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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

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CHAPTER 11
CONTINUING EDUCATION FOR
INSURANCE PRODUCERS
[Prior to 10/22/86, Insurance Department[510]]

191—11.1(505,522B) Statutory authority—purpose—applicability.

11.1(1) These rules are adopted pursuant to the general rule-making authority of the insurance commissioner in Iowa Code chapters 505 and 522B to establish continuing education requirements for resident and nonresident insurance producers.

11.1(2) The purpose of these rules is to establish requirements by prescribing:

- a. The minimum number of continuing education credits that an insurance producer must complete;
- b. The procedure and standards that the division will utilize in the approval of continuing education providers and courses;
- c. The procedure for establishing that the required continuing education has been completed; and
- d. Enforcement criteria and guidelines.

11.1(3) These rules do not apply to:

- a. A nonresident producer who resides in a state or district having a continuing education (CE) requirement for insurance producers.
- b. A resident producer who holds qualification in one of the following lines of authority: surety; or credit life, accident and health insurance.
- c. Licensed attorneys who are also producers who submit proof of completion of continuing legal education for the appropriate calendar years during the CE term, pay the continuing education fee set forth in subrule 11.14(1) and otherwise comply with the producer license renewal procedures set forth in 191—Chapter 10.
- d. A producer who serves full-time in the armed forces of the United States of America on active duty during a substantial part of the CE term and who submits evidence of such service.
- e. A resident producer who holds qualification only for a crop insurance line of authority and who complies with subrule 11.3(8).

191—11.2(505,522B) Definitions.

“Approved subject” or *“approved course”* means any educational presentation which has been approved by the division.

“Attendance record” means a record on which a CE provider requires attendees of a CE course to sign in at the time of entrance to the course.

“CE” means continuing education as defined in Iowa Code chapter 522B.

“CE provider” means any individual or entity that is approved to offer continuing education courses in Iowa.

“CE term” means the period of time that begins either on the date when a new producer’s insurance license is issued or on the date after the expiration date of an existing producer’s license and that ends on the following license expiration date.

“Credit” means continuing education credit. One credit is 50 minutes of instruction or reading material in an acceptable topic.

“License” means the division’s authorization for a person to act as an insurance producer for the authorized lines of insurance.

“National Insurance Producer Registry” or *“NIPR”* means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). Its Web site is www.licenseregistry.com.

“NIPR Gateway” means the communication network developed and operated by NIPR that links state insurance regulators with the entities they regulate to facilitate the electronic exchange of producer information regarding license applications, license renewals, appointments and terminations.

“*Proctored*” or “*independently proctored*” means the supervision by a CE provider or disinterested third party over the conduct of a producer while that producer is completing an examination that is part of a self-study CE course.

“*Producer*” or “*insurance producer*” means a person required to be licensed in this state to sell, solicit or negotiate insurance.

“*Resident*” means a person residing permanently in Iowa.

“*Roster*” means a listing of all licensed attendees at an approved course and includes the Iowa course number, the National Insurance Producer Registry (NIPR) National Producer Number (NPN), the date the course was completed, and the actual number of credits earned by each producer.

“*Self-study course*” means an educational program that consists of a self-study manual and comprehensive examination. A self-study course may be an on-line course.

[ARC 7662B, IAB 3/25/09, effective 4/29/09]

191—11.3(505,522B) Continuing education requirements for producers.

11.3(1) Every licensed resident producer must complete a minimum of 36 credits for each CE term in courses approved by the division. Three of these credits must be in the subject of ethics. By the end of the last business day of the producer’s CE term, the division must receive from the producer proof of completion of CE courses and payment of the CE fee.

11.3(2) An instructor of an approved subject is entitled to the same credit as a student completing that subject and may receive such credit once during a CE term.

11.3(3) A producer cannot carry over CE credits earned in excess of the producer’s CE term requirements from one CE term to the next.

11.3(4) A producer may receive CE credit for self-study courses. A self-study course is considered completed when the examination is received by the CE provider.

a. A producer may receive CE credit for self-study courses that are part of a recognized national designation program as described in subrule 11.5(5).

b. A producer may receive up to 18 CE credits for self-study courses during a CE term that do not meet the definition of paragraph “*a*” if the producer:

(1) Submits an affidavit to the CE provider stating that the examination was independently proctored and was completed without any outside assistance, and

(2) Correctly answers at least 70 percent of the questions presented.

11.3(5) A producer may not receive CE credit for courses taken prior to the issuance of an initial license.

11.3(6) A producer cannot receive CE credit for the same course twice in one CE term. A producer cannot receive CE credit both for the classroom portion and for the examination portion of a national designation program as defined in subrule 11.5(5).

11.3(7) A producer may elect to comply with the CE requirements by taking and passing the appropriate licensing examination for each qualification held by the producer.

a. A producer who holds property and casualty lines of authority must successfully complete the commercial insurance subject examination.

b. A producer who holds an excess and surplus line of authority must successfully complete the examination for the excess and surplus line of authority and the commercial insurance subject examination.

11.3(8) For a resident producer who holds qualification only for a crop insurance line of authority and who is requesting renewal of a producer license on or after January 1, 2010, the producer must be able to demonstrate the following each time renewal of a license is requested:

a. The producer has completed all training and continuing education requirements imposed by the federal Risk Management Association, if any; and

b. The producer has completed 18 credits of continuing education, 3 of which must be in the area of ethics, except that a producer who is requesting renewal of a producer license during 2010 must demonstrate that the producer has completed 9 credits of continuing education, 3 of which must be in the area of ethics.

191—11.4(505,522B) Proof of completion of continuing education requirements.**11.4(1) *Producer duties.***

a. Producers are required to demonstrate compliance with the CE requirements at the time of license renewal. Procedures for completing the license renewal process are outlined in 191—Chapter 10.

b. Producers are required to maintain a record of all CE courses completed by keeping the original certificates of completion for four years after the end of the year of attendance.

11.4(2) *Insurer duties regarding federal flood insurance.* An insurer authorized to do business in Iowa shall demonstrate to the division, upon the division's request, that producers appointed by the insurer have complied with all continuing education guidelines as established by the National Flood Insurance Program (NFIP).

191—11.5(505,522B) Course approval.

11.5(1) To qualify for approval a course must be designed to expand technical insurance skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

11.5(2) Any approved active CE provider shall submit a request for approval of any course, program of study, or subject for continuing education credit to the division on an NAIC uniform form. If an outside vendor is retained by the division for course reviews, requests for approval shall be filed directly with the vendor.

11.5(3) Requests for course approval which do not include all required information will be returned as incomplete.

11.5(4) Except as provided in subrule 11.5(5), requests for approval shall be submitted at least 30 days prior to the beginning of the course. A request for renewal of a previously approved course shall be submitted at least 30 days prior to the end of the 24-month approval period. Requests received later may be disapproved.

11.5(5) A request for approval of any self-study course that is part of a recognized national designation program may be filed within 60 days after the course is completed. This course will be reviewed and may be approved for up to the number of credits awarded for passage of the national examination in topics that are otherwise approvable under these rules. This subrule applies only to national designation programs such as AAI, ARM, CIC, CEBS, ChFC, CFP, CLU, CPCU, FLMI, LUTCF, RHU and similar courses as determined by the division.

11.5(6) An insurance producer who attends a classroom course offered by a college, university or governmental agency that has not been approved by the division may make application for approval of the course for CE credit. The application must be filed within 60 days of attendance at the course and must contain sufficient materials to allow for a thorough evaluation of the course content and instructor qualifications. To be eligible for CE credit, the course must meet all division guidelines for course approval. All course review fees must be paid by the producer.

11.5(7) A CE course must be offered for a minimum of one credit. Fractional credits will not be awarded. The total credit which may be awarded for a CE course is limited to 36 credits, except that credit for a self-study course as defined in 11.3(4) "b" shall be limited to 18 CE credits.

11.5(8) Notification will be sent to the CE provider indicating approval or disapproval. Approved courses will be assigned a course number.

11.5(9) The division may deem the approval of a CE course by another state's insurance division as adequate evidence that a course is eligible for approval in Iowa and may award the same number of credits for the course awarded by the other state. The CE provider must submit the NAIC uniform form demonstrating the other state's approval of the CE course.

11.5(10) Within 30 days of course approval, CE providers shall inform the division or its vendor, as directed by the division, of the dates and locations that the course will be offered. Failure to timely file the dates and locations will subject the CE provider to penalty and suspension or rescission of course approval.

11.5(11) CE courses approved by the division may be offered for a 24-month period following the date of approval.

191—11.6(505,522B) Topic guidelines.

11.6(1) The following course topics are examples of subjects that will qualify for approval:

1. Rating;
2. Tax laws (specifically related to insurance);
3. Policy contents;
4. Proper uses of products;
5. Ethics;
6. Risk management;
7. Iowa insurance laws and administrative rules;
8. Technical information related to the insurance license;
9. Errors and omissions;
10. Estate planning/taxation;
11. Wills and trusts; and
12. Financial planning.

11.6(2) The following course topics are examples of subjects that will not qualify for approval:

1. Sales;
2. Motivation;
3. Prospecting;
4. Psychology;
5. Communication skills;
6. Prelicense training;
7. Supportive office skills (e.g., typing, filing, computers);
8. Personnel management;
9. Recruiting; and
10. Other subjects not related to the insurance license.

191—11.7(505,522B) CE course renewal. Prior to expiration of the 24-month approval period, a CE provider must apply for renewal of each course with the division or its outside vendor. If a CE provider makes a substantial change to the content of a previously approved course, that course will not be eligible for renewal and must be submitted for a complete review.

191—11.8(505,522B) Appeals. A CE provider may appeal the amount of CE credit awarded by the division for a course. An appeal must be made in writing to the division within 30 days of the receipt by the CE provider of the notice of CE credit awarded for the course. If the division retains an outside vendor for course reviews, a CE provider must first complete an appeal process with the vendor before filing an appeal with the division.

191—11.9(505,522B) CE provider approval.

11.9(1) Any school, insurer, industry association or other organization intending to provide a course, program of study, or subject for continuing education credit must submit an application on a form or in a format prescribed by the division to become an approved CE provider.

11.9(2) To qualify for approval, a CE provider must demonstrate financial and organizational stability and must agree to comply with the administrative and regulatory constraints set forth by the division.

11.9(3) CE provider approval is valid for 24 months.

11.9(4) A CE provider must complete the renewal process to be eligible to continue serving as a CE provider. Failure to complete the renewal process will result in the expiration of the CE provider's approval and all previously approved courses.

11.9(5) If an outside vendor is retained by the division for CE provider reviews, requests for approval will be filed directly with the vendor.

191—11.10(505,522B) CE provider's responsibilities.

11.10(1) A CE provider must ensure that each classroom course is conducted by a qualified and competent instructor.

11.10(2) A CE provider shall obtain and maintain an attendance record for each course for at least four years from the end of the year in which the course is offered. Upon request by the division, a CE provider must submit copies of attendance records.

11.10(3) A CE provider of an approved course is responsible for both the attendance of the students and their attention. A CE provider must refuse to award CE credit for time periods when the student was absent.

11.10(4) A CE provider must verify that each examination submitted for a self-study course contains an affidavit following the NAIC CE guidelines from the producer that the examination was independently proctored and that the examination was completed without any outside assistance. A CE provider must refuse to award CE credit to producers who fail to submit a properly completed examination or who fail to correctly answer at least 70 percent of the questions on the examination.

11.10(5) Upon request by the division, a CE provider shall videotape a course and such recording shall be promptly submitted to the division.

11.10(6) Upon request by the division, a CE provider must provide a copy of all course materials.

11.10(7) If an approved course is canceled, a CE provider must notify the division, or its outside vendor, and registrants at least 48 hours prior to the course date.

11.10(8) CE providers must submit rosters of all course attendees to the division's outside vendor. These reports must be received at the division by the tenth day of the month following the month in which the course is completed. Rosters shall be submitted electronically in a manner prescribed by the division.

11.10(9) Once a course is completed, the CE provider shall issue a certificate of completion to each person who satisfactorily completes a course. The certificate must be issued within 20 days of course completion and must be signed by either the course instructor or the CE provider's authorized representative. The certificate of completion used by the CE provider must be in a form or format prescribed by the division.

11.10(10) CE providers must report to the division any disciplinary action taken against that CE provider by another state licensing authority.

191—11.11(505,522B) Prohibited conduct—CE providers.

11.11(1) CE providers shall not:

- a. Advertise, prior to approval, that a course is approved;
- b. Prepare and distribute certificates of completion before the course has been conducted;
- c. Issue inaccurate or incomplete certificates of completion;
- d. Refuse to issue certificates of completion to any participant who satisfactorily completes an approved course, except when subrule 11.10(3) or subrule 11.10(4) applies.

11.11(2) The division may revoke the approval of a continuing education provider or may discipline a continuing education provider, upon a finding that the CE provider:

- a. Committed any one or more of the actions prohibited in subrule 11.11(1);
- b. Failed to perform any duties required by these rules; or
- c. Committed any other action inconsistent with these rules.

11.11(3) If the division finds that a CE provider has violated Iowa laws or these rules, the division shall give written notification to the CE provider of the alleged improper conduct and any discipline or sanction imposed. The CE provider may make a written request for a hearing within 30 days of receipt of the notice. The hearing shall be held within 30 days of the division's receipt of the written demand by the CE provider unless the parties agree to a later hearing date. The hearing shall be conducted pursuant to 191—Chapter 3.

11.11(4) A fine may be imposed against a CE provider if the commissioner finds, after hearing, that the CE provider knew or should have known that it was in violation of this chapter. The division may take any one or more of the following actions upon a finding of a violation of this rule:

- a. Require the CE provider to pay a fine not to exceed \$1,000 per violation;
- b. Require the CE provider to refund the course admission fee to all participants;
- c. Require the CE provider to provide a suitable course to replace the course that was found in violation;
- d. Withdraw the approval of courses sponsored by such CE provider; or
- e. Take other disciplinary action permitted by statute.

191—11.12(505,522B) Outside vendor. The division may enter into a contractual arrangement with a qualified outside vendor to assist the division with any or all continuing education services. Fees charged by the outside vendor will be subject to division approval and will be paid by the CE provider. Course approval fees are nonrefundable.

191—11.13(505,522B) CE course audits. The division may audit any CE course. The cost of the audit will be charged to the CE provider. Any discrepancies between the materials submitted for approval to the division and the content found at the audit, or any evidence of noncompliance with these rules, may subject the CE provider or instructor to administrative sanctions, including imposition of fines. Governmental bodies, such as community colleges and universities, shall not be charged for the cost of an audit.

191—11.14(505,522B) Fees and costs.

11.14(1) The fees for approval and renewal of CE providers, CE courses and registration of instructors shall be set by the outside vendor retained by the division and are subject to approval by the division.

11.14(2) The division may charge a fee for other services.

These rules are intended to implement Iowa Code chapters 505 and 522B.

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CHAPTER 21
REQUIREMENTS FOR EXCESS AND SURPLUS LINES,
RISK RETENTION GROUPS AND PURCHASING GROUPS
[Prior to 10/22/86, Insurance Department[510]]

191—21.1(515) Definitions. In addition to the definitions provided in Iowa Code chapters 515 and 515E, the following definitions shall apply to this chapter, unless the context clearly requires otherwise:

“*Division*” means the Iowa insurance division.

“*Excess and surplus lines insurance*” means surplus lines insurance.

“*NAIC UCAA*” means a National Association of Insurance Commissioners Uniform Certificate of Authority Application form.

“*Nonadmitted insurer*” means an insurer that is not licensed by or admitted to do business in this state.

“*Place*” means obtaining insurance for an insured with a specific insurer.

“*Producer*” means the person who places the policy with the insurance company. The producer may be either a resident or nonresident of this state and must be licensed in Iowa to sell insurance classified as excess and surplus lines.

“*Qualified surplus lines carrier*” means a nonadmitted insurer that the division has determined is qualified to provide surplus lines coverage as set forth in Iowa Code section 515.120, but in no event shall “qualified surplus lines carrier” include an insurer described in Iowa Code section 515.122.

“*Surplus lines insurance*” means insurance on a risk or a part of a risk for which there is no market available through the original insurance producer in Iowa; therefore, the risk needs to be placed with a qualified surplus lines carrier, in accordance with the provisions of Iowa Code chapter 515 and this chapter.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.2(515) Qualified surplus lines carriers’ duties.

21.2(1) *Insurer liable.* Where, pursuant to Iowa Code section 515.120, coverage is placed with a qualified surplus lines carrier, the qualified surplus lines carrier shall be liable for the premium tax required by Iowa Code section 515.120.

21.2(2) *How premium tax quoted.* A qualified surplus lines carrier or a broker for a qualified surplus lines carrier is authorized to quote a premium which includes tax as is required by Iowa Code section 515.120, and thereafter no additional tax amount may be charged or collected. Premium tax may be stated in the contract of insurance as a separate component of the total premium only when the premium is not based upon rates or premiums which included a premium tax component when promulgated. Any fees collected from residents of this state are considered part of the premium and thus are subject to taxation.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.3(515) Producers’ duties.

21.3(1) *Producer collection of tax.* A producer who places insurance in qualified surplus lines carriers shall collect premium tax from the qualified surplus lines carriers by withholding 1 percent of the premiums for such tax.

21.3(2) *Electronic reporting of premium tax.* A producer who places insurance with a qualified surplus lines carrier shall file electronically the premium tax information with the division on or before March 1 for policies issued during the preceding calendar year.

21.3(3) *Annual report.* On or before March 1 of each year, every producer who has placed insurance with qualified surplus lines carriers when the policies have been issued during the preceding calendar year shall file electronically with the division or as otherwise directed by the division a sworn report of all such business written during the preceding calendar year and shall submit the amount to cover the taxes due on said business. If no business was written during the preceding calendar year, no report is required. Failure to file an annual return or pay the taxes imposed by Iowa Code section 515.120 et seq., will be deemed grounds for the revocation of a producer’s license by the insurance division, and failure

to file an annual return or pay taxes within the time requirements of this rule will subject the producer to the penalties of Iowa Code section 515.121.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.4(515) Producers' duty to insured; evidence of coverage. A producer who places coverage with a qualified surplus lines carrier as defined herein shall deliver to the insured, within 30 days of the date the policy is issued, a notice that states the following: "This policy is issued, pursuant to Iowa Code section 515.120, by a nonadmitted company in Iowa and as such is not covered by the Iowa Insurance Guaranty Association." A producer may comply with this rule by typing or stamping a verbatim copy of this language in a clear and conspicuous place on the policy.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.5(515) Procedures for qualification and renewal of a nonadmitted insurer as a qualified surplus lines carrier.

21.5(1) *Application and procedures for initial qualification of a nonadmitted insurer as a qualified surplus lines carrier.*

a. Any insurer who wishes to qualify under Iowa Code section 515.120 as a nonadmitted insurer shall make an application.

b. The application shall contain the following information, which also is listed on the division's Web site, www.iid.state.ia.us:

(1) A completed NAIC UCAA Expansion Application, available through the division's Web site, www.iid.state.ia.us, or through the NAIC Web site, www.naic.org/industry.

(2) A designation of a licensed Iowa resident producer qualified to write excess and surplus lines insurance.

(3) Remittance of the greater of a \$100 filing fee or a retaliatory fee, and a \$500 examination fee for all new applicants.

c. In addition to the above requirements, the insurer shall:

(1) Maintain the greater of either minimum capital and surplus of \$5 million or risk-based capital pursuant to Iowa Code chapter 521E, and

(2) Have been actively in operation for at least three years without significant changes in ownership or management during the three-year period.

These financial and management requirements may be waived by the division upon a finding that the insurer will be offering coverage in a line of insurance for which there is an unavailability of capacity and an extraordinary need for coverage in this state. The division may require other information as deemed necessary.

21.5(2) *Procedures for renewal of a nonadmitted insurer as a qualified surplus lines carrier.* A nonadmitted insurer that is not an alien insurer as defined in Iowa Code section 515.70 and that met the division's requirements for becoming a qualified surplus lines carrier shall, by March 1 of each year following the year of qualification:

a. Continue to comply with paragraph 21.5(1) "c";

b. Pay a \$100 renewal fee; and

c. Submit to the division the documents and materials listed on the division's Web site, www.iid.state.ia.us.

21.5(3) *Failure to comply.* Failure of a nonadmitted insurer to timely submit the materials required in this rule or to otherwise fail to comply with this rule shall result in the termination of the nonadmitted insurer's status as a qualified surplus lines carrier.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.6(515E) Risk retention groups. A risk retention group as defined in Iowa Code chapter 515E may utilize its producers to report and pay premium taxes or may pay the taxes directly. If producers are utilized, they shall follow the procedure set forth in subrule 21.3(2). In the event that the group desires to

pay the premium tax directly, the group shall file electronically with the division through the division's Web site, www.iid.state.ia.us.
 [ARC 7663B, IAB 3/25/09, effective 4/29/09]

191—21.7(515E) Procedures for qualification as a risk retention group.

21.7(1) Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group shall file with the division an application that contains:

- a. The information set forth in Iowa Code sections 515E.4(1) and (2), which also is listed on the division's Web site, www.iid.state.ia.us; and
- b. Remittance of a \$100 filing fee plus any additional retaliatory fees.

21.7(2) A risk retention group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group shall annually provide information requested by the division for determination of continued registration.

191—21.8(515E) Procedures for qualification as a purchasing group.

21.8(1) Prior to doing business in this state, a purchasing group shall furnish to the division notice that shall include:

- a. The information set forth in Iowa Code section 515E.8, which also is listed on the division's Web site, www.iid.state.ia.us; and
- b. Remittance of a \$100 filing fee.

21.8(2) A registered purchasing group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The purchasing group must provide information requested by the division for determination of continued registration.

191—21.9(515,515E) Failure to comply; penalties. Failure of a producer, insurer, risk retention group or purchasing group to comply with this chapter or with Iowa Code section 515.120, 515.121, or 515.122, or chapter 515E may subject the producer, insurer, risk retention group or purchasing group to penalties set forth in Iowa Code chapter 507B or Iowa Code section 515.121.

[ARC 7663B, IAB 3/25/09, effective 4/29/09]

These rules are intended to implement Iowa Code sections 515.120 to 515.122.

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CHAPTER 71
TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM

261—71.1(403) Definitions.

“*Act*” means Iowa Code section 403.19A.

“*Board*” means the Iowa economic development board created in Iowa Code section 15.103.

“*Business*” means any professional services or industrial enterprise, including medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. “Business” does not include a retail operation or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

“*Countywide average wage*” means the average that the department calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“*Department*” means the Iowa department of economic development.

“*Employee*” means the individual employed in a targeted job that is subject to a withholding agreement.

“*Employer*” means a business creating or retaining targeted jobs in an urban renewal area of a pilot project city pursuant to a withholding agreement.

“*Pilot project city*” means a city that has applied and been approved as a pilot project city pursuant to rule 71.2(403).

“*Qualifying investment*” means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. “Qualifying investment” also means a capital investment in depreciable assets.

“*Targeted job*” means a job in a business which is or will be located in an urban renewal area of a pilot project city that pays a wage at least equal to the countywide average wage. “Targeted job” includes new or retained jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the department, that are moving to or expanding in Iowa.

“*Urban renewal area*” means the same as defined in Iowa Code section 403.17.

“*Withholding agreement*” means an agreement authorized in rule 71.4(403) between a pilot project city and an employer concerning the targeted jobs withholding tax credit.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

261—71.2(403) Eligibility requirements. An eligible city may apply to the department to be designated as a pilot project city. An eligible city is a city that contains three or more census tracts and is located in a county meeting one of the following requirements:

1. A county that borders Nebraska.
2. A county that borders South Dakota.
3. A county that borders a state other than Nebraska or South Dakota.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

261—71.3(403) Application process and review.

71.3(1) Application. The department shall develop a standardized application and make the application available to eligible cities. The application procedures are as follows:

a. An eligible city seeking approval as a pilot project city will submit an application to the department. The department shall determine if the application is complete.

b. The department will review the application and consider the following criteria:

(1) Need for pilot project status. The city shall demonstrate why status as a pilot project city is necessary, including how the city will utilize the program to attract and retain employers.

(2) Planned and current projects. The city shall provide information on planned and current economic development projects that are taking place or will take place in an urban renewal area. The

city shall demonstrate its ability to enter into a withholding agreement with an eligible business within one year of the city's approval as a pilot project city.

(3) Use of withholding funds. If approved as a pilot project city, the city shall indicate how the city plans to utilize withholding funds generated from the program. The city shall provide an estimate of the number of withholding agreements the city anticipates executing, the amount of withholding funds the city expects to generate as a result of the program, and the investment to be leveraged by use of the program.

(4) Urban renewal areas. The city shall identify the number of urban renewal areas in the city and the location of the urban renewal areas where withholding funds may be utilized.

(5) Matching funds. The city shall identify its ability to provide matching funds for projects involving withholding credits, including the potential sources of matching funds.

c. A resolution of support from the city applying for approval as a pilot project city is required as part of the application. This resolution shall include approval of the submission of the application to the department for status as a pilot project city.

d. The department may request additional information from a city that is applying for pilot project city status or may use other resources to obtain the needed information.

e. Applications filed on or after October 1, 2006, shall not be considered.

71.3(2) Approval of applications. The department shall approve four eligible pilot project cities: one pursuant to 71.2“1,” one pursuant to 71.2“2,” and two pursuant to 71.2“3.” If more than two cities meeting the requirements of 71.2“3” apply to be designated as a pilot project city, the department of management, in consultation with the department, shall determine which two cities hold the most potential to create new jobs or generate the greatest capital in their areas. Department staff will prepare a recommendation for each of the cities to be approved as pilot project cities. The board will make the final decision to approve, defer or deny applications. Once applications are approved by the board, all communities applying for pilot project city status will be notified of the status of their applications.

71.3(3) Status as a pilot project city. If a pilot project city does not enter into a withholding agreement within one year of its approval as a pilot project city, the city shall lose its status as a pilot project city. Upon such occurrence, the department shall take applications from other eligible cities to replace that city. Another city shall be designated within six months.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

261—71.4(403) Withholding agreements.

71.4(1) Designated account. An approved pilot project city may provide by city ordinance for a designated account for the deposit of funds generated through withholding agreements under the targeted jobs withholding tax credit program.

71.4(2) Entering into an agreement. A pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in an urban renewal area. The pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating at least ten new jobs or making a qualifying investment of at least \$500,000 within the urban renewal area. The total award amount of withholding tax credits cannot exceed the total amount of land and site preparation costs and capital investment of depreciable assets in the project. A business shall not be obligated to enter into a withholding agreement with a pilot project city. A pilot project city shall not enter into a withholding agreement with a business after June 30, 2010.

71.4(3) Required components of a withholding agreement. A withholding agreement shall be disclosed to the public and shall contain all of the following:

a. A copy of the adopted development agreement between the pilot project city and employer, including how withholding funds generated by the city will be used.

b. A list of all other incentives or financial assistance the business has requested or is receiving from other federal, state, or local economic development programs including loans, grants, forgivable loans, and tax credits.

c. The amount of assistance provided by the pilot project city for the project.

d. Documentation of the approval of the project by local participating authorities.

71.4(4) *Length of withholding agreements.* A withholding agreement may have a term of up to ten years.

71.4(5) *Withholding generated through the program.*

a. Once a pilot project city and an employer have entered into a withholding agreement, an amount equal to 3 percent of the gross wages paid by the business to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to Iowa Code Supplement section 422.16. If the amount of withholding by the employer is less than 3 percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever occurs first.

b. The employer shall submit the amount of the credit quarterly, in the same manner as withholding payments are made to the department of revenue, to the pilot project city.

c. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld under the targeted jobs withholding tax credit program as provided in Iowa Code Supplement section 422.16.

71.4(6) *Use of withholding funds.* A pilot project city shall allocate the withholding funds into a designated account in the special fund for the urban renewal area in which the targeted jobs are located. All funds deposited shall be used or pledged by the pilot project city for an urban renewal project related to the employer pursuant to the withholding agreement.

71.4(7) *Local match requirement.* A pilot project city entering into a withholding agreement shall arrange for a match of at least one dollar for each withholding dollar received by the city. The local match may come from the pilot project city, a private donor, or the employer or a combination of the three. Local matches may be in the form of cash or in-kind contributions to be used for the project. Additionally, the pilot project city is required to provide local financial support to the project in one of the two following forms or their equivalent values:

a. Tax abatement for the project, as provided under Iowa Code chapter 427B.

b. Local participation in the form of a cash grant or in-kind grant that is equal to the value of tax abatement under Iowa Code chapter 427B, under the established five-year sliding scale, or 10 percent of the total award amount of withholding tax credits, whichever is less.

71.4(8) *Termination of a withholding agreement.* Following the termination of a withholding agreement, the employer credits shall cease and any funds received by the pilot project city after the agreement has been terminated shall be remitted to the state treasurer to be deposited in the general fund of the state. The pilot project city shall notify the department of revenue and the department of economic development within 30 days of the termination of the withholding agreement. If the employer does not meet the requirements of the withholding agreement, the agreement shall be terminated and any withholding credits for the employer shall cease. If the employer has created or retained the required number of new jobs under the agreement, and the number of jobs falls below the required level, the employer shall not be considered in default until 18 months after the date of the decrease in new jobs.

71.4(9) *Participation in other programs.* An employer may participate in the Iowa industrial new jobs training program under Iowa Code Supplement section 260E.5 or may claim a supplemental withholding credit under Iowa Code Supplement section 15E.197, at the same time the employer is participating in the targeted jobs withholding tax credit program. The withholding credit under section 260E.5 and the supplemental withholding credit under section 15E.197 shall be collected and disbursed prior to the collection and disbursement of the withholding credit under the targeted jobs withholding tax credit program.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

261—71.5(403) Project approval.

71.5(1) *Application for project approval.*

a. Prior to entering into a withholding agreement with an employer, a pilot project city must receive approval from the department. The department shall develop a standardized application for

project approval and shall make the application available to eligible pilot project cities. The application for project approval shall include, but not be limited to, the following information regarding a project:

(1) A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.

(2) Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.

(3) A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the city will receive from the project.

(4) A copy of the withholding agreement to be entered into between the city and the employer.

(5) A letter or resolution of support from the local government showing support for the project.

b. Applications for project approval for the targeted jobs withholding tax credit program may be submitted at any time. The department will review applications for projects in as timely a manner as possible. All applications will be presented to the IDED board for comment prior to the department's approval. A pilot project city will be notified in writing of the department's decision regarding the project.

71.5(2) *Certification to the department of revenue.*

a. The employer shall certify to the department of revenue that the targeted jobs withholding tax credit is in accordance with the withholding agreement and shall provide other information the department of revenue may require.

b. A pilot project city shall certify to the department of revenue the amount of the targeted jobs withholding tax credit an employer has remitted to the city and shall provide other information the department of revenue may require.

c. Notice of any withholding agreement shall be provided promptly to the department of revenue following its execution between a pilot project city and an employer.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

261—71.6(403) Reporting requirements.

71.6(1) *Required reports.*

a. At the time the pilot project city submits its budget to the department of management, the pilot project city shall submit to the department of management and the department a description of the activities involving the use of withholding agreements. The description shall include, but not be limited to, the following:

(1) The total number of targeted jobs associated with withholding agreements and the wages of those targeted jobs.

(2) A breakdown of the number of targeted jobs that are associated with Iowa business expansions or retentions within the city limits of the pilot project city and the number of targeted jobs resulting from out-of-state businesses moving to or expanding in Iowa.

(3) The number of withholding agreements and the amount of withholding credits associated with those agreements.

(4) The types of businesses that entered into withholding agreements with the city and the types of businesses that declined the city's proposal to enter into a withholding agreement with the city.

b. The department may request additional reports from pilot project cities as necessary to determine the status of the targeted jobs withholding tax credit program.

71.6(2) *Annual report.* The department shall prepare an annual report for the governor, the general assembly, and the legislative services agency on the targeted jobs withholding tax credit program. This report shall be due on January 31 of each year. The report shall include but not be limited to the following:

a. The amount of withholding funds each project received.

b. The number of new and retained jobs resulting from the program.

c. The average wage of jobs resulting from the program.

d. An evaluation of the investment made by the state, including but not limited to the terms in paragraphs "a" to "c" of this subrule.

[ARC 7561B, IAB 2/11/09, effective 3/18/09 (See Delay note at end of chapter)]

These rules are intended to implement Iowa Code section 403.19A.

[Filed emergency 7/19/06—published 8/16/06, effective 7/19/06]

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[Filed ARC 7561B (Notice ARC 7249B, IAB 10/8/08), IAB 2/11/09, effective 3/18/09]¹

[Editorial change: IAC Supplement 3/25/09]

¹ The March 18, 2009, effective date of **ARC 7561B** was delayed 70 days by the Administrative Rules Review Committee at its meeting held March 6, 2009.

CHAPTER 4
CAMPAIGN DISCLOSURE PROCEDURES

[Prior to 9/9/87, Campaign Finance Disclosure[190] Ch 4]
[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 4]

DIVISION I
ORGANIZATIONAL REQUIREMENTS

351—4.1(68A,68B) Requirement to file statement of organization (DR-1)—persons subject to requirements; financial thresholds; where to file; when due.

4.1(1) *Persons subject to requirement.* Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be either typewritten or printed legibly in black ink.

a. "Committee" defined. "Committee" includes the following:

(1) A "candidate's committee" that is the committee, even if the committee consists only of the candidate, designated by a candidate for a state or local office to receive contributions, make expenditures, or incur debts in excess of \$750.

(2) A "political committee" (PAC) that is a committee exceeding the \$750 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue. The board shall automatically classify as a political committee any political organization that loses its status as a political party because it fails to meet the requirements of Iowa Code section 43.2. The board shall automatically classify as a political committee any county central committee that operated under the former political party.

(3) A "state statutory political committee" (state party), "county statutory political party" (county central committee), or "city statutory political committee" (city central committee).

(4) A person that wishes to register a committee for purposes of using the short form "paid for by" attribution statement shall file Form DR-SFA pursuant to rule 351—4.11(68A).

b. When organization occurs; financial thresholds. At the latest, organization is construed to have occurred as of the date that the committee first exceeded \$750 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

c. Permanent organizations temporarily engaging in political activity. The requirement to file the statement of organization applies to an entity that comes under the definition of a "political committee" (PAC) in Iowa Code Supplement section 68A.102(18) by receiving contributions, making expenditures, or incurring debts in excess of \$750 in any one calendar year for the purpose of expressly advocating the election or defeat of a candidate for public office, or for the purpose of expressly advocating the passage or defeat of a ballot issue. A permanent organization that makes a one-time contribution in excess of \$750 may in lieu of filing a statement of organization follow the procedure in rule 351—4.35(68A). A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

4.1(2) *Place of filing.* Statements of organization shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Statements may also be filed by fax at (515)281-3701 or filed electronically through the board's Web site at www.iowa.gov/ethics.

4.1(3) *Time of filing.* A statement of organization shall be filed with the board within ten days after the financial filing threshold in subrule 4.1(1) has been exceeded. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed statements must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

4.1(4) *Candidate defined.* For purposes of Iowa Code chapters 68A and 68B and the rules of the board, "candidate" means an individual who takes affirmative action to seek nomination or election to a state or local public office. For purposes of Iowa Code chapter 68A and any rules of the board on

campaigning for public office, “candidate” includes any judge or judicial employee who is required by law to stand for retention. “Takes affirmative action” includes making a public announcement of intention to seek nomination or election, making any expenditure or accepting any contribution for nomination or election, distributing petitions for signatures for nomination, filing nomination papers or an affidavit of candidacy, or being nominated by any convention process set out by law.

4.1(5) *Ballot issue defined.* “Ballot issue” means a question that has been approved by a political subdivision or the general assembly to be placed before the voters or is otherwise required by law to be placed before the voters. “Ballot issue” does not include the nomination, election, or defeat of a candidate.

This rule is intended to implement Iowa Code Supplement sections 68A.201 and 68A.401.

351—4.2(68A,68B) Information required: committee name.

4.2(1) *Full name required.* The statement of organization shall include the full name of the committee. A committee using an abbreviation or acronym as part of the committee name shall provide with the statement of organization a written explanation of the full word or words that are abbreviated or that form the acronym.

4.2(2) *Duplication of name prohibited.* The committee name shall not duplicate the name of another committee organized under Iowa Code chapter 68A. The board shall determine whether two committee names are in duplication in violation of Iowa Code section 68A.201(2)“a.” A committee duplicating the name of another organized committee shall choose a new committee name upon notification from the board. A candidate who files an amended statement of organization to reflect a change in office sought shall not be required to change the name of the candidate’s committee unless the committee’s name duplicates the name of another organized committee. A committee shall not duplicate the name of a dissolved committee for a period of ten years after the dissolved committee is certified as being dissolved except when the candidate for both committees is the same individual.

4.2(3) *Candidate’s surname required in committee name.* A candidate filing a statement of organization on or after July 1, 1995, shall include the candidate’s surname within the committee name. This requirement also applies to a new candidate’s committee organized by a candidate who has a preexisting candidate’s committee but who organizes a new candidate’s committee or files an amended statement of organization.

This rule is intended to implement Iowa Code Supplement section 68A.201.
[ARC 7646B, IAB 3/25/09, effective 4/29/09]

351—4.3(68A,68B) Information required: committee purpose; party affiliation.

