



IOWA ADMINISTRATIVE BULLETIN

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Pages 1335 to 1364

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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.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

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)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

NOTE: In accordance with Iowa Code section 7.17, 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 2011

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, April 1, 2011	April 20, 2011
22	Friday, April 15, 2011	May 4, 2011
23	Friday, April 29, 2011	May 18, 2011

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Monday, April 11, 2011, at 8:30 a.m. in Room 102, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

CITY DEVELOPMENT BOARD[263]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

Petitions for annexation—documentation, 7.2(2)"j," 8.3(9) Notice **ARC 9438B** 3/23/11

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Ground heat exchanger (GHEX) loop borehole systems, amend chs 38, 39, 49, 82; adopt ch 48 Notice **ARC 9425B** 3/9/11

HUMAN SERVICES DEPARTMENT[441]

Medicaid eligibility—purchase of annuities, 75.23(9) Filed **ARC 9404B** 3/9/11

HCBS elderly waiver—assisted living services, 77.33, 78.37, 79.1, 83.26

Notice of Termination **ARC 9418B** 3/9/11

HCBS waiver services, amendments to chs 78 to 80 Filed **ARC 9403B** 3/9/11

Electronic health record incentive program, 79.16 Notice **ARC 9431B** 3/23/11

Nursing facilities; quality improvement initiative grants, 81.50(7), 81.52(4), ch 166

Filed Emergency After Notice **ARC 9402B** 3/9/11

INSPECTIONS AND APPEALS DEPARTMENT[481]

Procedure for contested cases involving permits to carry weapons and acquire firearms, ch

11 Filed **ARC 9400B** 3/9/11

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education and mandatory training, amendments to ch 11 Notice **ARC 9413B** 3/9/11

Standards of practice—appropriate pain management, 13.2 Notice **ARC 9414B** 3/9/11

Grounds for discipline—failure by a physician with HIV or HBV to report HIV or HBV

status, 23.1 Notice **ARC 9415B** 3/9/11

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Public access to private land for hunting; landowner grants for wildlife habitat, 22.10 to

22.15 Amended Notice **ARC 9423B** 3/9/11

Special events and fireworks displays, ch 44 Notice **ARC 9419B** 3/9/11

Special event permits, 61.7(16) Notice **ARC 9421B** 3/9/11

Fireworks displays—state parks and recreation areas, rescind ch 65 Notice **ARC 9422B** 3/9/11

Fishing tournaments, rescind ch 88 Notice **ARC 9420B** 3/9/11

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Exemption from pharmacist continuing education requirements, 2.12(1)"b" Filed **ARC 9406B** 3/9/11

Certified pharmacy technicians—certification in good standing required, 3.3, 3.5, 3.12

Filed **ARC 9407B** 3/9/11

Hospital pharmacy practice, 7.6(2)"b," 7.7(7) Filed **ARC 9408B** 3/9/11

Pharmacy maintenance of staff logs, 8.4 Filed **ARC 9409B** 3/9/11

Emergency prescriptions—permitted written formats, 10.22(2)"c" Filed **ARC 9410B** 3/9/11

Sterile compounding practices—anteroom requirements, 13.27(4) Filed **ARC 9411B** 3/9/11

Contested cases, discipline—corrections and clarifications, amendments to chs 35, 36

Filed **ARC 9412B** 3/9/11

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Marital and family therapists and mental health counselors, 31.1, 31.4 to 31.7, 31.10(1),

32.4, 33.2(12) Notice **ARC 9416B** 3/9/11

Dietitians—licensure, continuing education, discipline, amendments to chs 81 to 83 Notice **ARC 9426B** 3/9/11

Hearing aid dispensers, amend chs 121, 122, 124; adopt ch 123 Filed **ARC 9424B** 3/9/11

Massage therapists—renewal notices, 131.8(1) Filed **ARC 9430B** 3/23/11

Massage therapists—discipline, 134.2(11) Notice **ARC 9432B** 3/23/11

Podiatrists—renewal notices, 220.9(1) Notice **ARC 9401B** 3/9/11

Discipline for podiatrists, 224.2(12) Notice **ARC 9405B** 3/9/11

Sign language interpreters and transliterators—renewal notices, 361.5(1) Filed **ARC 9427B** 3/23/11

Sign language interpreters and transliterators—discipline, 363.2(11) Notice **ARC 9428B** 3/23/11

PUBLIC HEALTH DEPARTMENT[641]

State medical examiner—fee schedule, 126.3(1) Notice **ARC 9435B** 3/23/11
 Substance abuse and gambling treatment program committee, amendments to ch 155
Notice **ARC 9436B** 3/23/11

REVENUE DEPARTMENT[701]

Rebate of sales tax; hotel and motel tax, 235.1, 241.3 to 241.5 Filed **ARC 9434B** 3/23/11

TRANSPORTATION DEPARTMENT[761]

Federal motor carrier safety and hazardous materials regulations, 520.1(1) Notice **ARC 9417B** 3/9/11

VETERINARY MEDICINE BOARD[811]

Licensing sanctions—collection procedures, amendments to chs 5, 13 Notice **ARC 9429B** 3/23/11

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

Representative David Heaton
 510 East Washington Street
 Mt. Pleasant, Iowa 52641

Senator Thomas Courtney
 2200 Summer Street
 Burlington, Iowa 52601

Representative Rick Olson
 3012 East 31st Court
 Des Moines, Iowa 50317

Senator Wally Horn
 101 Stoney Point Road, SW
 Cedar Rapids, Iowa 52404

Representative Janet Petersen
 4300 Beaver Hills Drive
 Des Moines, Iowa 50310

Senator John P. Kibbie
 P.O. Box 190
 Emmetsburg, Iowa 50536

Representative Dawn Pettengill
 P.O. Box 76
 Mt. Auburn, Iowa 52313

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

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 Des Moines, Iowa 50319
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CITY DEVELOPMENT BOARD[263]

Petitions for annexation—
documentation, 7.2(2)“j,” 8.3(9)
IAB 3/23/11 **ARC 9438B**

Iowa Tourism Room, First Floor
Iowa Department of Economic Development
200 E. Grand Ave.
Des Moines, Iowa

April 12, 2011
1 to 2 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Ground heat exchanger (GHEX)
loop borehole systems, amend
chs 38, 39, 49, 82; adopt ch 48
IAB 3/9/11 **ARC 9425B**

