 17A.

ITEM 6. Adopt the following new subrule 67.9(6):  
**67.9(6) Dependent adult abuse training.** Program staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16.

ITEM 7. Amend rule **481—69.1(231C)**, definition of "Dwelling unit," as follows:  
*"Dwelling unit"* means ~~an apartment, group of rooms or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building, and which has direct access from the outside of the building or through a common hall a single unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping and sanitation, and which may include permanent provisions for eating and cooking. "Sanitation" for purposes of this definition means bathroom fixtures as required by this chapter.~~

ITEM 8. Amend subrule 69.2(2) as follows:  
**69.2(2) Dementia-specific programs and door alarms.** If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in

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

rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1)“d,” and ~~subrule~~ subrules 69.32(2) and 69.32(3), which ~~includes~~ include the requirements relating to door alarms and specialized locking systems.

ITEM 9. Adopt the following **new** subrule 69.2(3):

**69.2(3)** *Dementia-specific program by definition.* If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings based on the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale, the program shall be deemed a dementia-specific program by definition. If the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale goes below that which is required by the definition of dementia-specific program at any time after the program has been deemed dementia-specific by definition and the program is not holding itself out as providing dementia care in a specialized setting, the program will no longer be considered dementia-specific.

ITEM 10. Amend subrule 69.4(7) as follows:

**69.4(7)** The policy and procedure for accidents and emergency response, including provisions related to head injuries.

ITEM 11. Adopt the following **new** subrule 69.4(20):

**69.4(20)** The policy and procedure for addressing sexual relationships between tenants and staff or between tenants with dementia greater than Stage 5 on the Global Deterioration Scale.

ITEM 12. Amend paragraph **69.9(1)“d”** as follows:

*d.* Maintain compliance with ~~life safety requirements pursuant to this chapter~~ the state fire marshal division’s requirements.

ITEM 13. Amend rule 481—69.18(231C) as follows:

**481—69.18(231C) ~~Structural and life safety~~ Plan reviews of a building for a new program.**

**69.18(1)** Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

**69.18(2)** A program applicant shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

**69.18(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

**69.18(4)** The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

**69.18(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

**69.18(6)** Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet ~~structural and life safety~~ the state fire marshal division’s requirements, construction or remodeling of the building may commence.

**69.18(7)** The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

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

ITEM 14. Amend rule 481—69.19(231C) as follows:

**481—69.19(231C) Structural and life safety Plan review prior to the remodeling of a building for a certified program.**

**69.19(1)** Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

**69.19(2)** A certified program shall submit ~~to the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

**69.19(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

~~**69.19(4)** The department shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.~~

~~**69.19(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to the department in 20 working days to state how any noncompliance will be resolved.~~

~~**69.19(6)**~~ **69.19(4)** Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

~~**69.19(7)**~~ **69.19(5)** The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

ITEM 15. Amend subrule 69.20(1) as follows:

**69.20(1)** If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. ~~The program shall provide, at At least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification or decertification, the program shall provide to the department and the tenant-advocate office of long-term care ombudsman written notification of the date on which the program will cease operation, which includes seeking decertification or decertify.~~

ITEM 16. Amend subrule 69.20(2) as follows:

**69.20(2)** If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the ~~tenant-advocate~~ office of long-term care ombudsman at least 90 days prior to expiration of the certification.

ITEM 17. Amend subrule 69.20(6) as follows:

**69.20(6)** When a program ceases operation, which includes seeking decertification, ~~tenant advocates~~ representatives from the office of long-term care ombudsman shall be allowed by the program to privately meet with tenants to provide education and service options.

ITEM 18. Amend paragraph **69.21(2)“b”** as follows:

b. The telephone number for the office of the ~~tenant-advocate~~ long-term care ombudsman.

ITEM 19. Amend paragraph **69.23(1)“i”** as follows:

i. Requires maximal assistance with activities of daily living; or

ITEM 20. Adopt the following new paragraph **69.23(1)“j”**:

j. Despite intervention, chronically urinates or defecates in places that are not considered acceptable according to societal norms, such as on the floor or in a potted plant.