4.3(1) *Committee purpose.* An organized campaign committee shall identify the purpose of the committee on the statement of organization. The purpose shall be indicated in part by designating the committee as one of the following types of committees:

Type 1 - A candidate’s committee for a statewide or legislative candidate or a judge standing for retention. This type of committee is referred to as a state candidate’s committee.

Type 2 - A political committee that expressly advocates for or against candidates at the state level or expressly advocates for or against a statewide ballot issue. This type of committee is referred to as a statewide PAC.

Type 3 - A state statutory political committee. This type of committee is referred to as a state party.

Type 4 - A county statutory political committee. This type of committee is referred to as a county central committee.

Type 5 - A candidate’s committee for a candidate seeking county office. This type of committee is referred to as a county candidate’s committee.

Type 6 - A candidate’s committee for a candidate seeking city office. This type of committee is referred to as a city candidate’s committee.

Type 7 - A candidate’s committee for a candidate seeking school board or other political subdivision office except for a county or city office. This type of committee is referred to as a school board or other political subdivision candidate’s committee.

Type 8 - A political committee that expressly advocates for or against candidates for county office. This type of committee is referred to as a county PAC.

Type 9 - A political committee that expressly advocates for or against candidates for city office. This type of committee is referred to as a city PAC.

Type 10 - A political committee that expressly advocates for or against candidates for school board or other political subdivision except for county or city candidates. This type of committee is referred to as a school board or other political subdivision PAC.

Type 11 - A political committee that expressly advocates for the passage or defeat of a ballot issue, franchise election, or referendum conducted for a county, city, school, or other political subdivision ballot question. This type of committee is referred to as a local ballot issue committee.

4.3(2) Party affiliation. A candidate's committee is deemed to be established to expressly advocate the election of a candidate for public office. Each candidate's committee shall designate the political affiliation of the candidate. Any other committee shall designate that it is either established to expressly advocate the election or defeat of candidates or the passage or defeat of a ballot issue.

This rule is intended to implement Iowa Code Supplement section 68A.201.

351—4.4(68A,68B) Information required: officers; committee information; signatures.

4.4(1) Committee officers. The committee shall disclose on the statement of organization the name, mailing address, telephone number, and office of each committee officer whom the committee is required by statute to appoint. Each candidate's committee shall appoint a treasurer who shall be an Iowa resident and at least 18 years of age. Every other committee shall appoint a separate treasurer and chairperson, each of whom shall be at least 18 years of age. The committee may appoint other officers not required by statute without restriction on residency or age, and the committee is not required to disclose these officers. Except for a candidate's committee, every committee shall either have an Iowa resident as treasurer or shall maintain all of the committee's funds in bank accounts in a financial institution in Iowa.

4.4(2) Committee address and telephone number. The address and telephone number of the candidate as indicated on the statement of organization shall be the official address and telephone number to be used for communication from the board to the candidate's committee. The address and telephone number of the committee chairperson as indicated on the statement of organization shall be the official address and telephone number to be used for communication from the board to every other committee except for a candidate's committee. If an electronic mail address has been provided on the statement of organization, communication from the board to a committee shall be sent by electronic mail.

4.4(3) Signatures. The candidate and treasurer shall sign the statement of organization filed by a candidate's committee. The chairperson and treasurer shall sign a statement of organization filed by any other type of committee. A statement of organization filed electronically using the board's Web site is deemed signed when filed.

This rule is intended to implement Iowa Code Supplement section 68A.201.

351—4.5(68A,68B) Segregation and timely deposit of funds; information required: identification of financial institution, account name; notice to treasurer.

4.5(1) Segregation and deposit of funds. All committee funds shall be maintained in a financial institution and shall be segregated from any other funds held by a candidate, officer, member, or associate of the committee. The committee treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee.

4.5(2) Exception from segregation of committee funds. A candidate's committee that receives contributions only from the candidate is not required to maintain a separate account. A permanent organization temporarily engaging in activity that qualifies it as a political committee that uses existing general operating funds and does not solicit or receive funds from other sources for campaign purposes is not required to maintain a separate account.

4.5(3) Identification of financial institution and account. The committee shall disclose on the committee's statement of organization the name and mailing address of all financial institutions in

which committee funds are maintained. The committee shall also disclose the name and type of all accounts in which committee funds are maintained, and the name of any such account shall be the same as the committee name on the statement of organization.

4.5(4) Notice to treasurer. Any person who receives contributions for a committee shall render the contributions to the treasurer within 15 days of receipt and provide the committee treasurer with the reporting information required by Iowa Code Supplement section 68A.203(2).

This rule is intended to implement Iowa Code Supplement sections 68A.201 and 68A.203.

351—4.6(68A,68B) Amendments to statement of organization; requirement for new statement of organization for new office sought.

4.6(1) Amendment within 30 days. If there is a change in any of the information disclosed on a statement of organization, the committee shall file an amended statement within 30 days of the change. An amended statement of organization shall be filed with the board and the board shall make available to the appropriate county commissioner of elections an amended statement filed by a county, city, school, or other political subdivision committee.

4.6(2) New office sought. A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate filing an amended statement of organization for a new office shall continue to file the required campaign reports regardless of whether the \$750 financial filing threshold for the new office has been exceeded. A candidate who has filed a statement of organization for one office and who then exceeds the financial activity threshold as set forth in Iowa Code section 68A.102(5) for a new office shall, within ten days of exceeding the threshold, file either an amended statement of organization disclosing information for the new office sought or organize and register a new committee.

This rule is intended to implement Iowa Code Supplement section 68A.201.

DIVISION II
REPORTING AND FINANCIAL TRANSACTION REQUIREMENTS

351—4.7(68A,68B) Disclosure reporting required; information on initial report; minimum filing if no activity.

4.7(1) Disclosure reporting required. Every committee that has filed a statement of organization under Iowa Code section 68A.201 and rule 351—4.1(68A,68B) or has exceeded the financial activity threshold set out in Iowa Code section 68A.102(5) or (18) prior to the cutoff date for reporting campaign transactions shall file a campaign disclosure report pursuant to Iowa Code section 68A.402.

4.7(2) Information on initial report. The first disclosure report filed by a committee shall include the relevant financial information covering the period from the beginning of the committee's financial activity through the end of the current reporting period.

4.7(3) Funds available from prior committee. If funds are available to a candidate's committee from a prior candidacy of that candidate, or to a ballot issue committee from a prior effort on a ballot issue, and the prior candidacy or effort had not exceeded the financial reporting threshold, the carryover balance shall be disclosed by the new committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover, the date of the prior election, and the name and address of any source that made contributions to the candidacy or ballot effort that totaled more than \$750 during the preceding three calendar years.

4.7(4) Funds available from preballot issue activity. Funds that are raised for an activity that is not included in the definition of a ballot issue in Iowa Code Supplement section 68A.102(1) and that are made available to a subsequent ballot issue committee shall be disclosed by the committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover balance, the date of the preballot issue activity, and the name and address of any source that made contributions to the activity that totaled more than \$750 during the previous three calendar years.

4.7(5) *No financial activity during reporting period.* A committee that did not have any financial activity during the relevant reporting period for which a disclosure report is due shall be required to file only Form DR-2. However, if the committee had previously disclosed debts or loans, those obligations shall again be disclosed on either Schedule D - Incurred Indebtedness or Schedule F - Loans Received and Repaid, as appropriate, and the schedule or schedules shall be included with Form DR-2. A candidate's committee that has reportable campaign property under Iowa Code Supplement section 68A.304 shall disclose the property on Schedule H - Campaign Property and the schedule shall be included with Form DR-2.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.8(68A,68B) Disclosure reporting required—where reports filed.

4.8(1) *Place of filing.* Disclosure reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-4073, as an E-mail attachment, or electronically through the board's Web site at www.iowa.gov/ethics.

4.8(2) *Reports made available.* The board shall post on its Web site at www.iowa.gov/ethics all statements and reports filed under Iowa Code chapter 68A.

4.8(3) *Records retention.* The board shall maintain and retain all statements and reports filed under Iowa Code chapter 68A under the applicable provisions of Iowa Code chapter 305.

This rule is intended to implement Iowa Code section 68A.401 as amended by 2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1.

351—4.9(68A) Campaign disclosure report due dates.

4.9(1) *Statewide office, general assembly, judge standing for retention.* A candidate's committee of a candidate for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 or Wednesday preceding primary election* through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 or Wednesday preceding general election* through December 31 of election year

b. Supplementary report.

<u>Report due</u>	<u>Covering period</u>
Friday preceding primary election*	May 15 through Tuesday preceding primary election*
Friday preceding general election*	October 15 through Tuesday preceding general election*

*If supplementary report required. See subrule 4.9(2).

c. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

d. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

*This report is in addition to the election year reports required under paragraph 4.9(1) "a."

4.9(2) Statewide office or general assembly—supplementary reports. In addition to reports required under subrule 4.9(1), a supplementary report is required if contributions received during the period beginning on the date of initial financial activity, or the day after the period covered by the last report, as applicable, through the Tuesday preceding the primary or general election equal or exceed the following thresholds:

<u>Office sought</u>	<u>Contribution threshold</u>
Governor	\$10,000 or more
Other statewide office	\$5,000 or more
General assembly	\$1,000 or more

4.9(3) County candidate. A candidate's committee of a candidate for county office shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

*This report is in addition to the election year reports required under paragraph 4.9(3) "a."

4.9(4) City candidate. A candidate's committee of a candidate for city office shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before the runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

*If a runoff election is held.

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election
*This report is in addition to the election year reports required under paragraph 4.9(4) "a."	

4.9(5) School board or other political subdivision. A candidate's committee of a candidate for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election
*This report is in addition to the election year reports required under paragraph 4.9(5) "a."	

4.9(6) State statutory political committee (state political party). A committee defined in Iowa Code Supplement section 68A.102(22) as a state statutory political committee shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(7) County statutory political committee (county central committee). A committee defined as a county statutory political committee in Iowa Code Supplement section 68A.102(12) shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(8) State political committee (state PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
July 19	January 1 through June 30
January 19 (next calendar year)	July 1 through December 31

4.9(9) County political committee (county PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for county office shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(10) City political committee (city PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for city office shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

*If a runoff election is held.

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(11) *School board or other political subdivision political committee (school board or other local PAC).* A political committee expressly advocating the nomination, election, or defeat of candidates for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(12) *Statewide or local ballot issue committee (ballot issue PAC).* A committee expressly advocating the passage or defeat of a statewide or local ballot issue shall file campaign disclosure reports as follows:

a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity or previous report through ten days before election
May 19	Date of initial activity or previous report through May 14
July 19	Date of initial activity or previous report through July 14
October 19	Date of initial activity or previous report through October 14
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

4.9(13) *Permanent organizations.* A permanent organization temporarily engaging in political activity as described in Iowa Code Supplement section 68A.102(18) shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The committee shall file reports on the applicable due dates as required by this rule. The reports shall identify the source of the original funds used for a contribution made to a candidate or a candidate's committee. When the permanent organization ceases to be involved in the political activity, the permanent organization shall dissolve the political committee. "Permanent organization" means an organization that is continuing, stable, and enduring, and was originally organized for purposes other than engaging in election activities.

4.9(14) *Election year defined.* "Election year" means a year in which the name of the candidate or ballot issue appears on a ballot to be voted on by the electors of the state of Iowa. For state and county statutory political committees, "election year" means a year in which primary and general elections are held.

This rule is intended to implement Iowa Code section 68A.402.

351—4.10(68A,68B) Time of filing. A report must be physically received by the board or, if mailed, shall bear a United States Postal Service postmark dated on or before the report due date. Faxed,

E-mailed, or electronically filed reports must be submitted on or before 11:59 p.m. of the report due date. However, as provided in Iowa Code Supplement section 68A.402 as amended by 2008 Iowa Acts, Senate File 2400, sections 24 and 28, any report that is required to be filed five days or less prior to an election must be physically received by the board prior to 4:30 p.m. on the report due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the first working day when the board office is open.

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by 2008 Iowa Acts, Senate File 2400, sections 24 and 28.

351—4.11(68A) Voluntary registration—Form DR-SFA.

4.11(1) *Persons voluntarily registering a committee.* A person that has not exceeded the \$750 financial filing threshold may file Form DR-SFA for purposes of using the short form “paid for by” attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). A person using the short form “paid for by” attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form “paid for by” attribution statement.

4.11(2) *\$750 threshold later exceeded.* A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the \$750 threshold is later exceeded. A person that later exceeds the \$750 threshold and that fails to timely file a statement of organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

This rule is intended to implement Iowa Code sections 68A.201 and 68A.405.

351—4.12(68A,68B) Exception from reporting requirement—reports due within five days of one another. When two disclosure reports are due from the same committee within five days of each other, the activity may be combined into one report. A committee choosing this option shall file a report on or before the second due date that covers the extended reporting period.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.13(68A,68B) Report forms—summary page (DR-2) and supporting schedules. The board may require committees to submit relevant information not specifically delineated in Iowa Code Supplement chapter 68A on their disclosure report where the report form asks for and leaves space for information. All information shall be pertinent to the duties of the board.

4.13(1) *Official reporting forms.* The disclosure reporting forms provided by the board shall be the official forms on which the disclosure reports shall be submitted. Machine copies of original report forms are acceptable. The standard forms for campaign disclosure reports are:

- DR-2 — Disclosure Summary Page
- Schedule A — Monetary Receipts
- Schedule B — Monetary Expenditures
- Schedule C — (Reserved)
- Schedule D — Incurred Indebtedness
- Schedule E — In-kind Contributions
- Schedule F — Loans Received and Repaid
- Schedule G — Consultant Activity
- Schedule H — Campaign Property

4.13(2) *Computer-generated reports.* Committees may generate a disclosure report in lieu of using a board-approved paper report or the board’s electronic filing system so long as the generated report contains the same information and is in the same basic format as a board-approved paper report. Committees generating their own reports must submit the reports for prior board approval before use.

4.13(3) *Typewritten or legible ink reports required.* Information which is provided on all forms shall be either typewritten or printed legibly in black ink. Approved computer-generated reports satisfy this requirement.

4.13(4) *Special information required for city, school, or local ballot issue elections.* Committees expressly advocating the election or defeat of a candidate for city or school public office, or expressly advocating the passage or defeat of a local ballot issue, shall indicate in the designated spaces on the report summary page the date that the election is to be held, the period covered by the disclosure report, and the control county responsible for conducting the election.

4.13(5) *Signature on DR-2 Report Summary Page.* A disclosure report shall be signed by the individual filing the report. A disclosure report filed electronically using the board's Web site is deemed signed when filed.

This rule is intended to implement Iowa Code Supplement sections 68A.402 and 68A.403.

351—4.14(68A,68B) Schedule A - Monetary Receipts.

4.14(1) *Reporting of all monetary receipts; chronological listing.* The committee shall report the amounts of all monetary receipts which are accepted by the committee during the reporting period. If a contribution is returned to a contributor prior to the end of the reporting period and is not deposited into the committee's bank account, the contribution is deemed to have been rejected and shall not be reported. A contribution which is physically received and either deposited into the committee's account or not returned by the end of the reporting period is deemed to have been accepted. The schedule entries shall be listed in chronological order by the date on which the contribution is received.

4.14(2) *Date of contribution—date received.* The schedule shall include the complete date (month/day/year) that the contribution was physically received by a person on behalf of the committee. If the contribution is by check, the date of the contribution to be reported is the date the check is physically received by a person on behalf of the committee, even if this date is different from the date shown on the check. For contributions received by mail, the date of the contribution to be reported shall be the date that the recipient physically opens the envelope.

4.14(3) *Name and address of contributor; joint accounts.* The schedule shall include the name and address of each person who has made one or more contributions of money to the committee if the aggregate amount of contributions (either monetary or in-kind) received from that person in the calendar year exceeds \$25, except that the itemization threshold is \$200 for a state statutory political committee and \$50 for a county statutory political committee. In the case of a contribution by check, the contributor name on the disclosure report shall be the name shown as the account name on the account, except that if the check is on a joint account, the contribution shall be presumed to be from the person who signs the check. If the committee chooses to itemize contributions that are less than the required itemization threshold, it may do so, but shall either do so for all contributions or none of the contributions under the threshold.

4.14(4) *Unitemized contributions and freewill donations.* If the committee does not choose to itemize all contributions under the itemization threshold (\$25 for most committees, see Iowa Code Supplement section 68A.402(3) "b"), it shall aggregate these contributions and report the aggregate amount as "unitemized contributions." No date received is required to be provided for miscellaneous unitemized contributions. Unitemized contributions may be solicited and received through a freewill donation such as a "fish bowl" or "pass the hat" collection if the collection is in compliance with rule 351—4.30(68A,68B). Unitemized contributions collected through freewill donations (the net amount of the collection after the itemization of those persons whose contributions of more than \$10 in the freewill collection resulted in exceeding the annual itemization threshold) shall be reported by showing the net amount as "unitemized contributions—pass the hat (or can collection or fish bowl, for example) collection." The "date received" to be reported for a freewill donation is the date a representative of the committee takes possession of the proceeds of the collection.

4.14(5) *Relationship to candidate.* In the case of contributions to candidates' committees, the schedule shall include information indicating whether the contributor is related to the candidate within the third degree of consanguinity or affinity. "Consanguinity" means a relative through descent from common ancestors (by blood). "Affinity" means a relative through a current marriage. A husband has the same relation, by affinity, to his wife's blood relatives as she has to them by consanguinity and vice versa. "Degree of kinship" is determined by counting upward from one of the persons in question to the

nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line. Under this rule, a woman's sister is related to her by consanguinity in the second degree. The sister is thus related to the woman's husband by affinity in the second degree. Other examples of relationships within the third degree between a contributor and a candidate would be the following: children and stepchildren (first degree); siblings and half-siblings (second degree); grandparents (second degree); grandchildren (second degree); aunts and uncles (third degree); nieces and nephews (third degree); great-grandparents (third degree) and great-grandchildren (third degree), all irrespective of whether the blood relationship is to the candidate or to the candidate's spouse.

4.14(6) ID number and check number. If a contribution to a statewide or general assembly candidate or a judge standing for retention is from a statewide political committee (PAC) or a state party committee, the candidate receiving the contribution shall include on the candidate's disclosure report the board-assigned identification number of the contributing committee and the check number by which the contribution was made. A list of ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

4.14(7) Fund-raiser income. Contributions arising from the sale of goods or services at a fund-raising event shall be designated by marking the indicated space on the schedule.

4.14(8) Interest and other monetary receipts other than contributions. If the monetary receipt is not a "contribution," the name and address of the source of the funds shall be identified in the space provided for the name and address of "contributor," with a notation as to the purpose of the payment, such as "bank interest."

4.14(9) Reverse entries—refunds. If a committee determines to decline or otherwise return a contribution after it has been received, accepted, and deposited, the committee may issue a refund to the contributor, which shall be reported on Schedule A as a reverse entry, reducing the monetary receipts.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.15(68A,68B) Schedule B - Monetary Expenditures.

4.15(1) Date expended. The committee shall report the amounts of all itemized expenditures (expenditures of \$5 or more) made by the committee for the reporting period chronologically by the date expended. The date of the expenditure is the date the check is issued. The complete date (month/day/year) shall be provided.

4.15(2) Name and address of recipient. The schedule shall include the name and address of each person to whom disbursements, other than loan repayments, were made during the reporting period. (Loan repayments shall be reported on Schedule F.)

4.15(3) Purpose of expenditure. The schedule shall include a description of the purpose of each disbursement. The description shall be a clear and concise statement that specifically describes the transaction which has occurred. The following general terms are examples of descriptions which are not acceptable: "expenses," "reimbursement," "candidate expense," "services," "supplies," and "miscellaneous expense." The following are examples of acceptable descriptions: "printing—candidate yard signs," "printing—PAC membership solicitation letter," "mailing—candidate brochures," "reimbursement for candidate lodging to attend campaign event," or "mileage reimbursement—150 miles @ 25¢ per mile." A combined description is not acceptable unless sufficient information is provided so that the cost of separate purposes can be discerned, for example, "printing and mailing of 1,000 brochures."

4.15(4) Miscellaneous (unitemized) expenses. Notwithstanding the other provisions of this rule, disbursements of less than \$5 may be shown as miscellaneous disbursements or expenses for the period so long as the aggregate miscellaneous disbursements to any one person during a calendar year do not exceed \$100.

4.15(5) Candidate ID number and committee check number. If a contribution is made by a statewide political committee (PAC) or a state party committee to a statewide or general assembly candidate or a judge standing for retention, the committee making the contribution shall include on the committee's disclosure report the board-assigned identification number of the recipient candidate's committee and

the check number by which the contribution was made. A list of candidate ID numbers may be obtained from the board and is also available on the board's Web site at www.iowa.gov/ethics.

4.15(6) *Check transactions required.* All disbursements, including all expenditures and any other withdrawals from committee funds, shall be by check. Cash withdrawals and "petty cash" accounts are not permitted. Committees' activities which necessitate cash drawers or other cash transactions shall be conducted and reported as provided by rule 351—4.36(68A,68B).

4.15(7) *Reverse entries—refunds.* If a committee receives a refund of all or part of a disbursement previously made, the committee shall report the refund on Schedule B as a reverse entry, reducing the monetary expenditures. The purpose should include an explanation as to why the refund was made.

4.15(8) *Interest paid; bank charges.* Although repayments of loan principal are reported on Schedule F (see rule 351—4.18(68A,68B)), interest payments on loans shall be reported on Schedule B. Bank service charges and fees (e.g., monthly service fees, costs for check printing, returned check charges) shall also be reported and identified on Schedule B.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.16(68A,68B) Schedule D - Incurred Indebtedness.

4.16(1) *Reporting of debts and obligations other than monetary loans.* The committee shall report all debts and obligations owed by the committee which are in excess of the thresholds in subrule 4.14(3). This applies to any unpaid debt or obligations incurred by the committee for the purchase of a good or service, either as a debt or obligation owed to the immediate provider of the good or service, or as a debt or obligation owed to an individual who initially personally paid for the good or service on behalf of the committee with the expectation of ultimately receiving reimbursement from the committee. However, monetary loans to the committee (which are deposited directly into the committee's account) shall be reported on Schedule F, not on Schedule D.

4.16(2) *Date incurred; balance owed.* The committee shall report the amounts of all indebtedness owed by the committee at the end of the reporting period, reported chronologically by the date incurred. The date the debt or obligation is incurred is the date on which the committee committed to obtaining the good or service underlying the obligation. This date may be earlier than the date the provider of the good or service issues a bill to the committee. For example, if the committee places a printing order, but the printer does not issue a bill until some time after the order is placed, the date which shall be reported as the date the debt was incurred is the date the order is placed, not the date the bill was issued. If the precise amount of the final bill is not known by the time the report is due, the committee shall provide its best estimate as to what the obligation will be, with an indication "(e)" that the amount reported is an estimate. The complete date (month/day/year) shall be provided. Debts and obligations incurred and reported in a prior reporting period but which remain unpaid as of the end of the current reporting period shall be included, showing the remaining balance on the obligation, as well as any new obligations incurred in the current reporting period. Payments of all or part of a previously reported obligation shall be reported as expenditures on Schedule B.

4.16(3) *Name and address of person to whom the debt or obligation is owed.* The schedule shall contain the name and address of each person to whom an obligation is owed, including both those obligations which were incurred during the reporting period and those outstanding obligations which are being carried forward from prior reports. If the obligation is owed to an individual who initially personally paid for the good or service on behalf of the committee with the expectation of ultimately receiving reimbursement from the committee, the original nature of the obligation shall be provided; the name and address of the original provider of the good or service shall also be provided, unless the nature of the obligation indicates that the obligation is for the anticipated reimbursement for mileage or postage stamps.

4.16(4) *Nature of obligation.* The schedule shall include a description of the nature of each obligation. The description shall be a clear and concise statement that specifically describes the transaction which has occurred. The following general terms are examples of descriptions which are not acceptable: "expenses," "reimbursement," "candidate expense," "services," "supplies," and "miscellaneous expense." The following are examples of acceptable descriptions: "printing—candidate

yard signs,” “printing—PAC membership solicitation letter,” “mailing—candidate brochures,” “anticipated reimbursement for candidate lodging to attend campaign event,” or “anticipated mileage reimbursement—150 miles @ 25¢ per mile.” A combined description is not acceptable unless sufficient information is provided so that the cost of separate purposes can be discerned, for example, “printing and mailing of 1,000 brochures.”

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.17(68A,68B) Schedule E - In-kind Contributions.

4.17(1) *Reporting of all in-kind contributions; chronological listing.* The committee shall report the amounts of all in-kind contributions which are accepted by the committee during the reporting period. The schedule entries shall be listed in chronological order by the date on which the contribution is received.

4.17(2) *Date of contribution—date received.* The schedule shall include the complete date (month/day/year) on which the in-kind contribution was physically received by a person on behalf of the committee.

4.17(3) *Name and address of contributor.* The schedule shall include the name and address of each person who has made one or more in-kind contributions to the committee if the aggregate amount of contributions (either monetary or in-kind) received from that person in the calendar year exceeds \$25, except that the itemization threshold is \$200 for a state statutory political committee and \$50 for a county statutory political committee.

4.17(4) *Relationship to candidate.* In the case of in-kind contributions to candidates’ committees, the schedule shall include information indicating whether the contributor is related to the candidate within the third degree of consanguinity or affinity, as defined in subrule 4.14(5).

4.17(5) *Description of in-kind contribution; loaned equipment as in-kind contribution.*

a. The schedule shall include a description of the good or service contributed to the committee in kind. The description shall be a clear and concise statement that specifically describes the transaction which has occurred.

b. A committee’s use of equipment owned by another organization, committee, or individual is reportable as an in-kind contribution. Equipment includes, but is not limited to, typewriters, calculators, copy machines, office furniture, computers and printers.

4.17(6) *Fair market value.* The committee shall provide either the actual (if known) or estimated fair market value of the good or service received.

4.17(7) *Fund-raiser item.* Goods or services contributed in kind for sale at a fund-raising event shall be designated by marking the indicated space on the schedule.

4.17(8) *Unitemized contributions.* Notwithstanding the other provisions of this rule, in-kind contributions with a fair market value less than the itemization threshold noted in subrule 4.17(3) may be reported as “unitemized in-kind contributions.”

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.18(68A,68B) Schedule F - Loans Received and Repaid.

4.18(1) *Reporting of monetary loans (not debts and obligations for goods and services).* The committee shall report all loan activity made to or repaid by the committee during the reporting period. This applies to any loan of money which is deposited into the committee’s accounts. However, other debts and obligations owed for the provision of goods or services to the committee (which are not monetary advances deposited into the committee’s account) shall be reported on Schedule D, not on Schedule F.

4.18(2) *Report of lump sum of unpaid loans carried over from last report.* The schedule shall contain a beginning entry of the total unpaid loans as of the last report. Loans received and itemized on prior reports should not be re-itemized on the current report, except as necessary to indicate repayment activity.

4.18(3) *Date received.* The schedule shall include the complete date (month/day/year) the loan was physically received by a person on behalf of the committee. If the loan was by check, the date of the

loan to be reported is the date the check is physically received by a person on behalf of the committee, even if this date is different from the date shown on the check.

4.18(4) *Date paid.* The schedule shall include the complete date (month/day/year) a full or partial loan repayment is made by the committee. The date of the repayment is the date the check is issued. Full or partial loan repayments shall be shown on this schedule and should not be reported on Schedule B. However, loan interest payments shall be reported on Schedule B (see rule 351—4.15(68A,68B)) and not on Schedule F. Loans which may be and are forgiven in full or in part are considered in-kind contributions and shall be itemized on Schedule E, with a cross-reference entry in the space provided on Schedule F.

4.18(5) *Name and address of lender.* The schedule shall include the name and address of each person who has made one or more loans of money to the committee during the reporting period, or to whom the committee makes a full or partial loan repayment during the reporting period. If the person who made the loan to the committee is not the original source of the money, when the original source of the money is a third party (such as a bank which loans money to an individual who loans it to the committee) or if a third party has personally paid and assumed a loan from the original lender (such as an individual who pays off the loan to the bank with the expectation of receiving the loan repayment from the committee), the report shall also identify the name and address of the third party.

4.18(6) *Relationship to candidate.* In the case of monetary loans to candidates' committees, the schedule shall include information indicating whether the lender is related to the candidate within the third degree of consanguinity or affinity, as defined in subrule 4.14(5).

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.19(68A) Schedule G - Breakdown of Monetary Expenditures by Consultants. A committee that enters into a contract with a consultant for future or continuing performance shall be required to report expenditures made to the consultant and the nature of the performance of the consultant that is expected to be received by the committee. A committee is required to report in Part 1 of Schedule G any contracts with consultants that it has negotiated, the complete name and address of the consultant, the period of time during which the contract is in effect, and estimates of performance to be derived from the contract. Expenditures made to the consultant during a reporting period shall be reported with all other expenditures on Schedule B, and debts incurred with the consultant during the reporting period shall be reported with all other debts on Schedule D. Additionally, a detailed breakdown of the expenditures made by the consultant shall be reported by the committee in Part 2 of Schedule G and shall include the date of the expenditure, the purpose of the expenditure and the amount of the expenditure. The description of the purpose of the expenditure shall be consistent with the provisions of subrule 4.15(3).

For purposes of this rule, "contract" means an oral or written agreement between two parties for the supply or delivery of specific services in the course of the campaign. "Performance" means the execution or fulfillment of the contractual agreement. "Nature of performance" means a clear description of the specific services received or benefit derived as the result of a contract with a consultant. "Estimate of performance" means a clear description of the services the committee reasonably expects to receive or the benefit the committee reasonably expects to derive during the period of the contract.

This rule is intended to implement Iowa Code sections 68A.102(9) as amended by 2005 Iowa Acts, House File 312, section 3, and 68A.402A.

351—4.20(68A,68B) Schedule H - Campaign Property.

4.20(1) *Ongoing inventory.* Equipment, supplies, or other materials purchased with campaign funds or received in kind are campaign property. Campaign property, other than consumable campaign property, with a value of \$500 or more when acquired by the committee shall be listed on the inventory section of the schedule. The property shall be listed on each report until it is disposed of by the committee or its residual value falls below \$100 and the property is listed once as having a residual value of less than \$100. "Consumable campaign property" means stationery, yard signs, and other campaign materials that have been permanently imprinted to be specific to a candidate or election. For property purchased by the committee, the date purchased shall be the earlier of the date the committee

attained physical possession of the property or the date the committee issued payment for the property. For in-kind contributions, the date received shall be the date on which the committee attained physical possession of the property. The committee shall provide the complete date (month/day/year). The schedules shall include the purchase price of property purchased by the committee and the actual or estimated fair market value of property received as an in-kind contribution, as well as the actual or estimated current fair market value of the property at the end of the current reporting period.

4.20(2) Sales or transfers of campaign property. The schedule shall include information regarding the sale or transfer of campaign property, other than consumable campaign property, which occurred during the current reporting period. The information shall include the complete date of the transaction (month/day/year), the name and address of the purchaser or donee, and a description of the property. If the property is sold, the information shall include the sales price received; if the property is donated, the information shall include the fair market value of the property at the time of the transfer.

This rule is intended to implement Iowa Code Supplement sections 68A.304 and 68A.402.

351—4.21(68A) Reconciled bank statement required with January report and final report.

4.21(1) A committee that participates in an election at the state level and that is required by Iowa Code Supplement section 68A.402 to file a disclosure report on or before January 19 of each year shall attach to or submit with that disclosure report a copy of the committee's bank statement that includes activity through December 31 of the year reported.

4.21(2) A committee that participates in an election at the county, city, school, or other political subdivision level and that is required by Iowa Code Supplement section 68A.402 to file a disclosure report on or before January 19 of each year is not required to attach or submit a copy of the committee's bank statement unless requested to do so by the board. If such a committee is requested to file the bank statement, the committee shall comply with the requirements of rule 351—4.21(68A).

4.21(3) If the bank statement cycle is such that the committee has not received the statement including activity through December 31 by the date for filing the January report, the committee shall separately file or submit the bank statement within ten days after receipt of the statement by the committee.

4.21(4) The committee shall include a reconciliation to justify outstanding checks and other discrepancies between the ending balance on the bank statement and the ending balance on the disclosure report.

4.21(5) A committee that files a final disclosure report shall comply with the requirements of subrule 4.55(5) concerning the filing of a final bank statement.

4.21(6) A committee seeking a waiver from the requirements of this rule may do so in accordance with 351—Chapter 15.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.22(68A,68B) Verification of reports; incomplete reports.

4.22(1) The board staff will review and desk audit each disclosure report. The board may contact other parties to verify the accuracy and completeness of the reports. The board may contact a representative of the committee and may contact other parties to determine the authenticity of information provided about filed reports.

4.22(2) If, upon review, board staff determine that a committee's report is incomplete because required information has been omitted or has been incorrectly reported, the staff shall communicate the deficiencies to the committee. A failure to satisfactorily respond to or to remedy the error or omission may be grounds for a violation of Iowa Code Supplement section 68A.402 as a failure to file a report which conforms to the requirements of that provision.

This rule is intended to implement Iowa Code Supplement section 68A.402 and Iowa Code section 68B.32A.

351—4.23(68A,68B) Amendment—statements, disclosure reports and notices. A committee may amend a previously filed statement of organization, disclosure report or notice of dissolution. To amend

a previously filed statement, report or notice, the committee shall file an amended document on the approved form and shall designate on the form in the space provided, if applicable, that the document being filed is an amendment to a previously filed statement, report or notice. The term “amended document” as used in this rule shall mean a document on forms issued by the board which includes only the information which is being added, deleted or changed from a previously filed statement of organization or notice of dissolution.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.24(68A) Reporting of state party building fund transactions. Pursuant to Federal Election Commission Advisory Opinion 2004-28, the board will permit a state statutory political committee (state party committee) to receive contributions from corporations, insurance companies, and financial institutions when those contributions are placed in the state party building fund account, the contributions are used to pay for costs associated with the building, and all transactions involving the fund are disclosed pursuant to this rule.

A state party committee filing a state party building fund report under this rule shall use either the report form prescribed by the board or a computer-generated report so long as the report includes the information required under subrule 4.24(2).

4.24(1) Period covered. A state party building fund report shall cover the time period from January 1 through December 31 of the previous year.

4.24(2) Information to be disclosed. The following information shall be disclosed on a state party building fund report:

a. The name and address of the state party committee.

b. The name and address of each person who makes a contribution in excess of \$200, or contributions in the aggregate that exceed \$200 during the period covered, to the state party building fund. If no contributions were received for the fund, the report shall disclose \$0.00 as contributions received.

c. The date and the amount of the contribution. If aggregate contributions from one person are received that exceed \$200, the amount to be disclosed shall be the total amount received from that person for the period covered and the date to be disclosed shall be the date of the last contribution.

d. The total amount of all contributions of \$200 or less received during the period covered. This total amount shall be disclosed as being received from “unitemized” with the date of the contribution being the last day of the reporting period.

e. The name and mailing address of each person to whom an expenditure that exceeds \$200 is made, or expenditures in the aggregate that exceed \$200 during the period covered, from the state party building fund. If no expenditures were made from the fund, the report shall disclose \$0.00 as expenditures made.

f. The date and the amount of the expenditure. If aggregate expenditures that exceed \$200 are made to one person, the amount to be disclosed shall be the total amount made to that person for the period covered and the date to be disclosed shall be the date of the last expenditure.

g. The total amount of all expenditures of \$200 or less made during the period covered. This total amount shall be disclosed as being expended to “unitemized” with the date of the expenditure being the last day of the reporting period.

h. The signature and date of the individual filing the state party building fund report.

4.24(3) Place of filing. A state party building fund report shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-3701.

4.24(4) Time of filing. A state party building fund report shall be filed on or before January 31 of each year. If mailed, the report must bear a United States Postal Service postmark dated on or before the due date. A faxed report must be submitted on or before 11:59 p.m. on the due date. If January 31 falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date shall be extended to the next working day when the board office is open.

4.24(5) Failure to file. If the board determines that a state party committee has failed to timely file a state party building fund report, the state party committee is subject to the possible imposition of board sanctions.

This rule is intended to implement Iowa Code sections 68A.402A(1) “k” and 68A.503.

351—4.25(68A,68B) Legitimate expenditures of campaign funds.

4.25(1) Expenses which may be paid from campaign funds for campaign purposes include, but are not limited to, the following items so long as the items promote or enhance the candidacy of the candidate:

- a. Electronic media advertising, such as radio, cable television and commercial television.
- b. Published advertising, such as newspaper, magazine, newsletter and shopper advertising.
- c. Printed promotional materials, such as brochures, leaflets, flyers, invitations, stationery, envelopes, reply cards, return envelopes, campaign business cards, direct mailings, postcards and “cowboy” political cards.
- d. Political signs, such as yard signs, car signs, portable outdoor advertising, stationary outdoor advertising and billboards.
- e. Political advertising specialty items, such as campaign buttons, campaign stickers, bumper stickers, campaign pins, pencils, pens, matchbooks, balloons, scratch pads, calendars, magnets, key chains, and articles of clothing that are political advertising.
- f. Travel and lodging expenses of the campaign workers for campaign purposes and political party activities. Travel and lodging expenses for a candidate to attend a national political party convention are also permitted.
- g. Contributions to political party committees.
- h. The purchase of tickets to a meal for the candidate and one guest so long as the attendance at the meal by the candidate and guest is for the sole purpose of enhancing the candidacy of any person.
- i. General campaign expenditures, such as printing, copy machine charges, office supplies, campaign photographs, gambling permits, fund-raiser prizes, postage stamps, postage meter costs, bulk mail permits, telephone installation and service, facsimile charges, and computer services. However, the purchase or rental of formal wear to attend a political event is not a permissible general campaign expenditure.
- j. Purchase or lease of campaign equipment, such as copy machines, telephones, facsimile machines, computer hardware, software and printers.
- k. Purchase or lease of campaign office space, parking lots or storage space and the payment for campaign office utilities and maintenance.
- l. Payment of salaries, fringe benefits, bonuses, and payroll taxes of paid campaign staff. Family members who perform actual work or services for a campaign may be compensated for such work or services.
- m. Payment for check printing and financial institution banking service charges.
- n. Lease or rental of a campaign vehicle, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that noncampaign miles are reimbursed to the committee at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, the purchase of a campaign vehicle is prohibited.
- o. Reimbursement to candidates and campaign workers for mileage driven for campaign purposes in a personal vehicle, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code.
- p. Payment for food expenses and supplies for campaign-related activities, such as the purchase of food, beverages and table service for fund-raising events or campaign volunteers. However, except as provided in paragraph “h,” the purchase of tickets for meals or fund-raising events for other candidates is prohibited, and the purchase of groceries for the candidate or candidate’s family is also prohibited. Payment for meals for the candidate (other than those involving tickets for fund-raiser events as addressed

in paragraph “h”) is permitted as an allowable expenditure for campaign purposes if the meal was associated with campaign-related activities.