Room 141
Iowa Western Community College
705 Walnut St.
Atlantic, Iowa

Meeting Room, Public Library
215 S. 2nd St.
Cherokee, Iowa

Meeting Room, Public Library
200 N. 4th St.
Clear Lake, Iowa

Iowa Room, Public Library
304 N. Franklin St.
Manchester, Iowa

Public Library
Washington State Bank Meeting Room
115 W. Washington St.
Washington, Iowa

West Conference Room, Suite I
Iowa DNR Water Supply Operations
401 S.W. 7th St.
Des Moines, Iowa

Water quality—lake criteria,
61.3(4)
IAB 2/23/11 **ARC 9371B**

Falcon Civic Center
1305 5th Ave. NE
Independence, Iowa

State Bank Room
Public Library
115 West Washington St.
Washington, Iowa

Public Library
200 North Fourth St.
Clear Lake, Iowa

Fifth Floor Conference Rooms
Wallace State Office Building
502 East 9th St.
Des Moines, Iowa

Rock Island Depot
102 Chestnut St.
Atlantic, Iowa

Waitt Building
Iowa Lakeside Laboratory
1838 Hwy 86
Milford, Iowa

Public Library
803 Braden Ave.
Chariton, Iowa

April 4, 2011
5 p.m.

April 5, 2011
4 p.m.

April 6, 2011
6:30 p.m.

April 7, 2011
6:30 p.m.

April 11, 2011
5 p.m.

April 12, 2011
7 p.m.

March 23, 2011
10 a.m.

March 23, 2011
4 p.m.

March 24, 2011
10 a.m.

March 25, 2011
1 p.m.

March 29, 2011
10 a.m.

March 29, 2011
6 p.m.

March 31, 2011
4 p.m.

INSURANCE DIVISION[191]

Individual health insurance for children under the age of 19, 15.11(6), 36.13 IAB 2/23/11 ARC 9398B	Division Offices 330 Maple St. Des Moines, Iowa	March 23, 2011 10 a.m.
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MEDICINE BOARD[653]

Continuing education and mandatory training, amendments to ch 11 IAB 3/9/11 ARC 9413B	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	March 29, 2011 2 p.m.
Standards of practice—appropriate pain management, 13.2 IAB 3/9/11 ARC 9414B	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	March 29, 2011 2:30 p.m.
Grounds for discipline—failure by a physician with HIV or HBV to report HIV or HBV status, 23.1 IAB 3/9/11 ARC 9415B	Board Office, Suite C 400 S.W. 8th St. Des Moines, Iowa	March 29, 2011 3 p.m.

NATURAL RESOURCE COMMISSION[571]

Public access to private land for hunting; landowner grants for wildlife habitat, 22.10 to 22.15 IAB 3/9/11 ARC 9423B (See ARC 9325B , IAB 1/12/11)	Fourth Floor West Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 29, 2011 1 p.m.
Special events and fireworks displays, ch 44 IAB 3/9/11 ARC 9419B	Fifth Floor East and West Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 30, 2011 2 p.m.
Special event permits, 61.7(16) IAB 3/9/11 ARC 9421B	Fifth Floor East and West Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 30, 2011 2 p.m.
Fireworks displays—state parks and recreation areas, rescind ch 65 IAB 3/9/11 ARC 9422B	Fifth Floor East and West Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 30, 2011 2 p.m.
Fishing tournaments, rescind ch 88 IAB 3/9/11 ARC 9420B	Fifth Floor East and West Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 30, 2011 2 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Marital and family therapists and mental health counselors, 31.1, 31.4 to 31.7, 31.10(1), 32.4, 33.2(12) IAB 3/9/11 ARC 9416B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 29, 2011 9:30 to 10 a.m.
Dietitians—licensure, continuing education, discipline, amendments to chs 81 to 83 IAB 3/9/11 ARC 9426B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 29, 2011 11 a.m. to 12 noon

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

Massage therapists—discipline, 134.2(11) IAB 3/23/11 ARC 9432B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 18, 2011 8:30 to 9 a.m.
Podiatrists—renewal notices, 220.9(1) IAB 3/9/11 ARC 9401B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 29, 2011 1 to 1:30 p.m.
Discipline for podiatrists, 224.2(12) IAB 3/9/11 ARC 9405B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	March 29, 2011 1 to 1:30 p.m.
Sign language interpreters and transliterators—discipline, 363.2(11) IAB 3/23/11 ARC 9428B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 15, 2011 8 to 8:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Substance abuse and gambling treatment program committee, amendments to ch 155 IAB 3/23/11 ARC 9436B	Room 523 Lucas State Office Bldg. Des Moines, Iowa	April 19, 2011 11 a.m. to 12 noon
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TRANSPORTATION DEPARTMENT[761]

Federal motor carrier safety and hazardous materials regulations, 520.1(1) IAB 3/9/11 ARC 9417B	Motor Vehicle Division Offices 6310 S.E. Convenience Blvd. Ankeny, Iowa	March 30, 2011 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 9438B

CITY DEVELOPMENT BOARD[263]

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 368.10, the City Development Board gives Notice of Intended Action to adopt amendments to Chapter 7, “Voluntary Annexation,” and Chapter 8, “Petitions for Involuntary City Development Action,” Iowa Administrative Code.

The rules in Chapters 7 and 8 outline documentation requirements for annexation applications.

The proposed amendments require additional documentation before an application is approved by the City Development Board; specifically, a statement describing whether a city has applied any smart planning principles to a territory is required.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on Tuesday, April 12, 2011. Interested persons may submit written comments to Marie Steenlage, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3064; or E-mail marie.steenlage@iowa.gov.

A public hearing will be held Tuesday, April 12, 2011, from 1 to 2 p.m. in the Iowa Tourism Room, First Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa to receive comments on the amendments.

These amendments are intended to implement Iowa Code chapter 368.

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraph **7.2(2)“j”**:

j. A statement indicating whether the city has applied smart planning principles to the territory and, if applicable, a description of how the city has applied, or intends to apply, smart planning principles.

ITEM 2. Amend subrule 8.3(9) as follows:

8.3(9) Residential and commercial development regulation and projections. The petition shall include a description of current and proposed zoning regulations that apply to the annexation territory. Projected development and land use patterns shall be described under the assumption of continuation of existing land use regulations and under the assumption of land use regulations that would be applied after the annexation, if approved. Residential, commercial, and industrial development projections shall be provided based on population projections for the city and territory.