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

ITEM 21. Amend rule 481—69.24(231C) as follows:

**481—69.24(231C) Involuntary transfer from the program.**

**69.24(1) Program initiation of transfer.** If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

*a.* The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the ~~tenant-advocate~~ office of long-term care ombudsman.

*b.* The program shall immediately provide to the ~~tenant-advocate~~ office of long-term care ombudsman, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.

*c.* Pursuant to statute, the ~~tenant-advocate~~ office of long-term care ombudsman shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the ~~tenant-advocate~~ office of long-term care ombudsman.

*d.* If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

**69.24(2) Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department.** If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

*a.* ~~Notification of the program.~~ Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any tenant who exceeds admission and retention criteria.

*b.* ~~Notification of others.~~ Each identified tenant, the tenant's legal representative, if applicable, and other providers of services to the tenant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

*e. a.* *Program agreement with the department's finding.* If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 69.24(1) shall be utilized for appeals.

*d. b.* *Program disagreement with the department's finding.* If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties appeal the department's final report as provided in rule 481—67.14(17A,231B,231C,231D,85GA,HF2365). In the program's response, the program shall identify the tenant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) ~~Consideration of response.~~ Within 10 working days of receipt of the program's response for each identified tenant, the department shall consider the response and make a final finding regarding the continued retention of a tenant.

(2) ~~Amending the regulatory insufficiency.~~ If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) ~~Retaining regulatory insufficiency.~~ If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate

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

~~to the admission and retention decision. In addition, the department shall provide to the tenant or the tenant's legal representative the contact information for the tenant advocate. A copy of the final report shall also be sent to the tenant advocate.~~

(4) ~~Effect of the filing of an appeal.~~ If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.

~~(5) c.~~ *Request for waiver of criteria for retention of a tenant in a program.* To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

ITEM 22. Adopt the following new paragraph **69.26(3)“d”**:

d. The service plan updated within 30 days of the tenant's occupancy shall be signed and dated by all parties.

ITEM 23. Amend paragraph **69.26(4)“d”** as follows:

d. For tenants who are unable to plan their own activities, including tenants with dementia, a list of person-centered planned and spontaneous activities based on the tenant's abilities and personal interests; and

ITEM 24. Amend rule 481—69.27(231C) as follows:

**481—69.27(231C) Nurse review.**

**69.27(1)** If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse ~~or a licensed practical nurse via nurse delegation~~:

**69.27(1) a.** To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

**69.27(2) b.** To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

**69.27(3) c.** To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

**69.27(4) d.** To provide the program with written documentation of the ~~activities under the service plan, as set forth in rule 481—69.26(231C)~~ nurse review, showing the time, date and signature.

**69.27(2)** A licensed practical nurse via nurse delegation may complete the tasks required by this rule, except when a tenant experiences a significant change in condition.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.

ITEM 25. Amend subparagraph **69.28(5)“a”(3)** as follows:

(3) Successfully completing ~~a course~~ an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another ~~course program~~ program may be substituted if the ~~course's~~ program's curriculum includes substantially similar competencies to a ~~course program~~ program that meets the requirements of the Food Code and the provider of the ~~course program~~ program files with the department a statement indicating that the ~~course program~~ program provides substantially similar instruction as it relates to sanitation and safe food handling.

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

ITEM 26. Amend subrule 69.29(4) as follows:

**69.29(4)** A dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be awake and on duty 24 hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants' service plans.

A non-dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be able to respond to a call light or other emergent tenant needs and be in the proximate area 24 hours a day on site. The staff shall check on tenants as indicated in the tenants' service plans.

ITEM 27. Amend subrule 69.30(3) as follows:

**69.30(3)** All Dementia-specific continuing education.

a. Except as otherwise provided in this subrule, all personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually.

b. Direct-contact personnel employed by or contracting with a dementia-specific program or employed by a contracting agency providing staff to a dementia-specific program shall receive a minimum of eight hours of dementia-specific continuing education annually.

c. Contracted personnel who have no contact with tenants (e.g., persons providing lawn maintenance or snow removal) are not required to receive the two hours of training required in paragraph "a."

d. The contracting agency may provide the program with documentation of dementia-specific continuing education that meets the requirements of this subrule.