- q.* Payment of civil penalties and hearing costs assessed by the board.
- r.* Payment for the services of attorneys, accountants, consultants or other professional persons when those services relate to campaign activities.
- s.* Subscriptions to newspapers and periodicals that circulate within the area represented by the office that a candidate is seeking or holds, that contain information of a general nature about the state of Iowa, or that contain information useful to all candidates such as The Wall Street Journal and Roll Call. Candidates who are unsure whether a subscription is permissible shall seek guidance from the board prior to paying for the subscription with campaign funds.
- t.* Membership in service organizations including a local chamber of commerce that the candidate joins solely for the purpose of enhancing the candidate’s candidacy.
- u.* Repayment of campaign loans made to the committee. Candidates who make loans to their own committees shall not charge interest on the loans in excess of 5 percent.
- v.* Purchase of reports of other candidates and political committees so long as the reports’ contents are not used for solicitation or commercial purposes.
- w.* Donations to charitable organizations unless the candidate or the candidate’s spouse, child, stepchild, brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or stepparent is employed by the charitable organization and will receive a direct financial benefit from a donation.
- x.* Contributions to federal, state, county and city political party committees.
- y.* Refunds to contributors when a contribution has been accepted in error, or when a committee chooses to dispose of leftover funds by refunding them in prorated shares to the original contributors.
- z.* Payment for items with a purchase price not to exceed \$250 per person that are presented to committee workers in recognition of services to the committee.
- aa.* Expenses incurred with respect to an election recount as provided in Iowa Code section 50.48.
- bb.* The sharing of information in any format such as computer databases containing yard sign locations or lists of registered voters with another candidate’s committee.

4.25(2) Expenses which may be paid from campaign funds for educational and other expenses associated with the duties of office include, but are not limited to, the following items:

- a.* Purchase or lease of office supplies and equipment, such as paper, copy machines, telephones, facsimile machines, computer hardware, software and printers.
- b.* Travel, lodging and registration expenses associated with attendance at an educational conference of a state, national, or regional organization whose memberships and officers are primarily composed of state or local government officials or employees. However, meal expenses are not allowable as expenses associated with the duties of office under any circumstances.
- c.* Meals and other expenses incurred in connection with attending a local meeting to which the officeholder is invited and attends due to the officeholder’s official position as an elected official.
- d.* Purchases of small, incidental items such as pencils, pens, rulers and bookmarks provided to members of the public touring the offices of the state or a political subdivision. However, such items distributed on public property shall not expressly advocate the election or defeat of a candidate or the adoption or defeat of a ballot issue as prohibited in Iowa Code Supplement section 68A.505. For example, a bookmark bearing the state seal could be distributed on public property, while a bookmark that identified the donor as a candidate for office could not be distributed on public property.
- e.* Gifts purchased for foreign dignitaries when the officeholder is part of an official trip out of the country such as a trade mission or exchange program.
- f.* Printing of additional stationery and supplies above the standard allotment of the state or political subdivision.

4.25(3) Expenses which may be paid from campaign funds for constituency services include, but are not limited to, the following items:

- a.* Mailings and newsletters sent to constituents.
- b.* Polls and surveys conducted to determine constituent opinions.

c. Travel expenses incurred in communicating with members of an elected official's constituency, provided that a detailed trip log which provides dates, miles driven, destination and purpose is maintained, and that reimbursement is paid at an amount not to exceed the current rate of reimbursement allowed under the standard mileage rate for computations of business expenses pursuant to the Internal Revenue Code. However, meal expenses are not allowable as expenses associated with constituency services under any circumstances.

d. Holiday and other greeting cards sent to constituents.

This rule is intended to implement Iowa Code Supplement sections 68A.301, 68A.302, and 68A.303. [ARC 7647B, IAB 3/25/09, effective 4/29/09]

351—4.26(68A) Transfers between candidates.

4.26(1) *Transfer of assets between different candidates.* A candidate's committee may transfer an asset to a candidate's committee established by a different candidate so long as the recipient committee pays the transferring committee the fair market value of the asset and the transaction is properly disclosed on each committee's disclosure report.

4.26(2) *Transfer of assets for same candidate.* A candidate's committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees.

This rule is intended to implement Iowa Code Supplement section 68A.303.

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117, any person except a candidate or a registered committee that makes one or more independent expenditures in excess of \$100 in the aggregate shall file an independent expenditure statement.

4.27(1) *Independent expenditure defined.* "Independent expenditure" means an expenditure for a communication that expressly advocates the nomination, election, or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue when the expenditure is made without the prior approval of or coordination with a candidate, candidate's committee, or a ballot issue committee. "Independent expenditure" also means "independent expenditure" as defined in subrule 4.53(3).

4.27(2) *Independent expenditure statement.* The following information shall be disclosed on the independent expenditure statement:

a. The name, mailing address, and telephone number of the person that files the statement, including the name, mailing address, and telephone number of a contact person, if applicable.

b. A description of the position that is advocated by the person that files the statement such as whether the communication was for a particular candidate or was against a particular candidate.

c. The name and address of the committee that benefits from the expenditure.

d. The dates on which the expenditure or expenditures took place.

e. A description of the nature of the action taken that resulted in the expenditure or expenditures such as a newspaper advertisement, direct mailing, or brochure.

f. The actual cost or fair market value of the expenditure or expenditures.

4.27(3) *Place of filing.* An independent expenditure statement shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at (515)281-4073. The board shall immediately make the independent expenditure statement available for public viewing via the board's Web site at www.iowa.gov/ethics.

4.27(4) *Time of filing.* An independent expenditure statement shall be filed within 48 hours of the making of an independent expenditure exceeding \$100 or independent expenditures exceeding \$100 in the aggregate. An independent expenditure is deemed made at the time that the cost is incurred.

4.27(5) *Failure to file.* A person that fails to timely file an independent expenditure statement shall be subject to the imposition of civil penalties pursuant to 351—subrule 4.59(7).

4.27(6) *Attribution statement applicable.* Any person that makes an independent expenditure in any amount shall comply with the appropriate "paid for by" attribution statement pursuant to rule 351—4.38(68A,68B).

4.27(7) *Other filings not required.* A person that properly files an independent expenditure statement shall not be required to file a statement of organization registering a committee or file public disclosure reports.

4.27(8) *Campaign committees.* A committee that makes an independent expenditure shall disclose the transaction on the committee's appropriate disclosure report and shall not file an independent expenditure statement.

This rule is intended to implement Iowa Code section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117.

351—4.28(68A) Prohibition on contributions and independent expenditures by foreign nationals. As provided in Federal Election Commission regulation 11 CFR 110.20, a foreign national shall not, directly or indirectly, make a contribution or expenditure of money or other thing of value, or specifically promise to make a contribution, in connection with a state or local campaign or election in Iowa. A foreign national shall not, directly or indirectly, make a contribution to a campaign committee organized under Iowa Code Supplement chapter 68A. Foreign nationals are also prohibited from making independent expenditures in relation to any state or local campaign or election in Iowa.

4.28(1) *Foreign national defined.* "Foreign national" means a person who is not a citizen of the United States and who is not lawfully admitted for permanent residence. "Foreign national" also includes a "foreign principal," such as a government of a foreign country or a foreign political party, partnership, association, corporation, organization, or other combination of persons that has its primary place of business in or is organized under the laws of a foreign country. "Foreign national" shall not include any person who is a citizen of the United States or who is a national of the United States.

4.28(2) *Acceptance of contributions and independent expenditures from foreign nationals.* No person shall knowingly accept or receive any contribution from a foreign national with regard to such person's election-related activities.

4.28(3) *Participation by foreign nationals in decisions involving election-related activity.* A foreign national shall not, directly or indirectly, participate in the decision-making process of any person, including a corporation, labor organization, political committee, or political organization, with regard to such person's election-related activities. Decisions including election-related activities include decisions involving the making of contributions, donations, or expenditures in connection with elections for state or local office or decisions involving the administration of a political committee.

This rule is intended to implement Iowa Code Supplement chapter 68A.

351—4.29(68A,68B) Contributions by minors. Persons under 18 years of age may make contributions to a candidate or political committee if all of the following conditions exist:

1. The decision to contribute is made knowingly and voluntarily by the minor;
2. The funds, goods, or services contributed are owned or controlled exclusively by the minor, such as income earned by the minor, the proceeds of a trust for which the minor is the beneficiary, or a savings account opened and maintained exclusively in the minor's name; and
3. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

This rule is intended to implement Iowa Code Supplement section 68A.404.

351—4.30(68A,68B) Funds from unknown source prohibited; subsequent identification of source; notice to contributors.

4.30(1) *Anonymous contributions in excess of \$10 prohibited.* No person shall make a contribution in excess of \$10 to a committee without providing the person's name and address to the committee. The committee shall not maintain in any campaign account funds in excess of \$10 that cannot be accounted for and reconciled with the committee's disclosure reports.

4.30(2) *Escheat to the state.* Any contribution in excess of \$10 from an unknown source or campaign funds in excess of \$10 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code section 68A.501 as amended by 2007 Iowa Acts, Senate File 39, section 8.

A committee required to escheat shall escheat such funds by depositing the funds into the committee's campaign account and issuing a committee check to the general fund in the same amount. The committee check shall be sent to the board office at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, for transmittal to the office of treasurer of state.

4.30(3) *Subsequent identification of source.* A committee discovering the source of any funds that have been escheated to the state may make an application to the board for a return of the funds if the following requirements are met:

- a. The committee has not dissolved;
- b. Documentation of the name and address of the source is provided;
- c. The amount requested to be returned is in excess of \$100; and
- d. The application is made within 90 days of the date of the deposit in the general fund of the state of Iowa.

4.30(4) *Notice at fund-raising event.* Pursuant to Iowa Code Supplement section 68A.501, a person requested to make a contribution at a fund-raising event shall be advised that it is illegal to make a contribution in excess of \$10 unless the person making the contribution also provides the person's name and address. Notice of the requirement to provide a person's name and address for a contribution in excess of \$10 may be made orally or in a written statement that is displayed at the fund-raising event.

This rule is intended to implement Iowa Code section 68A.501.

351—4.31(68A) Information required for a trust to avoid a contribution in the name of another person. A contribution to a committee by a trustee solely in the name of the trust constitutes a contribution in the name of another person as prohibited in Iowa Code Supplement section 68A.502 unless the recipient committee publicly discloses the contribution as provided in this rule.

4.31(1) *Living or revocable trust.* If the contribution involves a trust identified as a revocable trust or a living trust that does not file a separate trust tax return and whose federal tax ID number is the same as the social security number of the grantor who creates the trust and who is also a trustee, the contribution shall be reported by the recipient committee as being made by the "(name) revocable (or living) trust."

4.31(2) *Other trusts.* For a contribution involving a trust that does not qualify under subrule 4.31(1), the recipient committee shall identify the trust, the trustee, and the trustor.

4.31(3) *Registering a committee.* A trust, except for a living or revocable trust, that raises or spends more than \$750 for campaign activities shall register a political committee (PAC) and shall file disclosure reports. A trust, except for a living or revocable trust, that makes a one-time contribution in excess of \$750 may file Form DR-OTC in lieu of filing a statement of organization and filing disclosure reports.

This rule is intended to implement Iowa Code Supplement sections 68A.402(6) and 68A.502.

351—4.32(68A) Contributions from political committees not organized in Iowa. Iowa committees may receive contributions from committees outside Iowa, and committees outside Iowa may contribute to Iowa committees provided the out-of-state committee complies with either subrule 4.32(1) or subrule 4.32(2). For purposes of this rule, "out-of-state committee" means a committee that is registered with the campaign enforcement agency of another state or is registered with the Federal Election Commission.

4.32(1) *Regular filings.* Out-of-state committees may choose to comply with the regular disclosure filing requirements in Iowa Code Supplement sections 68A.201 and 68A.402 by filing a statement of organization and periodic disclosure reports.

4.32(2) *Verified statement of registration.* In lieu of filing a statement of organization and regular disclosure reports as required by Iowa Code chapter 68A, the out-of-state committee shall file with the board a verified statement registration form (VSR) for each contribution in excess of \$50. The VSR shall contain the following information:

- a. The complete name, address and telephone number of the out-of-state committee;
- b. The state or federal agency with which the out-of-state committee is registered;
- c. All parent entities or other affiliates or sponsors of the out-of-state committee;
- d. The purpose of the out-of-state committee;

- e.* The name, address and telephone number of an Iowa resident authorized to receive service on behalf of the out-of-state committee;
- f.* The name and address of the Iowa recipient committee;
- g.* The date and amount of the contribution, including description if the contribution is in-kind; and
- h.* An attested statement that the jurisdiction with which the out-of-state committee is registered has reporting requirements substantially similar to those of Iowa Code chapter 68A. The statement shall include confirmation that the contribution is made from an account that does not accept contributions prohibited by Iowa Code section 68A.503 unless the contribution from the out-of-state committee is made to an Iowa ballot issue committee.

4.32(3) Signature. The VSR shall be signed by the individual filing the VSR on behalf of the out-of-state committee. A VSR that is filed electronically using the board's Web site is deemed signed when filed.

4.32(4) Where filed. Every VSR filed for a contribution in excess of \$50 shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, electronically using the board's Web site at www.iowa.gov/ethics, as an E-mail attachment, or by fax at (515)281-4073.

4.32(5) When filed. The VSR shall be filed with the board on or before the fifteenth day after the date of the contribution, or mailed bearing a United States Postal Service postmark dated on or before the fifteenth day after the date of the contribution. For purposes of this subrule, "date of the contribution" means the day, month, and year the contribution check is dated. If the board deems it necessary, a copy of any contribution check may be required to be filed with the board. When a copy of a check is required to be filed with the board, the copy shall be filed within ten days after notice by the board.

4.32(6) Enhanced filing. An out-of-state committee determining that the jurisdiction under which the committee is registered does not have reporting requirements substantially similar to those of Iowa Code Supplement chapter 68A may choose to comply by enhancing the committee's filing in the other jurisdiction. The enhanced filing shall meet the reporting requirements of Iowa Code Supplement chapter 68A for the reporting period during which contributions to Iowa committees are made. The report shall cover a period of at least one month. An out-of-state committee choosing this option shall comply with the VSR procedures in subrule 4.32(2) and attach a signed statement that the report has been enhanced to satisfy the Iowa reporting requirements.

This rule is intended to implement Iowa Code section 68A.201(5).

351—4.33(68A,68B) Reporting of earmarked contributions. A political committee is permitted to receive contributions from its contributors which are earmarked to be donated to a specific candidate's committee or another political committee. A political committee receiving and transmitting earmarked contributions is required to list on its disclosure report the name of the contributor and the name of the candidate or committee for which the contribution was earmarked. The political committee is further required to inform the treasurer of the recipient committee in writing of the name of the individual contributor, as well as the name of the committee which has collected the contribution. The committee receiving the earmarked contribution is required to disclose on its report both the name of the individual contributor and the sponsoring committee.

This rule is intended to implement Iowa Code Supplement section 68A.402.

351—4.34(68A) Copies of reports filed by 527 Committees. Iowa Code section 68A.401A requires the board to adopt a procedure for 527 Committees that file reports with the Internal Revenue Service and engage in issue advocacy in Iowa to file copies of those reports with the board. If a 527 Committee notifies the board that it is filing reports with the Internal Revenue Service, the 527 Committee will be deemed in compliance with Iowa Code section 68A.401A. The board will then establish on its Web site a link to the reports filed with the Internal Revenue Service, or the board will otherwise post on its Web site the reports filed with the Internal Revenue Service.

This rule is intended to implement Iowa Code section 68A.401A.

351—4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC. Pursuant to Iowa Code section 68A.402(9), a permanent organization temporarily engaging in activity that exceeds the \$750 financial filing threshold described in rule 351—4.1(68A,68B) is required to organize and register a political committee (PAC), file disclosure reports, and, upon completion of activity, file a notice of dissolution. A permanent organization that is temporarily a political committee shall comply with all of the campaign laws in Iowa Code chapter 68A and this chapter. A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

4.35(1) Form DR-OTC. A permanent organization that makes a one-time contribution in excess of \$750 to a committee may, in lieu of filing a statement of organization, disclosure reports, and a notice of dissolution, file Form DR-OTC. The following information shall be disclosed on Form DR-OTC:

- a. The name and address of the organization making the contribution.
- b. The name and address of a contact person for the organization making the contribution.
- c. The name and address of the campaign committee receiving the contribution. If the contribution is to a candidate or a candidate's committee, the source of the original funds used to make the contribution shall be disclosed.
- d. The date and amount of the contribution. If the contribution is an in-kind contribution, a description of the provided goods or services must be included.
- e. The date of election and the county in which the recipient committee is located if the committee is a county or local committee.
- f. The date and signature of the person filing Form DR-OTC. A Form DR-OTC that is filed electronically using the board's Web site is deemed signed when filed.

A permanent organization that makes more than one contribution is not eligible to file Form DR-OTC and is required to file a statement of organization, file disclosure reports, and file a notice of dissolution.

4.35(2) Place of filing. Form DR-OTC shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, filed by fax at (515)281-4073, or filed electronically using the board's Web site at www.iowa.gov/ethics.

4.35(3) Time of filing. Form DR-OTC shall be filed with the board within ten days after the one-time contribution in excess of \$750 is made. The form must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. A faxed or electronically filed Form DR-OTC must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

4.35(4) Failure to register. If the board discovers that a permanent organization has become subject to the provisions of Iowa Code Supplement chapter 68A but did not timely file a statement of organization or file Form DR-OTC, as applicable, the permanent organization is subject to the possible imposition of board sanctions.

4.35(5) Partial refund of contribution. A committee that receives a contribution from a permanent organization that causes the organization to become subject to the provisions of Iowa Code Supplement chapter 68A may refund all or part of a contribution to the organization so as to reduce the contribution to \$750 or less and remove the organization's filing obligations.

This rule is intended to implement Iowa Code sections 68A.102(18) and 68A.402.

351—4.36(68A) Cash transactions. All disbursements, including all expenditures and any other withdrawals from committee funds, shall be by check, debit card, or credit card. Cash withdrawals and "petty cash" accounts are not permitted. If a committee fundraising activity necessitates a cash drawer for making change or other cash transactions, the committee may issue a check payable to the committee treasurer or the candidate, in the case of a candidate's committee, or payable to the committee treasurer or the committee chairperson, in the case of a political committee. The purpose of the expenditure shall be reported on Schedule B as "cash advance for (describe activity, e.g., concession stand cash drawer)."

Upon completion of the fundraising activity, the committee shall redeposit the same amount as that which was advanced into the committee account. The redeposit shall be reported as a reverse entry on Schedule B as a “redeposit of cash advance for (describe activity).” The proceeds of the fundraising activity (excluding the cash advance) shall be reported on Schedule A - Contributions Received.

This rule is intended to implement Iowa Code sections 68A.203 as amended by 2005 Iowa Acts, House File 312, section 5, and 68A.402A.

351—4.37(68A,68B) Record keeping.

4.37(1) Copies of reports. A committee shall preserve a copy of every report it files for at least three years following the filing of the report.

4.37(2) Supporting documentation. The documentation which supports a committee’s disclosure report shall be preserved by the committee for at least five years after the due date of the report that covers the activity documented in the records; however, a committee is not required to preserve these records for more than three years from the certified date of dissolution of the committee. At a minimum, the supporting documentation shall consist of all of the following:

a. A ledger or similar record-keeping device which details all contributions received by the committee. This record shall include the name and address of each person making a contribution in excess of \$10, with the date and amount of the contribution. In lieu of or in addition to a ledger, the committee may record contributions received through a receipt book or other method of individually documenting the contributions, such as by making and keeping copies of the contribution checks.

b. The check register for the committee’s account(s).

c. Bank statements for the committee’s account(s).

d. Copies of canceled or duplicate checks for committee expenditures, if available.

e. Copies of bills or receipts for committee expenditures.

f. For committees which pay reimbursement for committee-related mileage, copies of vehicle mileage logs, including travel dates, distance driven, and travel purpose (description of event or activity). For a candidate’s committee which leases a vehicle, the mileage log shall detail all mileage driven on the vehicle, including non-committee-related mileage.

This rule is intended to implement Iowa Code Supplement sections 68A.203, 68A.302, 68A.402 and 68A.403 and Iowa Code section 68B.32A.

DIVISION III
POLITICAL MATERIAL—ATTRIBUTION STATEMENTS

351—4.38(68A) Political attribution statement—contents. Published material that expressly advocates the election or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue shall contain a statement identifying the person paying for the published material. This statement is referred to as the “attribution statement.” The term “published material” means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, Internet Web site, campaign sign, or any other form of printed general public political advertising.

4.38(1) Registered committee. If the person paying for the published material is a committee that has filed a statement of organization, the words “paid for by” and the name of the committee shall appear on the material.

4.38(2) Individual, married couple, or unregistered candidate’s committee. If the person paying for the published material is an individual, the words “paid for by” and the name and address of the individual shall appear on the material. Published material that is jointly paid for by a married couple shall include the words “paid for by” and the name and address of one member of the married couple. For purposes of this subrule, “individual” includes a candidate who has not filed a statement of organization to register a committee.

4.38(3) Multiple individuals. If more than one individual paid for the published material, the words “paid for by”, the names of the individuals, and either the addresses of the individuals or a statement that the addresses of the individuals are on file with the Iowa ethics and campaign disclosure board shall

appear on the material. The addresses shall be provided to the board and made available for public inspection.

4.38(4) *Organization or unregistered political committee.* If the person paying for the published material is an organization, the words “paid for by”, the name and address of the organization, and the name of one officer of the organization shall appear on the material. For purposes of this subrule, “organization” includes an organization advocating the passage or defeat of a ballot issue but that has not filed a statement of organization to register a political committee.

4.38(5) *Pooled efforts.* If the published material is paid for by more than one person, the words “paid for by” and the identification of the persons as set out in this rule shall appear on the material.

This rule is intended to implement Iowa Code Supplement section 68A.405 as amended by 2004 Iowa Acts, House File 2319, section 4.

351—4.39(68A) Specific items exempted from or subject to attribution statement requirement; multiple pages. Iowa Code Supplement section 68A.405 requires the placement of a “paid for by” attribution statement on political advertising and political material, with certain exceptions.

4.39(1) *Items exempted from requirement.* The requirement to place a “paid for by” attribution statement does not apply to the following:

- a. Editorials or news articles of a newspaper or magazine that are not political advertisements.
- b. Small items upon which the inclusion of the attribution statement would be impracticable, such as yard signs, bumper stickers, pins, buttons, pens, pencils, emery boards, matchbooks and, except as set out in subrule 4.39(2), items that are smaller than 2 inches by 4 inches.
- c. T-shirts, caps, and other articles of clothing.
- d. Means of communication such as television and radio that are subject to federal regulations regarding an attribution requirement.
- e. Political advertising or political material placed by an individual who acts independently and spends \$100 or less of the individual’s own money to expressly advocate the passage or defeat of a ballot issue.

For purposes of this subrule, “yard sign” means a political sign with a total dimension of 32 square feet or less, regardless of whether both sides of the sign are used, that has been placed or posted on real property.

4.39(2) *Items subject to requirement.* The requirement to place a “paid for by” attribution statement applies to the following:

- a. Advertising such as yard signs larger than 32 square feet, billboards, posters, portable sign carriers, and signs affixed or painted to the side or top of a building or vehicle.
- b. Advertisements in a newspaper, magazine, shopper, or other periodical regardless of the size of the advertisement.
- c. Direct mailings, flyers, brochures, postcards, or any other form of printed general public advertising that is larger than 2 inches by 4 inches.
- d. Campaign Web sites.

4.39(3) *Multiple pages.* If the political advertising or political material consists of more than one page, the “paid for by” attribution statement need only appear on one page of the advertising or material. For a campaign Web site, the attribution statement need only appear on the home page of the site.

This rule is intended to implement Iowa Code Supplement section 68A.405.

351—4.40(68A,68B) Newspaper or magazine. For the purposes of these rules and Iowa Code Supplement section 68A.405, “newspaper or magazine” means a regularly scheduled publication of news, articles of opinion, and features available to the general public which does not require membership in or employment by a specific organization.

This rule is intended to implement Iowa Code Supplement section 68A.405.

351—4.41(68A,68B) Apparent violations; remedial action.

4.41(1) *Administrative resolution.* In an effort to informally resolve apparent violations of the requirement to place a “paid for by” attribution statement, the board may order administrative resolution of the matter. The board may direct the person responsible for placing the original published political material that did not include the attribution statement to place a correction notice in a local newspaper that reaches the same or substantially the same portion of the public that received the original published political material. A person may also resolve a violation of the “paid for by” attribution statement by resending corrected published political material to the same portion of the public that received the original published political material and by filing a copy of the corrected material with the board.

4.41(2) *Form of correction notice.* The correction notice shall be in substantially the following form: “On (date) (describe the type of published political material) was distributed that did not state who paid for it. The (describe the type of published political material) was paid for by (insert name).”

4.41(3) *Board notice.* The board shall notify the person who paid for the original published political material of the requirements of this rule.

4.41(4) *Refusal to place correction notice.* The board may initiate a contested case proceeding and impose discipline against any person who refuses to place a correction notice under this rule.

This rule is intended to implement Iowa Code section 68A.405 and Iowa Code Supplement section 68B.32A(8) as amended by 2006 Iowa Acts, House File 2512, section 3.

351—4.42(56,68B) Specific items exempted from or subject to attribution statement requirement. Rescinded IAB 2/4/04, effective 3/10/04.**351—4.43(56,68B) Apparent violations; remedial actions.** Rescinded IAB 2/4/04, effective 3/10/04.DIVISION IV
CORPORATE POLITICAL ACTIVITY

351—4.44(68A,68B) Use of corporate property prohibited. It is unlawful for a candidate’s committee or other political committee to use any property of a corporate entity, and it is unlawful for a corporate entity to knowingly permit the use of its property by a candidate’s committee or other political committee. “Corporate entity” as used in these rules means any profit or nonprofit corporation, and includes, but is not limited to, farm corporations, professional corporations (P.C.s), banks, savings and loan institutions, credit unions and insurance companies. For the purpose of these rules, the prohibited use of the property of a corporate entity shall include, but not be limited to, the following:

4.44(1) The physical placement of campaign materials on corporate property except as permitted under Iowa Code sections 68A.406 and 68A.503.

4.44(2) The use of motor vehicles, telephone equipment, long-distance lines, computers, typewriters, office space, duplicating equipment and supplies, stationery, envelopes, labels, postage, postage meters or communication systems of corporate entities.

4.44(3) The use of corporate entity facilities, premises, recreational facilities and housing that are not ordinarily available to the general public.

4.44(4) The furnishing of beverages and other refreshments that cost in excess of \$50 and that are not ordinarily available to the general public.

4.44(5) The contributing of money of the corporate entity.

4.44(6) Any other transaction conducted between a corporation and a candidate’s committee or political committee is presumed to be a corporate contribution unless the candidate’s committee or political committee establishes to the contrary.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.45(68A,68B) Corporate-sponsored political committee. These rules do not prevent a corporate entity from soliciting eligible members to join or contribute to its own corporate-sponsored

political committee (PAC), so long as the corporate entity adheres to the provisions of Iowa Code Supplement section 68A.503.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.46(68A) Voter education. These rules do not prevent a corporate entity from providing or publicizing voter registration procedures, election day information, voting procedures or other voter education information, so long as the information provided does not expressly advocate the election or defeat of a clearly identified candidate. Also, these rules do not prevent a candidate's committee from using a corporate computer to generate and file a campaign disclosure report so long as the report does not expressly advocate the election or defeat of a clearly identified candidate.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.47(68A,68B) Permitted activity—reimbursement required. The prohibitions against certain transactions between corporate entities and candidates or committees expressly advocating the election or defeat of candidates contained in Iowa Code Supplement section 68A.503 and in rule 4.44(68A,68B) are not construed to prohibit activity that occurs consistent with this rule.

4.47(1) Purchase or rental of office facility. A candidate's committee or any other committee that expressly advocates the election or defeat of a candidate may purchase or rent property belonging to a corporate entity, so long as the purchase or rental is at fair market value. For the purpose of this subrule, "fair market value" means the amount that a member of the general public would expect to pay to purchase or rent a similar property within the community in which the property is located.

4.47(2) Use of corporate facilities to produce or mail materials. Any person who uses the facilities of a corporate entity to produce or mail materials in connection with a candidate election is required to reimburse the corporate entity within a commercially reasonable time for the normal and usual charge for producing or mailing such materials in the commercial market. For example, if it would otherwise cost 10 cents per page to have a brochure copied at a commercial printer, the corporate entity must be reimbursed at 10 cents per page even if the overhead and operating cost is only 5 cents per page. Likewise, the corporate entity must be reimbursed at the first-class mail rate even if the direct cost to the corporate entity is less through the use of its bulk mail permit. This subrule does not affect the ability of a commercial vendor to charge an amount for postage which is less than for first-class mail where the reduced or bulk mail charge is available to all similarly situated customers without respect to the political identity of the customer.

4.47(3) Use or rental of corporate facilities by other persons. Persons other than stockholders, administrative officers or employees of a corporate entity who make any use of corporate facilities, such as using telephones, facsimile machines, typewriters or computers or borrowing office furniture for activity in connection with a candidate election, are required to reimburse the corporate entity within a commercially reasonable time in the amount of the normal and usual rental charge. If one or more telephones of a corporate entity are used as a telephone bank, a rebuttable presumption is established that \$3 per telephone per hour, plus any actual long distance charges, is acceptable as a normal and usual rental charge.

4.47(4) Use of airplanes and other means of transportation.

a. Air travel. A candidate, candidate's agent, or person traveling on behalf of a candidate who uses noncommercial air transportation made available by a corporate entity shall, in advance, reimburse the corporate entity as follows:

(1) Where the destination is served by regularly scheduled commercial service, the coach class airfare (without discounts).

(2) Where the destination is not served by a regularly scheduled commercial service, the usual charter rate.

b. Other transportation. A candidate, candidate's agent, or person traveling on behalf of a candidate who uses other means of transportation made available by a corporate entity shall, within a commercially reasonable time, reimburse the corporate entity at the normal and usual rental charge.

4.47(5) *Equal access not required.* For the purpose of this rule, it is not necessary that the corporate entity be in the business of selling or renting the property, good or service to the general public; further, it is not necessary that the corporate entity provide access to the same property, good or service to other candidates or committees.

4.47(6) *Commercially reasonable time.* For the purpose of this rule, a rebuttable presumption is established that reimbursement to the corporate entity within ten business days is acceptable as within a commercially reasonable time.

4.47(7) *Loans and debts.* A financial institution may make a loan to a candidate or candidate's committee so long as the loan is repaid and all proper public disclosure of the transaction is made pursuant to rule 351—4.18(68A,68B). A candidate or candidate's committee may owe a debt to an insurance company, financial institution, or corporation so long as the debt is repaid and all proper public disclosure of the transaction is made pursuant to rule 351—4.16(68A,68B). The repayment of a loan or debt under this subrule shall be made prior to the dissolution of the committee pursuant to rule 351—4.57(68A,68B).

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.48(68A,68B) Use of corporate facilities for individual volunteer activity by stockholders, administrative officers and employees. Rescinded IAB 8/2/06, effective 9/6/06.

351—4.49(68A,68B) Individual property. These rules do not apply to the personal or real property of corporate officers or of individuals employed or associated with a corporate entity and shall not abridge the free-speech rights and privileges of individuals.

This rule is intended to implement Iowa Code Supplement section 68A.503.

351—4.50(68A) Political corporations. The prohibitions in Iowa Code Supplement section 68A.503 on corporations that make expenditures to expressly advocate for or against a clearly identified candidate do not apply to a nonprofit advocacy corporation that has received certification as a political corporation pursuant to this rule.

4.50(1) *Applicability.* A political corporation may make an independent expenditure as defined in Iowa Code Supplement section 68A.404(1) to expressly advocate for or against a clearly identified candidate. However, a political corporation may not make direct contributions to a candidate's committee, state statutory political committee, county statutory political committee, or any political committee (PAC) that is established to expressly advocate for or against a clearly identified candidate.

4.50(2) *Criteria.* A corporate entity applying for certification as a political corporation shall meet all of the following criteria:

a. The corporation was organized solely for political purposes and engages in minor business activities that generate minimal income and that are incidental to its political purposes.

b. The corporation is not sponsored by a business corporation and has a policy of accepting only an insignificant and insubstantial amount of income from business corporations.

c. The corporation has no shareholders or others that have claims on its assets or earnings.

4.50(3) *Application.* A corporate entity seeking certification as a political corporation shall submit a letter affirming that the corporate entity meets all of the criteria set out in subrule 4.50(2). The application letter shall also include all other pertinent details of the corporate entity's activities and shall be signed by a corporate officer.

4.50(4) *Board review.* The board shall review an application letter from a corporate entity seeking status as a political corporation and shall issue a letter of approval or denial.

4.50(5) *Denial or failure to seek certification.* It shall be deemed a violation of Iowa Code Supplement section 68A.503 for a corporate entity that is denied certification as a political corporation to make an independent expenditure that expressly advocates for or against a clearly identified candidate. It shall be deemed a violation of Iowa Code Supplement section 68A.503 for a corporation to make an independent expenditure that expressly advocates for or against a clearly identified candidate without first seeking certification as a political corporation.

4.50(6) Filing. As required by Iowa Code Supplement section 68A.404, a corporate entity granted political corporation status that makes an independent expenditure in excess of \$750 in the aggregate shall file an independent expenditure statement within 48 hours after the making of the expenditure.

4.50(7) Campaign committee incorporation. An Iowa committee organized under Iowa Code Supplement chapter 68A that chooses to incorporate may do so without applying for certification as a political corporation. A committee that chooses to incorporate is not a prohibited contributor under Iowa Code Supplement section 68A.503.

This rule is intended to implement Iowa Code Supplement sections 68A.404 and 68A.503.

351—4.51(68A) Candidate debate—media organization; debate structure; debate funding; contribution reporting inapplicable. Iowa Code Supplement section 68A.503 prohibits corporations from making contributions to state or local candidates in Iowa. This prohibition does not apply to incorporated media organizations that host candidate debates described in this rule.

4.51(1) Media organization defined. “Media organization” means a broadcaster, cable television operator, television programmer, television producer, bona fide newspaper, magazine, or any other periodical publication. The media organization shall not be owned or controlled by a political party, political committee, or candidate.

4.51(2) Debate structure. The structure of the debate shall be left to the discretion of the media organization provided that at least two or more candidates for the particular office are invited to participate. The debate shall not be structured to promote or advance one candidate over another. In choosing which candidates to invite to a debate, the media organization shall use good faith editorial judgment that is reasonable and viewpoint-neutral.

4.51(3) Funding debates. A media organization may use its own funds and may accept funds donated by corporations to defray costs incurred in staging a candidate debate under this rule.

4.51(4) Contribution reporting inapplicable. The costs of a debate under this rule are not a reportable monetary or in-kind contribution under Iowa Code Supplement section 68A.402.

This rule is intended to implement Iowa Code Supplement sections 68A.402 and 68A.503.

351—4.52(68A,68B) Corporate involvement with political committee funds.

4.52(1) Corporate payroll deductions. For purposes of interpretation of Iowa Code Supplement section 68A.503, the administrative functions performed by a corporation (profit or nonprofit corporation including, but not limited to, a bank, savings and loan institution, credit union or insurance company) to make payroll deductions for an employee organization’s political committee and to transmit the deductions in lump sum to the treasurer of the political committee shall not be a prohibited corporate activity so long as the corporate entity is serving only as a conduit for the contributions.

4.52(2) Electronic transfer of deposits. A corporation, financial institution, or insurance company may receive and deposit checks that include both dues and PAC contributions. Contributions for the PAC shall be transferred as soon as possible into the PAC checking account and all disclosure, record-keeping, and record-retention requirements of Iowa Code chapter 68A shall be followed.