In the case of annexation, the amount of vacant developable land within the existing corporate limits and within the territory, as well as an estimate of the amount of developable land needed to accommodate future growth, shall be provided. Petitions for annexation shall include a statement indicating whether the city has applied smart planning principles to the territory and, if applicable, a description of how the city has applied, or intends to apply, smart planning principles.

ARC 9431B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

These amendments address issues arising in the implementation of the Iowa Electronic Health Record Incentive Program, as authorized by the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA provides incentive payments for the adoption, upgrade, and meaningful use of certified electronic health record technology. Rules to implement the program were published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9254B** and became effective January 1, 2011.

The proposed amendments would:

- Change the reporting period used for calculating the aggregate electronic health record hospital incentive amount to the hospital’s fiscal year, instead of the state fiscal year. Although many hospitals have the same fiscal year as the state, hospitals are not required to do so. With the proposed change, all hospitals will be able to use their cost report data without having to recalculate the data to conform to the state fiscal year, and the burden of verifying these calculations will be greatly reduced.
- For the same reasons, specify use of the hospital’s fiscal year as the period for calculating the Medicaid share of the aggregate amount.
- Clarify that a provider must satisfy all the criteria in subrule 79.16(2) to be eligible for the Electronic Health Record Incentive Program.
- Add a definition of “pediatrician” to clarify which physicians may qualify for the incentive with 20 percent Medicaid patient volume instead of 30 percent.

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

Any interested person may make written comments on the proposed amendments on or before April 12, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

The following amendments are proposed.

ITEM 1. Amend subrule 79.16(1) as follows:

79.16(1) State elections. In addition to the statutory provisions in ARRA Section 4201 ~~of the ARRA~~, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

- a. and b. No change.
- c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the state hospital fiscal year.
- d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the hospital fiscal year.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 79.16(2) as follows:

79.16(2) Eligible providers. To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the ~~following criteria~~ applicable criterion in each paragraph of this subrule:

- a. and b. No change.
- c. For the year for which the provider is applying for an incentive payment:
 - (1) An acute care hospital must have 10 percent Medicaid patient volume.
 - (2) An eligible professional must have at least 30 percent of the professional’s patient volume covered by Medicaid, except that:
 - 1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or who is eligible for board certification.
 - 2. No change.

ARC 9432B

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 Massage Therapy hereby gives Notice of Intended Action to amend Chapter 134, “Discipline for Massage Therapists,” Iowa Administrative Code.

This amendment proposes language to clarify what is considered conclusive evidence relating to conviction of a crime.

Any interested person may make written comments on the proposed amendment no later than April 18, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on April 18, 2011, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, 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 is intended to implement Iowa Code chapters 21, 147, 152C and 272C.

The following amendment is proposed.

Amend subrule 134.2(11) as follows:

134.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred, which includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9428B**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 Sign Language Interpreters and Translitterators hereby gives Notice of Intended Action to amend Chapter 363, “Discipline for Sign Language Interpreters and Translitterators,” Iowa Administrative Code.

The proposed amendment clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendment no later than April 15, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on April 15, 2011, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, 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 is intended to implement Iowa Code chapters 21, 147, 154E and 272C.

The following amendment is proposed.

Amend subrule 363.2(11) as follows:

363.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9435B**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 691.6, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 126, “State Medical Examiner,” Iowa Administrative Code.

This proposed amendment increases some of the fees that apply to autopsies conducted by the state medical examiner division. The autopsy fee is proposed to increase from \$1200 to \$1400. The hourly rate for the state, deputy or associate medical examiner time for all court cases is proposed to increase from \$350 to \$450. It is proposed that a cremation permit fee of \$75 be assessed for each permit investigated and authorized by the state medical examiner’s office.

Any interested person may make written comments or suggestions on the proposed amendment on or before April 19, 2011. Such written comments should be directed to Jonathan Thompson, Office of the State Medical Examiner, 2250 S. Ankeny Blvd., Ankeny, Iowa 50023. E-mail may be sent to jthompso@idph.state.ia.us.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

This amendment is intended to implement Iowa Code section 691.6. The following amendment is proposed.

Amend subrule 126.3(1) as follows:

126.3(1) Fee schedule. The following fees shall apply to autopsies conducted by the state medical examiner division:

Autopsy	\$1200 <u>\$1400</u>
Copies of reports	\$20

EXCEPTIONS: A copy of the autopsy report is ~~included in the autopsy fee~~ automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

State, deputy, or associate medical examiner(s) time for all court cases	\$350 <u>\$450</u> per hour with a one-hour minimum
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This fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

A cremation permit fee of \$75 will be assessed for each permit investigated and authorized by the state medical examiner's office.

ARC 9436B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 125.7 and 135.150(1), the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 155, “Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs,” Iowa Administrative Code.

Iowa Code section 136.3(13) allows the State Board of Health to appoint a Substance Abuse and Gambling Treatment Program Committee to approve or deny applications for licensure received from substance abuse programs and gambling treatment programs and to perform other functions delegated to the Committee.

These proposed amendments define a Substance Abuse and Gambling Treatment Program Committee and specify the duties of the Committee. The amendments also change “board” to “committee” throughout the chapter in rules where the Board’s duties are assumed by the Committee.

These rules are subject to waiver pursuant to 641—Chapter 178.

Any interested person may make written comments on these amendments on or before April 19, 2011, addressed to Bob Kerksieck, Division of Behavioral Health, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail rkerksie@idph.state.ia.us.

Also, a public hearing will be held on April 19, 2011, from 11 a.m. to 12 noon, at which time persons may present their views either orally or in writing. At the hearing, the Department will ask those persons present to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will be held in Room 523 of the Lucas State Office Building in Des Moines.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of specific needs.

These amendments are intended to implement Iowa Code sections 135.150 and 136.3(13) and Iowa Code chapter 125.

The following amendments are proposed.

ITEM 1. Amend rule **641—155.1(125,135)**, definitions of “Accreditation body,” “Deemed status” and “Licensure,” as follows:

“*Accreditation body*” means a national or not-for-profit body or organization recognized by the ~~board~~ committee as meeting the criteria of the ~~board~~ committee for deemed status.