ITEM 28. Amend subrule 69.32(2) as follows:

**69.32(2)** An operating alarm system shall be connected to each exit door in a dementia-specific program. ~~A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:~~

~~a. Written procedures regarding alarm systems and appropriate staff response when a tenant's service plan indicates a risk of elopement or a tenant exhibits wandering behavior.~~

~~b. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.~~

ITEM 29. Renumber subrules **69.32(3)** and **69.32(4)** as **69.32(5)** and **69.32(6)**.

ITEM 30. Adopt the following new subrule 69.32(3):

**69.32(3)** The program shall obtain approval from the state fire marshal division of the department of public safety before the installation of any delayed-egress specialized locking systems.

ITEM 31. Adopt the following new subrule 69.32(4):

**69.32(4)** A program serving a person(s) with cognitive disorder or dementia shall have:

a. Written procedures regarding alarm systems, if an alarm system is in place.

b. Written procedures regarding appropriate staff response when a tenant's service plan indicates a risk of elopement or when a tenant exhibits wandering behavior.

c. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

ITEM 32. Amend paragraph **69.35(1)"e"** as follows:

~~e. The structure in which a program is housed shall be built, at a minimum, of Type V (111) construction as provided in Section 22.3.1.3.3 and Sections 6.2.1A to 6.2.2 of NFPA 101, Life Safety Code, 2003 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, or as required in comply with the administrative rules promulgated by the state fire marshal.~~

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

ITEM 33. Rescind paragraph **69.35(3)“e.”**

ITEM 34. Reletter paragraph **69.35(3)“f”** as **69.35(3)“e.”**

ITEM 35. Rescind paragraphs **69.35(4)“d”** and **“f.”**

ITEM 36. Reletter paragraph **69.35(4)“e”** as **69.35(4)“d.”**

ITEM 37. Amend paragraph **70.9(1)“c”** as follows:

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety the requirements of the state fire marshal division of the department of public safety pursuant to this chapter.

ITEM 38. Rescind paragraph **70.9(1)“d.”**

ITEM 39. Reletter paragraph **70.9(1)“e”** as **70.9(1)“d.”**

ITEM 40. Amend rule 481—70.18(231D) as follows:

**481—70.18(231D) Structural and life safety Plan reviews of a building for a new program.**

**70.18(1)** Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

**70.18(2)** A program applicant shall submit to ~~the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

**70.18(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

**70.18(4)** The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

**70.18(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

**70.18(6)** Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

**70.18(7)** The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

ITEM 41. Amend rule 481—70.19(231D) as follows:

**481—70.19(231D) Structural and life safety Plan review prior to the remodeling of a building for a certified program.**

**70.19(1)** Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—70.35(231D). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

**70.19(2)** A certified program shall submit to ~~the department~~ blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

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

**70.19(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

**70.19(4)** The state fire marshal division of the department of public safety shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

**70.19(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety in 20 working days to state how any noncompliance will be resolved.

**70.19(6)** Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

**70.19(7)** The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

ITEM 42. Amend subparagraph **70.28(5)“a”(3)** as follows:

(3) Successfully completing a ~~course~~ an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another ~~course~~ program may be substituted if the ~~course's~~ program's curriculum includes substantially similar competencies to a ~~course~~ program that meets the requirements of the Food Code and the provider of the ~~course~~ program files with the department a statement indicating that the ~~course~~ program provides substantially similar instruction as it relates to sanitation and safe food handling.

ITEM 43. Adopt the following new paragraph **70.32(2)“c”**:

c. The program shall obtain approval from the state fire marshal division before the installation of any delayed-egress specialized locking systems.

ITEM 44. Amend subrule 70.35(10) as follows:

**70.35(10)** The program shall meet other building and public safety codes, including:

~~a. The Americans with Disabilities Act.~~

~~b. Applicable regulations of the Occupational Safety and Health Administration.~~

~~e. Rules~~ rules pertaining to accessibility contained in the state building code in 661—Chapter 302 and provisions of the state building code relating to persons with disabilities.