4.52(3) Allowable costs of administration. For the purposes of interpreting Iowa Code Supplement section 68A.503, subsection 3, which permits an entity otherwise forbidden from contributing to a candidate or a candidate’s committee for “financing the administration of a committee sponsored by that entity,” the following are considered to be allowable costs of administration:

a. Full or partial compensation for political committee staff, which may include both wages and benefits.

b. Expenses of transportation and travel incurred by political committee staff; however, this does not include expenses of transportation or travel if provided by a political committee or a staff member to a candidate, nor does this include expenses of meals or events held on behalf of a candidate.

c. Printing and office supplies related to routine office administration so long as the printing and supplies are not used to expressly advocate for or against any candidate.

d. Postage and stationery, including that necessary for mailing contributions to specific candidates. Postage and stationery necessary for distributing political material expressly advocating a specific candidate to persons other than the committee membership are not permitted.

e. Expenses of maintaining committee records and preparing financial disclosure reports, including costs associated with services provided by an accountant or other professional.

f. Promotional materials, such as stickers, pens, and coffee cups, so long as the items promote the political committee itself, but not a specific candidate.

An item which is excluded by this subrule from being an allowable cost of administration may still be provided by the committee, so long as that cost is paid for from contributions or other sources of funds other than the parent entity.

This rule is intended to implement Iowa Code Supplement section 68A.503.

DIVISION V
INDEPENDENT EXPENDITURES AND IN-KIND CONTRIBUTIONS

351—4.53(68A,68B) Express advocacy; in-kind contributions; independent expenditures—definitions. For the purposes of Iowa Code Supplement chapter 68A, the following definitions apply.

4.53(1) Express advocacy. “Express advocacy” means any communication as defined in Iowa Code Supplement section 68A.102(14). “Express advocacy” includes a communication that uses any word, term, phrase, or symbol that exhorts an individual to vote for or against a clearly identified candidate or for the passage or defeat of a clearly identified ballot issue.

4.53(2) In-kind contribution. “In-kind contribution” means the provision of any good or service to a committee without charge or at a charge that is less than the usual and normal charge for such good or service. If a good or service is provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the good or service at the time of the contribution and the amount charged the committee. An in-kind contribution also includes any expenditure that meets the definition of a coordinated expenditure in subrule 4.53(4).

4.53(3) Independent expenditure. “Independent expenditure” means an expenditure by a person for goods or services, including express advocacy communication, on behalf of a candidate or a ballot issue which is not made with the knowledge and approval of a candidate or a ballot issue committee. “Independent expenditure” does not include incidental expenses (expenses of \$25 or less per incident absorbed by the volunteer which result from or arise out of the volunteer work) incurred by an individual in performing volunteer work.

4.53(4) Coordinated expenditure. “Made with the knowledge and approval of a candidate or ballot issue committee” means that there has been arrangement, coordination, or direction by the candidate or an agent or officer of the candidate’s committee or a ballot issue committee prior to the procurement or purchase of the good or service, or the publication, distribution, display, or broadcast of an express advocacy communication. This may also be referred to as a “coordinated expenditure.” An expenditure will be presumed to be coordinated when it is:

a. Based on information provided to the expending person by the candidate, the candidate’s committee, or the ballot issue committee with a view toward having an expenditure made; or

b. Made by or through any person who is or has been authorized to raise or expend funds; who is or has been an officer of the candidate’s committee or the ballot issue committee; or who is or has been receiving any form of compensation or reimbursement from the candidate, the candidate’s committee, or the ballot issue committee.

This rule is intended to implement Iowa Code Supplement section 68A.404.

DIVISION VI
COMMITTEE DISSOLUTION

351—4.54(68A) Committee dissolution; disposition of property; resolution of loans or debts. A committee shall not dissolve until all loans and debts are paid, forgiven, or transferred, and the remaining funds in the committee’s campaign account are distributed according to Iowa Code sections 68A.302

and 68A.303 and rule 351—4.25(68A,68B). In the case of a candidate's committee, the disposition of all campaign property with a residual value of \$100 or more must be accomplished before dissolution.

4.54(1) *Manner of disposition—candidates' committees.* A candidate's committee shall dispose of campaign property with a residual value of \$100 or more through a sale of the property at fair market value, with proceeds treated as any other campaign funds, or through donation of the property as set out in Iowa Code section 68A.303(1). The candidate's committee shall disclose on the committee's campaign report the manner of disposition.

4.54(2) *Resolution of loans and debts.* The loans and debts of a committee may be transferred, assumed, or forgiven except that a loan or debt owed to a financial institution, insurance company, or corporation may not be forgiven unless the committee is a ballot issue committee. The committee shall disclose on the committee's campaign report the transfer, assumption, or forgiveness of a loan or debt on the appropriate reporting schedules.

4.54(3) *Settlement of disputed loans and debts.* A dispute concerning a loan or debt may be resolved for less than the original amount if the committee discloses on the committee's campaign report the resolution of the dispute. If the dispute is between a candidate's committee and a financial institution, insurance company, or corporation, the candidate's committee shall submit a written statement to the board describing the loan or debt, the controversy, and the steps taken to settle or collect the loan or debt. The board will review the statement and determine whether to permit the candidate's committee to report the loan or debt as discharged.

4.54(4) *Unavailable creditor.* If the committee cannot locate a person to whom it owes a loan or debt, the committee shall provide the board with a written statement describing the steps the committee has taken to locate the creditor and shall request direction from the board as to what additional steps, if any, should be taken. If a candidate's committee owes a loan or debt to a financial institution, insurance company, or corporation, resolution of the matter shall include payment to a charitable organization or the general fund of the state of Iowa.

This rule is intended to implement Iowa Code section 68A.402B.

351—4.55(68A) Statement of dissolution; final report; final bank statement.

4.55(1) *Statement of dissolution.* A statement of dissolution (Form DR-3) shall be filed after the committee terminates its activity, disposes of its funds and assets, and has discharged all of its loans and debts. The statement shall be either typewritten or printed legibly in black ink and shall be signed by the person filing the statement. A statement of dissolution filed electronically using the board's Web site is deemed signed when filed.

4.55(2) *Place of filing.* Statements of dissolution shall be filed with the board at 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Statements may also be filed by fax at (515)281-3701 or filed electronically through the board's Web site at www.iowa.gov/ethics.

4.55(3) *Time of filing.* A committee seeking dissolution shall file a statement of dissolution within 30 days of terminating activity, disposing of funds and assets, and discharging all loans and debts. A statement must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the required due date. Faxed or electronically filed statements must be submitted at or before 11:59 p.m. on the required due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the next working day.

4.55(4) *Final report.* The committee shall file a final report disclosing the committee's closing transactions. Once the board staff reviews the report and determines that the committee has complied with all of the requirements of Iowa Code chapter 68A, the committee is no longer required to file campaign reports. If the board staff determines that the committee has not complied with all of the requirements of Iowa Code chapter 68A, the committee, prior to being dissolved, shall resolve all issues.

4.55(5) *Final bank statement.* A copy of the committee's final bank statement showing the committee's closing transactions and a zero balance shall be attached to or submitted with the committee's final report. A committee participating in an election at the county, city, school, or other political subdivision level is not required to file a final bank statement unless requested to do so by the

board. A committee seeking a waiver from the requirements of this subrule may do so in accordance with 351—Chapter 15.

This rule is intended to implement Iowa Code section 68A.402B.

351—4.56(68A,68B) Disposition of property for dissolution of committee. Rescinded IAB 6/22/05, effective 7/27/05.

351—4.57(68A,68B) Assumption or settlement of debts and obligations. Rescinded IAB 6/22/05, effective 7/27/05.

DIVISION VII
CIVIL PENALTIES FOR LATE REPORTS

351—4.58(68B) Late-filed campaign disclosure reports.

4.58(1) *Late reports.* A campaign disclosure report is deemed filed late if it is not received on or before the applicable due date as set out in rule 351—4.9(68A).

4.58(2) *Methods of filing.* A campaign disclosure report may be filed by any of the following methods: hand-delivered, mailed, faxed, sent as an E-mail attachment, or sent electronically via the Internet. The location for filing reports is set out in rule 351—4.8(68A,68B).

4.58(3) *Physical receipt.* A report must be physically received by the board as set out in rule 351—4.10(68A,68B).

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.59(68B) Routine civil penalty assessment for late-filed disclosure reports.

4.59(1) *Administrative resolution.* In administrative resolution of violations for late-filed disclosure reports, the board shall assess and collect monetary penalties for all late-filed disclosure reports. The board shall notify any person assessed a penalty of the amount of the assessment and the person's ability to request a waiver under rule 351—4.60(68B). A committee using the board's electronic filing system shall not be assessed a civil penalty if the board's electronic filing system is not properly functioning and causes the committee to be unable to timely file the report.

4.59(2) *County and local committee assessments.* County, county statutory, city, school, other political subdivision, and local ballot issue committees shall be assessed civil penalties for late-filed reports in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same committee in 12-month period
1 to 14 consecutive days delinquent	\$20	\$50
15 to 30 consecutive days delinquent	\$50	\$100
31 to 45 consecutive days delinquent	\$100	\$200

4.59(3) *State committee assessments.* Statewide, general assembly, state statutory, and state political committees, and a judge standing for retention shall be assessed civil penalties for late-filed reports, except for supplementary and special election reports, in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same committee in 12-month period
1 to 14 consecutive days delinquent	\$50	\$100
15 to 30 consecutive days delinquent	\$100	\$200
31 to 45 consecutive days delinquent	\$200	\$300

4.59(4) *Supplementary report assessments.* General assembly candidates' committees required to file supplementary disclosure reports shall be assessed a \$200 civil penalty for filing a supplementary

report one or more days late. Statewide committees required to file supplementary disclosure reports shall be assessed a \$400 civil penalty for filing a supplementary report one or more days late.

4.59(5) *Special election assessments.* The committees of general assembly candidates to fill vacancies in special elections shall be assessed a \$100 civil penalty for filing a special election report one or more days late. The committees of statewide candidates to fill vacancies in special elections shall be assessed a \$200 civil penalty for filing a special election report one or more days late.

4.59(6) *Verified statement of registration assessments.* An out-of-state committee that chooses to file a verified statement of registration (VSR) as provided in Iowa Code Supplement section 68A.201 and rule 351—4.32(68A), but fails to file the VSR on or before the fifteenth day after the date of the contribution, shall be assessed a \$25 civil penalty per late-filed VSR. However, if there is a repeat delinquency by the committee in a 12-month period, the penalty shall be \$50.

For purposes of this subrule, “date of the contribution” means the day, month and year the contribution check is dated.

4.59(7) *Independent expenditure assessment.* A person that is delinquent in filing an independent expenditure statement shall be assessed a \$25 civil penalty for filing the statement one or more days delinquent, except that if there is a repeat delinquency by the person in timely filing an independent expenditure statement within a 12-month period, the penalty shall be \$50.

4.59(8) *Form DR-OTC assessment.* A permanent organization that has not previously made a contribution in excess of \$750 and that fails to file Form DR-OTC within ten days of notice to do so by the board shall be assessed a \$20 civil penalty. A permanent organization that has previously made a contribution in excess of \$750 and that fails to file Form DR-OTC within ten days of the date on which the contribution check is issued shall be assessed a \$20 civil penalty.

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).
[ARC 7645B, IAB 3/25/09, effective 4/29/09]

351—4.60(68B) Requests for waiver of penalties. If a person believes that there are mitigating circumstances that prevented the timely filing of a report, the person may make a written request to the board for waiver of the penalty. A person seeking a waiver must submit the request to the board within 30 days of receiving a civil penalty assessment order. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or seek a contested case proceeding pursuant to rule 351—4.61(68B).

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.61(68B) Contested case challenge.

4.61(1) *Request.* If the person accepts administrative resolution of a matter through the payment of the assessed penalty, the matter shall be closed. If the person chooses to contest the board’s decision to deny the request or grant a partial waiver of an assessed penalty, the person shall make a written request for a contested case proceeding within 30 days of being notified of the board’s decision.

4.61(2) *Procedure.* Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The hearing shall be conducted in accordance with the provisions of Iowa Code section 68B.32C and the board’s rules. The burden shall be on the board’s legal counsel to prove that a violation occurred.

4.61(3) *Failure to request hearing.* Failure to request a contested case proceeding to appeal the board’s decision on a waiver request is failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A and Iowa Code section 68B.33.

This rule is intended to implement Iowa Code Supplement section 68B.32A(8).

351—4.62(68B) Payment of penalty.

4.62(1) *Where payment made.* Checks or money orders shall be made payable and forwarded to: Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Such funds shall be deposited in the general fund of the state of Iowa.

4.62(2) *Who may make payment.* Payment may be made at the person's discretion, including from funds of a committee or from personal funds of an officer of a committee.

4.62(3) *Disclosure of payment.* Rescinded IAB 3/25/09, effective 4/29/09.

This rule is intended to implement Iowa Code Supplement sections 68A.503 and 68B.32A(8).
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CHAPTER 6
EXECUTIVE BRANCH ETHICS

DIVISION I
GENERAL PROVISIONS

351—6.1(68B) Scope of chapter. Pursuant to Iowa Code section 68B.32(1), the Iowa ethics and campaign disclosure board is to set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, and candidates for office in the executive branch of state government. Pursuant to Iowa Code Supplement section 68B.32A(12), the board is required to establish rules relating to ethical conduct for the executive branch of state government. This chapter sets the standards and establishes the rules for the ethical conduct of persons in the executive branch of state government.

This rule is intended to implement Iowa Code section 68B.32(1) and Iowa Code Supplement section 68B.32A(12).

351—6.2(68B) Definitions. For purposes of this chapter, the following definitions apply:

“*Agency of state government*” or “*state agency*” means any authority, board, bureau, commission, community college, department, division, office of a statewide elected official, or regents university.

“*Board*” means the Iowa ethics and campaign disclosure board.

“*Candidate for statewide office*” means a candidate for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general.

“*Employee*” means an individual who is a paid employee of any agency of state government. “Employee” includes an individual employed in an interim or acting capacity. “Employee” does not include an official or an independent contractor.

“*Executive branch of state government*” means an agency of state government.

“*Official*” means a statewide elected official, an executive or administrative head or heads of a state agency, a deputy executive or administrative head or heads of a state agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds. “Official” includes an individual serving in an interim or acting capacity.

“*State duties*” means the official duties, responsibilities, or activities of an official or employee that are mandated by law, rule, or court order, or that otherwise lawfully aid an agency of state government in carrying out the statutory functions of the agency.

This rule is intended to implement Iowa Code Supplement section 68B.2.
[ARC 7649B, IAB 3/25/09, effective 4/29/09]

351—6.3(68B) Complaints or filing information alleging a violation.

6.3(1) Who may file. Any person may file a complaint or provide information to the board alleging a violation of Iowa Code Supplement chapter 68B or this chapter by officials, employees, and candidates for statewide office.

6.3(2) Procedure. The procedure for filing a complaint or providing information to the board alleging a violation of Iowa Code Supplement chapter 68B or this chapter is set out in Iowa Code section 68B.32B and 351—Chapter 9.

6.3(3) Whistleblower protection. A person who discharges or discriminates against an official or employee because the official or employee filed a complaint or provided information to the board shall be subject to the board’s complaint process if the official or employee filed the complaint or provided the information in good faith. If it is determined after a contested case proceeding that a person has impermissibly discharged or discriminated against an official or employee, the board may impose sanctions as set out in Iowa Code section 68B.32D.

For purposes of this subrule, “good faith” means that any statements or materials in a complaint or included as part of information provided to the board were made or provided with a reasonable belief that such statements or materials were true and accurate.

This rule is intended to implement Iowa Code Supplement section 68B.32A(13) and Iowa Code section 68B.32B.

351—6.4(68B) Board advice. Persons subject to the authority of the board under Iowa Code Supplement chapter 68B or this chapter may seek advice or guidance from the board concerning the legality of any action or conduct potentially affected by Iowa Code Supplement chapter 68B or this chapter.

6.4(1) *Advisory opinion.* A board advisory opinion applies a statute or rule under the board’s jurisdiction to a particular factual situation. The procedure for requesting a board opinion is set out in rules 351—1.2(68B) and 351—1.3(68B). Pursuant to Iowa Code Supplement section 68B.32A(11) as amended by 2004 Iowa Acts, Senate File 2179, section 10, a board opinion, if followed, constitutes a defense to a subsequent complaint or information provided to the board concerning the same facts and circumstances.

6.4(2) *Declaratory order.* Persons may also seek board guidance concerning the application of a statute or rule under the board’s jurisdiction to a specific factual situation through the petition for declaratory order procedure set out in 351—Chapter 12.

6.4(3) *Routine administrative advice.* A person may also receive oral or written routine administrative advice from board staff concerning the application of Iowa Code chapter 68B or this chapter. Routine administrative advice is not binding on the board, but may be offered as a defense to a subsequent complaint or information provided to the board concerning the same facts and circumstances.

This rule is intended to implement Iowa Code Supplement section 68B.32A(11) as amended by 2004 Iowa Acts, Senate File 2179, section 10.

DIVISION II
CONFLICT OF INTEREST AND MISUSE OF PROPERTY

351—6.5 to 6.7 Reserved.

351—6.8(68B) Misuse of public property. Iowa Code section 68B.32A(12) directs the board to establish rules relating to the misuse of public property by officials, employees, and candidates for statewide office.

6.8(1) *Definition of public property.* “Public property” means any real or personal property owned or controlled by the state of Iowa including but not limited to buildings, facilities, equipment, supplies, funds, records, files, and materials.

6.8(2) *Prohibited uses.* The following are deemed to be the misuse of public property by an official, employee, or candidate for statewide office:

a. Using public property to engage in an outside employment or activity that leads to an unacceptable conflict of interest as prohibited in Iowa Code section 68B.2A(1) “*a.*”

b. Using public property to knowingly and purposefully send, receive, or view obscene material. “Obscene material” means any material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value.

This paragraph shall not apply to obscene materials that are sent or received as part of a law enforcement investigation or are authorized by law to be sent or received.

c. Using public property for personal financial gain. This prohibition does not apply to the receipt of lawful compensation for the performance of official state duties.

d. Using public property for a personal benefit to the detriment of the state.

e. Removing public property from a state building or facility for personal use.

f. Using public property to engage in political activities as prohibited in 351—Chapter 5. This rule is intended to implement Iowa Code section 68B.32A(12).

351—6.9(68B) Use of confidential information. No official or employee shall disclose or use confidential information, including the contents of a sealed bid acquired during the course of the official's or employee's state duties, for the personal gain or benefit of any person. This rule does not apply to the release of information that is mandated by law, rule, or court order.

This rule is intended to implement Iowa Code Supplement section 68B.32A(12).

DIVISION III
SALES OR LEASES OF GOODS OR SERVICES

351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income. Pursuant to Iowa Code section 68B.3, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding. This prohibition includes sales to the state agency in which the official serves or is employed.

6.10(1) Exceptions. The prohibition in Iowa Code section 68B.3 and this rule shall not apply to any of the following:

- a.* Sales of goods or services done as part of the official's or employee's state duties.
- b.* The publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated by law for the publication of such materials and for which publication rates are fixed by law.
- c.* Instruction at an accredited educational institution if the official or employee meets the minimum education and licensing requirements established for other instructors at the educational institution.

6.10(2) Sales to political subdivisions. An official who sells goods or services to a political subdivision of the state shall disclose on the official's Form PFD as provided in 351—Chapter 7 if income was received from the sale.

This rule is intended to implement Iowa Code section 68B.3.

[ARC 7650B, IAB 3/25/09, effective 4/29/09]

351—6.11(68B) Sales or leases by regulatory agency officials or employees. An official or employee of a regulatory agency shall not directly or indirectly sell or lease any goods or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2, and this rule. This prohibition does not apply to sales or leases that are part of the official's or employee's state duties.

6.11(1) Applicability. Pursuant to Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2, the board shall adopt rules specifying the method by which an official or employee of a regulatory agency may obtain consent to sell or lease a good or service to an individual, association, or corporation subject to the regulatory authority of the official's or employee's agency. This rule sets out the method of obtaining consent by a regulatory agency official or employee.

6.11(2) Definitions. For purposes of this rule, the following definitions apply:

"Agency" means a regulatory agency.

"Employee" means an employee of an executive branch regulatory agency and does not include an independent contractor or an official.

"Official" means a statewide elected official of a regulatory agency, an executive or administrative head or heads of a regulatory agency, a deputy executive or administrative head or heads of a regulatory agency, a member of a board or commission as defined under Iowa Code section 7E.4, or a head of a major subunit of a regulatory agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

“*Regulatory agency*” means the department of agriculture and land stewardship, department of workforce development, department of commerce, Iowa department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue, department of inspections and appeals, department of administrative services, public employment relations board, state department of transportation, civil rights commission, department of public defense, Iowa ethics and campaign disclosure board, and department of natural resources.

6.11(3) *Request for consent.* An official’s or employee’s request for an agency’s consent to the sale or lease of goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed with the official’s or employee’s agency at least 20 calendar days in advance of the proposed sale or lease of any goods or services.

b. The request shall include all of the following:

(1) The name of the individual, association, or corporation to which the goods or services are to be sold or leased;

(2) The relationship of the individual, association, or corporation to the agency;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the official or employee explaining how the proposed sale or lease of the goods or services will not violate the provisions of Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2, or create a conflict of interest under Iowa Code section 68B.2A.

6.11(4) *Agency guidelines.* Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2, and the guidelines in this subrule shall be the sole legal authorities to be used by an agency in considering the granting of consent. In determining whether to grant consent, the agency shall take the following guidelines into consideration:

a. The official or employee seeking consent is not the person with the authority to determine whether consent should be granted.

b. The duties and functions performed by the official or employee seeking consent are not related to the regulatory authority of the agency over the individual, association, or corporation to which the goods or services will be sold or leased.

c. The selling or leasing of the goods or services does not affect the official’s or employee’s duties or functions at the agency.

d. The selling or leasing of the goods or services will not cause the official or employee to advocate on behalf of the individual, association, or corporation to the agency.

e. The selling or leasing of the goods or services does not cause the official or employee to sell or lease goods or services to the agency on behalf of the individual, association, or corporation.

f. The selling or leasing of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

g. The request complies with the procedural requirements of subrule 6.11(3).

h. A regulatory agency may grant blanket consent for sales or leases to classes of individuals, associations, or persons when such blanket consent is consistent with subrule 6.11(4) and the granting of single consents is impractical or impossible to determine.

These guidelines shall be publicized and made known to all personnel throughout the agency.

6.11(5) *Agency decision.* The official’s or employee’s agency shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the official or employee and the agency. If the request is denied or granted conditionally, the agency shall state the reasons for the denial or conditional consent.

6.11(6) *Appeal of denial.* An official or employee who receives a denial or conditional consent may file a request with the board for a contested case proceeding pursuant to 351—Chapter 11 for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A, Iowa Code Supplement section 68B.4as amended by 2006 Iowa Acts, House File 2593, section 2, and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.11(7) *Copy of consent filed with board.* Pursuant to Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2, an agency granting consent shall file a copy of the consent with the board within 20 days of the granting of consent. The board shall treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the individual who granted the consent.

6.11(8) *Consent not a defense.* Consent granted by an agency under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the official or employee to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code Supplement section 68B.4 as amended by 2006 Iowa Acts, House File 2593, section 2.

351—6.12(68B) Sales or leases by members of the office of the governor. A permanent full-time member of the office of the governor shall not directly or indirectly sell or lease any goods or services to registered lobbyists before the general assembly or the executive branch or to individuals, associations, or corporations that employ persons who are registered lobbyists before the general assembly or the executive branch except as provided in Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3, and this rule. This prohibition does not apply to sales or leases that are part of the member's state duties.

6.12(1) *Request for consent.* A request submitted by a member of the office of the governor for consent to sell or lease goods or services shall comply with all of the following:

a. The request shall be in writing and shall be filed at least 20 calendar days in advance of the proposed sale or lease of any goods or services with the person responsible for hiring or approving the hiring of the member.

b. The request shall include all of the following:

(1) The name of the lobbyist, individual, association, or corporation to which the goods or services are to be sold or leased;

(2) The relationship of the lobbyist, individual, association, or corporation to the office of the governor;

(3) A description of the goods or services;

(4) The date or dates that the goods or services will be delivered; and

(5) A statement by the member explaining how the proposed sale or lease of the goods or services will not violate the provisions of Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3, or create a conflict of interest under Iowa Code section 68B.2A.

6.12(2) *Guidelines for granting consent.* In determining whether to grant consent, the person responsible for hiring or approving the hiring of the member shall take the following guidelines into consideration:

a. The duties and functions performed by the member are not related to the authority of the office of the governor over the lobbyist, individual, association, or corporation.

b. The selling or leasing of goods or services by the member to the lobbyist, individual, association, or corporation does not affect the member's duties or functions at the office of the governor.

c. The selling or leasing of any goods or services by the member to a lobbyist, individual, association, or corporation does not include lobbying the office of the governor.

d. The selling or leasing of any goods or services by the member does not cause the member to sell or lease goods or services to the office of the governor on behalf of the lobbyist, individual, association, or corporation.

e. The selling or leasing of the goods or services will not result in a conflict of interest as provided in Iowa Code section 68B.2A.

f. The request complies with the procedural requirements of subrule 6.12(1).

g. A blanket consent may be granted for sales or leases to classes of lobbyists, individuals, associations, or corporations when such blanket consent is consistent with subrule 6.12(2) and the granting of single consents is impractical or impossible to determine.

These guidelines shall be publicized and made known to members of the office of the governor.

6.12(3) Decision. The person responsible for hiring or approving the hiring of the member shall issue a written consent or denial within 14 calendar days following the date the request was filed. The deadline may be extended by agreement of both the member and the person. If the request is denied, the person shall state the reasons for the denial.

6.12(4) Appeal of denial. A member who receives a denial may file a request with the board for a contested case proceeding pursuant to 351—Chapter 11 for a determination of whether the situation described in the request complies with the requirements of Iowa Code section 68B.2A, Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3, and this rule. The final order of the board constitutes final agency action for purposes of seeking judicial review.

6.12(5) Copy of consent filed with board. Pursuant to Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3, a copy of the consent granted to a member shall be filed with the board within 20 days of the granting of consent. The board shall treat the consent as a public record. The failure to provide a copy of the consent may result in the imposition of board sanctions against the person who granted the consent.

6.12(6) Consent not a defense. Consent granted under this rule shall not constitute a defense to a complaint alleging a violation of any law or rule. It is the responsibility of the member of the office of the governor to ensure compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code Supplement section 68B.4B as amended by 2006 Iowa Acts, House File 2593, section 3.

DIVISION IV
EMPLOYMENT RESTRICTIONS

351—6.13 Reserved.

351—6.14(68B) Engaging in services against the interest of the state prohibited. Except for a member of a board or commission, no official or employee shall receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state except as set out in Iowa Code section 68B.6 as amended by 2004 Iowa Acts, Senate File 2179, section 8, and this rule. This prohibition relates to any case, proceeding, application, or other matter before any federal court, federal bureau, federal agency, federal commission, federal department, any agency of state government, or any court of the state of Iowa.

6.14(1) Definitions. For purposes of this rule, the following definitions apply:

“*Board*” means a policy-making body that has the power to hear contested cases or a policy-making body that has powers for both rule making and hearing contested cases.

“*Commission*” means a policy-making body that has rule-making powers.

6.14(2) Member of board or commission. No member of a board or commission shall receive compensation in any form, or enter into any type of agreement to receive compensation in any form, to appear on behalf of any person or otherwise render services against the interest of the state in relation to any case, proceeding, application, or other matter before the subunit of a state agency in which the member serves or is employed, or with which the member has substantial and regular contact as part of the member’s state duties.

6.14(3) Exception for attorney general and public defender. As provided in 2004 Iowa Acts, Senate File 2179, sections 1 and 2, officials and employees carrying out the official duties of the office of the attorney general or the office of the state public defender are not subject to the provisions of Iowa Code section 68B.6 as amended by 2004 Iowa Acts, Senate File 2179, section 8, or this rule.

This rule is intended to implement Iowa Code section 68B.6 as amended by 2004 Iowa Acts, Senate File 2179, section 8.

351—6.15 Reserved.

DIVISION V
GIFTS AND OFFERS

351—6.16 to 6.18 Reserved.

351—6.19(68B) Prohibition on receipt of an honorarium. Pursuant to Iowa Code section 68B.23, an official or employee shall not accept an honorarium from a restricted donor.

6.19(1) Definitions. For purposes of this rule, the following definitions apply:

“Honorarium” means a payment of compensation or the giving of anything of value to an official or employee in relation to a speaking engagement.

“Restricted donor” means a person as defined in Iowa Code section 68B.2(24).

6.19(2) Exceptions. An official or employee may receive and accept an honorarium provided that the honorarium consists of:

a. Payment of actual expenses for registration, food, beverages, travel, or lodging paid in return for participation on a panel or for a speaking engagement at a meeting. The expenses shall relate directly to the day or days on which the official or employee has participation or speaking responsibilities.

b. Receipt of a nonmonetary item or a series of nonmonetary items that the official or employee donates within 30 days of receipt to any of the following:

(1) A public body;

(2) A bona fide educational or charitable organization; or

(3) The department of administrative services. Items donated to the department of administrative services shall be disposed of by assignment to state agencies for official use or by public sale.

c. Payment to an official or employee for services rendered as part of a bona fide private business, trade, or profession in which the official or employee is engaged so long as both of the following conditions are met:

(1) The payment is commensurate with the actual services rendered; and

(2) The payment is being made due to a special expertise or other qualification the recipient possesses separate from the recipient’s status as a public official or public employee.

6.19(3) Solicitation prohibited. An official or employee shall not solicit, demand, or otherwise request an honorarium from a restricted donor.

This rule is intended to implement Iowa Code sections 68B.23 and 68B.32A(12).

351—6.20(68B) Loans from executive branch lobbyists prohibited. Pursuant to Iowa Code section 68B.24, officials, employees, and candidates for statewide office shall not directly or indirectly seek or accept a loan from a person who is an executive branch lobbyist.

6.20(1) Definitions. For purposes of this rule, the following definitions apply:

“Executive branch lobbyist” means an individual who is registered as a lobbyist with the board or is an “executive branch lobbyist” as defined in rule 351—8.2(68B).

“Loan” means a sum of money upon agreement, express or implied, to be repaid with or without interest.

6.20(2) Offer of loan prohibited. An executive branch lobbyist shall not directly or indirectly offer or make a loan to an official, an employee, or a candidate for statewide office as prohibited in Iowa Code section 68B.24(2) and rule 351—8.16(68B).

6.20(3) Exceptions. The prohibitions in Iowa Code section 68B.24 and this rule do not apply to a loan made in either of the following circumstances:

a. A loan made in the ordinary course of business. For purposes of Iowa Code section 68B.24 and this rule, “ordinary course of business” means the loan is made by a person regularly engaged in a business that makes loans to members of the public, and the finance charges and other terms of the loan are the same as or substantially similar to the finance charges and loan terms that are available to members of the public.

b. A loan made to the campaign committee of a candidate for statewide office that is subject to the campaign laws in Iowa Code chapter 68A.

This rule is intended to implement Iowa Code sections 68B.24 and 68B.32A(12).

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[◇] Two or more ARCs

CHAPTER 8
EXECUTIVE BRANCH LOBBYING
[Prior to 11/26/03, see 351—Ch 13]

351—8.1(68B) Executive branch lobbying defined. “Executive branch lobbying” means acting directly to encourage the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by a state agency or any statewide elected official. For purposes of this chapter, “state agency” does not include the legislative branch of state government.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.2(68B) Executive branch lobbyist defined. “Executive branch lobbyist” means an individual who by acting directly does at least one of the following:

1. Receives compensation for engaging in executive branch lobbying.
2. Is a designated representative of an organization that has as one of its purposes engaging in executive branch lobbying.
3. Represents the position of a federal, state, or local agency in which the person serves or is employed as the representative designated to engage in executive branch lobbying.
4. Makes expenditures of more than \$1,000 in a calendar year to communicate in person for the purpose of engaging in executive branch lobbying.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.3(68B) Individuals not considered executive branch lobbyists. The following individuals are not considered to be executive branch lobbyists:

1. Officials and employees of a political party that is organized in the state of Iowa and that meets the requirements of Iowa Code section 43.2, when the officials and employees represent the political party in an official capacity.
2. Representatives of the news media only when engaged in the reporting and dissemination of news and editorials.
3. All federal, state, and local elected officials, while performing the duties and responsibilities of office.
4. Individuals whose activities are limited to appearances to give testimony or provide information or assistance at public hearings of state agencies or who are giving testimony or providing information or assistance at the request of public officials or employees.
5. Members of the staff of the United States Congress or the Iowa general assembly.
6. Agency officials and employees while they are engaged in activities within the agency in which they serve or are employed or with another agency within which an official’s or employee’s agency is involved in a collaborative project.
7. An individual who is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, education, or charitable association, foundation, or organization and who is not paid compensation or is not specifically designated as an executive branch lobbyist.
8. Individuals whose activities are limited to submitting data, views, or arguments in writing, or requesting an opportunity to make an oral presentation under Iowa Code section 17A.4(1).
9. Individuals whose activities are limited to monitoring or following the progress of legislation, a rule, or an executive order, but who do not engage in executive branch lobbying.
10. Individuals who represent a client in responding to a request for proposal or otherwise receiving a contract or grant from a state agency.
11. Individuals who represent a client involved in a legal dispute with the state, including a contested case proceeding.
12. Individuals advocating for or against the appointment of a particular individual to a board or commission of the state.

Individuals who are uncertain as to whether or not they are considered executive branch lobbyists should contact the board for guidance prior to engaging in any executive branch lobbying.

This rule is intended to implement Iowa Code section 68B.2(13).

351—8.4(68B) Executive branch lobbyist client defined. “Executive branch lobbyist client” means a private person or a federal, state, or local governmental entity that pays compensation to or designates an individual to be a lobbyist before the executive branch.

This rule is intended to implement Iowa Code section 68B.2(6).

351—8.5(68B) Lobbyist compensation defined; contingency fee lobbying prohibited.

8.5(1) Lobbyist compensation defined. “Lobbyist compensation” means any money, thing of value, or financial benefit conferred in return for engaging in executive branch lobbying.

8.5(2) Contingency fee lobbying prohibited. No person shall offer, nor shall any person accept, compensation contingent upon the outcome of executive branch lobbying services rendered or to be rendered. Complaints or information alleging a violation of this subrule shall be filed with the board and governed by Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.2(7).

351—8.6(68B) Executive branch lobbying expenditures. This rule is intended to aid executive branch lobbyists in reporting expenditures as required by Iowa Code section 68B.37 that are made by lobbyists for executive branch lobbying purposes. The provisions of this rule are intended to serve as a general guideline to obtain uniform reporting.

8.6(1) Expenditures defined. The following are defined as executive branch lobbying expenditures:

a. Direct communication expenses such as telephone calls, letters, faxes, printing, and postage for purposes of engaging in executive branch lobbying.

b. Other tangible costs directly associated with engaging in executive branch lobbying as defined in rule 351—8.1(68B).

8.6(2) Lobbyist client expenses. For purposes of this rule, any of the expenses set out in subrule 8.6(1) incurred by a lobbyist’s client shall apply to the lobbyist and shall be a reportable expense by the lobbyist. However, an expenditure made by any organization for publishing a newsletter or other informational release for its members is not a reportable expenditure.

This rule is intended to implement Iowa Code section 68B.37.

351—8.7(68B) Lobbyist registration required.

8.7(1) Time of filing. Any individual engaging in executive branch lobbying activity shall register by filing an executive branch lobbyist registration statement with the board on or before the day the lobbying activity begins. Registration expires upon the commencement of a new calendar year. Persons wishing to register for a new calendar year may do so on or after December 1 of the previous year.

8.7(2) Place of filing. Executive branch lobbyist registration statements shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Registration statements may also be filed by fax at (515)281-3701 or electronically through the board’s Web site at www.iowa.gov/ethics.

8.7(3) Information required. The following information shall be disclosed on the executive branch lobbyist registration statement:

a. The lobbyist’s name and business address. The lobbyist’s residential address and E-mail address are optional. The lobbyist shall indicate whether mail should be sent to the lobbyist’s office or residence.

b. A general description of the issues or interests that the lobbyist might follow and a list of agencies or offices that may be lobbied.

c. Whether or not the lobbyist is a governmental official representing the official position of the lobbyist’s department, agency, or governmental entity.

d. Each of the lobbyist’s clients, including the name and address of the client, a contact person and job title, and the contact person’s telephone number. An E-mail address is optional.

e. The lobbyist's signature and date of filing. Registration statements filed electronically through the board's Web site are deemed signed and dated when filed.

8.7(4) *Government employee authorization letter.* As required by Iowa Code section 68B.36(5), all federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall submit with their registration statements letters of authorization from their department or agency heads. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies shall disclose this fact on their lobbyist registration statements.

8.7(5) *Amendment to registration.* Any change or addition to the information in an executive branch lobbyist's registration statement shall be filed with the board within ten days after the change or addition is made known to the lobbyist. The lobbyist may file changes or additions by submitting an amended registration statement or by letter. If the lobbyist submits the changes or additions by letter, the letter shall contain sufficient information to notify the public and the board of the change or addition.

8.7(6) *Cancellation.* If a lobbyist's service on behalf of a client is concluded prior to the end of the calendar year, the lobbyist or client may cancel the registration and terminate the reporting requirements of Iowa Code section 68B.37 and rule 351—8.8(68B) so long as compliance with subrule 8.8(4) is achieved. Cancellation may be completed by the filing of an executive branch lobbyist termination statement or by letter.

8.7(7) *Failure to timely file registration.* An individual who fails to file an executive branch lobbyist registration statement before engaging in executive branch lobbying is in violation of Iowa Code section 68B.36 and is subject to the possible imposition of board sanctions.