“*Deemed status*” means that the ~~board~~ committee and division will accept a ~~board~~ committee-approved, outside accreditation body’s review, assessment and accreditation of a program, component or service of a program/organization’s operations and services. Programs which received deemed status approval are exempt from routine licensure requirements; however, such programs are subject to all other provisions of this chapter.

“*Licensure*” means the issuance of a license by the department and the ~~board~~ committee which validates the licensee’s compliance with treatment program standards and authorizes the licensee to operate a treatment program in the state of Iowa.

ITEM 2. Adopt the following **new** definition of “Committee” in rule **641—155.1(125,135)**:

“*Committee*” means the substance abuse and gambling treatment program committee appointed by the state board of health pursuant to Iowa Code section 136.3(13).

ITEM 3. Amend rule 641—155.2(125,135) as follows:

641—155.2(125,135) Licensing. A single license will be issued to each qualifying treatment program. A program shall apply for a license to provide substance abuse treatment, problem gambling treatment, or combined substance abuse and problem gambling treatment.

155.2(1) Categories of services. The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. The categories of services for which licenses will be issued are:

- ~~1. a.~~ Narcotic detoxification/chemical substitute, antagonist maintenance chemotherapy;
- ~~2. b.~~ Assessment and evaluation;
- ~~3. c.~~ OWI correctional residential;
- ~~4. d.~~ OWI correctional outpatient;
- ~~5. e.~~ Correctional residential treatment;
- ~~6. f.~~ Correctional outpatient treatment;
- ~~7. g.~~ Medically managed intensive inpatient services: Level IV;
- ~~8. h.~~ Residential/inpatient services: Levels III.1, III.3, III.5 and III.7;
- ~~9. i.~~ Intensive outpatient/partial hospitalization services: Levels II.1 and II.5; and
- ~~10. j.~~ Outpatient extended and continuing care services: Level I.

155.2(2) Licensing body. The committee shall:

- a. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension, or revocation of a license;
- b. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on the department by law;
- c. Advise or make recommendations to the board relative to substance abuse and gambling treatment, intervention, education, and prevention programs in this state; and
- d. Perform other duties as assigned by the board.

ITEM 4. Amend subrule 155.3(2) as follows:

155.3(2) Corrective action. Following the issuance of a license, the treatment program may be requested by the ~~board~~ committee to provide a written plan of corrective action and to bring into compliance all areas found in noncompliance during the on-site visit. The corrective action plan shall

PUBLIC HEALTH DEPARTMENT[641](cont'd)

be placed in the program's permanent file with the division and used as reference during future on-site inspections.

ITEM 5. Amend subrule 155.4(4) as follows:

155.4(4) Any person or legal entity having acquired a license and desiring to fundamentally alter the treatment philosophy or transfer to a different premises must notify the ~~board~~ committee 30 days prior to said action in order for the department to review the site change and to determine appropriate action.

ITEM 6. Amend rule 641—155.5(125,135), introductory paragraph, as follows:

641—155.5(125,135) Application procedures. The department shall provide an application to all applicants for licensure. An on-site visit for licensure of an initial applicant shall occur before the program opens and admits client/patients for services. For initial applicants, if technical assistance has been provided, the on-site visit may be waived at the discretion of the department. The division shall prepare a report with a recommendation for licensure to be presented at a ~~board~~ committee meeting within 60 days from the site visit. Public notice for ~~board~~ committee meetings will be made in accordance with Iowa Code section 21.4. The division shall provide notice to the program ten days prior to the ~~board~~ committee meeting notifying the program director and program board chairperson of the time, place, and date the ~~board~~ committee will review and act upon the application for the program along with the results of the inspection. The division shall provide to all ~~board~~ committee members reports of the on-site program licensure inspection and a final recommendation for each application to be acted upon at the next ~~board~~ committee meeting.

ITEM 7. Amend paragraph **155.5(1)“i”** as follows:

i. Fiscal management information to include a recent audit or opinion of auditor and program board minutes to reflect approval of budget and insurance program.

ITEM 8. Amend subrule 155.7(3) as follows:

155.7(3) Effective date of license. The effective date of a license shall begin on the date the ~~board~~ committee reviews the program's written report/application and acts to issue a license.

ITEM 9. Amend rule 641—155.8(125,135) as follows:

641—155.8(125,135) Licenses—renewal. Upon approval of an application for licensing by the ~~board~~ committee, a license shall be issued by the department. Licenses shall be renewed pursuant to rule 641—155.5(125,135).

155.8(1) ~~Board~~ Committee meeting preparation. The division shall prepare a report with a final recommendation for licensing to be presented at a ~~board~~ committee meeting within 80 days from the site visit. Public notice of ~~board~~ committee meetings shall be made in accordance with Iowa Code section 21.4.

a. The division shall send notice to the program by certified mail, return receipt requested, ten days prior to the ~~board~~ committee meeting notifying the program director and program board chairperson of the time, place, and date the ~~board~~ committee will review and act upon the application for the program along with the results of the inspection.

b. The division shall mail to all ~~board~~ committee members the following information on each application to be processed at the next ~~board~~ committee meeting:

(1) and (2) No change.

155.8(2) ~~Board~~ Committee meeting format.

a. to *c.* No change.

d. After all concerned parties are heard, the ~~board~~ committee will make a decision as to whether the applicant should be finally approved or initially denied a license to operate a substance abuse treatment program.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 10. Amend rule 641—155.9(125,135) as follows:

641—155.9(125,135) Corrective action plan. Programs approved for a license for 270 days by the ~~board~~ committee shall submit a corrective action plan to the director no later than 30 days following the ~~board~~ committee meeting. The corrective action plan shall include, but not be limited to:

1. to 3. No change.

4. A follow-up on-site visit will be required to review the implemented corrective action with a subsequent report to the ~~board~~ committee.

Programs issued a license for a period of one or two years shall submit a corrective action plan for those standards found to be in noncompliance following a licensure inspection. Technical assistance on a corrective action plan shall not be required for one- or two-year licenses. The corrective action plan shall be submitted within 30 days of receipt of the licensure inspection report.

ITEM 11. Amend rule 641—155.10(125,135) as follows:

641—155.10(125,135) Grounds for denial of initial license.