~~d. Other applicable provisions of the state building code and local building codes.~~

[Filed 2/26/16, effective 4/20/16]

[Published 3/16/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

**ARC 2455C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

In March 2014, an elevator industry trade publication published a detailed study about children being trapped and seriously injured due to a weakness in applicable codes. The entrapment risk occurs primarily in elevators built to the residential elevator code, and today, elevators built to the residential code are not allowed in buildings under the Board's jurisdiction. However, for a number of years Iowa

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

law allowed residential elevators to be installed in public buildings. It is estimated that there are about 200 residential elevators operating in public buildings in Iowa.

The Elevator Safety Board (Board) studied this issue and effective June 3, 2015, implemented new rules requiring the installation of light curtains. Installation of light curtains proved to be more costly and difficult than was anticipated, and the Board again studied a method to minimize this hazard.

This rule making rescinds the rules requiring light curtains and adopts instead a performance code. This rule making requires that if a door or gate deflects too much with the application of pressure, the door or gate must be repaired or replaced. It also requires that if the distance between the hoistway door or gate and the car door or gate exceeds 5 inches, an unspecified mechanism must be utilized to prevent operation of the elevator if a person is between the doors or gates.

The Board anticipates that many of the residential elevators that were impacted by the rules effective June 3, 2015, will not be impacted by these rules. The rules adopted in 2015 require a light curtain unless the car doors are a solid panel, regardless of the distance between the doors or gates. In some cases, two light curtains are required. Establishing a 5-inch space within which no action is required should reduce the number of affected elevators.

These amendments do not specify the mechanism that must be used to prevent operation of the elevator when a person is between the doors or gates. This discretion should minimize the costs of compliance, as the least-costly, effective mechanism can be chosen.

Keeping door or gate deflection to a minimum is viewed as routine maintenance. Limits on door or gate deflection are contained in many of the elevator codes; however, there are gaps in applicability. These amendments cover those gaps.

The purposes of these amendments are to protect the health and safety of the public and implement legislative intent.

Notice of Intended Action was published in the January 6, 2016, Iowa Administrative Bulletin as **ARC 2356C**. No public comment was received on the proposed amendments. These amendments are identical to the amendments published under the Notice of Intended Action.

No variance procedures are included in this rule. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, an impact on jobs may occur. However, these rules are written to prevent a specific hazard to children with a minimum of expense.

These amendments are intended to implement Iowa Code chapter 89A.

These amendments shall become effective on April 20, 2016.

The following amendments are adopted.

ITEM 1. Rescind rule 875—72.26(89A) and adopt the following **new** rule in lieu thereof:

**875—72.26(89A) Child entrapment safeguards.** This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

**72.26(1)** For purposes of this rule, “distance with deflection between the doors or gates” means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

**72.26(2)** For purposes of this rule, measurements of door or gate deflection shall be made in the manner described by ASME A17.1, section 2.14.4.6.

**72.26(3)** Door or gate deflection shall not exceed .75 inch.

**72.26(4)** If the distance with deflection between the doors or gates exceeds 5 inches, a means shall be provided to disable the elevator if a person is in the space between the closed doors or gates.

ITEM 2. Rescind rule 875—73.27(89A) and adopt the following **new** rule in lieu thereof:

**875—73.27(89A) Child entrapment safeguards.** This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

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

**73.27(1)** For purposes of this rule, “distance with deflection between the doors or gates” means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

**73.27(2)** For purposes of this rule, measurements of door or gate deflection shall be made in the manner described by ASME A17.1, section 2.14.4.6.

**73.27(3)** Door or gate deflection shall not exceed .75 inch.

**73.27(4)** If the distance with deflection between the doors or gates exceeds 5 inches, a means shall be provided to disable the elevator if a person is in the space between the closed doors or gates.

[Filed 2/25/16, effective 4/20/16]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/16/16.

AGENCY	RULE	DELAY
Labor Services Division[875]	rescind chs 61, 62; adopt chs 61 to 63 [IAB 3/2/16, <b>ARC 2428C</b> ]	Effective date of April 6, 2016, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016. [Pursuant to §17A.4(7)]