This rule is intended to implement Iowa Code section 68B.36.

351—8.8(68B) Executive branch periodic lobbyist reports.

8.8(1) Every executive branch lobbyist, unless an exemption is granted pursuant to subrule 8.8(5), shall file periodic reports disclosing all of the following:

- a. The lobbyist's name and address.
- b. The reporting period covered by the filed report, including disclosing whether the report is an original or amended report.
- c. The lobbyist's clients.
- d. The recipient and amount of campaign contributions made by the lobbyist to candidates for state office. Campaign contributions shall not be made to state officers during the time period described in Iowa Code Supplement section 68A.504 and rule 351—8.15(68A).
- e. Expenditures made by the lobbyist for executive branch lobbying purposes.
- f. The lobbyist's signature and the date filed. Reports filed electronically through the board's Web site are deemed signed and dated when filed.

8.8(2) *Place of filing.* Executive branch periodic lobbyist reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-3701 or electronically through the board's Web site at www.iowa.gov/ethics.

8.8(3) *Time of filing.* An executive branch periodic lobbyist report shall be filed on or before April 30, July 31, October 31, and January 31, for the preceding calendar quarter or parts thereof during which the lobbyist was engaged in executive branch lobbying. The report must be physically received by the board on or before the report due date. If mailed, the report must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed reports must be submitted on or before 11:59 p.m. on the due date. If the report due date falls on a weekend or holiday, the due date shall be extended to the next business day.

8.8(4) *Cancellation.* If the lobbyist cancels registration on behalf of a client under rule 351—8.7(68B), the lobbyist shall file a final executive branch periodic lobbyist report on the next required due date or within 15 days of the cancellation, whichever is earlier. As required by Iowa Code section 68B.37(3), the final report shall include cumulative year-to-date information.

8.8(5) *Exemption.* As provided in Iowa Code section 68B.37(3), if the lobbyist is designated to represent an organization other than a governmental entity and is not paid compensation or does not

expend more than \$1,000 to lobby, the lobbyist may file an Application for Lobbyist Quarterly Reporting Exemption form and one Executive Branch Periodic Lobbyist Report disclosing anticipated expenditures for the year in lieu of filing the quarterly reports. The exemption form and cumulative report shall be filed at the same time the lobbyist registration statement is filed.

8.8(6) *Attorney-client privilege not applicable.* Attorneys who engage in executive branch lobbying shall comply with the requirements of Iowa Code section 68B.37 and shall not avoid public disclosure of executive branch lobbying expenditures by asserting attorney-client privilege.

This rule is intended to implement Iowa Code section 68B.37.

351—8.9(68B) Executive branch lobbyist client reporting.

8.9(1) Every executive branch lobbyist client shall file reports that contain the following information:

- a. The name and address of the client, including a contact person.
- b. The name of the client's lobbyists.
- c. The amount of all salaries, fees, retainers, and reimbursements paid or anticipated to be paid by the client to each lobbyist for engaging in executive branch lobbying activities for the period commencing on July 1 of the previous year through June 30 of the current year. A report shall be filed even if the client did not pay any compensation to the client's lobbyist. If no compensation was paid, the client shall disclose on the report \$0.00 as compensation paid. In the case of a salaried position when executive branch lobbying is part of the individual's duties, the reportable salary shall be based on a pro-rata basis of time spent engaging in executive branch lobbying.

d. The signature of the client's contact person and the date signed. Lobbyist client reports filed electronically through the board's Web site are deemed signed and dated when filed.

8.9(2) Place of filing. Executive branch lobbyist client reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at (515)281-3701 or electronically through the board's Web site at www.iowa.gov/ethics.

8.9(3) Time of filing. An executive branch lobbyist client report shall be filed on or before July 31. The report must be physically received by the board on or before the report due date. If mailed, the report must bear a United States Postal Service postmark dated on or before the report due date. Faxed or electronically filed reports must be submitted on or before 11:59 p.m. on the due date. If the report due date falls on a weekend or holiday, the due date shall be extended to the next business day.

This rule is intended to implement Iowa Code section 68B.38 as amended by 2004 Iowa Acts, Senate File 2179, section 13.

351—8.10(68B) Reception reporting form. Rescinded IAB 12/21/05, effective 1/25/06.

351—8.11(68B) Penalties for delinquent reports.

8.11(1) *Late lobbyist report.* An executive branch lobbyist who fails to timely file an executive branch periodic lobbyist report shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	1st Delinquency	2nd Delinquency	Subsequent Delinquencies
1 to 14	\$25	\$50	\$100
15 to 30	\$50	\$100	\$200
31 and over	\$100	\$200	\$400

For purposes of this subrule, second and subsequent delinquencies apply to a report that covers any quarter of the year for which the lobbyist is registered to lobby the executive branch.

8.11(2) *Late client report.* An executive branch lobbyist client who fails to file an executive branch lobbyist client report on or before the required due date shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	Amount
1 to 14	\$25
15 to 30	\$50
31 and over	\$100

8.11(3) Additional penalty. If an executive branch lobbyist or an executive branch lobbyist client fails to file a required report within 45 days of the report due date, or fails to file a complete report, a contested case proceeding may be held to determine whether a violation has occurred. If, after a contested case proceeding, it is determined that a violation occurred, the board may impose any of the actions under Iowa Code section 68B.32D. Any action so imposed would be in addition to the automatically assessed penalty in this rule.

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

351—8.12(68B) Request for waiver of penalty. An executive branch lobbyist or an executive branch lobbyist client that believes there are mitigating circumstances that prevented the timely filing of a report may make a written request to the board for waiver of the penalty. The board must receive the request for waiver within 30 days of the lobbyist's or lobbyist client's being notified of the civil penalty assessment. Waivers will be granted only for exceptional or very unusual circumstances.

The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or request a contested case proceeding pursuant to rule 351—8.13(68B) to appeal the board's decision.

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

351—8.13(68B) Contested case proceeding.

8.13(1) Request. If an executive branch lobbyist or an executive branch lobbyist client accepts administrative resolution of a matter through the payment of an assessed civil penalty, the matter shall be closed. If the person chooses to contest the board's decision to deny a request or grant a partial waiver of an assessed civil penalty, the person shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

8.13(2) Procedure. Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The hearing shall be conducted in accordance with the provisions of Iowa Code section 68B.32C and the board's rules. The burden shall be on the board's legal counsel to prove that a violation occurred.

8.13(3) Failure to request a contested case proceeding. The failure to request a contested case proceeding to appeal the board's decision on a waiver request is the failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A and Iowa Code section 68B.33.

This rule is intended to implement Iowa Code sections 68B.32A(4), 68B.32A(8), and 68B.33.

351—8.14(68B) Payment of penalty. An assessed civil penalty shall be paid by check or money order and shall be made payable to the State of Iowa General Fund and forwarded to: Iowa Ethics and Campaign Disclosure Board, 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The payment shall be deposited in the general fund of the state of Iowa.

This rule is intended to implement Iowa Code sections 68B.32A(4) and 68B.32A(8).

351—8.15(68A) Campaign contributions by lobbyists during the regular legislative session prohibited. Pursuant to Iowa Code section 68A.504, individuals who are registered in Iowa as either executive branch or legislative branch lobbyists are prohibited from contributing to, acting as an agent or intermediary for contributions to, or arranging for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office

on any day during the regular legislative session. This prohibition includes a contribution that is mailed during the legislative session but received by the candidate after the legislative session has adjourned.

8.15(1) *Application to governor.* The prohibition on contributions to the governor or a gubernatorial candidate during session extends for an additional 30 days following the adjournment of a regular legislative session allowed for the signing of bills.

8.15(2) *Exceptions.* The prohibition on contributions during the regular legislative session does not apply to any of the following:

a. Contributions to an elected state official, member of the general assembly, or other state official who has taken affirmative action to seek nomination or election to a federal elective office so long as the lobbyist's contribution is placed into the candidate's federal account.

b. Contributions to a candidate for state office who filed nomination papers for a special election called or held during the regular legislative session if the candidate receives the contribution at any time during the period commencing on the date on which at least two candidates have been nominated for the office and ending on the date on which the election is held. However, elected state officials are prohibited from soliciting lobbyists for contributions to another candidate for state office when a special election is held during the regular legislative session.

c. Contributions made during a special legislative session. In the case of the governor and a gubernatorial candidate, this exception also includes the 30 days following a special legislative session unless that time period falls within 30 days of adjournment of the regular legislative session.

d. Contributions from a lobbyist's personal funds that a lobbyist makes to the lobbyist's own campaign for public office.

8.15(3) *Complaints.* Complaints or information provided to the board alleging a violation of Iowa Code Supplement section 68A.504 involving either executive branch lobbyists or legislative branch lobbyists shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

8.15(4) *Date of session.* For purposes of Iowa Code section 68A.504 and this rule, a legislative session commences at 12 a.m. of the first day of the legislative session through 11:59:59 p.m. of the day that the legislative session adjourns sine die.

This rule is intended to implement Iowa Code section 68A.504.
[ARC 7651B, IAB 3/25/09, effective 4/29/09]

351—8.16(68B) Lobbyists prohibited from making loans. Pursuant to Iowa Code section 68B.24, an executive branch official, executive branch employee, or a candidate for statewide office shall not directly or indirectly seek or accept a loan from a person who is an executive branch lobbyist.

8.16(1) *Offer of loan prohibited.* An executive branch lobbyist shall not directly or indirectly offer or make a loan to an executive branch official, executive branch employee, or a candidate for statewide office.

8.16(2) *Exception.* The prohibitions in Iowa Code section 68B.24 do not apply to loans made in the ordinary course of business. "Ordinary course of business" means the loan is made by a person who is regularly engaged in a business that makes loans to members of the general public, and the finance charges and other terms of the loan are the same or substantially similar to the finance charges and loan terms that are available to members of the general public.

8.16(3) *Complaints.* Complaints or information provided to the board alleging a violation of Iowa Code section 68B.24 by an executive branch official, executive branch employee, candidate for statewide office, or an executive branch lobbyist shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.24.

351—8.17(68B) Ban on certain lobbying activities by government personnel. Executive branch officials and executive branch employees are prohibited by Iowa Code section 68B.5A from engaging in certain types of lobbying activities during the time in which these officials and employees serve or are employed by the state. In addition, Iowa Code section 68B.5A prohibits executive branch officials

and executive branch employees from accepting, under certain situations, employment as lobbyists within two years of leaving state government.

8.17(1) A person who serves as a statewide elected official, the executive or administrative head of an agency, or the deputy executive or administrative head of an agency shall not act as a lobbyist during the time in which the person serves or is employed by the state unless the person is designated to represent the official position of the person's agency. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government.

8.17(2) The head of a major subunit of a department or independent state agency or a full-time employee of an office of a statewide elected official shall not act as a lobbyist during the time in which the person is employed by the state before the agency that the person is employed by or before state agencies, officials, or employees with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated to represent the official position of the person's agency. A person subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying before the agency that the person was employed by or before state agencies, officials, or employees with whom the person had substantial and regular contact as part of the person's former duties.

8.17(3) A state employee who is not included in subrule 8.17(1) or 8.17(2) shall not act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person is directly concerned and personally participates as part of the person's employment, unless the person is designated to represent the official position of the person's agency. Persons subject to this prohibition may not accept employment as a lobbyist for two years after leaving state government if the employment involves lobbying in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's employment.

8.17(4) Exception. As provided in Iowa Code section 68B.5A(7), the prohibition on accepting employment as a lobbyist does not apply to a person who, within two years of leaving state service or employment, is elected to, appointed to, or employed by another office of the state, an office of a political subdivision of the state, or the federal government and represents the position of the new office or employment.

8.17(5) Complaints. Complaints or information provided to the board alleging a violation of Iowa Code section 68B.5A by an executive branch official or an executive branch employee shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.5A.

351—8.18(68B) False communications prohibited.

8.18(1) *False material fact.* An executive branch lobbyist shall not intentionally deceive or attempt to deceive any executive branch official or any executive branch employee in regard to a material fact pertinent to an administrative rule, legislation, or an executive order.

8.18(2) *False communication.* An executive branch lobbyist shall not cause a communication to be sent to an executive branch official or an executive branch employee in the name of either of the following:

- a. A fictitious person; or
- b. A real person except with the consent of that person.

8.18(3) *Complaints.* Complaints or information provided to the board alleging a violation of this rule by an executive branch lobbyist shall be filed with the board and governed by the procedures in Iowa Code sections 68B.32B through 68B.32D.

This rule is intended to implement Iowa Code section 68B.32A(12).

351—8.19(68B) Advisory opinions. Any person under the board's jurisdiction that is affected by Iowa Code chapter 68B or 351—Chapter 8 may seek an advisory opinion from the board pursuant to rules 351—1.2(68B) and 1.3(68B). The purpose of a board opinion is to apply a statute or rule to a

particular factual situation. Advice contained in a board opinion, if followed, constitutes a defense to a subsequently filed complaint.

This rule is intended to implement Iowa Code section 68B.32A(11).

351—8.20(68) Retention and availability of filed forms.

8.20(1) *Public record.* All forms filed under this chapter are public records and shall be available in the board office for inspection and copying. A filed form shall be retained by the board for a period of at least five years from the date the form was filed.

8.20(2) *Internet access.* Forms filed under this chapter shall be accessible for viewing via the board's Web site at www.iowa.gov/ethics as follows:

a. A list of registered executive branch lobbyists and executive branch lobbyist clients for the current calendar year and the two previous calendar years.

b. An executive branch periodic lobbyist report for a period of at least three years from the report due date.

c. An executive branch lobbyist client report for a period of at least three years from the report due date.

d. A reception reporting form for a period of at least three years from the date the form was filed.

This rule is intended to implement Iowa Code Supplement section 68B.32A(4).

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[◇] Two or more ARCs

HUMAN SERVICES DEPARTMENT[441]

Rules transferred from Social Services Department[770] to Human Services Department[498],
see 1983 Iowa Acts, Senate File 464, effective July 1, 1983.

Rules transferred from agency number [498] to [441] to conform with the reorganization
numbering scheme in general, IAC Supp. 2/11/87.

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CHAPTER 58
EMERGENCY ASSISTANCE

DIVISION I
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PREAMBLE

This division implements a state program of financial assistance to meet disaster-related expenses, food-related costs, or serious needs of individuals or families who are adversely affected by a state-declared disaster emergency. The program is intended to meet needs that cannot be met by other means of financial assistance.

441—58.1(29C) Definitions.

“Emergency management coordinator” means the person appointed by the local emergency management commission pursuant to Iowa Code sections 29C.9 and 29C.10 to be responsible for development of the countywide emergency operations plan and for coordination and assistance to government officials when an emergency or disaster occurs.

“Household” means all adults and children who lived in the pre-disaster residence who request assistance, as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

“Necessary expense” means the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need.

“Safe, sanitary, and secure” means free from disaster-related health hazards.

“Serious need” means the item or service is essential to the household to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

441—58.2(29C) Program implementation. The Iowa individual assistance grant program (IIAGP) shall be implemented when the governor issues a declaration of a state of disaster emergency and shall be in effect only in those counties named in the declaration. Assistance shall be provided for a period not to exceed 120 days from the date of declaration.

441—58.3(29C) Application for assistance. To request reimbursement for disaster-related expenses, the household shall complete Form 470-4448, Individual Disaster Assistance Application, and submit it within 45 days of the disaster declaration to the county emergency management coordinator along with receipts for the claimed expenses.

58.3(1) Application forms are available from county emergency management coordinators and local offices of the department of human services, as well as the Internet Web site of the department at www.dhs.iowa.gov.

58.3(2) The application shall include:

- a. A declaration of the household’s annual income, accompanied by:
 - (1) A current pay stub, W-2 form, or income tax return, or
 - (2) Documentation of current enrollment in an assistance program administered by the department of human services, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.
- b. A release of confidential information to personnel involved in administering the program.
- c. A certification of the accuracy of the information provided.
- d. An assurance that the household had no insurance coverage for claimed items.
- e. A commitment to refund any part of a grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to local community development groups and charities, the Small Business Administration, or the Federal Emergency Management Administration.
- f. A short, handwritten narrative of the disaster event and how the disaster caused the loss being claimed.

- g. A copy of a picture identification document for each adult applicant.
- h. When vehicle damage is claimed, current copies of the vehicle registration and liability insurance card.

441—58.4(29C) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.4(1) The household's residence was located in the area identified in the disaster declaration during the designated incident period and the household verifies occupancy at that residence.

58.4(2) Household members are citizens of the United States or are legally residing in the United States.

58.4(3) The household's self-declared annual income is at or less than 200 percent of the federal poverty level for a household of that size.

a. Poverty guidelines are updated annually.

b. All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income.

58.4(4) The household has disaster-related expenses or serious needs that are not covered by insurance or the claim is less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.

58.4(5) The household has not previously received assistance from this program or another program for the same loss.

441—58.5(29C) Eligible categories of assistance. The maximum assistance available to a household in a single disaster is \$5,000. Reimbursement is available under the program for the following disaster-related expenses:

58.5(1) Reimbursement may be issued for personal property, including repair or replacement of the following items, based on the item's condition:

a. Kitchen items, up to a maximum of \$560, including:

(1) Equipment and furnishings, up to a maximum of \$560.

(2) Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.

b. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.

c. Clothing and bedroom furnishings, up to a maximum of \$875, including:

(1) Mattress, box spring, frame, and storage containers, up to a maximum of \$250 per person.

(2) Clothing, up to a maximum of \$145 per person.

d. Other items, including:

(1) Infant car seat, up to a maximum of \$40.

(2) Dehumidifier, up to a maximum of \$150.

(3) Sump pump (in a flood event only), up to a maximum of \$200 installed.

(4) Electrical or mechanical repairs, up to a maximum of \$1,000.

(5) Water heater, up to a maximum of \$425 installed.

(6) Vehicle repair, up to a maximum of \$500.

(7) Heating and air-conditioning systems, up to a maximum of \$2,100 installed. Air conditioning is covered only with proof of medical necessity.

58.5(2) Reimbursement may be issued for home repair as needed to make the home safe, sanitary, and secure, up to a maximum of \$5,000.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

b. Reimbursement may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Debris removal, including trees, up to a maximum of \$1,000.

c. Repairs to rental property are excluded under this program.

58.5(3) Reimbursement may be issued for temporary housing assistance, up to a limit of \$50 per day, for lodging at a licensed establishment, such as a hotel or motel, if the household's home is destroyed, uninhabitable, inaccessible, or unavailable to the household.

441—58.6(29C) Eligibility determination and payment.

58.6(1) The county emergency management coordinator or designee shall:

a. Confirm that:

(1) The address provided on the application is a valid address and is reasonably believed to be in the disaster-affected area, and

(2) Disaster-related expenses were possible as a result of the current disaster.

b. Submit the household's application form to the Homeland Security and Emergency Management Division, Camp Dodge, Building W-4, 7105 NW 70th Avenue, Johnston, Iowa 50131. The envelope shall be marked "IIAGP application."

58.6(2) The homeland security and emergency management division of the department of public defense shall:

a. Review the application.

b. Submit the household's application form to the DHS Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The envelope shall be marked "IIAGP application."

58.6(3) Designated disaster staff in the department of human services shall:

a. Determine eligibility and the amount of payment.

b. Notify the applicant household of the eligibility decision.

c. Authorize payment to an eligible household.

d. Process appeals.

441—58.7(29C) Contested cases.

58.7(1) *Reconsideration.* The household may request reconsideration of the department's decisions regarding eligibility and the amount of reimbursement awarded.

a. To request reconsideration, the household shall submit a written request to the DHS Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the department's letter notifying the household of its decision.

b. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days of receipt of the request.

58.7(2) *Appeal.* The household may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency.

441—58.8(29C) Discontinuance of program.

58.8(1) *Deferral to federal assistance.* Upon declaration of a disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121 to 5206, the Iowa individual assistance grant program administered under this chapter shall be discontinued in the geographic area included in the presidential declaration. Upon issuance of the presidential declaration:

a. No more applications shall be accepted.

b. Any applications that are in process but are not yet approved shall be denied.

c. Persons seeking assistance under this program shall be advised to apply for federal disaster assistance.

58.8(2) Exhaustion of funds. The program shall be discontinued when funds available for the program have been exhausted. To ensure equitable treatment, applications for assistance shall be approved on a first-come, first-served basis until all funds have been depleted. “First-come, first-served” is determined by the date the application is approved for payment.

a. Partial payment. Because funds are limited, applications may be approved for less than the amount requested. Payment cannot be approved beyond the amount of funds available.

b. Reserved funds. A portion of allocated funds shall be reserved for final appeal decisions reversing the department’s denial that are received after funds for the program have been awarded.

c. Untimely applications. Applications received after the program is discontinued shall be denied.

These rules are intended to implement Iowa Code chapter 29C as amended by 2007 Iowa Acts, House File 896.

441—58.9 to 58.20 Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—EMERGENCY ASSISTANCE
[Prior to 10/13/93, 441—58.1 to 58.11]

PREAMBLE

This division implements the emergency assistance program, which is designed to assist families who face homelessness or other types of emergencies. The purpose of the program is to provide financial assistance on behalf of a needy child or children and any other members of the household to meet needs that have been caused by an emergency and that the household is unable to fulfill. The program provides a means to deal with financial situations that threaten the health and well-being of an eligible family. It is intended to meet an immediate need that would not otherwise be met. Assistance shall not be denied even if the assistance payment will provide only a temporary resolution to an ongoing problem.

441—58.21(234) Definitions.

“*Child*” means a person under age 18 who has not reached majority through marriage. Emergency assistance shall continue through the month in which the child turns 18. “*Child*” also means a person aged 18 who is a full-time student in a secondary school or in the equivalent level of vocational or technical training, who is expected to complete the program before reaching 19 and who has not reached majority through marriage. Emergency assistance shall continue through the month in which school or training is completed. In those cases in which the child reaches 19 in the same month as the child completes school or training, emergency assistance shall continue through the month of the child’s nineteenth birthday.

“*Destitution*” means lack of shelter because of an emergency situation.

“*Emergency*” means, for the purposes of this program, a situation that threatens the family’s living arrangements or will result in destitution unless immediate financial assistance is provided.

“*Homelessness*” means the lack of a fixed and regular nighttime residence or a residence which is:

1. A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter).
2. A halfway house or similar institution that provides temporary residence for persons intended to be institutionalized.
3. A temporary accommodation in the residence of another person.
4. A place not designed for or ordinarily used as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

“*Household*” means, for the purposes of determining income, resources and household size, the following persons living in the household. The:

1. Applicant.
2. Applicant’s legal or common-law spouse.
3. Applicant’s child(ren).
4. Legal or biological parent of the child(ren).
5. Applicant’s child(ren)’s sibling(s) of whole or half blood or adoptive.

6. Applicant and any child under the care of the applicant when the applicant meets the definition of “relative” as defined at 441—paragraph 41.22(3) “a.”

Persons temporarily not living with the household at the time of the interview shall not be considered members of the household.

441—58.22(234) General provisions. Emergency assistance is available to families with children (including migrant families), who are faced with a crisis situation causing a threat to the families’ living arrangements. Emergency assistance is also available to children who are living on their own but who have been living, within the six months prior to applying for the program, with a relative as defined at 441—paragraph 41.22(3) “a,” provided an emergency exists. The program is operated statewide and is funded on a fiscal-year basis (from July through June). When funds are expended prior to the end of the fiscal year, the program will be discontinued until funding is received for the next fiscal year in accordance with rule 441—58.30(234). Emergency assistance is not intended as a substitute for regular assistance grants from an ongoing program but is intended to be the program of last resort when no other sources of assistance are available. Emergency assistance shall also be provided for that portion of an emergency need not covered by benefits from other programs due to those programs’ limitations.

441—58.23(234) Application procedures.

58.23(1) Date of application. The date of application shall be determined by the date a signed Form 470-2762, Emergency Assistance Application, is received in any local office or department-designated site. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. To be considered valid, the application must contain a legible name and address and must be signed.

a. The emergency assistance case record must contain a completed application for each 30-day eligibility period. Whenever an initial application is denied, withdrawn, or more than 30 days old, the household shall be required to complete a new application form.

b. At least one face-to-face interview shall be conducted before approval of the application. The face-to-face interview may be held in the county office, at a department-designated site, or in the applicant’s home.

(1) The applicant may appoint an authorized representative to attend the interview if the applicant is unable to attend. The authorized representative must be a person knowledgeable of the household’s circumstances.

(2) If the applicant or authorized representative fails to attend the required interview, the application shall be denied.

(3) When it is impossible to hold a face-to-face interview within the ten-day time frame for processing applications as described at 58.23(2), the county office or department designee may waive the face-to-face interview and hold a telephone conference instead.

c. The household’s declaration shall be accepted except when verification is required by these rules or information appears questionable. The decision with respect to eligibility shall be based largely on information provided by the household.

58.23(2) Time limits. Applications shall be processed within ten calendar days from the date of receipt to resolve the household’s emergency. The ten-day time standard for approval shall apply except in unusual circumstances, such as when the department and the household have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expires; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

58.23(3) Additional information required. When additional information or verification is required, the household shall be requested in writing to provide that information within five calendar days. The written request shall also inform the household that failure to provide the required information within five calendar days or failure to authorize the local office to secure the information from other sources will result in denial of the application. The five-day period begins the day after the date the local office issues the written request.

The five-day time limit to provide additional information shall be extended if the household is unable to obtain the information by the requested date due to circumstances beyond the household's control, such as illness, or the source who is to provide the verification causes a delay, or due to emergencies like fire, flood, etc.

58.23(4) *Basis for decision on application.* The decision with respect to eligibility for emergency assistance shall be made based on the household's circumstances as they exist on the date of the interview.

58.23(5) *Subsequent requests for assistance.* Except for verifying that an emergency exists and applying for benefits from LIHEAP, general relief, or veterans affairs, the household is not required to reverify eligibility factors for approval of additional emergency assistance payment requests made within the 30-day authorization period. The time limits for processing additional requests for assistance remain the same as initial requests.

441—58.24(234) Eligibility requirements. A household, including a migrant household, shall be eligible for emergency assistance when the following conditions are met:

58.24(1) *Existence of an emergency.* An emergency shall exist, limited to eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment, or homelessness. An emergency does not exist for gas or electricity shutoff when a household is approved for LIHEAP and is protected by the moratorium on disconnection between November 1 and March 31.

a. An emergency also exists when there is a potential for eviction, foreclosure, utility shutoff, fuel shortage, loss of heating energy supply or equipment, or homelessness. For a household to qualify for emergency assistance, the potential emergency shall be expected to happen within the month of application or the following month.

b. The household shall be required to provide proof that an emergency exists. Acceptable verification includes, but is not limited to:

- (1) An eviction notice.
- (2) A foreclosure notice.
- (3) A utility shutoff notice.
- (4) A written statement to verify homelessness from the party or shelter where the household is staying.
- (5) Other written documentation, as needed.

c. If the amount necessary to resolve the emergency exceeds the \$500 maximum payment of the emergency assistance program, the applicant must be able to verify the ability to pay the difference from other resources, or the emergency assistance application shall be denied.

58.24(2) *Income and resources.* The household's available income and resources shall be within the limits as defined at rules 441—58.26(234) and 441—58.27(234).

58.24(3) *Receipt of assistance.* The household shall not have received assistance in Iowa from the program within one year prior to the date the first payment is authorized. The 12-month period begins on the date the first payment is approved. If any household member received emergency assistance within the past 12 months, the entire household is ineligible.

58.24(4) *Child in household.* The household shall contain at least one child who is living with the household.

58.24(5) *Child in need.* To be considered in need, the child shall be destitute or be without living arrangements unless assistance is provided.

a. The child is not in destitution or need if in the 30 days before application or subsequent request for emergency assistance a member of the household (including the child aged 16 or older who is not attending elementary, secondary or the equivalent level of vocational or technical school full-time) who does not have acceptable reasons for nonparticipation as described at 441—subrule 93.14(4) or barriers to participation as described at 441—subrule 93.4(5):

- (1) Refused a job offer or training for employment.
- (2) Was dismissed from a job due to the member's own actions which meet the definition of "misconduct" in 441—subparagraph 93.13(2) "i"(1).
- (3) Quit employment.

- (4) Reduced earnings.
- (5) Began participation in a strike.
- (6) Chose a limited benefit plan.

b. The 30-day period of ineligibility shall begin the day after the household member reduced earnings or was dismissed from a job.

(1) When a member quits a job, participates in a strike, or refuses employment, each day the job or offer for employment remains available or the household member participates in a strike is considered a day of job refusal. In these situations, the 30-day period of ineligibility shall begin the day the person returns to the job or accepts the job offer or the day after the job or offer for employment is no longer available.

(2) When a person chooses a first limited benefit plan, each day the person fails to reconsider by contacting IM or PROMISE JOBS counts as a day of refusal. The day the person reconsiders begins the 30-day period of ineligibility. When a person chooses a subsequent limited benefit plan, the 30-day ineligibility period shall begin the day after the date on the notice of decision establishing the person's limited benefit plan.

c. Whenever the household is determined to have good cause for refusing employment, quitting employment, or reducing earnings for the family investment program, no further determination is required for the emergency assistance program. Verification of the circumstances resulting in refusal, loss, or reduction of employment is not required unless information provided appears questionable.

58.24(6) *Application for other benefits.* The household shall apply for and accept benefits for which the household may be qualified from the energy assistance, county general relief and veteran's affairs programs before approval for emergency assistance.

a. Verification that the household has met the requirements of first seeking assistance from these programs shall be documented on Form 470-2804, Disposition of Application for Other Benefits. A separate form shall be completed for each program to which the applicant is referred.

b. Emergency assistance benefits shall not be approved while an application for other benefits is pending.

c. If a household is denied general relief within 30 days before emergency assistance application, and the denial was due to failure to work off past general relief assistance, emergency assistance shall also be denied.

58.24(7) *Citizenship and alienage.* The household shall contain at least one child who meets citizenship and alienage requirements as defined at 441—subrule 41.23(5). The household shall verify the alien status of at least one child to determine if the household contains an eligible child. There is no need to reverify the alien status unless it is subject to change.

58.24(8) *Utility service connection.* Applicants shall provide verification from the utility company that all requirements to provide service have been met before payment to the utility company for utility deposits for new or reconnected service will be approved. When a household applies for emergency assistance due to a disconnect notice, the household must provide verification from the utility company that the applicant either has signed a payment plan or is not eligible for a payment plan. Failure to provide this verification shall result in denial of the emergency assistance application.

441—58.25(234) *Determination of need.* Needs covered are limited to rent payments, house payments (including property taxes and homeowner's insurance if included in the house payment), rent and utility deposits, utilities, and purchase, repair, or rental of heating equipment. Utilities shall include heat (electric, gas, fuel oil, wood, etc.), lights, water, sewer, and garbage, but shall not include telephone. Heating equipment shall include, but is not limited to, furnace, space heater, kerosene heater, wood stove, etc. Air conditioners shall not be funded.

441—58.26(234) *Income.* The household's nonexempt gross income, with the exception of the deductions specified at subrule 58.26(2), shall not exceed 100 percent of the poverty level of the Office of Management and Budget (OMB). Changes in OMB's poverty guidelines shall go into effect the second month after the changes are published. When determining income and household size,

the household shall be determined as defined in rule 441—58.21(234). All income reported by the household shall be verified.

58.26(1) *Income considered.* Income considered shall include, but is not limited to, all gross income received or reasonably anticipated to be received by the household in the month of application, such as the family investment program (FIP) grant, veteran's pension, social security benefits, supplemental security income (SSI), job insurance benefits, child support income, alimony, workers' compensation benefits, cash payments from any of the DHS diversion programs, adoption subsidies, foster care payments, retroactive payments from any source, lump-sum income, earnings from on-the-job training, work-study income, income tax refunds (if received in the month of application), loans and grants available for living expenses (including unprorated gross educational moneys received in the month of application that are not earmarked), interest income (if received in the month of application), maintenance payments, Volunteers in Service to America (VISTA) payments, gifts, refunds from rental and utility deposits, earned income credit, self-employment income (net profit expected to be received in the month of application, not annualized), earnings from employment, and earnings of a child aged 16 or over who is not attending elementary, secondary or the equivalent of vocational or technical school full-time. The following deductions shall be allowed from earned income:

a. The actual, verified amount of employment-related, nonreimbursed child care expenses incurred or reasonably expected to be incurred in the month of application. A child care deduction shall also be allowed for VISTA volunteers.

b. Allowable business expenses in a self-employment enterprise, as defined at 441—subrule 41.27(2).

58.26(2) *Exempt income.* Exempt income shall include reimbursements; earned as well as unearned income in-kind; vendor payments; earnings of a child under age 16, or age 16 or older, if the child is attending elementary, secondary or the equivalent level of vocational or technical training school full-time; training allowances designated for a specific purpose (such as those issued by the Workforce Investment Act, PROMISE JOBS, Vocational Rehabilitation Services, Food Stamp Employment and Training program, etc.); that amount of the lump sum expended for legal, medical or burial expenses; and legally obligated moneys. Legally obligated money means money that is otherwise payable to the household, but which is diverted by the provider of the payment to a third party for a household expense without the household's consent. Examples of legally obligated moneys are the amount withheld from job insurance benefits to recover an overpayment or for child support for a child not living with the household; or the amount of child support withheld from earnings for a child not living with the household.

58.26(3) *Exempt as income and resources.* Deposits into an individual development account (IDA) are exempt. The amount of the deposit is exempt as income and shall not be used in the 100 percent of poverty level eligibility test. The deposit must be deducted from nonexempt earned and unearned income that the client receives in the month of application, provided the deposit is made in the month of application. To allow a deduction, verification of the deposit must be provided within five calendar days as described in subrule 58.23(3). The client shall be allowed a deduction only when the deposit is made from the client's money. The earned income deductions described in 58.26(1) "a" and "b" shall be applied to earnings from employment or net profit from self-employment that remains after deducting the amount deposited into the account. If the client has both earned and unearned income, the amount deposited into the IDA shall first be deducted from the client's nonexempt unearned income. Deposits shall not be deducted from earned or unearned income that is exempt.

441—58.27(234) Resources. The household's liquid resources shall not exceed \$1000. Liquid resources are limited to cash on hand, money in checking, savings or credit union accounts, and savings certificates, with the following exceptions: The balance in an individual development account (IDA), including interest earned on the IDA, is exempt as a resource. Income in any given month is not counted as a resource in the same month. When liquid resources are owned by more than one person, unless otherwise established, it is assumed that all persons hold equal shares in the resources. When determining countable resources, the household shall be determined as defined in rule 441—58.21(234). All other resources

are exempt. The household's declaration of the amount of liquid resources shall be accepted unless the declaration appears questionable or the amount declared is close to the resource limitation. The household is not required to apply its available resources toward the emergency as long as the resources are within the prescribed limits.

441—58.28(234) Payment.

58.28(1) *Maximum payment.* The maximum payment shall not exceed \$500 per authorization period. This amount can be applied to a single need or to several needs, not to exceed the maximum amount. Payment shall be issued in the amount of the need, not to exceed \$500. When the emergency need is greater than \$500 (or more than the maximum amount still available to the applicant, if a subsequent request is being made), emergency assistance shall be approved only when the applicant provides verification that either:

a. The vendor will accept payment of up to \$500 (or the maximum amount available) to resolve the emergency, or

b. Another source will supply the amount needed over and above the emergency assistance payment amount.

58.28(2) *Vendor payment.* Payment shall be issued directly to the vendor in form of a state warrant unless the vendor is a state employee.

a. Vendors shall be required to complete Form 470-2781, Approval for Vendor Payment, before payment shall be issued. The vendor shall provide a copy of IRS Form W-9, Request for Taxpayer Identification Number and Certification, if necessary, to resolve vendor name or vendor number discrepancies.

b. Form 470-2781 shall also be used to notify the vendor of the amount approved for payment. Payment is owed to the vendor in the amount approved on Form 470-2781 even if emergency assistance funds are exhausted or emergency assistance eligibility is found not to exist when system entries are made. If the household provides verification of an emergency item and the cost of the item on another document, there is no need to send Form 470-2781 to the vendor to reverify the information.

c. Payment to state employees shall be made as follows:

(1) If the emergency assistance payment is for a service, such as furnace repair, the payment is included in the vendor's regular state paycheck as extra pay.

(2) If the emergency assistance payment is for goods, such as rent, rent deposit, or purchase of heating equipment, payment to the vendor is processed in the form of a travel voucher.

58.28(3) *Authorization period.* The authorization period is limited to a period of 30 consecutive days in a 12-month period, and payment shall be approved if the request is received within that period. The 30-day authorization period begins on the date the first emergency assistance payment is approved for an eligible household. The household may be eligible for more than one payment as long as the total amount of all payments does not exceed the maximum amount and all requests for additional payments are received within the period of 30 consecutive days. Any portion of the maximum payment amount not used in the 30-day authorization period cannot be carried forward to a future authorization period.

58.28(4) *Returned warrants and donations to emergency assistance.* Any refunds of emergency assistance money shall be returned to the DHS county office. Returned funds shall be deposited back into the emergency assistance account.

a. When an emergency assistance client or vendor returns the emergency assistance warrant or returns an emergency assistance payment in the form of a money order, personal check, or cash, the county office shall accept the repayment and complete Form 470-0009, Official Receipt.

b. The department may receive refunds of rent deposits that were paid on behalf of emergency assistance clients by a combination of assistance from the emergency assistance program and other persons or organizations.

c. Donations shall be handled in the same manner as refunds and shall be deposited into the emergency assistance account.