155.10(1) Denial of application for licensure. All programs applying for an initial license shall submit complete application information and shall be inspected by the department prior to the program's opening and offering services. A recommendation by the department of a denial of an initial application for licensure to the ~~board~~ committee may be made based on the following reasons:

a. to c. No change.

155.10(2) No change.

155.10(3) Board Committee action. The ~~board~~ committee shall meet to consider all cases involving issuance of a license. Upon approval of an application for licensure by the ~~board~~ committee, a license shall be issued by the department.

a. *Board Committee hearing preparation.* The division will prepare all documents with a final recommendation for licensing determination to be presented at a ~~board~~ committee meeting within 120 days from the site visit. The division shall provide public notice of the date, time, and place of the meeting and the names of applicants to be reviewed and processed.

(1) The division shall provide notice to the program 30 days prior to the ~~board~~ committee meeting notifying the program director and program board chairperson of the time, place, and date the ~~board~~ committee will review and act upon the application for the program along with the results of the inspection.

(2) The division shall provide to all ~~board~~ committee members the following information on each application to be processed at the next ~~board~~ committee meeting: reports of the on-site program licensure inspections, and a final recommendation for licensing.

b. *Board Committee meeting format.*

(1) to (3) No change.

(4) After all concerned parties are heard, the ~~board~~ committee will make a decision as to whether the applicant should be finally approved or initially denied a license to operate a substance abuse treatment program.

ITEM 12. Amend rule 641—155.11(125,135) as follows:

641—155.11(125,135) Suspension, revocation, or refusal to renew a license.

155.11(1) The ~~board~~ committee may suspend or revoke a license or refuse to renew a license for any of the following reasons:

a. to i. No change.

j. Conduct or practices found by the ~~board~~ committee to be detrimental to the general health, safety, or welfare of a client/patient or member of the general community.

k. to q. No change.

r. Violating an order of the ~~board~~ committee or violating the terms or conditions of a consent agreement or informal settlement between a program and the ~~board~~ committee.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

155.11(2) Initial notice from board committee. When the board committee determines to deny a renewal, suspend or revoke a license, the board committee shall notify the licensee by certified mail, return receipt requested, of the board's committee's intent to suspend, revoke, or refuse to renew the license and the changes that must be made in the licensee's operation to avoid such action. The initial notice shall further provide the licensee the opportunity to submit either a written plan of corrections or written objections to the department within 20 days from the receipt of notice from the board committee.

155.11(3) Correction of issues or objections.

a. Written plan of corrections. If a licensee submits a written plan of corrections, the licensee shall have 60 days from the date of submission within which to show compliance with the plan of corrections. The licensee shall submit any information to the board committee that the licensee deems pertinent to show compliance with the plan of corrections.

b. Objections. If a licensee submits written objections, the licensee shall submit to the board committee any information that the licensee deems pertinent which supports the licensee's defense.

155.11(4) Decision of board committee. Following receipt of a written plan of corrections and expiration of the 60-day time period, or following receipt of written objections, or when objections or notice of corrections have not been received within the 20-day time period, the board committee may meet to determine whether to proceed with the disciplinary action. The licensee shall receive notice of this meeting in the same manner as provided by 155.8(1) "a."

155.11(5) Notice of decision and opportunity for contested case hearing.

a. When the board committee determines to suspend, revoke or not renew a license, the licensee shall be given written notice by restricted certified mail.

b. The licensee may request a hearing on the determination. The request must be in writing and mailed to the department address within 30 days of the notice issued by the board committee. The request shall be sent by certified mail, return receipt requested. Failure to request a hearing will result in final action by the board committee.

155.11(6) Summary suspension. If the board committee finds that the health, safety or welfare of the public is endangered by continued operation of a treatment program, summary suspension of a license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

ITEM 13. Amend rule 641—155.15(125,135) as follows:

641—155.15(125,135) Reissuance or reinstatement. After suspension, revocation or refusal to renew a license, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation or expiration upon refusal to renew, unless by order of the board committee. After that time, proof of compliance with the licensure standards must be presented to the board committee prior to reinstatement or reissuance of a license.

ITEM 14. Amend rule 641—155.16(125,135) as follows:

641—155.16(125,135) Complaints and investigations.

155.16(1) *Complaints.* Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be mailed or delivered to the division director at the Division of Behavioral Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. A complaint form may be downloaded on-line at: http://www.idph.state.ia.us/bh/common/pdf/substance_abuse/complaint_form.pdf. The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the board's committee's own motion pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

155.16(2) No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

155.16(3) Investigative report. Within 30 working days after completion of the investigation, the department shall prepare a written investigative report and shall submit the report to the executive director of the program, the chairperson of the governing body, and the board committee. This report shall include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated, or undetermined, the basis for the finding, the specific statutes or rules at issue, a response from the program, if received, and a recommendation for action.

155.16(4) Review of investigations. The board committee shall review the investigative report at its next regularly scheduled meeting and shall determine appropriate action.

a. Closure. If the board committee determines that the allegations contained in the complaint are unsubstantiated, the board committee shall close the case and shall promptly notify the complainant and the program by letter.

b. Referral for further investigation. If the board committee determines that the case warrants further investigation, it shall refer the case to the department for further investigation.

c. Written plan of corrective action. If the board committee determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the board committee may require the program to submit and comply with a written plan of corrective action. A program shall submit a written plan of corrective action to the department within 20 working days after receiving a request for such plan. The written plan of corrective action shall include a plan for correcting violations as required by the board committee and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written plan of corrective action is not formal disciplinary action. Failure to submit or comply with a written plan of corrective action may result in formal disciplinary action against the program.

d. Disciplinary action. If the board committee determines that the allegations contained in the complaint are substantiated and disciplinary action is warranted, the board committee may proceed with such action in accordance with rule 641—155.11(125).

155.16(5) No change.

ITEM 15. Amend rule 641—155.18(125,135) as follows:

641—155.18(125,135) Deemed status. The board committee shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the board committee determines that the accreditation is for the same services. Problem gambling treatment components shall not be granted deemed status under this rule, unless specifically reviewed by the accreditation body.

155.18(1) National accreditation bodies. The national accreditation bodies currently recognized as meeting board committee criteria for possible deemed status are:

a. to d. No change.

155.18(2) Credentials and expectations of accreditation bodies.

a. No change.

b. Deemed status means that the board committee and division shall recognize, in lieu of their own review, an outside body's review, assessment, and accreditation of a hospital-based or freestanding community-based treatment program's operations, functioning, and services that correspond to those described in this chapter.

155.18(3) Responsibilities of programs granted deemed status.

a. to d. No change.

e. A program shall be currently accredited by a board committee-approved national accreditation body for services that are outlined in this chapter.

f. to h. No change.

155.18(4) The board committee and division shall retain the following responsibilities and rights when deemed status is granted to program/organizations:

a. and b. No change.

c. The board committee shall review and act upon deemed status if necessary when complaints have been founded, when national accreditation bodies find instances of noncompliance with accreditation, when the accreditation status of the program expires without renewal, when the program's

PUBLIC HEALTH DEPARTMENT[641](cont'd)

accreditation status is downgraded or withdrawn by the accreditation body, or when focused reviews find instances of noncompliance.

155.18(5) No change.

ITEM 16. Amend rule 641—155.20(125,135) as follows:

641—155.20(125,135) Inspection. Each applicant or licensee agrees as a condition of licensure:

155.20(1) No change.

155.20(2) To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the licensee. A facility shall not be licensed which does not permit inspection by the department or examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the ~~board~~ committee deems relevant to the establishment of such a system.

ITEM 17. Amend subrule 155.35(2) as follows:

155.35(2) Required approvals. All opioid treatment programs shall be licensed or approved by the ~~board~~ committee and shall maintain all other approvals required by the Drug Enforcement Administration, Substance Abuse and Mental Health Services Administration and the Iowa board of pharmacy ~~examiners~~ in order to provide services.

ITEM 18. Amend subrule 155.35(17) as follows:

155.35(17) Deemed status. The ~~board~~ committee shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the ~~board~~ committee determines that the accreditation is for the same services.

a. National accreditation bodies. The national accreditation bodies currently recognized as meeting ~~board~~ committee criteria for possible deemed status are:

(1) to (4) No change.

b. Credentials and expectations of accreditation bodies.

(1) The accreditation credentials of the bodies shall specify the types of organizations, programs, and services the bodies accredit and targeted population groups, if appropriate.

(2) Deemed status means that the ~~board~~ committee and division shall recognize, in lieu of their own review, an outside body's review, assessment and accreditation of a hospital-based or freestanding community-based substance abuse program's operations, functioning, and services that correspond to those described in this chapter.

c. Responsibilities of programs granted deemed status.

(1) to (4) No change.

(5) The program shall be currently accredited by a ~~board~~ committee-approved national accreditation body for services that are outlined in this chapter.

(6) to (8) No change.

d. The ~~board~~ committee and division shall retain the following responsibilities and rights when deemed status is granted to program/organizations:

(1) and (2) No change.

(3) The ~~board~~ committee shall review and act upon deemed status if necessary when complaints have been founded, when national accreditation bodies find instances of noncompliance with accreditation, when the accreditation status of the program expires without renewal, when the program's accreditation status is downgraded or withdrawn by the accreditation body, or when focused reviews find instances of noncompliance.

e. No change.

ITEM 19. Amend **641—Chapter 155**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 125.13, and 125.21 and 2009 Iowa Code Supplement section 135.150.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 5.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective March 9, 2011, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .25%
More than 397 days	Minimum .70%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 9429B**VETERINARY MEDICINE BOARD[811]****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 169.5, the Iowa Board of Veterinary Medicine hereby gives Notice of Intended Action to amend Chapter 5, “Public Records and Fair Information Practices,” and Chapter 13, “Child Support Collection Procedures,” Iowa Administrative Code.

These proposed amendments authorize licensing sanctions for the collection of a debt placed with the Department of Revenue. These sanctions are required by Iowa Code chapter 272D.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 12, 2011. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Board’s general waiver provision.

These amendments are intended to implement Iowa Code chapter 272D.

The following amendments are proposed.

ITEM 1. Amend rule 811—5.17(169,252J) as follows:

811—5.17(169,252J,272D) Release of confidential licensing information for child support recovery collection purposes. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit or with the centralized collection unit of the department of revenue through manual or automated means for the sole purpose of identifying applicants or credential holders subject to enforcement under Iowa Code chapter 252J, ~~or 598~~ or 272D.

ITEM 2. Amend **811—Chapter 13**, title, as follows:

CHILD SUPPORT COLLECTION PROCEDURES

ITEM 3. Amend rule 811—13.1(169,252J) as follows:

811—13.1(169,252J,272D) Licensing actions. In addition to other reasons specified by statute or rule, the board may refuse to issue a credential; or may revoke, suspend, or not renew any credential for which it has jurisdiction if the board is in receipt of a certificate of noncompliance from the child support recovery unit; pursuant to the procedures set forth in Iowa Code chapter 252J or from the centralized collection unit of the department of revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

An applicant or credential holder whose application is denied or whose credential is denied, suspended, or revoked because of receipt by the board of a certificate of noncompliance issued by the child support recovery unit or by the centralized collection unit of the department of revenue shall be subject to the provisions of rule 811—13.1(169,252J, 272D), ~~and procedures~~. Procedures specified in 811—Chapter 10 for contesting board actions shall not apply.

ITEM 4. Amend rule 811—13.2(169,252J) as follows:

811—13.2(169,252J,272D) Child support collection Collection procedures. The following procedures shall apply to actions taken by the board on a certificate of noncompliance pursuant to Iowa Code chapter 252J or Iowa Code chapter 272D:

VETERINARY MEDICINE BOARD[811](cont'd)

13.2(1) The notice required by Iowa Code section 252J.8 or by Iowa Code section 272D.8 shall be served upon the applicant or credential holder by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or credential holder may accept service personally or through authorized counsel.

13.2(2) The effective date of revocation or suspension of a credential or the denial of the issuance or renewal of a credential, as specified in the notice required by Iowa Code section 252J.8 or by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the credential holder or applicant.

13.2(3) Applicants and credential holders shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and or the centralized collection unit actions taken in connection with Iowa Code chapter 272D. Applicants and credential holders shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9 or pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit or by the centralized collection unit of the department of revenue.

13.2(4) All board fees for applications, credential renewals or reinstatements must be paid by the applicant or credential holder before a credential will be issued, renewed or reinstated after the board has denied the issuance or renewal of a credential or has suspended or revoked a credential pursuant to Iowa Code chapter 252J or pursuant to Iowa Code chapter 272D.