58.28(5) *Misdirected warrants.* Replacement of an emergency assistance warrant does not apply when the warrant is inadvertently delivered to the emergency assistance client rather than the vendor,

and the client endorses it with the client's own name and cashes it. This is not an overpayment, because the warrant is issued on behalf of the same client who cashed it. It is up to the vendor to pursue the matter with the post office, the place of business that cashed the warrant, or the client and to work out possible repayment arrangements.

441—58.29(234) Notification and appeals. All emergency assistance households shall be given notice with respect to the decision on their application for assistance in accordance with 441—subrule 7.7(1). Households have the right to appeal the department's decision in accordance with rule 441—7.5(17A).

441—58.30(234) Discontinuance of the emergency assistance program. The program shall be discontinued when funds have been exhausted. To ensure equitable treatment, applications for emergency assistance shall be approved on a first-come, first-served basis until all funds have been depleted. First-come, first-served is determined by the date the application is approved for payment and entered into the emergency assistance computer system.

58.30(1) Partial payment. Because funds are limited, applications may be approved for less than the amount requested. Payment cannot be approved beyond the amount of funds available.

58.30(2) Reserved funds. A portion of yearly emergency assistance funds shall be reserved for final appeal decisions reversing the department's denial that are received after funds for the program have run out.

58.30(3) Untimely applications. Emergency assistance applications received after the program is discontinued for the year and more than five working days before the program begins again the next year shall be denied.

441—58.31(234) Special information received from emergency assistance clients. Rescinded IAB 10/2/02, effective 10/1/02.

These rules are intended to implement Iowa Code section 234.6.

441—58.32 to 58.40 Reserved.

DIVISION III
TEMPORARY MEASURES RELATED TO DISASTERS

441—58.41(217) Purpose. The rules in this division are intended to allow the department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. These rules temporarily supersede departmental rules that would otherwise apply, with the primary purpose of reducing barriers to accessing and receiving services that may result from the emergency. The rules shall be tailored to meet special circumstances that arise from a specific disaster emergency and shall be time-limited.

This rule is intended to implement Iowa Code section 217.6.
[ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.42(234,237A,239B,249,249A,249J,514I) Extension of scheduled reporting and review requirements. Normal scheduled reporting, review, recertification, redetermination, or similar requirements related to continued eligibility are amended as follows:

58.42(1) Scheduled actions due in June 2008. For the month of June 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in the most affected counties during the month. For all programs except food assistance, the designated counties are Black Hawk, Bremer, Butler, Johnson, and Linn.

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);
3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);

5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(2) *Scheduled actions due in July and August 2008.* For the months of July and August 2008, no quarterly report, six-month or 12-month review, or similar recertification or redetermination normally required under the following chapters shall be required of households residing in any county of the state:

1. 441—Chapter 40 (family investment program);
2. 441—Chapter 50 (state supplementary assistance);
3. 441—Chapter 65 (food assistance);
4. 441—Chapter 75, 76, or 83 (medical assistance and family planning waiver);
5. 441—Chapter 86 (HAWK-I);
6. 441—Chapter 92 (IowaCare); or
7. 441—Chapter 170 (child care assistance).

58.42(3) *Next scheduled action due.* For those households affected under subrules 58.42(1) and 58.42(2), the next report, review, recertification, or redetermination shall be scheduled as if the action due in June, July, or August 2008 had occurred. For example, if a six-month review was to have occurred in June 2008, the next review will be due in December 2008. Likewise, if a 12-month recertification was due in July 2008, the next recertification will be due in July 2009.

58.42(4) *Continuing to report and act on changes.* Other than as provided by this rule, households shall continue to comply with program requirements for reporting changes in circumstances. Good cause provisions for not reporting changes timely shall apply as provided by existing rules. The department shall continue to act on all changes reported or otherwise known to the department that may affect eligibility or benefits during the extended reporting, review, recertification and redetermination periods provided under this rule.

This rule is intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.43(237A) *Need for child care services.* State child care assistance eligibility requirements concerning need for service in rule 441—170.2(237A,239B) shall be held in abeyance for households residing in governor-declared disaster counties during the months of June, July, and August 2008. Households in those counties that previously met the requirement shall be considered to continue to meet the requirement for those three months if the disaster and ensuing recovery temporarily prevent the household from otherwise meeting this requirement.

This rule is intended to implement Iowa Code section 237A.13. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.44(249A,249J,514I) *Premium payments.* Individuals residing in any Iowa county declared by the governor to be a disaster area who would otherwise have their assistance under 441—Chapter 75 (medical assistance), 441—Chapter 86 (HAWK-I), or 441—Chapter 92 (IowaCare) canceled for failure to make a premium payment in the months of June or July 2008 shall not have their assistance canceled for this reason.

This rule is intended to implement Iowa Code chapters 249A, 249J, and 514I. [ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.45(249A) *Citizenship and identity.* Citizenship and identity requirements under 441—Chapter 75 for medical assistance applicants shall be held in abeyance for the months of June, July, and August 2008, for individuals residing in counties declared disaster areas by the governor as provided in this rule.

58.45(1) An affidavit may be used to establish both citizenship and identity when other forms of verification are not available and the department is unable to obtain verification through a match with vital records maintained by the department of public health.

58.45(2) An individual approved for medical assistance under this rule shall be granted a certification period of only three months. At the end of the three-month period, the individual shall be required

to provide documentation of citizenship and identity as otherwise required under 441—Chapter 75 to continue eligibility.

This rule is intended to implement Iowa Code chapter 249A.
[ARC 7577B, IAB 2/25/09, effective 4/1/09]

441—58.46 to 58.50 Reserved.

DIVISION IV
IOWA UNMET NEEDS DISASTER GRANT PROGRAM

PREAMBLE

This division implements a new program of state assistance to address unmet disaster-related expenses that cannot be met by other financial assistance, as authorized by 2009 Iowa Acts, Senate File 64. The rules provide for reimbursement for repair or replacement of personal property, home repair, mental health services, food assistance, child care, and temporary housing to households whose income is less than 300 percent of the federal poverty guidelines. The amount of assistance available to a household is capped at \$2,500.

The program is administered by the department of human services in coordination with the recovery Iowa office and local long-term recovery committees established in affected areas. The long-term recovery committees will receive applications from affected households and will certify the households' residence and unmet disaster-related expenses and determine eligibility for assistance. Department staff will issue payments and process any appeals.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.51(83GA, HF64) Definitions.

“Department” means the Iowa department of human services.

“Household” means all adults and children who lived in the pre-disaster residence who request individual assistance (not including landlords or other businesses), as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

“Iowa disaster recovery case management” means the entity that oversees the operation of local long-term recovery committees, including ensuring that each county declared a presidential disaster area on and after May 24, 2008, and before August 14, 2008, has a long-term recovery committee.

“Long-term recovery committee” means a county-based committee that performs direct work with households seeking assistance for unmet needs and certifies the assistance that each household may receive. The committee operates the voucher system for certified goods and submits documented claims to the department for reimbursement of voucher-related expenses.

“Unmet need” means an item or service needed to overcome a disaster-related hardship, injury, or adverse condition due to an eligible federally declared disaster resulting in costs or damages related to personal property, home repair, food assistance, mental health assistance, child care, or temporary housing for which the household has not received adequate assistance from any federal, state, nonprofit, or faith-based agency.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.52(83GA, HF64) Program implementation. The Iowa unmet needs disaster grant program (IUNDGP) shall be in effect upon enactment on February 2, 2009, and shall be retroactively applicable to May 24, 2008. Within the funds appropriated, this program is available for households affected by natural disasters in areas that the President of the United States declared a disaster area after May 24, 2008, and before August 14, 2008.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.53(83GA, HF64) Application for assistance. To request financial assistance for unmet disaster needs expenses, the household shall complete Form 470-4689, Iowa Unmet Needs Disaster Grant Application, and submit the application to the local long-term recovery committee.

58.53(1) Application forms are available from the local long-term recovery committee or the rebuild Iowa office. Individuals can find their local long-term recovery committee by calling the rebuild Iowa office toll-free at (866)849-0323.

58.53(2) The application shall include:

- a.* A declaration of the household's annual gross income.
- b.* A release of confidential information to personnel involved in administering the program.
- c.* An assurance that the household had no insurance coverage for claimed items.
- d.* A commitment to refund any part of a grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to other state assistance, local community development groups, charities or faith-based agencies, the Small Business Administration, or the Federal Emergency Management Administration.
- e.* A short, written narrative of the disaster event and how the disaster caused the loss being claimed.
- f.* A copy of a photo identification document for each adult applicant.
- g.* When vehicle damage is claimed, current copies of the vehicle registration and liability insurance card.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.54(83GA, HF64) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.54(1) The household's residence was located in the area identified by a presidential disaster declaration occurring on or after May 24, 2008, and before August 14, 2008, and the household verifies occupancy at that residence.

58.54(2) Household members are citizens of the United States or are legally residing in the United States.

58.54(3) The household's self-declared annual income is at or less than 300 percent of the federal poverty level for a household of that size.

- a.* Poverty guidelines are updated annually.
- b.* All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income.

58.54(4) The household has disaster-related expenses not covered by insurance, or the claim is less than or equal to the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.

58.54(5) The household has not previously received assistance from this program or another program, such as but not limited to other state assistance, local community development groups, charities or faith-based agencies, the Small Business Administration, or the Federal Emergency Management Administration, for the same loss.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.55(83GA, HF64) Eligible categories of assistance. The maximum assistance available to a household for a single disaster is \$2,500. Reimbursement is available under the program for the following disaster-related expenses:

1. Personal property.
2. Home repair.
3. Food assistance.
4. Mental health assistance.
5. Child care.
6. Temporary housing.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.56(83GA,HF64) Eligibility determination and payment.

58.56(1) *Committee duties.* The long-term recovery committee shall enter into an agreement with the department. The committee shall perform the following duties, including specifying who is approved to certify eligibility for unmet needs grants on behalf of the long-term recovery committee.

- a. Accept the household's application.
- b. Certify that:
 - (1) The address provided on the application is a valid address in the disaster-affected area,
 - (2) Disaster-related expenses were a result of the covered disaster,
 - (3) The household has presented reasonable documentation or receipts for expenses incurred, or has reasonable estimates for eligible costs for issuance of a voucher to secure specific eligible goods or services to be obtained, and
 - (4) Funds remain available.
- c. Determine the amount of assistance the household is eligible to receive by category of assistance and provide the rationale for that amount.
- d. Provide the signature of long-term recovery committee staff making the certification and the date of certification.
- e. Notify the applicant household of the certification decision.
- f. Submit a copy of the household's Form 470-4689, Iowa Unmet Needs Disaster Grant Application, to:
 - (1) The Rebuild Iowa Disaster Recovery Case Management, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319, and
 - (2) The Department of Human Services, Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

58.56(2) *Committee administrative expenses.* The department shall pay each long-term recovery committee a fee for administrative costs equal to 3 percent of paid grants the committee processes each month.

58.56(3) *Duties of disaster case management office.* Designated disaster staff in the rebuild Iowa disaster case management office shall:

- a. Ensure that a long-term recovery committee is available in each county affected.
- b. Coordinate contact between applicants and their long-term recovery committee.
- c. Support the first-level reconsideration process.

58.56(4) *Duties of the department.* Designated disaster staff in the department of human services shall:

- a. Process grant payments to the household or vendor and administrative fee payments to the long-term recovery committee.
- b. Support the second-level reconsideration process.
- c. Process appeals.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.57(83GA,HF64) Contested cases.

58.57(1) *First-level reconsideration.* The household may request reconsideration of the long-term recovery committee decision regarding certification of eligible unmet needs and the amount of reimbursement awarded.

a. To request reconsideration, the household shall submit a written request to the Rebuild Iowa Disaster Recovery Case Management, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319, within 15 days of the date of the long-term recovery committee's notification to the household of its certification decision.

b. The rebuild Iowa disaster recovery case management shall review any additional evidence or documentation submitted, issue a reconsideration decision within 15 days of receipt of the request, and notify the household of the reconsideration decision.

58.57(2) Second-level reconsideration. The household may request reconsideration of the rebuild Iowa disaster recovery case management decision regarding certification of eligible unmet needs and the amount of reimbursement awarded.

a. To request reconsideration, the household shall submit a written request to the Iowa Department of Human Services, Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the notification to the household of the first-level reconsideration decision from rebuild Iowa disaster recovery case management.

b. The department shall review any additional evidence or documentation submitted, issue a reconsideration decision within 15 days of receipt of the request, and notify the household of the reconsideration decision.

58.57(3) Appeal. The household may appeal the department reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the second-level reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the department. [ARC 7603B, IAB 3/11/09, effective 2/11/09]

441—58.58(83GA, HF64) Discontinuance of program. The Iowa unmet needs disaster grant program administered under this chapter shall be discontinued upon exhaustion of allocated funds or on June 30, 2010, whichever occurs first.

[ARC 7603B, IAB 3/11/09, effective 2/11/09]

These rules are intended to implement 2009 Iowa Acts, House File 64, division II.

441—58.59 and **58.60** Reserved.

DIVISION V
TICKET TO HOPE PROGRAM

PREAMBLE

This division implements the ticket to hope program, a mental health counseling program funded through a social services emergency disaster relief grant that was authorized by Public Law 110-329, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009. The program pays for professional mental health evaluation and treatment services for individuals and families who have been affected by the weather-related disasters of 2008.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.61(234) Definitions.

“*Department*” means the Iowa department of human services.

“*Ticket to hope*” means the mental health counseling program for individuals and families who have been directly affected by the weather-related disasters of 2008.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.62(234) Application process. The process for obtaining assistance from the ticket to hope program is as follows:

58.62(1) A person requesting assistance shall contact the Iowa concern hotline by telephone at 1-800-447-1985.

58.62(2) The Iowa concern hotline shall gather information and determine eligibility for ticket to hope services based on criteria established in this division.

58.62(3) The Iowa concern hotline shall send to each eligible applicant a packet of information that includes:

a. An introductory cover letter;

- b. A list of participating providers;
- c. An authorization form for one 45- to 50-minute session (valid for 30 days); and
- d. A demographic data form that includes a unique numeric client identifier.

58.62(4) The eligible applicant shall:

- a. Make an appointment with an approved provider; and
- b. Give the authorization and demographic data forms to the provider at the time of the appointment.

58.62(5) After the eligible applicant meets with the provider, the applicant may call the Iowa concern hotline and receive authorization for up to seven additional sessions. A new authorization form shall be issued for each session.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.63(234) Eligibility criteria. To be eligible for assistance, a person living in Iowa must report:

1. That the impact of the 2008 disaster has impaired the person's ability to carry out normal daily functions to some extent; and
2. That the person has no insurance coverage for mental health services, or has insurance with a high deductible that will deter the person from accessing necessary mental health services.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.64(234) Provider participation. A mental health professional with an active professional license issued by the Iowa department of public health who is qualified to provide individual psychotherapy (i.e., Current Procedural Terminology code 90806, "individual psychotherapy, insight-oriented behavior modification or support, provided face to face with the patient in an office or outpatient setting") according to the Iowa Plan vendor requirements shall be allowed to participate as a ticket to hope provider.

58.64(1) A mental health professional applying to participate in the program shall submit a copy of the professional license to the Iowa concern hotline.

58.64(2) The mental health professional shall agree to the terms of participation in the ticket to hope program by:

- a. Signing a professional services agreement with the department; and
- b. Returning the signed agreement to the Iowa concern hotline.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.65(234) Provider reimbursement. A provider approved to participate shall be reimbursed as follows:

58.65(1) The provider shall submit a completed demographic data form and the authorization form to the Iowa concern hotline within 30 days after each completed session with an approved applicant.

58.65(2) The provider shall be reimbursed at the lower of:

- a. A rate of \$93 per assessment or counseling session, or
- b. The prevailing Iowa Medicaid rate.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.66(234) Reconsideration. An applicant may request reconsideration of a denial of access to services. A mental health professional may request reconsideration of a denial to be a part of the professional provider panel.

58.66(1) To request reconsideration, the person shall submit a written request to the DHS Division of Mental Health and Disability Services, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

58.66(2) The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days from receipt of the request.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.67(234) Appeal. The person may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

58.67(1) Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

58.67(2) A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the department.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—58.68(234) Discontinuance of program. The program shall end on June 30, 2010, or when the funds are expended, whichever occurs first.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

These rules are intended to implement Iowa Code section 234.6.

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[Filed Emergency ARC 7603B, IAB 3/11/09, effective 2/11/09]

[Filed Emergency ARC 7641B, IAB 3/25/09, effective 3/1/09]

CHAPTER 153
FUNDING FOR LOCAL SERVICES
[Prior to 7/1/83, see Social Services[770] Ch 131]
[Previously appeared as Ch 131—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
SOCIAL SERVICES BLOCK GRANT

PREAMBLE

This division sets forth the requirements for reporting required for receipt of federal social services block grant (SSBG) funds and service availability and allocation methodology related to those funds.

441—153.1(234) Definitions.

“*Direct services*” means services provided by staff of the department of human services to clients. This includes the administrative support necessary to maintain and oversee services. Direct services are funded with state and federal dollars.

“*State purchase services*” means those services the department purchases in every county statewide. State purchase services are funded with state and federal funds.

441—153.2(234) Development of preexpenditure report.

153.2(1) The department of human services shall develop the social services block grant preexpenditure report on an annual basis. The report shall be developed in accordance with the Code of Federal Regulations, Title 45, Part 96, Subpart G, as amended to July 20, 2000. The report shall describe the services to be funded, in what areas services are available and the amount of funding available. The plan shall also indicate the source of funding.

153.2(2) The department shall issue a proposed preexpenditure report before publication of the final report. The proposed report shall be available for public review and comment:

a. In each local office where a service area manager is based during regular business hours for a two-week period; and

b. On the department’s Internet Web site, www.dhs.iowa.gov.

153.2(3) The time and scope of public review will be announced each year. The announcement will indicate the time the proposed report can be viewed. The department:

a. Shall make this information available on the department’s Internet Web site, www.dhs.iowa.gov, and post signs in each local human services office; and

b. May publish advertisements in each service area listing the time of review.

153.2(4) The department shall accept comments about the preexpenditure report during the specified public review and comment period. Individuals or groups may submit written comments to the service area manager or to the Division of Fiscal Management, Iowa Department of Human Services, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114. The service area manager may arrange public hearings where testimony will be accepted.

153.2(5) The department shall consider the public comment when developing the final preexpenditure report.

153.2(6) A copy of the final preexpenditure report will be available:

a. In each local office where a service area manager is based; and

b. On the department’s Internet Web site, www.dhs.iowa.gov.

441—153.3(234) Amendment to preexpenditure report.

153.3(1) The preexpenditure report may be amended throughout the year. The department may file an amendment changing the kind, scope or duration of a service. Decisions to change a direct service or state purchase service will be made by the department.

Prior to filing an amendment the department and the county boards of supervisors will evaluate available funds and the effect any change will have on clients.

153.3(2) An amendment in the preexpenditure report will be posted in the local offices affected by the amendment at least 30 days prior to the effective date of the change. However, in the event funding for the service has been exhausted, an amendment shall be posted immediately notifying the public that the service will no longer be available. The service area manager will, whenever possible, give advance notice of a service termination made necessary because funds have been exhausted. When a service is added or extended, an amendment may be posted immediately and a 30-day posting period is not required.

153.3(3) Individuals or groups may submit written comments to the service area manager or to the Division of Fiscal Management, Iowa Department of Human Services, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

153.3(4) Nothing in this rule will supersede the requirement for notifying clients of adverse action as provided in 441—130.5(234).

441—153.4(234) Service availability.

153.4(1) A client shall apply for services in the appropriate office of the Iowa department of human services.

a. The department shall determine eligibility according to 441—130.3(234).

b. The department shall develop a case plan to monitor the client's progress toward achieving goals as identified in 441—130.7(234).

153.4(2) An eligible client shall receive a service for which the client is eligible, subject to the provisions of 441—Chapter 130, when the service is listed in the geographic area in which the client resides. The geographic area for direct and state purchase is the state.

153.4(3) To the extent federal law prohibits use of federal funds for provision of social service block grant services to persons the department has defined as eligible, state funds shall be used to pay for these services.

441—153.5(234) Allocation of block grant funds.

153.5(1) The department shall follow a cost allocation plan for determining the appropriate administrative costs to be funded with block grant money.

153.5(2) Funding for services shall be allocated in accordance with the annual budgeting process. The department's annual budget is available for review on the department's Internet Web site at www.dhs.iowa.gov. Costs may be shifted in and between service areas to ensure continued statewide availability of services.

441—153.6(234) Local purchase planning process. Rescinded IAB 7/8/92, effective 7/1/92.

441—153.7(234) Advisory committees. Rescinded IAB 3/6/02, effective 7/1/02.

441—153.8(234) Expenditure of supplemental funds. When supplemental funds are issued through the social services block grant as emergency disaster relief, the department shall administer the funds in compliance with the terms of the federal award rather than the provisions of this division.

[ARC 7641B, IAB 3/25/09, effective 3/1/09]

441—153.9 and 153.10 Reserved.

These rules are intended to implement Iowa Code section 234.6.

DIVISION II
DECATEGORIZATION OF CHILD WELFARE AND JUVENILE JUSTICE FUNDING

PREAMBLE

Decategorization of child welfare and juvenile justice funding is an initiative intended to establish systems of delivering human services based upon client needs that replace systems based upon a multitude of categorical funding programs and funding sources, each with different service definitions

and eligibility requirements. Decategorization is designed to redirect child welfare and juvenile justice funding to services that are more preventive, family-centered, and community-based in order to reduce use of restrictive approaches that rely on institutional, out-of-home, and out-of-community care.

441—153.11(232) Definitions. For the purposes of this division, the following definitions apply:

“*Budget accountability*” means that expenditures for decategorization services from a decategorization project’s funding pool during the state fiscal year do not exceed the total amount of funding available in the funding pool for the state fiscal year.

“*Carryover funding*” means moneys designated for a project’s decategorization services funding pool that remain unencumbered or unobligated at the close of the state fiscal year.

“*Chief juvenile court officer*” mean the judicial department official responsible for managing and supervising juvenile court services operations within one of the eight judicial districts.

“*Decategorization*” means an initiative established pursuant to Iowa Code section 232.188 that is designed to redirect child welfare and juvenile justice funding to services that are more preventive, family-centered, and community-based in order to reduce use of more restrictive approaches.

“*Decategorization agreement*” means the agreement entered into among representatives of the department of human services, juvenile court services, and the county government in one or more counties to implement a decategorization project in accordance with the requirements of Iowa Code Supplement section 232.188 and this division.

“*Decategorization project*” means the county or counties that have entered into a decategorization agreement to implement the decategorization initiative in the county or multicounty area covered by the agreement.

“*Decategorization services funding pool*” or “*funding pool*” means the funding designated for a decategorization project from all sources.

“*Department*” means the department of human services.

“*Governance board*” means a decategorization governance board, which is the group that enters into and implements a decategorization agreement.

“*Service area manager*” means the department official responsible for managing the department’s programs, operations, and child welfare budget within one of the eight department service areas.

“*Unencumbered or unobligated*” means funding within a decategorization services funding pool that is not spent by the project’s governance board for a specific program or purpose by the close of the state fiscal year.

441—153.12(232) Implementation requirements. The decategorization initiative shall be implemented through the creation and operation of decategorization projects. One or more counties may jointly agree to form a decategorization project to implement the initiative. The decategorization initiative shall be implemented in accordance with the following requirements:

153.12(1) Decategorization agreement. Representatives from the department, juvenile court services, and county government within the county or counties interested in forming a decategorization project shall develop a written agreement to work together to implement decategorization.

153.12(2) Department approval. A decategorization project must request and receive approval from the department director.

153.12(3) Governance board. A decategorization project shall be implemented by a decategorization governance board.

a. The department director shall ensure that each decategorization project has an operating governance board that includes:

(1) Representatives designated by administrators of the department and of juvenile court services; and

(2) Officials with the authority to represent county government in the affected county or counties.

b. Decategorization projects may choose to expand their governance boards to include representatives from other entities.

153.12(4) Department information. The service area manager shall provide the governance board with:

a. Information concerning the department service area's funding allocation for department-administered child welfare service programs; and

b. A copy of the service area's child welfare and juvenile justice annual plan.

153.12(5) Juvenile justice information. The chief juvenile court officer shall provide the governance board with information on the judicial district's allocation of funding for juvenile justice service programs.

153.12(6) Support and coordination. The department service area manager and the chief juvenile court officer shall:

a. Work with the governance board throughout each state fiscal year to coordinate planning and to target resources most effectively.

b. Regularly provide the governance board with available data concerning child welfare and juvenile justice needs, service trends and expenditures, child welfare and juvenile justice outcomes, and other relevant issues.

c. Work with the governance board to:

(1) Support board planning and service development; and

(2) Promote effective alignment of available financial resources to enhance preventive, family-centered, and community-based services.

441—153.13(232) Role and responsibilities of decategorization project governance boards. The governance board of a decategorization project shall have the following authority and responsibilities:

153.13(1) Rules of operation. The governance board shall establish and adopt written rules of operation that are available to the public.

153.13(2) Open meetings and records. The governance board shall adhere to statutory requirements for government bodies concerning open meetings and open records procedures as specified in Iowa Code chapters 21 and 22.

153.13(3) Coordination. The governance board shall coordinate project planning, decategorization service decisions, and budget planning activities with the service area manager and the chief juvenile court officer for the county or counties comprising the project.

153.13(4) Right to services. The governance board shall implement the decategorization initiative in a manner that does not limit the legal rights of children and families to receive services.

153.13(5) Community service planning. The governance board shall undertake community planning activities within the county or counties comprising the project. These activities shall be designed to develop services that are more preventive, family-centered, and community-based.

a. As part of decategorization community planning, the governance board shall partner with other community stakeholders to develop service alternatives that provide less restrictive levels of care for children and families within the project area. The governance board shall involve community representatives, including representatives for families and youth and for county organizations, in the development of specific and quantifiable short-term and long-term plans for:

(1) Enhancing preventive, family-centered, and community-based services; and

(2) Reducing reliance on out-of-community care and restrictive interventions.

b. In community planning, the governance board may use information from federal reviews of Iowa's child welfare system and indicators and outcomes from other community planning efforts. The governance board shall coordinate its community planning efforts as much as possible with those of other planning entities in the community, such as but not limited to:

(1) Communities of promise;

(2) Community empowerment;

(3) United Way;

(4) Community partnerships for protecting children;

(5) Comprehensive school improvement planning;

(6) Comprehensive substance abuse agency planning; and

(7) Substance-abuse-free environment (SAFE) program planning.

153.13(6) Annual service plan. The governance board shall oversee the development and submission of an annual child welfare and juvenile justice services plan that meets the requirements of rule 441—153.18(232). The governance board shall involve community representatives and county organizations in the development of the plan for the use of the decategorization services funding pool.

153.13(7) Fiscal management. The governance board shall manage and have authority over the project's decategorization services funding pool.

a. The governance board shall develop a plan to maintain budget accountability by ensuring during each state fiscal year that there is ongoing accountability for results, fiscal monitoring, and oversight of expenditures from the decategorization services funding pool.

b. Budget planning and decategorization services funding decisions shall be coordinated with the affected service area managers and chief juvenile court officers or their designees throughout each state fiscal year.

c. The governance board shall ensure that expenditures do not exceed the amount of funding available within the funding pool.

d. If necessary, the governance board shall approve actions to reduce expenditures, discontinue programs, or take other action to manage expenditures within the available decategorization services funding pool during each state fiscal year.

153.13(8) Annual report. The governance board shall oversee the development and submission of an annual progress report for the decategorization project that meets the requirements of rule 441—153.19(232).

441—153.14(232) Realignment of decategorization project boundaries. If a governance board votes to change the composition of counties participating in the project, the governance board shall send a letter to the department director that describes the nature of the proposed project realignment and is signed by each board member who supports the proposed realignment.

153.14(1) If the realignment request involves the move of one or more counties from one decategorization project to another, the governance board of the project receiving the county or counties shall send a letter to the department director expressing support for the realignment.

153.14(2) The department director shall review the request and within 30 days shall provide a written decision to the project governance boards involved.

a. In evaluating the request, the department director shall consider the reasons expressed for the proposed realignment and the community and budgetary impacts of the realignment.

b. The director may consult with governance board representatives and others before making a decision.

441—153.15(232) Decategorization services funding pool.

153.15(1) Creation and composition of pool. The department shall create the decategorization services funding pool for a project by combining funding resources that may be made available to the project from one or more of the following funding sources:

a. The project's allocation of any funding designated for decategorization in a state appropriation. When the general assembly designates a portion of the department's child welfare appropriation specifically for decategorization services, the designated funds shall be allocated to decategorization project services funding pools. Unless otherwise specified by legislation, the designated funds shall be allocated among decategorization projects based solely on each project's share of the population of children under the age of 18.

b. Child welfare and juvenile justice services funds that are:

(1) Specifically designated and committed in writing to the project by the service area manager; and

(2) Accepted by the project's governance board.

c. Any juvenile justice program funds that are:

(1) Specifically designated and committed in writing to the decategorization project by a chief juvenile court officer; and

(2) Accepted by the project's governance board.

d. Any carryover funds available to the project from funding transfers and from operation of decategorization services during the previous state fiscal year.

e. Funds made available to the project from any other funding source, such as another state agency or a grant awarded to the project. Funds awarded to the project under this provision may be subject to specific conditions, reporting requirements, and expenditure limits specified by the entity that awards funding.

153.15(2) *Use of funding pool.* A governance board shall use the funding pool in accordance with the following requirements:

a. The funding pool shall be used to provide services that meet at least one of the following criteria:

(1) Services are flexible;

(2) Services are individualized;

(3) Services are family-centered;

(4) Services are preventive;

(5) Services are community-based;

(6) Services are comprehensive; or

(7) Services promote coordinated service systems for children and families in order to reduce the use of restrictive approaches that rely on institutional, out-of-home, and out-of-community care.

b. The governance board may use the funding pool for enhancements to the child welfare and juvenile justice service systems within the project.

c. The funding pool shall not be used for any of the following services:

(1) Institutional services;

(2) Out-of-home services; or

(3) Out-of-community services.

d. The funding pool shall be expended in accordance with statutes and rules regarding vendor solicitation and service contracting, including Iowa Code chapter 8 and department of administrative services rules at 11—Chapters 106 and 107, Iowa Administrative Code.

153.15(3) *Designation and transfer of department funds.* A service area manager may choose during each state fiscal year to designate and transfer a portion of the service area's child welfare and juvenile justice service allocation to a decategorization project's funding pool. When designating funds, the service area manager and the governance board shall follow these procedures:

a. The service area manager shall provide written notification of any funding designations to the governance boards within the service area by June 1 of the state fiscal year. The service area manager shall specify any special terms and conditions of the funding designation in the written notification to the governance board.

b. The governance board shall consider the offer of designated funding and provide written notification of acceptance or rejection to the service area manager by June 30 of the state fiscal year.

c. If the governance board accepts the designated funding, the funds shall:

(1) Be transferred to the project's decategorization services funding pool; and

(2) Be under the sole management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

d. Any funding from such transfers that remains unencumbered or unobligated at the close of the state fiscal year shall be carryover funding in accordance with subrule 153.15(5).

153.15(4) *Designation and transfer of juvenile justice funds.* A chief juvenile court officer may choose to designate and transfer a portion of the judicial district's juvenile justice program funding to a decategorization project's services funding pool. When designating funds, the chief juvenile court officer and the governance board shall follow these procedures:

a. The chief juvenile court officer shall provide written notification of any funding designations to the governance boards within the judicial district by June 1 of the state fiscal year. The chief juvenile

court officer shall specify any special terms and conditions of the funding designation in the written notification to the governance board.

b. The governance board shall consider the offer of funding and shall provide the chief juvenile court officer with written notification of acceptance or rejection of the funding by June 30 of the state fiscal year.

c. If the governance board accepts the designated funding, the funds shall:

(1) Be transferred to the project's decategorization services funding pool; and

(2) Be under the sole management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

d. Any funding from such transfers that remains unencumbered or unobligated at the close of the state fiscal year shall be carryover funding in accordance with subrule 153.15(5).

153.15(5) Carryover funding. Funds allocated to a decategorization project from a legislative appropriation for decategorization services and funds designated and transferred to a decategorization project's funding pool that remain unencumbered or unobligated at the close of a state fiscal year are referred to as "carryover funding." The following procedures shall apply to the determination and use of decategorization carryover funding:

a. Upon the close of a state fiscal year, the department shall determine the exact amount of funding that is unencumbered or unobligated in each project's decategorization services funding pool. The department shall collaborate with governance boards to reconcile expenditure records and determine the amount of carryover funding for each decategorization project.

b. Before December 15 of each state fiscal year, the department shall provide each governance board with written notification of the official amount of carryover funding available from the previous state fiscal year.

c. Carryover funding shall not revert to the state general fund but shall remain available to the governance board until the close of the succeeding state fiscal year.

d. Carryover funding shall be under the authority of the project's governance board. These funds shall be available for expenditure for child welfare and juvenile justice systems enhancements and other purposes of the project as determined by the governance board.

e. Any carryover funding not expended by a decategorization project by the close of the succeeding state fiscal year shall revert to the fiscal authority of the department. The department shall return these funds to the state general fund.

441—153.16(232) Relationship of decategorization funding pool to other department child welfare funding. With the exception of any portion of the service area's child welfare allocation that is allocated by law for decategorization services, each service area's child welfare allocation shall be managed under the authority of the respective service area manager as follows:

153.16(1) Allocation. Each service area manager receives an allocation from the state appropriation for child welfare and juvenile justice services funding to meet child welfare and juvenile justice needs within all counties comprising the service area. The service area manager is responsible for meeting service needs throughout the service area within that allocation.

153.16(2) Budgeting. The service area manager may establish internal child welfare and juvenile justice services budget targets for the counties comprising the service area. Based on budget monitoring and changes in circumstances, the service area manager may revise the child welfare and juvenile justice budget targets within the service area to provide for the safety, permanency, and well-being of children served in the child welfare and juvenile justice systems.

153.16(3) Transfer to project. A service area manager may choose to designate and to transfer a portion of the service area's child welfare allocation to the funding pool of a decategorization project. The service area manager may ask a governance board to accept specific terms and conditions concerning use of this funding. Once funding is transferred to a governance board, the funding is under the management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

153.16(4) *Communication with the governance board.* The service area manager shall regularly communicate with the governance boards within the service area to provide updated data and other information on child welfare and juvenile justice funding amounts, service expenditures and trends, and other issues in order to assist the governance board in service and budget planning.

441—153.17(232) Relationship of decategorization funding pool to juvenile court services funding streams. Funds allocated by the department among the eight judicial districts for the court-ordered services and graduated sanctions programs shall be managed under the authority of the chief juvenile court officer for each judicial district as follows:

153.17(1) *Allocation.* Each chief juvenile court officer receives an allocation from the state appropriation for the court-ordered services and graduated sanction programs. The chief juvenile court officer is responsible for managing needs for these programs throughout the judicial district within that allocation.

153.17(2) *Budgeting.* The chief juvenile court officer may establish internal budget targets for expenditures from the court-ordered services and graduated sanction programs for the counties comprising the judicial district. Based on budget monitoring and changes in circumstances, a chief juvenile court officer may revise the budget targets established within the judicial district to provide programs most effectively for children within the district.

153.17(3) *Transfer to project.* A chief juvenile court officer may choose to designate and to transfer a portion of the judicial district's allocation for court-ordered services and graduated sanction programs to the funding pool of a decategorization project. The chief juvenile court officer may ask a governance board to accept specific terms and conditions concerning use of this funding. Once funding is transferred to a governance board, the funding is under the management authority of the governance board, subject to any special terms and conditions agreed to by the governance board.

153.17(4) *Communication with the governance board.* The chief juvenile court officer shall regularly communicate with the governance boards within the judicial district to provide data and other information on juvenile justice program allocation amounts, service expenditures and trends, and other issues that may assist the governance boards in service and budget planning.

441—153.18(232) Requirements for annual services plan. Each decategorization project shall annually develop and submit a child welfare and juvenile justice decategorization services plan.

153.18(1) *Content of plan.* The decategorization services plan shall describe:

a. The project's proposed use of funding from the decategorization services funding pool during the state fiscal year.

b. The community planning and needs assessment process that was used in developing the annual decategorization services plan, including information on:

- (1) The community members and organizations that participated in developing the plan; and
- (2) Efforts to coordinate with other community planning initiatives affecting children and families.

c. The project's specific and quantifiable short-term plans and desired results for the state fiscal year and how these plans align with the project's long-term plans to improve outcomes for vulnerable children and families by enhancing service systems.

d. The methods that the project will use to track results and outcomes during the year.

e. The project's plans for monitoring and maintaining fiscal accountability, which shall include monitoring:

- (1) The performance and results achieved by contractors that receive funding; and
- (2) Expenditures from the decategorization services funding pool throughout the state fiscal year.

f. The project's plans to expend projected carryover funds by the conclusion of the state fiscal year.

153.18(2) *Submission of plan.* The decategorization services plan shall be submitted to the department's child welfare administrator and to the Iowa empowerment board by October 1 of each state fiscal year.

441—153.19(232) Requirements for annual progress report. Each decategorization project shall develop and submit an annual progress report.