13.2(5) If an applicant or credential holder timely files a district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9 or Iowa Code sections 272D.8 and 272D.9, the board shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a credential, 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.

ITEM 5. Amend **811—Chapter 13**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 169, and 252J and 272D.

ARC 9430B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Massage Therapy amends Chapter 131, "Licensure of Massage Therapists," Iowa Administrative Code.

This amendment removes the requirement for the Board to send a renewal notice to the licensee. This change is being made to make licensure requirements consistent with Code of Iowa changes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 12, 2011, as **ARC 9319B**. A public hearing was held on February 1, 2011, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice of Intended Action.

The amendment was adopted by the Board of Massage Therapy on March 1, 2011.

This amendment will become effective April 27, 2011.

This amendment is intended to implement Iowa Code chapters 21, 147, 152C and 272C.

The following amendment is adopted.

Amend subrule 131.8(1) as follows:

131.8(1) The biennial license renewal period for a license to practice massage therapy shall begin on the sixteenth day of the anniversary month and end on the fifteenth day of the anniversary month two years later. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice from the board does not relieve the licensee of the responsibility for renewing the license.

[Filed 3/3/11, effective 4/27/11]

[Published 3/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/23/11.

ARC 9427B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Sign Language Interpreters and Translitterators hereby amends Chapter 361, "Licensure of Sign Language Interpreters and Translitterators," Iowa Administrative Code.

The amendment removes the requirement for the Board to send a renewal notice to licensees. This change is being made to make licensure requirements consistent with Iowa Code changes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 15, 2010, as **ARC 9259B**. A public hearing was held on January 4, 2011, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice of Intended Action.

The amendment was adopted by the Board of Sign Language Interpreters and Translitterators on February 21, 2011.

This amendment will become effective April 27, 2011.

This amendment is intended to implement Iowa Code chapters 21, 147, 154E and 272C.

The following amendment is adopted.

Amend subrule 361.5(1) as follows:

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or translitterator shall begin on July 1 of an odd-numbered year and end on June 30 of the next odd-numbered year. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice from the board does not relieve the licensee of the responsibility for renewing the license.

[Filed 2/22/11, effective 4/27/11]

[Published 3/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/23/11.

ARC 9434B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 423.25, and 423A.6, the Department of Revenue hereby adopts amendments to Chapter 235, "Rebate of Iowa Sales Tax Paid," and Chapter 241, "Excise Taxes Not Governed by the Streamlined Sales and Use Tax Agreement," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXIII, No. 15, pp. 1090-1092, on January 26, 2011, as **ARC 9339B**.

These amendments address changes made to the rebate requirements for the Newton racetrack under 2009 Iowa Acts, Senate File 478. In addition, Items 4 through 7 amend Chapter 241 to clarify the scope and applicability of Iowa's hotel and motel tax imposed under Iowa Code chapter 423A.

These amendments are different from those published under Notice of Intended Action. The word "purposes" has been changed to "purpose" in paragraph 235.1(1)"b" to be consistent with paragraph 235.1(1)"a," and one reference to a time period in subrule 241.5(1) has been revised to reflect the correct number of days.

These amendments will become effective April 27, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 423.4(5) and chapter 423A.

The following amendments are adopted.

ITEM 1. Amend subrule 235.1(1) as follows:

235.1(1) Definitions.

a. For the purpose of this program, prior to July 1, 2009, the following definitions apply:

"*Automobile racetrack facility*" means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility, but excluding any restaurant, and which facility is located, on a maximum of 232 acres, in a city with a population of at least 14,500 but not more than 16,500 residents, which city is located in a county with a population of at least 35,000; but not more than 40,000 residents, and where the construction on the racetrack facility commenced not later than one year following July 1, 2005, and the cost of the construction upon completion was at least \$35 million.

"*Change of control*" means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that at least 60 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

"*Iowa corporation*" means a corporation incorporated under the laws of Iowa where at least 60 percent of the corporation's equity interests are owned by individuals who are residents of Iowa.

"*Owner or operator*" means a for-profit legal entity where at least 60 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and

REVENUE DEPARTMENT[701](cont'd)

that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

“Population” means the population based upon the 2000 certified federal census.

b. For the purpose of this program, on and after July 1, 2009, the following definitions apply:

“Automobile racetrack facility” means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility, but excluding any restaurant, and which facility is located, on a maximum of 232 acres, in a city with a population of at least 14,500 but not more than 16,500 residents, which city is located in a county with a population of at least 35,000 but not more than 40,000 residents, and where the construction on the racetrack facility commenced not later than one year following July 1, 2005, and the cost of the construction upon completion was at least \$35 million.

“Change of control” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that less than 25 percent of the equity interests in the legal entity is owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own at least 25 percent of the voting equity interests of such legal entity.

“Iowa corporation” means a corporation incorporated under the laws of Iowa where at least 25 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“Owner or operator” means a for-profit legal entity where at least 25 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

“Population” means the population based upon the 2000 certified federal census.

ITEM 2. Amend subrules 235.1(4) and 235.1(5) as follows:

235.1(4) Limitations. The automobile racetrack facility rebate program applies only to transactions ~~which that~~ occur on or after January 1, 2006, but before January 1, 2016, and for which sales tax was collected. Only the state sales tax is subject to rebate. The rebate is limited to 5 percent. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to an automobile racetrack facility are not authorized for transactions ~~which that~~ occur on or after the date of the sale or other transfer, ~~whether voluntary or involuntary, of the automobile racetrack facility to a party other than the original owner of the facility or upon a change of control of such~~ the automobile racetrack facility.

235.1(5) Termination of rebate program. The rebate program for automobile racetrack facilities is a pilot program ~~which that~~ terminates on the earliest of the following dates:

- a. June 30, 2016; or
- b. Thirty days following the date on which \$12,500,000 in total rebates have been provided; or
- c. Thirty days following the date of the sale or other transfer, ~~whether voluntary or involuntary, of the automobile racetrack facility to a party other than the original owner of the facility or upon a change of control of such~~ the automobile racetrack facility.

ITEM 3. Amend rule ~~701—235.1(423)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 423.4(5) and 2005 Iowa Acts, chapter ~~110~~.