153.19(1) Content of report. At a minimum, the progress report shall:

- a. Summarize the project's key activities and the progress toward reaching the project's desired outcomes during the previous state fiscal year.
- b. Describe key activities, outcomes, and expenditures for programs and services that received funding from the governance board during the previous state fiscal year.
- c. Describe any lessons learned and planning adjustments made by the governance board during the previous state fiscal year.

153.19(2) Submission of report. The progress report shall be submitted to the department's child welfare administrator and to the Iowa empowerment board by December 1 of each state fiscal year.

These rules are intended to implement Iowa Code Supplement section 232.188.

441—153.20 to 153.30 Reserved.

DIVISION III
MENTAL ILLNESS, MENTAL RETARDATION, AND
DEVELOPMENTAL DISABILITIES—LOCAL SERVICES
[Rescinded IAB 3/6/02, effective 5/1/02]

441—153.31 to 153.50 Reserved.

DIVISION IV
STATE PAYMENT PROGRAM FOR LOCAL MENTAL HEALTH, MENTAL RETARDATION, AND
DEVELOPMENTAL DISABILITIES SERVICES TO ADULTS WITHOUT LEGAL SETTLEMENT

PREAMBLE

The state payment program provides 100 percent state funds to pay for local mental health, mental retardation, and developmental disabilities services for eligible adults who have no legal settlement in Iowa. The state payment program is intended to enable all eligible residents to receive services from the county mental health, mental retardation and developmental disabilities services fund through the county central point of coordination, regardless of the resident's legal settlement status.

Three basic principles underlie the state payment program.

First, duration of residency, including legal settlement, is not an eligibility factor for local mental health, mental retardation, and developmental disabilities service programs. The state payment program ensures that each of the local mental health, mental retardation, and developmental disabilities services provided by an Iowa county to residents who have legal settlement is also available to residents of that county who do not have legal settlement.

Second, each state is responsible to provide care and services for its own residents. Iowa provides for residents of Iowa.

Third, one's own family is of primary importance to one's well-being. Thus, the state payment program emphasizes that care and services for a person be provided near the person's own family, unless this is contraindicated or impossible to provide.

441—153.51(331) Definitions.

"Adult" means a person who is 18 years of age or older and is a United States citizen or a qualified alien as defined in 8 U.S.C. §1641.

"Applicant" means a person for whom payment is requested from the state payment program.

"Approved county management plan" means the county plan for mental health, mental retardation, and developmental disabilities services developed pursuant to Iowa Code section 331.439 that has been approved by the department's director.

"Central point of coordination" or *"CPC"* means the administrative entity designated by a county board of supervisors or by the boards of supervisors of a consortium of counties to act as the single entry point to the service system established under an approved county management plan.

“*County of residence*” means the county in Iowa where, at the time an adult applies for or receives services, the adult is living and has established an ongoing presence with the declared, good-faith intention of living permanently or for an indefinite period. The county of residence of an adult who is a homeless person is the county where the adult usually sleeps. “County of residence” does not mean the county where the adult is present for the purpose of:

1. Attending a college or university; or
2. Receiving services in a hospital, a correctional facility, a nursing facility, an intermediate care facility for persons with mental retardation, or a residential care facility.

The county of residence may be transferred using procedures set forth in subrule 153.53(5).

“*Department*” means the Iowa department of human services.

“*Division*” means the division of mental health and disability services of the department of human services.

“*Homeless person*” means a person who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is one of the following:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations.
2. An institution that provides a temporary residence for persons intended to be institutionalized.
3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

“*Legal representative*” means a person recognized by law as standing in the place or representing the interests of another; for example, a guardian, conservator, custodian, parent of a minor, or the executor, administrator or next of kin of a deceased person.

“*Legal settlement*” is a legal status as defined in Iowa Code sections 252.16 and 252.17.

“*Member*” means a person authorized by the division to receive benefits from the state payment program.

“*Provider*” means a provider of mental health, mental retardation, or developmental disabilities services that has a valid contract for the service with a county to provide services under a county management plan.

“*Resident,*” for purposes of division IV of this chapter, means a person who is present in the state and who has established an ongoing presence with the declared, good-faith intention of living in Iowa permanently or for an indefinite period.

441—153.52(331) Eligibility requirements. To be eligible for the state payment program, an applicant must meet all of the following conditions.

153.52(1) *Adult status.* The applicant shall be an adult as defined in 441—153.51(331).

153.52(2) *Residency.* The applicant shall be a resident of Iowa, present in the state and without legal settlement in an Iowa county. The applicant shall not be in Iowa for purposes of a visit or vacation nor be traveling through the state to another destination at the time of application for services.

153.52(3) *Eligibility under county management plan.* The applicant shall meet the eligibility criteria established in the approved county management plan for the applicant’s county of residence.

153.52(4) *Payment source.* The applicant shall have no other political entity, organization, or other source responsible for provision of or payment for the needed services nor be eligible to have the service funded or provided at no additional cost to the state by another state-funded or federally funded facility or program. The department may, on a case-by-case basis, attempt collection from a legally responsible entity.

441—153.53(331) Application procedure.

153.53(1) *Initiation of application.* The county CPC or the CPC’s designee shall be responsible for applying for state payment program funding for any person who may be eligible and whose county of residence is that county.

a. When an applicant is awaiting discharge from a state mental health institute or state resource center, the facility’s social worker shall initiate the application and forward it to the CPC of the applicant’s

county of residence for completion. If the applicant has no clear county of residence, the application shall be forwarded to the county where the applicant intends to establish residency upon discharge. This county may be designated by the applicant's declaration.

b. Applications shall be made only with the knowledge and consent of the applicant or the applicant's legal representative.

153.53(2) Application requirements. The CPC or the CPC's designee shall complete the application, preferably in electronic format. A complete application shall include:

a. A funding request for the applicant showing the total monthly dollar amount needed for services;

b. A copy of a legal settlement worksheet that is completed in accordance with provisions of Iowa Code chapter 252 and other applicable laws and rulings of courts; and

c. The client profile report (or equivalent) from a CPC application that contains information necessary for the division to enter the member into the data system used for payment processing.

153.53(3) Application submission. The CPC or the CPC's designee shall submit the complete application as defined in subrule 153.53(2) to the division within 15 business days of the date the CPC or designee receives a completed and signed CPC application form containing a properly completed legal settlement worksheet.

153.53(4) Application date. The date of application is the date of the CPC application form, the date on court documents, or October 1, 2006, whichever is later. This date may be used as the effective date of eligibility when the complete application is received in the division within 60 business days of the CPC application date or the date on court documents.

153.53(5) Transfer of county of residence. The designated county of residence for an adult may be transferred when it seems more reasonable for the county in which the person is receiving services to assume management of the services.

a. Examples of situations where transfer may be reasonable include, but are not limited to:

(1) The person receiving services has been in a facility for more than a year; and the person no longer has any connection to the county of residence, such as relatives who live there, and, so far as anyone can tell, has no desire to return to the county of residence.

(2) The person receiving services was in the state and county of residence for such a short time before needing services that no real attachment was established in the county of residence.

(3) The person is a student attending a college or university but lives and works in the community 12 months per year.

b. If the county of residence desires a transfer and the county in which the person is receiving services agrees, the county accepting the transfer shall notify the department's state payment program manager. The new county of residence shall complete the application procedures, if necessary, and maintain responsibility for the person's case.

c. If the county of residence desires a transfer and the county in which the services are being received does not agree, the county of residence may appeal for resolution to the residency team established by the mental health, mental retardation, developmental disabilities, and brain injury commission. Either county may appeal the decision of the residency team using the procedures in 441—Chapter 7.

441—153.54(331) Eligibility determination.

153.54(1) Approval by county.

a. The CPC or the CPC's designee shall determine whether an applicant is eligible for services based on the eligibility guidelines contained in the approved county management plan for the applicant's county of residence.

b. The county shall apply any policies and procedures regarding waiting lists to state payment program applicants in the same manner as it applies them to persons who have legal settlement in that county.

153.54(2) Certification by the department. Within 15 business days after receipt of a complete application as specified in subrule 153.53(2), division staff shall certify the applicant's eligibility for the state payment program to the central point of coordination.

a. The applicant's legal settlement status shall be ascertained in accordance with Iowa Code sections 252.16 and 252.17 and with other applicable laws, rulings of courts and opinions of the Iowa attorney general.

b. The division shall institute a waiting list for state payment program clients if the appropriation becomes fully encumbered. The division shall promptly notify all counties if a waiting list is to be instituted because of a lack of state funding.

153.54(3) Effective date of eligibility.

a. An applicant's eligibility for state payment program funding shall be effective from the date of application.

b. A member shall remain eligible until:

(1) The member has not received services for 12 months; or

(2) The CPC in the county of residence notifies the state payment program manager that the member is no longer eligible.

153.54(4) Notification of eligibility decisions. The CPC or the CPC's designee shall notify the applicant or member of the following decisions in accordance with CPC requirements and procedures:

a. Certification of the applicant's eligibility.

b. A change in a member's services, including termination of service.

441—153.55(331) Eligible services. Services eligible for reimbursement under the state payment program are the services defined in the approved county management plan of the applicant's county of residence.

153.55(1) Purchased services.

a. Service management may be provided through a county CPC process during the period for which services are paid.

b. The county may pay for services as long as the member is eligible and the following criteria are met:

(1) The member is receiving a service that requires funding from the state payment program.

(2) The service is provided under the approved county management plan of the member's county of residence.

(3) The member's county of residence provides or pays for the service from the county mental health, mental retardation, and developmental disabilities services fund for persons who have legal settlement in the county.

(4) Service providers bill the other payment systems for which the member is eligible before billing the county of residence.

153.55(2) Excluded costs. The following costs are excluded from payment by the state payment program:

a. Services received before the effective date of eligibility.

b. The cost of local services that the member is eligible to have funded by private sources or by other state or federal programs or funds such as medical assistance program services or services provided in a state institution.

441—153.56(331) Program administration.

153.56(1) CPC responsibilities.

a. Financial participation on the part of the member shall be governed by the financial participation provisions of the approved county management plan of the member's county of residence.

b. The CPC or the CPC's designee shall submit to the division's state payment program manager by the fifth business day of each month a report on the eligible services paid for during the previous month. The report shall be submitted electronically and shall include the following data in each record:

(1) The calendar month and year in which the county made the payment.

- (2) The name of the county submitting the information.
- (3) The member's name.
- (4) The member's state identification number.
- (5) The member's identification number as assigned under subparagraph 153.56(2) "a"(2).
- (6) The member's diagnostic group code.
- (7) The provider's name.
- (8) The chart of accounts code for each service paid.
- (9) The number of units paid (if applicable).
- (10) The beginning date of each service for which the county paid.
- (11) The ending date of each service for which the county paid.
- (12) The dollar amount paid.

c. The CPC or the CPC's designee shall include payments made on behalf of members in the data warehouse annual reports required by 441—Chapter 25, Division IV.

153.56(2) Department responsibilities. As the sponsoring agency, the department shall be responsible for:

- a. Enrolling members as necessary to produce payment to the counties, including:
 - (1) Maintaining member information in the data system for payment;
 - (2) Notifying counties of the member identification number required for billing; and
 - (3) Closing data system files on members as directed by the counties, or when the member has not had any payments processed for a 12-month period.
- b. Verifying receipt of monthly payment report files. Within 15 business days of receipt of each county's monthly payment report file, the department shall:
 - (1) Identify the county's payment amount for that month and the number of clients included in the payment; and
 - (2) Notify the county of any clients whose costs were denied and the reason for the denial.
- c. Generating and reconciling payments to the counties.
- d. Receiving and auditing reports of member activity and expenditures from the counties.

153.56(3) Payment to counties. The following policies shall govern payment to counties for services furnished to members:

- a. *Monthly payment.* Beginning in May 2007, the department shall make a monthly payment to each county based on the expense report for the previous month that was submitted by the county pursuant to paragraph 153.56(1) "b." The department shall process monthly payments by the twentieth day of each month.
- b. *Prospective payment.* The department may make a prospective payment to the county for cash flow purposes by July 10 of each year.
 - (1) The prospective payment shall be based on the sum of the expense reports that the department received from the county in April, May, and June of that year.
 - (2) For the state fiscal year ending June 30, 2007, the payments made to the county on or before April 1, 2007, shall be considered the prospective payment.
- c. *Payment reconciliation.* The department and counties shall reconcile the total of the prospective payment and monthly payments made to a county with the total actual expenses paid by the county for that same period.
- d. *Payment adjustment.* Beginning in April of each year, the department may adjust the monthly payment to the county to:
 - (1) Spend down the balance of the prospective payments previously made; or
 - (2) Make additional payment to ensure that the county has sufficient moneys for cash flow purposes.
- e. *Deductions.* For the state fiscal year ending June 30, 2007, moneys that the county received but did not expend, according to the report required by paragraph 153.56(1) "b," shall be deducted from the county's subsequent payment.

441—153.57(331) Reduction, denial, or termination of benefits. The member's state payment program benefits may be denied, terminated or reduced according to the provisions of the approved county management plan of the member's county of residence.

441—153.58(331) Appeals.

153.58(1) Decisions regarding eligibility of any applicant, decisions regarding instituting a waiting list because the appropriation has been fully encumbered, and decisions adversely affecting applicants or members who are not eligible may be appealed pursuant to 441—Chapter 7.

153.58(2) Decisions (other than eligibility) adversely affecting applicants or members shall be appealed pursuant to the county CPC's appeal provisions.

These rules are intended to implement Iowa Code section 331.440 as amended by 2006 Iowa Acts, chapter 1115, division III.

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RACING AND GAMING COMMISSION[491]

[Prior to 11/19/86, Chs 1 to 10, see Racing Commission[693]; Renamed Racing and Gaming

Division [195] under the “umbrella” of Commerce, Department of [181], 11/19/86]

[Prior to 12/17/86, Chs 20 to 25, see Revenue Department[730] Chs 91 to 96]

[Transferred from Commerce Department[181] to the Department of Inspections and Appeals “umbrella”[481]
pursuant to 1987 Iowa Acts, chapter 234, section 421]

[Renamed Racing and Gaming Commission[491], 8/23/89; See 1989 Iowa Acts, ch 67 §1(2), and ch 231 §30(1), 31]

CHAPTER 1

ORGANIZATION AND OPERATION

- 1.1(99D,99F) Function
- 1.2(99D,99F) Organization, meetings, and procedure
- 1.3(99D,99F) Administration of the commission
- 1.4(17A,22,99D,99F) Open records
- 1.5(17A,99D,99F) Forms
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CHAPTER 6
OCCUPATIONAL AND VENDOR LICENSING

[Prior to 11/19/86, Racing Commission[693]]
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491—6.1(99D,99F) Definitions.

“*Applicant*” means an individual applying for an occupational license.

“*Beneficial interest*” means any and all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

“*Board*” means either the board of stewards or the gaming board, as appointed by the administrator, whichever is appropriate. The administrator may serve as a board of one.

“*Commission*” means the Iowa racing and gaming commission.

“*Commission representative*” means a gaming representative, steward, or any person designated by the commission or commission administrator.

“*Conviction*” means the act or process of judicially finding someone guilty of a crime; the state of a person’s having been proved guilty; the judgment that a person is guilty of a crime or criminal offense, which includes a guilty plea entered in conjunction with a deferred judgment, and a juvenile who has been adjudicated delinquent. The date of conviction shall be the date the sentence and judgment is entered.

“*Deceptive practice*” means any deception or misrepresentation made by the person with the knowledge that the deception or misrepresentation could result in some benefit to the person or some other person.

“*Facility*” means an entity licensed by the commission to conduct pari-mutuel wagering or gaming operations in Iowa.

“*Jockey*” means a person licensed to ride a horse in a race.

“*Kennel/stable name*” means any type of name other than the legal name or names used by an owner or lessee and registered with the commission.

“*Licensee*” means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license for a person to work in the pari-mutuel, gambling structure, or excursion gambling boat industry in Iowa.

“*Occupation*” means a license category listed on the commission’s occupational license application form.

“*Owner*” means a person or entity that holds any title, right or interest, whole or partial, in a racing animal.

“*Rules*” means the rules promulgated by the commission to regulate the racing and gaming industries.

“*Theft*” includes, but is not limited to:

1. The act of taking possession or control of either facility property or the property of another without the express authorization of the owner;
2. The use, disposition, or destruction of property in a manner which is inconsistent with or contrary to the owner’s rights in such property;
3. Misappropriation or misuse of property the person holds in trust for another; or
4. Any act which constitutes theft as defined by Iowa Code chapter 714. No specific intent requirement is imposed by rule 6.5(99D,99F) nor is it required that there be any showing that the licensee received personal gain from any act of theft.

“*Year*” means a calendar year.

491—6.2(99D,99F,252J) Occupational licensing.

6.2(1) All persons participating in any capacity at a racing or gaming facility, with the exception of certified law enforcement officers while they are working for the facility as uniformed officers, are required to be properly licensed by the commission.

a. License applicants under 70 years of age may be required to furnish to the commission a set of fingerprints and may be required to be refingerprinted or rephotographed periodically.

b. License applicants must supply current photo identification and proof of their social security number and date of birth.

c. License applicants must complete and sign the application form prescribed and published by the commission. An incomplete application shall not be processed. The application shall state the full name, social security number, residence, date of birth, and other personal identifying information of the applicant that the commission deems necessary. The application shall include, in part, whether the applicant has any of the following:

(1) A record of conviction of a felony or misdemeanor, including a record involving the entry of a deferred judgment and adjudications of delinquency;

(2) An addiction to alcohol or a controlled substance;

(3) A history of mental illness or repeated acts of violence;

(4) Military convictions;

(5) Adjudication of delinquency; or

(6) Overdue income taxes, fines, court-ordered legal obligations, or judgments.

d. License applicants for designated positions of higher responsibility may be required to complete a division of criminal investigation (DCI) background form.

e. A fee set by the commission shall be assessed to each license applicant. Once a license is issued, the fee cannot be refunded.

f. License applicants must pay an additional fee set by the Federal Bureau of Investigation (FBI) and by the department of public safety (DCI and bureau of identification) to cover the cost associated with the search and classification of fingerprints.

g. All racing and gaming commission fees for applications or license renewals must be paid by applicants or licensees before a license will be issued or renewed or, if the applicant is an employee of a facility, the commission fees will be directly billed to the facility.

h. An applicant who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

i. Participation in racing and gaming in the state of Iowa is a privilege and not a right. The burden of proving qualifications to be issued any license is on the applicant at all times. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action, as well as any financial loss that may result from action with respect to an application.

j. All licenses are conditional until completion of a necessary background investigation including, but not limited to, fingerprint processing through the DCI and the FBI and review of records on file with national organizations, courts, law enforcement agencies, and the commission.

k. Any licensee who allows another person use of the licensee's license badge for the purpose of transferring any of the benefits conferred by the license may be fined, have the license suspended or revoked, or be subject to any combination of the above-mentioned sanctions. No license shall be transferable and no duplicate licenses shall be issued except upon submission of an application form and payment of the license fee.

l. It shall be the affirmative responsibility and continuing duty of each applicant to provide all information, documentation, and assurances pertaining to qualifications required or requested by the commission or commission representatives and to cooperate with commission representatives in the performance of their duties. A refusal by any person to comply with a request for information from a commission representative shall be a basis for fine, suspension, denial, revocation, or disqualification.

m. Non-U.S. citizens must supply documentation authorizing them to work in the United States or supply documentation demonstrating compliance with the North American Free Trade Agreement.

n. Portions of all completed applications accepted by the commission are confidential. The following persons have the explicit right to review all information contained on the application: the applicant, all commission officials and employees, the track steward, and DCI agents or other law enforcement officers serving in their official capacity.

o. A license may not be issued or held by an applicant who is unqualified, by experience or otherwise, to perform the duties required.

p. A license may not be issued to applicants who have not previously been licensed in the following occupations except upon recommendation by the commission representative: trainers, assistant trainers, jockeys, apprentice jockeys, exercise persons, and other occupations the commission may designate. The commission representative may, for the purpose of determining a recommendation under this subrule, consult a representative of the facility, horsemen, or jockeys.

6.2(2) All facility board members shall undergo a background investigation and be licensed immediately upon appointment.

6.2(3) Multiple license restrictions.

a. A person may work outside the licensed occupation as long as the person is licensed in an equal or higher occupation.

b. In horse racing only, the following restrictions apply:

(1) A person licensed as a jockey or veterinarian may not be licensed in another capacity.

(2) A person may not be licensed as an owner and a jockey agent.

(3) No racing official may serve or act in another capacity at a race meeting at which that person is licensed as an official except if there is no conflict of interest or duties as determined by the commission representative.

6.2(4) Application endorsements. The responsibility of licensing an employee rests with the employer. Therefore, a license may not be issued to any employee unless the application includes prior endorsement of the facility's authorized representative. All facilities must submit a list of representatives authorized to sign applications. This list shall not exceed six names. This authorization list shall be sent to the commission licensing office associated with each facility.

6.2(5) An applicant who has not held a license for the previous calendar year shall be considered a first-time applicant.

6.2(6) Interim identification badge.

a. All interim identification badges issued by a facility must be recorded in a logbook, which is available for inspection by commission or DCI representatives. The logbook must reflect the following information: date issued; user's name and date of birth (verified by photo ID); occupation; badge number; issuer; time issued; and time returned. Badges shall only be issued on a daily basis and must be returned before the employee leaves facility premises. A badge shall be effective only until the commission licensing office's next day of business, and may not be used to avoid obtaining a duplicate license.

b. A badge shall only be issued if:

(1) An employee is hired during a time that the commission licensing office is closed; or

(2) An employee is not in possession of the employee's occupational license.

491—6.3(99D,99F) Waiver of privilege. An applicant may claim a privilege afforded by the Constitution of the United States or of the state of Iowa in refusing to answer questions of the commission. However, a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial.

491—6.4(99D,99F) License acceptance.

6.4(1) *Occupational license (license).* The license shall be displayed in a conspicuous manner on the licensee's clothing at all times while the licensee is on duty unless otherwise permitted by the commission representative. A licensee is prohibited from defacing, altering, or modifying a license.

6.4(2) *Knowledge of rules.* By acceptance of a license from the commission, the licensee agrees to follow and comply with the rules of the commission and Iowa statutes pertaining to racing and gaming, to report immediately to the commission representative any known irregularities or wrongdoing involving racing or gaming and to cooperate in subsequent investigations. Commission rules are available on the commission's Web site at www.iowa.gov/irgc/.

6.4(3) Search and seizure. Acceptance of a license from the commission by any licensee is deemed consent to search and inspection by a commission or DCI representative and to the seizure of any prohibited medication, drugs, paraphernalia or devices.

6.4(4) Misuse of license. No person shall exercise or attempt to exercise any of the powers, privileges, or prerogatives of a license unless and until the appropriate licensing form has been executed and filed with the commission except under subrule 6.2(6). The commission shall exercise the power to regulate the conduct of all persons holding licenses or participating in racing or gaming.

491—6.5(99D,99F) Grounds for denial, suspension, or revocation of a license or issuance of a fine. The commission or commission representative shall deny an applicant a license or, if already issued, a licensee shall be subject to probation, fine, suspension, revocation, or other disciplinary measures, if the applicant or licensee:

6.5(1) Does not qualify under the following screening policy:

a. Applicants must be at least 18 years of age to work in areas where gaming or wagering is conducted.

b. Applicants must be at least 16 years of age to be eligible to be licensed to work for a trainer of racing animals.

c. A license shall be denied if an alias was used in connection with fraud within the last five years.

d. A license shall be denied if, within the last five years, an applicant has had a felony conviction or an offense involving theft or fraudulent practice in excess of \$500, including a conviction involving the entry of a deferred judgment and adjudications of delinquency. If the conviction did not occur within the last five years, a license shall not be issued unless the commission representative determines that sufficient evidence of rehabilitation exists.

e. A license shall be denied if an applicant has a conviction of a serious or aggravated misdemeanor, including a conviction involving the entry of a deferred judgment and adjudications of delinquency, or the equivalent unless the commission representative determines that sufficient evidence of rehabilitation exists.

f. A license shall be denied if an applicant has multiple convictions of simple misdemeanors, including those involving the entry of a deferred judgment and adjudications of delinquency, or alcohol-related offenses unless the commission representative determines that sufficient evidence of rehabilitation exists. In making that determination, the number of violations shall be considered.

g. A license may be denied if the applicant has been guilty of multiple offenses. The commission representative shall use the representative's judgment in making such a determination.

h. A license shall be temporarily denied or suspended until the outcome of any pending charges is known if conviction, including a conviction involving the entry of a deferred judgment and adjudications of delinquency, would disqualify the applicant.

i. A license shall be denied if the applicant has a current addiction to alcohol or a controlled substance, has a history of mental illness without sufficient evidence of rehabilitation, or has a history of repeated acts of violence without sufficient evidence of rehabilitation.

j. A license may be temporarily denied or a probationary license may be issued until outstanding, overdue court-ordered obligations are satisfied. These include, but are not limited to, criminal or civil fines, state or federal taxes, or conditions imposed upon a person by a court of law that the applicant has failed to meet in a timely manner.

k. A license shall be denied if an applicant owns, operates, or has an interest in any bookmaking or other illegal enterprise, or is or has been connected with or associated with any illegal enterprise within the past five years. If the applicant's association with the illegal enterprise occurred more than five years prior to the application, a license may be issued only if the commission representative determines that sufficient evidence of rehabilitation exists.

l. A license may be denied if an applicant is ineligible to participate in gaming in another state and it would not be in the best interest of racing or gaming to license the applicant in Iowa. A license shall be denied if an applicant is ineligible to participate in racing in another state whose regulatory agency is recognized by and reciprocates in the actions of this state.

m. A license shall be denied if an applicant has been denied patron privileges by order of this commission and not reinstated.

n. A license shall be denied if the applicant falsifies the application form and would be ineligible for licensure under paragraphs “a” through “m” above. In other cases of falsification, a license may be issued and the applicant shall be subject to a suspension, fine, or both.

o. A license shall be denied if an applicant is not of good repute and moral character. Any evidence concerning a licensee’s current or past conduct, dealings, habits, or associations relevant to that individual’s character and reputation may be considered. The commission representative shall decide what weight and effect evidence shall have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Applicants who hold positions of higher responsibility may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role.

6.5(2) Has not demonstrated financial responsibility or has failed to meet any monetary obligation in the following circumstances connected with racing or gaming:

a. Issuance or passing of bad checks. No person shall write, issue, make, or present any check in payment for any license fee, nomination fee, entry fee, starting fee, or purse payment when that person knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which it is written does not contain sufficient funds for payment of the check, or that the check is written on a closed or nonexistent account.

b. Judgments. Whenever any person licensed to engage in racing suffers a final judgment entered against that person in any court of competent jurisdiction within the United States, when that judgment is based wholly upon an indebtedness incurred by that person for supplies, equipment, or services furnished in connection with racing, the commission representatives shall schedule a hearing at which the licensee shall be required to show cause as to why the license should not be suspended.

c. Timely payment. Should an owner fail to make timely payment of any jockey fee, nomination fee, entry fee, starting fee, or any other reasonable charge normally payable to the facility, the facility shall notify the commission representatives who shall in turn give notice to the owner that a hearing will be held where the owner will be required to show cause why the license should not be suspended for failure to make the required payments.

6.5(3) Has been involved in any fraudulent or corrupt practices, including, but not limited to:

a. Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person licensed by the commission to violate these rules or the laws of the state related to racing or gaming.

b. Failing to report any bribe or solicitation as in 6.5(3) “a” above.

c. Soliciting by any licensee, except the facility, of bets by the public.

d. Violation of any law of the state or rule of the commission, or aiding or abetting any person in the violation of any such law or rule.

e. Theft or deceptive practice of any nature on the premises of a facility.

f. Giving under oath any false statement or refusing to testify, after proper notice, to the commission representative about any matter regulated by the commission, except in the exercise of a lawful legal privilege.

g. Failing to comply with any request for information or any order or ruling issued by the commission representative pertaining to a racing or gaming matter.

h. Disorderly or offensive conduct; use of profane, abusive, or insulting language to, or interference with, commission representatives or racing or gaming officials while they are discharging their duties.

i. Conduct in Iowa or elsewhere has been dishonest, undesirable, detrimental to, or reflects negatively on, the integrity or best interests of racing and gaming.

j. Illegal sale, possession, receipt, or use of a controlled substance or drug paraphernalia; intoxication; use of profanity; fighting; making threatening or intimidating statements; engaging in threatening or intimidating behavior; or any conduct of a disorderly nature on facility premises.

k. Discontinuance of or ineligibility for activity for which the license was issued.

- l.* Possessing a firearm on facility property without written permission from the commission representative.
- m.* Improperly influencing or attempting to improperly influence the results of a race or a gambling game, singularly or in combination with any person.
- n.* Failing to report any attempt to improperly influence the result of a race or a gambling game as in 6.5(3) “*m*” above.
- o.* Having had two rulings related to attempts to affect a race result or odds (rulings for electrical devices, serious positives, for example) in a lifetime or one ruling within the last three years. A license may be issued if one ruling has occurred outside of three years if sufficient evidence of rehabilitation exists. A license may be denied if a lengthy record of rulings from other jurisdictions exists.
- p.* Possessing any equipment for hypodermic injection, any substance for hypodermic administration, or any container designed to hold an injectable substance (narcotics, medications, drugs, or substances which could be used to alter the speed of racing animals) by anyone other than a veterinarian licensed by the commission. Notwithstanding the provisions of this subrule, any person may have possession of any chemical or biological substance for the person’s own treatment within a restricted area, provided that, if the chemical substance is prohibited from being dispensed without a prescription by any federal law or law of this state, the person is in possession of documentary evidence that a valid prescription has been issued to the person. Notwithstanding the provisions of this subrule, any person may have in possession within any restricted area any hypodermic syringe or needle for the purpose of self-administering to the person a chemical or biological substance, provided that the person has notified the commission representatives of the possession of the device, the size of the device, and the chemical substance to be administered and has obtained written permission for possession and use from the commission representative. A restricted area is a designated area for sample collection, paddock, racetrack, or any other area where officials carry out the duties of their positions.
- q.* Subjecting an animal to cruel and inhumane treatment by failing to supply it with adequate food, water, medical treatment, exercise, bedding, sanitation, and shelter; or by neglect or intentional act causing an animal to suffer unnecessary pain.
- r.* Offering or receiving money or other benefit for withdrawing a racing animal from a race.
- s.* Making a wager for a jockey by any person other than the owner or trainer of the horse ridden by the jockey.
- t.* Making a wager for a jockey on a horse by an owner or trainer other than that ridden by the jockey. This shall not be construed to include bets on another horse in combination with the horse ridden by the jockey in multiple wagering bets.
- u.* Offering or giving a jockey money or other benefit concerning a race, except by the owner or trainer of the horse to be ridden.
- v.* Entering or starting a racing animal known or believed to be ineligible or disqualified.
- w.* Possessing any device designed to increase or decrease the speed of a racing animal during a race other than an ordinary riding whip without written permission from the commission representative.

491—6.6(99D,99F) Applications for license after denial, revocation, or suspension.

6.6(1) Any person whose license was denied or revoked may reapply for a license in accordance with the commission’s rules governing applications. However, the applicant must satisfy the following conditions:

- a.* The applicant shall bear the burden of proof of establishing satisfaction with all license criteria and shall provide proof of satisfaction of any terms or conditions imposed as a part of the commission’s order denying or revoking the license;
- b.* The applicant shall allege facts and circumstances establishing, to the commission’s satisfaction, sufficient evidence of rehabilitation and that the basis for the denial or revocation no longer exists;
- c.* The applicant shall establish that the public interest and the integrity of racing and gaming would not be adversely affected if a license is granted; and

d. If the license was revoked, a new application shall not be filed until five years have elapsed from the date of the order of revocation.

6.6(2) Any person whose license was suspended for 365 days may file a new application for a license upon the expiration of the period of suspension but must satisfy all of the conditions set forth in 6.6(1) “a,” “b,” and “c” above. If a person’s license has not expired after the 365-day suspension, the person must have a hearing before a board to determine if the person has satisfied all of the conditions set forth in 6.6(1) “a,” “b,” and “c” above prior to that individual’s participating in racing or gaming.

491—6.7(99D,99F) Probationary period placed on a license. The commission representative or the board may place a probationary period on a license. The terms of the probationary period shall include the effective dates, conditions placed on the licensee and any penalty for failure to follow those conditions, including fine, suspension, denial, or revocation.

491—6.8(99D,99F) Duration of license. A license issued by the commission is valid for two calendar years. The license shall expire at the end of the second calendar year, unless an extension is granted by the administrator.

491—6.9(99D,99F) Licensed employees moving from one location to another.

6.9(1) Once an applicant obtains an occupational license from the commission and is in good standing, the applicant is eligible to work at any of the facilities in the state of Iowa.

6.9(2) When a facility hires a person who is already in possession of a current occupational license, a list of the person(s) hired must be filed weekly with the local commission office. The list should contain the license number, name, social security number, and birth date of each person hired.

491—6.10(99D,99F) Required report of discharge of licensed employee. Upon discharge of any licensed employee by any licensed employer for violation of rules or laws within the jurisdiction of the commission, the employer must report that fact in writing, within 72 hours, to the local commission office including the name and occupation of the discharged licensee.

491—6.11(99D,99F,252J) Receipt of certificate of noncompliance from the child support recovery unit.

6.11(1) Upon the commission’s receipt of a certificate of noncompliance, a commission representative shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. A notice of intended action shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305.

6.11(2) The effective date of suspension or revocation, or denial of the issuance or renewal of a license, as specified in the notice, shall be no sooner than 30 days following service of the notice upon the licensee or applicant.

6.11(3) The filing of a district court action by a licensee or applicant challenging the issuance of a certificate of noncompliance shall automatically stay any administrative action. Upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission, the intended action will proceed as described in the notice. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a license, only the number of days before the action was filed and the number of days after the action was disposed of by the court will be counted.

6.11(4) Upon receipt of a withdrawal of a certificate of noncompliance from the child support recovery unit, the commission representative shall immediately reinstate, renew, or issue a license if the individual is otherwise in compliance with licensing requirements.

6.11(5) All commission fees for applications or license renewals must be paid by licensees or applicants before a license will be issued or renewed.

491—6.12(99D,99F,261) Receipt of a certificate of noncompliance from the college student aid commission.

6.12(1) Upon the commission's receipt of a certificate of noncompliance, a commission representative shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. A notice of intended action shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305.

6.12(2) The effective date of the suspension or revocation, or denial of the issuance or renewal of a license, shall be no sooner than 30 days following service of the notice upon the licensee or applicant.

6.12(3) The filing of a district court action by a licensee or applicant challenging the issuance of a certificate of noncompliance shall automatically stay any administrative action. Upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission, the intended action will proceed as described in the notice. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a license, only the number of days before the action was filed and the number of days after the action was disposed of by the court will be counted.

6.12(4) Upon receipt of a withdrawal of a certificate of noncompliance from the college student aid commission, the commission representative shall immediately reinstate, renew, or issue a license if the individual is otherwise in compliance with licensing requirements.

6.12(5) All commission fees for applications or license renewals must be paid by licensees or applicants before a license will be issued or renewed.

491—6.13(99D,99F,272D) Receipt of certificate of noncompliance from the centralized collection unit of the department of revenue.

6.13(1) Upon the commission's receipt of a certificate of noncompliance, a commission representative shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. A notice of intended action shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305.

6.13(2) The effective date of suspension or revocation, or denial of the issuance or renewal of a license, as specified in the notice, shall be no sooner than 30 days following service of the notice upon the licensee or applicant.

6.13(3) The filing of a district court action by a licensee or applicant challenging the issuance of a certificate of noncompliance shall automatically stay any administrative action. Upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission, the intended action will proceed as described in the notice. For purposes of determining the effective date of suspension or revocation, or denial of the issuance or renewal of a license, only the number of days before the action was filed and the number of days after the action was disposed of by the court will be counted.

6.13(4) Upon receipt of a withdrawal of a certificate of noncompliance from the centralized collection unit, the commission representative shall immediately reinstate, renew, or issue a license if the individual is otherwise in compliance with licensing requirements.

6.13(5) All commission fees for applications or license renewals must be paid by licensees or applicants before a license will be issued or renewed.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.14(99D,99F) Vendor's license.

6.14(1) A vendor's license is required of any entity not licensed as a manufacturer or distributor that conducts operations on site at a facility.

6.14(2) An applicant for a vendor's license must complete the appropriate commission form. An authorized representative from the facility for which the vendor wishes to do continuous business must sign the form. A letter from the facility authorizing the vendor to do business shall replace a signature on the application form.

6.14(3) Any employee who works for a licensed vendor and will be supplying the goods or services to the facility must have a vendor employee license. A vendor license must be issued before a vendor employee can be issued a license to represent that company. The authorized signature on the vendor employee's application must be the signature of the person authorized by the vendor application to sign vendor employee applications.

6.14(4) Rescinded IAB 9/29/04, effective 11/3/04.
[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.15(99D,99F) Applicability of rules—exceptions. Rules pertaining to and rulings against licensees shall apply in like force to the spouse and members of the immediate family or household of the licensee if the continuation of participation in racing or gaming by the affected person circumvents the intent of the rule or affects the ruling by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or a person ineligible to participate in a particular activity.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.16(99D) Disclosure of ownership of racing animals. All entities of ownership (individual, lessee, lessor, general partnership, or corporation) and all trainers are responsible for making full and accurate disclosure of the ownership of all racing animals registered or entered for racing. Disclosure shall identify in writing all individuals or entities that, directly or indirectly, through a contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise hold any interest in a racing animal, and those individuals or entities who by virtue of any form of interest might exercise control over the racing animal or may benefit from the racing of the animal. The degree and type of ownership held by each individual person shall be designated. The transfer of a racing animal to avoid application of a commission rule or ruling is prohibited and constitutes grounds for discipline.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.17(99D) Owners of racing animals.