ITEM 4. Amend rule ~~701—241.3(423A)~~, definition of “Lodging,” as follows:

“Lodging” means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home ~~which that~~ is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. The word “lodging” does not refer to the rental of rooms for purposes other than sleeping or resting, including but not limited to rental of rooms for meetings, conferences, weddings, or banquets.

REVENUE DEPARTMENT[701](cont'd)

ITEM 5. Amend rule 701—241.4(423A) as follows:

701—241.4(423A) Imposition of tax. A tax of 5 percent is imposed upon the sales price for the rental of any lodging if the rental occurs in this state. The tax shall be collected by any lessor of lodging from the user of that lodging. The lessor shall add the tax to the sales price of the lodging, and the state-imposed tax, when collected, shall be stated as a distinct item, separate and apart from the sales price of the lodging and the local tax imposed, if any, under Iowa Code section 423A.4. The rental of a mobile or manufactured home that is tangible personal property is treated as the rental of lodging.

ITEM 6. Amend rule 701—241.5(423A) as follows:

701—241.5(423A) Exemptions. The tax described in this division shall not apply: ~~(a) when~~

241.5(1) To lodging is furnished to a person if that person rents contracts to rent any rooms or facility for more than 31 consecutive days, ~~(b) to the renting of.~~ The renter must contract to rent for a single period of more than 31 consecutive days. The renter may not accumulate these days by contracting for two or more rental transactions. The incremental manner in which customers are billed by the hotel, motel, inn, public lodging house, rooming or tourist court, or any place where sleeping accommodations are furnished to transient guests does not influence the accumulation of days that is required to claim the exemption.

241.5(2) To sleeping rooms rented in dormitories and in memorial unions at all universities and colleges located in the state, ~~(e) to.~~

241.5(3) To contracts made directly with the federal government, ~~or (d) to the renting of.~~

241.5(4) To lodging rented to the guest of a religious institution ~~upon~~ located on real property exempt from tax as the property of a religious institution, if the reason for renting the room is to provide a place for a religious retreat or function and not a place for transient guests generally.

ITEM 7. Amend **701—Chapter 241, Division I**, implementation sentence, as follows:

This division is intended to implement 2005 Iowa Code ~~Supplement~~ chapter 423A.

[Filed 3/4/11, effective 4/27/11]

[Published 3/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/23/11.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER SEVENTY-ONE

- WHEREAS, while new policies that encourage a job-friendly environment can take Iowa a significant way forward in our effort to compete for new jobs, much of that work can be undone by a bureaucracy that fails to understand the critical relationship between burdensome regulation and job creation; and
- WHEREAS, when adopting regulations to protect the health, safety and welfare of the people of the State of Iowa, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens that reduce jobs and hurt job growth;
- WHEREAS, small businesses are the greatest generators of job growth and are also disproportionately burdened by regulations; and
- WHEREAS, proposed rules and regulations should contain a jobs impact statement so we can identify those that hurt jobs before they impact our job retention and development; and
- WHEREAS, now is the time to make Iowa's main streets truly open for business with the jobs we so desperately need.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that the best interests of our state would be well served if our government would promote private sector jobs and eliminate impediments to economic growth imposed by burdensome administrative rules and regulations. I hereby order and direct that:

1. For purpose of this Order, the following definitions shall apply:
 - a. "Benefit" means the reasonably identifiable and quantifiable positive effect or outcome that is expected to result from implementation of a rule.
 - b. "Cost-Benefit Analysis" means regulatory analysis to provide the public with transparency regarding the cost-effectiveness of a rule, including the economic costs and the effectiveness weighed by the agency in adopting the rule. "Cost-Benefit Analysis" includes a comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of less intrusive or expensive methods that exist for achieving the purpose of the proposed rule.
 - c. "Cost" means reasonably identifiable, significant, direct or indirect, economic impact that is expected to result from implementation of and compliance with a rule.
 - d. "Jobs" means private sector employment including self-employment and areas for potential for employment growth.
 - e. "Jobs Impact Statement" means a statement that must:
 - i. identify the objective of the proposed rule and the applicable section of the Code of Iowa that provides specific legal authority for the agency to adopt the rule; and
 - ii. identify and describe the cost that the Department or Agency anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the rule; and
 - iii. show whether a proposed rule would have a positive or negative impact on private sector jobs and employment opportunities in Iowa; and
 - iv. describe and quantify the nature of the impact the proposed rule will have on private sector jobs and employment opportunities including the

- categories of jobs and employment opportunities that are affected by the proposed rule, the number of jobs or potential job opportunities and the regions of the state affected; and
- v. identify, where possible, the additional costs to the employer per employee for the proposed regulation; and
 - vi. include other relevant analysis requested by the Administrative Rules Coordinator.
2. Each Agency, as defined by Iowa Code Section 17A.2(1), must take steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. Evidence of such steps would include a Cost-Benefit Analysis of the proposed regulation.
 3. Each Agency shall provide a Jobs Impact Statement to the Administrative Rules Coordinator in the Office of the Governor prior to publication of notice of intended action pursuant to Iowa Code Chapter 17A.
 4. The Jobs Impact Statement shall be published as part of the preamble to the notice of rulemaking in the Iowa administrative bulletin, unless the Administrative Rules Coordinator determines that publication of the entire Jobs Impact Statement would be unnecessary or impractical.
 5. Each Agency shall accept comments and information from stakeholders prior to the Jobs Impact Statement. Any concerned private sector employer or self-employed individual, potential employer, potential small business, or member of the public is entitled to submit information relating to Jobs Impact Statement upon a request for information or notice of intended action by a Department or Agency.
 6. If the Jobs Impact Statement is revised after notice, it shall be published as part of the preamble to the proposed rule, unless the Administrative Rules Coordinator determines that publication of the entire Jobs Impact Statement would be unnecessary or impractical.
 7. The analysis in the Jobs Impact Statement should give particular weight to jobs in production sectors of the economy which includes the manufacturing, and agricultural sectors of the economy and include analysis, where applicable of the impact of the rule on expansion of existing businesses or facilities. The Administrative Rules Coordinator may waive the Jobs Impact Statement requirement for rules proposed on an emergency basis or if unnecessary or impractical.
 8. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.
 9. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 7th day of March, in the year of our Lord two thousand eleven.


TERRY E. BRANSTAD
GOVERNOR

ATTEST:


MATTHEW SCHULTZ
SECRETARY OF STATE