6.17(1) Each greyhound owner must obtain an owner's license from the commission to enter an animal in an official schooling race or a purse race at an Iowa racetrack.

6.17(2) Each owner is subject to the laws of Iowa and the rules promulgated by the commission immediately upon acceptance and occupancy of accommodations from or approved by a facility or upon making entry to run on its track. Owners shall accept the decision of the commission representative on any and all questions, subject to the owner's right of appeal to the commission.

6.17(3) An owner who is under the age of 18 must have a parent or guardian cosign any contractual agreements.

6.17(4) No person or entity that is not the owner of record of a properly registered racing animal that is in the care of a licensed trainer may be licensed as an owner.

6.17(5) Temporary horse owner license. Rescinded IAB 11/5/08, effective 12/10/08.
[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.18(99D) Kennel/stable name.

6.18(1) Licensed owners and lessees wishing to race under a kennel/stable name may do so by applying for a license with the commission on forms furnished by the commission. All kennel/stable names must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D).

6.18(2) A kennel/stable name license is only necessary if the kennel/stable name is a name other than the licensed owner's legal name (first and last name), the owner's full name followed by the word "kennel" or "stable," or a licensed partnership or corporation.

6.18(3) In applying to race under a kennel/stable name, the applicant must disclose the identities behind the name and, if applicable, comply with partnership and corporation rules. The application form must appoint one person to act as the agent for the kennel/stable name.

6.18(4) Changes in identities involved in a kennel/stable name must be reported immediately to and approved by the commission representative.

6.18(5) A licensed owner who has registered under a kennel/stable name may at any time cancel the kennel/stable name after giving written notice to the commission.

6.18(6) A kennel/stable name may be changed by registering a new name.

6.18(7) A licensed owner may not register a kennel/stable name that the commission determines to be either misleading to the public or unbecoming to the sport.

6.18(8) Neither sole owners nor partners, after adopting use of a kennel/stable name, may use their real names to reflect ownership that is reflected in the kennel/stable name.

6.18(9) A fee set by the commission shall be assessed for each application for a kennel/stable name license.

6.18(10) No person may register with any racing authority a stable name which has already been registered by another person, or which is the real name of another owner of race horses, or which is the real or stable name of any prominent person who does not own race horses, or which is not plainly distinguishable from that of another registered stable name.

6.18(11) Contract kennels must be licensed with the commission, on forms furnished by the commission, in the name of the kennel booking contract entered into between the contract kennel and the facility; this name shall be listed in the official program as “kennel.”

6.18(12) A licensed kennel owner shall not be a party to more than one kennel name at the same facility.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.19(99D) Leases (horse racing only).

6.19(1) No licensee shall lease a racing animal for the purpose of racing at facilities in this state without prior approval of the commission representatives.

6.19(2) Both lessor and lessee must be licensed as owners.

6.19(3) Each licensee who leases a racing animal must submit a copy of that lease to the commission representatives. The lease must contain the conditions of the lease arrangement and the names of all parties and racing animals related to the lease. Failure to submit accurate and complete information under this rule is a violation of these rules.

6.19(4) Both seller and purchaser, or their agents or representatives, of a racing animal that is sold after being registered for racing with a racing association shall immediately notify the commission representatives of the sale and transfer. The commission representatives may require a declaration of the facts of the sale and transfer under oath and penalty of perjury.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.20(99D) Partnerships owning racing animals.

6.20(1) A partnership is defined as a formal or informal arrangement between two or more persons to own a racing animal. All partnerships, excluding husband and wife, must be licensed with the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D).

6.20(2) The managing partner(s) listed on the application and all parties owning 5 percent or more must be licensed as individual owners.

a. The commission representative may request a partnership to have on file with the commission an agreement whereby the managing partner(s) is designated to be responsible for each racing animal. This agreement must be notarized and must be signed by all partners. A copy of this agreement must be attached to the registration certificate on file in the racing secretary’s office.

b. It will be the responsibility of the managing partner(s) to make sure that all parties are eligible for licensure. The commission representative shall deny, suspend, or revoke the license of any partnership in which a member (either qualified or limited by rights or interests held, or controlled by any individual or entity) would be ineligible to be licensed as an owner or to participate in racing.

c. Any owner who is a member of a partnership may be required to list all racing animals that the owner intends to race in Iowa in which an interest is owned (either in whole or in part).

d. All parties to a partnership shall be jointly and severally liable for all stakes, forfeits, and other obligations.

e. An authorized agent may be appointed to represent the partnership in all matters and be responsible for all stakes, forfeits, entries, scratches, signing of claim slips, and other obligations in lieu of the managing partner(s).

6.20(3) A partnership name under which a racing animal races shall be considered a kennel/stable name for purposes of these rules. It will not be necessary for the partnership to obtain a kennel/stable name license.

6.20(4) Any partner's share or partial share of a partnership that owns a racing animal shall not be assigned without the written consent of the other partner(s), the commission representative's approval, and filing with the racing secretary. Any alteration in a partnership structure or percentages must be reported promptly in writing, notarized, signed by all members of the partnership, and filed with the commission.

6.20(5) The commission representative may review the ownership of each racing animal entered to race and shall ensure that each registration certificate or eligibility certificate is properly endorsed by the transferor to the present owner(s). The commission representative may determine the validity for racing purposes of all liens, transfers and agreements pertaining to ownership of a racing animal and may call for adequate evidence of ownership at any time. The commission representative may declare any animal ineligible to race if its ownership, or control of its ownership, is in question.

6.20(6) A fee set by the commission shall be assessed for each application for a partnership license. [ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.21(99D) Corporations owning racing animals.

6.21(1) All corporations must be duly licensed by the commission on forms furnished by the commission, and in accordance with the requirements of 491—6.17(99D). In addition, any stockholder owning a beneficial interest of 5 percent or more of the corporation must be licensed as an owner. The corporation must submit a complete list of stockholders owning a beneficial interest of 5 percent or more.

6.21(2) The corporation stockholders owning less than 5 percent of the stock of a corporation need not be licensed; however, the commission may request a list of these stockholders. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. These stockholders shall not have access to the backstretch, to the paddock area, or to the winner's circle other than as guests of a facility, commission representatives, or designated licensees and may be required to submit additional information as requested by the commission representative, which may include a release for confidential information and submission of fingerprint cards; and the commission may assess costs, as required, for criminal history checks. This information shall be supplied to the commission representative within 30 days of the date of the request.

6.21(3) Any and all changes in either the corporation structure or the respective interest of stockholders as described above must be notarized and promptly filed with the commission representatives.

6.21(4) The corporate name under which the corporation does business in Iowa shall be considered a kennel/stable name for purposes of these rules. It shall not be necessary for the corporation to obtain a kennel/stable name license.

6.21(5) A corporation, in lieu of an executive officer, may appoint a racing manager or an authorized agent for the purposes of entry, scratches and the signing of claim slips, among other obligations.

6.21(6) The commission representative may deny, suspend, or revoke the license of a corporation for which a beneficial interest includes or involves any person or entity that is ineligible (through character, moral fitness or any other criteria employed by the commission) to be licensed as an owner or to participate in racing, regardless of the percentage of ownership interest involved.

6.21(7) Any stockholder holding a beneficial interest of 5 percent or more of a corporation must, in addition to being licensed, list any interest owned in all racing animals in which any beneficial interest is owned.

6.21(8) The corporation must pay a prescribed fee to the commission.
[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.22(99D) Authorized agents for owner entities of racing animals.

6.22(1) Any persons represented by a kennel name, stable name, corporation, partnership, or single person entity may assign an agent for the kennel name, stable name, corporation, partnership, or single person entity. The assigned agent is then authorized to handle matters pertaining to racing, which may include authorization to collect all purses or other moneys.

6.22(2) The application for a license as an authorized agent must be signed by the principal and clearly set forth the powers of the agent, including whether the agent is empowered to collect money from the facility. The application must be notarized and a copy must be filed with the facility.

6.22(3) Changes in an agent's powers or revocation of an agent's authority must be in writing, notarized, and filed with the commission's licensing office and the facility.

6.22(4) The authorized agent must pay a prescribed fee to the commission.
[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.23(99D) Trainers and assistant trainers of racing animals.

6.23(1) All trainers and assistant trainers of racing animals and their employees are subject to the laws of Iowa and the rules promulgated by the commission immediately upon acceptance and occupancy of accommodations from or approved by the facility or upon making entry to run on its track. Trainers, assistant trainers, and their employees shall accept the decision of the commission representative on any and all questions, subject to their right of appeal to the commission.

6.23(2) Licensing of trainers and assistant trainers. Eligibility:

a. An applicant must be at least 18 years of age to be licensed by the commission as a trainer or assistant trainer.

b. An applicant must be qualified, as determined by the commission representative, by reason of experience, background, and knowledge of racing. A trainer's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or more of the following:

(1) A written examination.

(2) An interview or oral examination.

(3) A demonstration of practical skills in a "barn test" (horse racing only).

c. An applicant must have a racing animal eligible to race and registered to race at the current race meeting.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.24(99D) Jockeys and apprentice jockeys.

6.24(1) *Eligibility.*

a. An applicant for a jockey license must be at least 16 years of age, and if under 18 years of age, the applicant must have the written consent of a parent or guardian.

b. A jockey shall pass a physical examination given within the previous 12 months by a licensed physician affirming fitness to participate as a jockey. The commission representatives may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.

c. An applicant shall show competence by prior licensing, demonstration of riding ability, or temporary participation in races. An applicant may participate in a race or races, with the commission representative's prior approval for each race, not to exceed five races.

d. A jockey shall not be an owner or trainer of any horse competing at the race meeting where the jockey is riding.

e. A person who has never ridden in a race at a recognized meeting shall not be granted a license as jockey or apprentice jockey.

6.24(2) Apprentice jockeys.

a. The conditions of an apprentice jockey license do not apply to quarter horse racing. A jockey's performance in quarter horse racing does not apply to the conditions of an apprentice jockey license.

b. An applicant with an approved apprentice certificate may be licensed as an apprentice jockey.

c. An applicant for an apprentice jockey license must be at least 16 years of age, and if under 18 years of age, the applicant must have written consent of parent or guardian. Before such license is granted, the gaming representative shall ascertain that the applicant has suitable qualifications and aptitude to hold an apprentice jockey's license and that the applicant has not been previously licensed as a jockey under any jurisdiction.

d. Rescinded IAB 1/30/08, effective 3/5/08.

6.24(3) Jockeys from foreign countries. Upon making application for a license in this jurisdiction, jockeys from a foreign country shall declare that they are holders of valid licenses in their countries, not under suspension, and bound by the rules and laws of this state. To facilitate this process, the jockey shall present a declaration sheet to the commission representative in a language recognized in this jurisdiction. [ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.25(99D) Jockey agent.

6.25(1) An applicant for a license as a jockey agent shall:

a. Provide written proof of agency with at least one jockey licensed by the commission; and

b. Be qualified, as determined by the commission representative, by reason of experience, background, and knowledge. A jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

(1) A written examination.

(2) An interview or oral examination.

c. An applicant not previously licensed as a jockey agent shall be required to pass a written and oral examination.

6.25(2) A jockey agent may serve as agent for no more than two jockeys and one apprentice jockey. [ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.26(99D) Driver. In determining eligibility for a driver's license, the board shall consider:

1. Whether the applicant has obtained the required U.S.T.A. license.

2. Evidence of driving experience and ability to drive in a race.

3. The age of the applicant. No person under 18 years of age shall be licensed by the commission as a driver. However, a person under 18 years of age, but at least 16 years of age who has the written consent of a parent or guardian, may be licensed to drive in qualifying races only.

4. Evidence of physical and mental ability.

5. Results of a written examination to determine qualifications to drive and knowledge of commission rules.

6. Record of rule violations.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.27(99D) Practicing veterinarians. Every veterinarian practicing on facility premises must have an unrestricted and current license to practice veterinary science issued by the state of Iowa veterinary regulatory authority and shall be licensed by the commission in accordance with the commission rules governing occupational licensing.

6.27(1) Every veterinarian seeking to be licensed by the commission shall submit verification of a current and unrestricted license to practice veterinary science issued by the state of Iowa veterinary regulatory authority.

6.27(2) A veterinarian seeking to be licensed by the commission shall disclose in the veterinarian's application to the commission all disciplinary action taken against any licenses to practice veterinary science held by the applicant.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.28(99D,99F) Alcohol and drug testing.

6.28(1) Alcohol prohibition/preliminary breath test. Licensees whose duties require them to be in a restricted area of a racing facility shall not have present within their systems an amount of alcohol of 0.05 percent or more. A restricted area is a designated area for sample collection, paddock, racetrack, or other area where racing officials carry out the duties of their positions.

Acting with reasonable cause, a commission representative may direct the above licensees to submit to a preliminary breath test. A licensee shall, when so directed, submit to examination.

If the results show a reading of 0.05 percent alcohol content or more, the licensee shall not be permitted to continue duties for that day. For a second violation, the licensee shall not be permitted to continue duties for that day and then shall be subject to fine or suspension by the board or commission representative. For a subsequent violation, the licensee may be subject to procedures following positive chemical analysis (see 6.28(3)).

If the results show a reading of 0.10 percent alcohol content or more, the licensee is subject to fine or suspension by the board or commission representative. For a subsequent violation, the licensee may be subject to procedures following positive chemical analysis (see 6.28(3)).

6.28(2) Drug prohibition/body fluid test. Licensees whose duties require them to be in a restricted area, as defined in subrule 6.28(1), of a racing facility shall not have present within their systems any controlled substance as listed in Schedules I to V of U.S.C. Title 21 (Food and Drug Section 812), Iowa Code chapter 124 or any prescription drug unless it was obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of professional practice. Acting with reasonable cause, a commission representative may direct the above licensees to deliver a specimen of urine or subject themselves to the taking of a blood sample or other body fluids at a collection site approved by the commission. In these cases, the commission representative may prohibit the licensee from participating in racing until the licensee evidences a negative test result. Sufficient sample should be collected to ensure a quantity for a split sample when possible. A licensee who refuses to provide the samples herein described shall be in violation of these rules and shall be immediately suspended and subject to disciplinary action by the board or commission representative. All confirmed positive test costs and any related expenses shall be paid for by the licensee. Negative tests shall be at the expense of the commission.

With reasonable cause noted, an on-duty commission representative may direct a licensee to deliver a test. The commission representative shall call the approved laboratory or hospital and provide information regarding the person who will be coming; that the licensee will have a photo ID; the name and number to call when the licensee arrives; to whom and where to mail the results; and who should be called with the results. The licensee will be directed to immediately leave the work area and proceed to an approved laboratory or hospital for testing with the following directions:

1. If under impairment, the licensee must have another person drive the licensee to the laboratory or hospital.
2. On arrival at the laboratory or hospital, the licensee must show the license to the admitting personnel for verification.
3. On arrival at the laboratory or hospital, the licensee shall be required to sign a consent for the release of information of the results to a commission representative.

6.28(3) Procedures following positive chemical analysis.

a. After professional evaluation, if the licensee's condition proves nonaddictive and not detrimental to the best interest of racing, and the licensee can produce a negative test result and agrees to further testing at the discretion of the commission representative to ensure unimpairment, the licensee may be allowed to participate in racing.

b. After professional evaluation, should the licensee's condition prove addictive or detrimental to the best interest of racing, the licensee shall not be allowed to participate in racing until the licensee can produce a negative test result and show documented proof of successful completion of a certified alcohol/drug rehabilitation program approved by the commission. The licensee must also agree to further testing at the discretion of the commission representative to ensure unimpairment.

c. For a second violation, a licensee shall be suspended and allowed to enroll in a certified alcohol/drug rehabilitation program approved by the administrator and to apply for reinstatement only at the discretion of the administrator.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

491—6.29(99D) Time by which owner and trainer must be licensed. The owner (includes stable names, partnerships, and corporations) and the trainer of a horse entered to race must both be licensed by the first post time of the race card for the day in which the horse is entered.

[ARC 7658B, IAB 3/25/09, effective 3/23/09]

These rules are intended to implement Iowa Code chapters 99D and 99F.

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CHAPTER 206
LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS

[Prior to 3/6/02, see 645—201.3(147,148B,272C) to 645—201.7(147) and 645—201.9(272C)]

645—206.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of physical and occupational therapy.

“*Department*” means the department of public health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as an occupational therapist or occupational therapy assistant in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years after initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice occupational therapy to an applicant who is or has been licensed in another state.

“*Licensure examination*” means the examination administered by the National Board for Certification in Occupational Therapy.

“*Mandatory training*” means training on identifying and reporting child abuse or dependent adult abuse required of occupational therapists or occupational therapy assistants who are mandatory reporters. The full requirements on mandatory reporting of child abuse and the training requirements are found in Iowa Code section 232.69. The full requirements on mandatory reporting of dependent adult abuse and the training requirements are found in Iowa Code section 235B.16.

“*NBCOT*” means the National Board for Certification in Occupational Therapy.

“*Occupational therapist*” means a person licensed under this chapter to practice occupational therapy.

“*Occupational therapy assistant*” means a person licensed under this chapter to assist in the practice of occupational therapy.

“*Occupational therapy screening*” means a brief process which is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and which includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual’s caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions to children prior to an evaluation, not to exceed 16 sessions per concern per school year, in accordance with state and federal educational policy.

“*On site*” means:

1. To be continuously on site and present in the department or facility where the assistive personnel are performing services;
2. To be immediately available to assist the person being supervised in the services being performed; and
3. To provide continued direction of appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel.

“OT” means occupational therapist.

“OTA” means occupational therapy assistant.

“Reactivate” or “reactivation” means the process as outlined in rule 206.18(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice occupational therapy to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of physical and occupational therapy to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

[ARC 7644B, IAB 3/25/09, effective 4/29/09]

645—206.2(147) Requirements for licensure. The following criteria shall apply to licensure:

206.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Physical and Occupational Therapy, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

206.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

206.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Physical and Occupational Therapy. The fees are nonrefundable.

206.2(4) No application will be considered by the board until official copies of academic transcripts sent directly from the school to the board have been received by the board.

206.2(5) The applicant shall provide a notarized copy of the certificate or diploma indicating the degree awarded to the applicant, if the degree is not indicated on the official transcript.

206.2(6) The licensure examination score shall be sent directly from the examination service to the board to confirm a passing score on the examination.

206.2(7) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

206.2(8) Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—206.3(147) Limited permit to practice pending licensure. A limited permit holder who is applying for licensure in Iowa by taking the licensure examination for the first time and has never been licensed as an occupational therapist or occupational therapy assistant in any state, the District of Columbia, or another country must have completed the educational and experience requirements for licensure as an occupational therapist or occupational therapy assistant. The limited permit holder shall:

1. Make arrangements to take the examination and have the official results of the examination sent directly from the examination service to the board;
2. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed occupational therapist(s) who will provide supervision of the limited permit holder until the limited permit holder is licensed;
3. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed six months from the date the application was received in the board office;
4. Submit to the board the name of the OT providing supervision within seven days after a change in supervision occurs; and

5. If the applicant fails the national examination, the limited permit holder must cease practicing immediately.

645—206.4(147) Applicant occupational therapist and occupational therapy assistant. An applicant who has never been licensed in Iowa, but has taken the licensure examination and held licensure in another state, the District of Columbia, or another country may practice under these rules prior to licensure if the complete application for endorsement and fees are on file at the board office. The occupational therapist applicant and occupational therapy assistant applicant shall:

1. Apply for licensure on forms provided by the board. The applicant must include on the application form the name of the Iowa-licensed OT who will provide supervision of the applicant until the applicant is licensed;

2. Practice only under the supervision of an Iowa-licensed OT for a period not to exceed three months from the date the application was received in the board office;

3. Submit to the board the name of the occupational therapist(s) providing supervision within seven days after a change in supervision occurs; and

4. The applicant shall not practice as an OT applicant or OTA applicant if the applicant has never passed the licensure examination.

645—206.5(147) Practice of occupational therapy limited permit holders and endorsement applicants prior to licensure.

206.5(1) Occupational therapist limited permit holders and endorsement applicants working prior to licensure may:

a. Evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed OT who shall bear full responsibility for care provided under the OT's supervision; and

b. Perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

206.5(2) Occupational therapy assistants, limited permit holders and endorsement applicants working prior to licensure shall:

a. Follow the treatment plan written by the supervising OT outlining the elements that have been delegated; and

b. Perform occupational therapy procedures delegated by the supervising OT as required in subrule 206.8(4).

645—206.6(147) Examination requirements. The following criteria shall apply to the written examination(s):

206.6(1) The applicant for licensure as an occupational therapist shall have received a passing score on the licensure examination for occupational therapists. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

206.6(2) The applicant for licensure as an occupational therapy assistant shall have received a passing score on the licensure examination for occupational therapy assistants. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly from the examination service to the board of physical and occupational therapy.

645—206.7(147) Educational qualifications.

206.7(1) The applicant must present proof of meeting the following requirements for licensure as an occupational therapist or occupational therapy assistant:

a. *Occupational therapist.* The applicant for licensure as an occupational therapist shall have completed the requirements for a degree in occupational therapy in an occupational therapy program accredited by the Accreditation Council for Occupational Therapy Education of the American

Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

b. Occupational therapy assistant. The applicant for licensure as an occupational therapy assistant shall be a graduate of an educational program approved by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association. The transcript shall show completion of a supervised fieldwork experience.

206.7(2) Foreign-trained occupational therapists and occupational therapy assistants. To become eligible to take the licensure examination, internationally educated occupational therapists must meet NBCOT eligibility requirements and undergo prescreening based on the status of their occupational therapy educational programs.

645—206.8(272C) Supervision requirements.

206.8(1) Care rendered by unlicensed personnel shall not be documented or charged as occupational therapy unless direct in-sight supervision is provided by an OT or an OTA.

206.8(2) Occupational therapy screening shall be directed by an occupational therapist and shall not be delegated to an unlicensed person.

206.8(3) A licensed OTA, OTA limited permit holder or OTA applicant working prior to licensure shall be supervised by a licensed occupational therapist. The occupational therapist must be involved in the delivery of services during all aspects of service delivery, including screening, evaluation, intervention and outcome evaluation. The occupational therapist may delegate responsibilities to the occupational therapy assistant. The occupational therapist shall:

a. Ensure that the OTA has a current occupational therapy license and that the OTA limited permit holder or applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide direct on-site and in-sight supervision for a minimum of four hours per month;

c. Complete a patient evaluation prior to treatment by the licensed OTA, OTA limited permit holder, or the OTA applicant working prior to licensure. The time spent evaluating the patient by the supervising OT shall not be considered time spent supervising;

d. Complete a written treatment plan outlining which elements have been delegated to the licensed OTA, OTA limited permit holder, or OTA applicant working prior to licensure;

e. Monitor patient progress;

f. Complete an evaluation of the treatment plan and write a discharge plan; and

g. Assign to the licensed OTA, OTA limited permit holder, or OTA applicant only those duties and responsibilities for which the assistant, limited permit holder, or applicant has been specifically trained and is qualified to perform.

206.8(4) Supervision of an OT limited permit holder or an OT applicant. An OT limited permit holder or an OT applicant working prior to licensure shall be supervised by a licensed OT. The supervisor shall:

a. Ensure that the OT limited permit holder or OT applicant working prior to licensure has a copy of the letter from the board verifying that a current application is on file;

b. Provide one-to-one supervision for a minimum of two hours per week.

The applicant who is practicing prior to licensure may perform the duties of the occupational therapist under the supervision of an Iowa-licensed occupational therapist, except for providing supervision to an occupational therapy assistant.

206.8(5) Occupational therapist limited permit holders and occupational therapist applicants working prior to licensure may evaluate clients, plan treatment programs, and provide periodic reevaluations only under supervision of a licensed occupational therapist who shall bear full responsibility for care provided under the occupational therapist's supervision.

645—206.9(147) Occupational therapy assistant responsibilities. An occupational therapy assistant shall:

1. Follow the treatment plan written by the supervising occupational therapist outlining which elements have been delegated;
2. Maintain a plan of supervision; and
3. Maintain documentation of supervision on a daily basis that shall be available for review upon request of the board.

645—206.10(147) Licensure by endorsement. An applicant who has been a licensed occupational therapist or occupational therapy assistant under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements in the jurisdiction in which the applicant has been licensed that are similar to those required in Iowa;
4. Submits official results from the appropriate professional examination sent directly from the examination service to the board;
5. Provides official copies of the academic transcripts sent directly from the school to the board;
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if it provides:
 - Licensee's name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license; and
7. Shows evidence of one of the following:
 - Completion of 30 hours for an occupational therapist and 15 hours for an occupational therapy assistant of board-approved continuing education during the immediately preceding two-year period;
 - The practice of occupational therapy for a minimum of 2,080 hours during the immediately preceding two-year period as a licensed occupational therapist or occupational therapy assistant;
 - Serving as a full-time equivalent faculty member teaching occupational therapy in an accredited school of occupational therapy for at least one of the immediately preceding two years; or
 - Successfully passing the examination within a period of one year from the date of examination to the time application is completed for licensure.

Individuals who were issued their licenses by endorsement within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

645—206.11(147) Licensure by reciprocal agreement. Rescinded IAB 12/17/08, effective 1/21/09.

645—206.12(147) License renewal.

206.12(1) The biennial license renewal period for a license to practice as an occupational therapist or occupational therapy assistant shall begin on the sixteenth day of the birth month and end on the fifteenth day of the birth 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 does not relieve the licensee of the responsibility for renewing the license.

206.12(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

206.12(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—207.2(272C) and the mandatory reporting requirements of subrule 206.12(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

206.12(4) Mandatory reporter training requirements.

a. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

b. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “*e.*”

Training may be completed through separate courses as identified in paragraphs “*a*” and “*b*” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “*a*” to “*c*,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “*a*” to “*e.*”

206.12(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

206.12(6) Persons licensed to practice as occupational therapists or occupational therapy assistants shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

206.12(7) Late renewal. The license shall become a late license when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.11(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

206.12(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as an occupational therapist or occupational therapy assistant in Iowa until the license is reactivated. A licensee who practices as an occupational therapist or occupational therapy assistant in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—206.13(272C) Exemptions for inactive practitioners. Rescinded IAB 9/14/05, effective 10/19/05.

645—206.14(272C) Lapsed licenses. Rescinded IAB 9/14/05, effective 10/19/05.

645—206.15(147) Duplicate certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—206.16(147) Reissued certificate or wallet card. Rescinded IAB 12/17/08, effective 1/21/09.

645—206.17(17A,147,272C) License denial. Rescinded IAB 12/17/08, effective 1/21/09.

645—206.18(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

206.18(1) Submit a reactivation application on a form provided by the board.

206.18(2) Pay the reactivation fee that is due as specified in 645—subrule 5.11(5).

206.18(3) Provide verification of current competence to practice occupational therapy by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 15 hours of continuing education for an occupational therapy assistant and 30 hours of continuing education for an occupational therapist within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 30 hours of continuing education for an occupational therapy assistant and 60 hours of continuing education for an occupational therapist within two years of application for reactivation; or evidence of successful completion of the professional examination required for initial licensure completed within one year prior to the submission of an application for reactivation.

645—206.19(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 206.18(17A,147,272C) prior to practicing occupational therapy in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 148B and 272C.

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◊ Two or more ARCs

SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361	LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 362	CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS
CHAPTER 363	DISCIPLINE FOR SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

CHAPTER 361

LICENSURE OF SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

645—361.1(154E) Definitions. For purposes of these rules, the following definitions shall apply:

“Active interpreter or transliterator services” means the actual time spent personally providing interpreting or transliterating services. When in a team interpreting situation, the time spent monitoring while the team interpreter is actively interpreting shall not be included in the time spent personally providing interpreting or transliterating services.

“Active license” means a license that is current and has not expired.

“Board” means the board of sign language interpreters and transliterators.

“Direct supervision of a temporary license holder” means board review of a temporary license holder’s evidence of professional development and continuing educational training or in-person monitoring of interpreting or transliterating services in the same room as the temporary license holder providing those services, as outlined in subrule 361.2(6).

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensee” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

“License expiration date” means June 30 of odd-numbered years.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is or has been licensed in another state.

“Reactivate” or *“reactivation”* means the process as outlined in rule 361.9(17A,147,272C) by which an inactive license is restored to active status.

“Reciprocal license” means the issuance of an Iowa license to practice as a sign language interpreter or transliterator to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of sign language interpreters and transliterators to license persons who have the same or similar qualifications to those required in Iowa.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“Supervisor” means a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3 and subrule 361.2(1) who provides on-site evaluations and advisory sessions with a temporary license holder for the purpose of the professional development of that temporary license holder.

645—361.2(154E) Requirements for licensure.

361.2(1) The following criteria shall apply to licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Sign Language Interpreters and Transliterators,

Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board until properly completed.

c. Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Sign Language Interpreters and Transliterators. The fees are nonrefundable.

d. No application will be considered by the board until the applicant successfully passes one of the following examinations:

(1) National Association of the Deaf (NAD) examination level III or above; or
(2) One of the following examinations of the Registry of Interpreters for the Deaf National Testing System (NTS):

1. Certificate of Interpretation (CI); or
2. Certificate of Transliterating (CT); or
3. Certificate of Interpretation/Certificate of Transliterating (CI/CT); or
4. Interpreting Certificate/Transliterating Certificate (IC/TC); or
5. Comprehensive Skills Certificate (CSC); or
6. Certificate Deaf Interpreter (CDI); or

(3) The National Council on Interpreting National Interpreters Certification (NIC) Generalist Test, Certified Deaf Interpreter Test, or Oral Transliteration Test;

(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999; or

(5) The Cued Language Transliterator National Certification Examination (CLTNCE).

e. It is the responsibility of the applicant to make arrangements to take the examination and have the official results submitted directly to the Board of Sign Language Interpreters and Transliterators.

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal cycle two years later.

361.2(3) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

361.2(4) An applicant for licensure who has not successfully completed the board-approved examination set forth in paragraph 361.2(1)“*d*” but has complied with all other requirements in paragraphs 361.2(1)“*a*” through “*c*” shall be issued a temporary license to practice interpreting through the end of the then-current biennial license period. A temporary license holder may renew a temporary license once, for the immediately following biennial license period.

361.2(5) An applicant who is issued a temporary license is subject to the same criteria as a licensed interpreter or transliterator as defined in Iowa Code chapters 154E and 147 and 645—Chapters 361 through 363.

361.2(6) Beginning July 1, 2007, and ending June 30, 2009, a temporary license holder shall be required to:

a. Provide to the board, by June 30 of each year in which the temporary license is held, demographic, educational and professional study information on a form prescribed by the board; and

b. Meet the requirements of either subparagraph (1) or (2) for the biennial license period:

(1) Provide services under the direct supervision of a sign language interpreter or transliterator licensed pursuant to Iowa Code section 154E.3. Providing such services under this subparagraph requires the temporary license holder during each year of the biennial license period to:

1. Have a supervisor observe the temporary license holder in active practice for no fewer than six consecutive, bimonthly (a total of six per year) on-site observation sessions at events lasting at least 30 minutes, if the temporary license holder is working alone in providing active interpreter or transliterator services, or at least 60 minutes, if the temporary license holder is working in a team interpreting situation.

2. Attend at least six consecutive, bimonthly (a total of six per year) advisory sessions with the supervisor for the purpose of discussing the supervisor’s suggestions for professional skill development based on the on-site observation sessions. An advisory session may occur immediately following an

on-site observation session if the setting is appropriate. The advisory session shall involve only the temporary license holder and supervisor.

3. Enter into a written agreement with the supervisor in which the temporary license holder and the supervisor agree to the minimum requirements provided in numbered paragraphs 361.2(6) “b”(1) “1” and “2.” The agreement shall be signed and dated by the temporary license holder and the supervisor; shall include the temporary license holder’s and supervisor’s names, addresses and contact information; and shall be provided to the board upon request.

4. Maintain an event log documenting the date, time, length of observation and setting of each on-site observation session and advisory session. The temporary license holder shall ensure that the supervisor places initials beside each event entry to verify the occurrence of the observation or advisory session. This event log shall be provided to the board upon request.

5. Ensure that the supervisor attends both the on-site observation sessions and advisory sessions or reschedules the sessions as necessary to ensure compliance.

6. Comply with the required on-site observation and advisory session obligations. If there is a need to change supervisors for any reason, the temporary license holder shall be responsible for developing a new written agreement with the new supervisor. Changes in supervisors shall not excuse noncompliance with on-site observation and advisory session obligations.

7. Obtain permission from clients as necessary to allow the supervisor to be in attendance during the observation sessions.

(2) Complete during each year of the biennial license period a minimum of 30 hours (3.0 CEUs) of continuing education in areas of professional studies that conform to the requirements of 645—subparagraph 362.3(2) “a”(2). The temporary license holder shall submit to the board copies of certificates of completion issued to the temporary license holder evidencing successful completion of continuing education courses meeting the requirements of 645—subparagraph 362.3(2) “a”(2). Submittal of the copies of certificates of completion does not relieve the licensee of the requirement of providing additional information regarding this continuing education as required in 645—subrule 4.11(2) if the licensee is audited.

361.2(7) As an Iowa-licensed practitioner in accordance with this chapter, a supervisor providing direct supervision of a temporary license holder as provided in subparagraph 361.2(6) “b”(1) is obligated to report to the board interpreters or transliterators who are not practicing in compliance with Iowa law and rules including, but not limited to, Iowa Code chapter 154E and 645—Chapters 361 through 363. [ARC 7643B, IAB 3/25/09, effective 4/29/09]

645—361.3(154E) Licensure by endorsement. An applicant who has been a licensed sign language interpreter or transliterator under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides an equivalency evaluation of foreign educational credentials sent directly from the equivalency service to the board;
5. Provides:
 - Examination scores which shall be sent directly from the examination service to the board; or
 - A notarized certificate which shall be submitted showing proof of the successful completion of the examination specified in rule 361.2(154E); and
6. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification directly from the jurisdiction’s board office if the verification provides:
 - The licensee’s name;
 - The date of initial licensure;
 - Current licensure status; and

- Any disciplinary action taken against the license.

645—361.4(147) Licensure by reciprocal agreement. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.5(154E) License renewal.

361.5(1) The biennial license renewal period for a license to practice as a sign language interpreter or transliterator 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 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 does not relieve the licensee of the responsibility for renewing the license.

361.5(2) An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later.

361.5(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements as provided in 645—subrules 362.2(1) and 362.2(2) or, in lieu of meeting such requirements, provide proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) as evidence of meeting continuing education requirements. A licensee whose license was reactivated during the current biennial license period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

361.5(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

361.5(5) A person licensed to practice as a sign language interpreter or transliterator shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

361.5(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.18(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

361.5(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a sign language interpreter or transliterator in Iowa until the license is reactivated. A licensee who practices as a sign language interpreter or transliterator in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

645—361.6(147) Duplicate certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.7(147) Reissued certificate or wallet card. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.8(17A,147,272C) License denial. Rescinded IAB 9/24/08, effective 10/29/08.

645—361.9(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

361.9(1) Submit a reactivation application on a form provided by the board.

361.9(2) Pay the reactivation fee that is due as specified in 645—subrule 5.18(9).

361.9(3) Provide verification of current competence to practice sign language interpreting or transliterating by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completing 40 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period in which the Iowa license was inactive sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. The licensee's name;
2. The date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 80 hours of continuing education within two years of application for reactivation.

645—361.10(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 361.9(17A,147,272C) prior to practicing sign language interpreting or transliterating in this state.

These rules are intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

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[Filed ARC 7643B (Notice ARC 7407B, IAB 12/17/08), IAB 3/25/09, effective 4/29/09]

CHAPTER 362
CONTINUING EDUCATION FOR SIGN LANGUAGE INTERPRETERS AND
TRANSLITERATORS

645—362.1(154E,272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of sign language interpreters and transliterators.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a sign language interpreter or transliterator in the state of Iowa.

645—362.2(154E,272C) Continuing education requirements.

362.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year. Each biennium, each person who is licensed to practice as a sign language interpreter or transliterator in this state shall be required to complete a minimum of 40 hours of continuing education. A licensee who provides proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification meets continuing education requirements for that biennium renewal cycle.

362.2(2) Requirements for new licensees. A person licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of the license unless the licensee holds a temporary license and has chosen to meet the requirements for temporary licensure specified in 645—subparagraph 361.2(6) “b”(2). The new licensee shall complete a minimum of 40 hours of continuing education during the biennial license period for each subsequent license renewal and may use continuing education hours acquired anytime from the initial licensing until the second license renewal to meet the requirements for the second license renewal period. A licensee who provides proof of a current national interpreter certification issued by an organization recognized by the board (e.g., Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); NAD-RID National Interpreter Certification (NIC)) meets continuing education requirements.

362.2(3) Requirements for temporary license holders. Prior to July 1, 2009, the temporary license holder shall comply with requirements specified in 645—subrule 361.2(6). Beginning July 1, 2009, the temporary license holder shall comply with continuing education requirements at the time of each license renewal including the first renewal of the license. Temporary license holders shall be required to obtain 40 hours as set forth in subparagraph 362.3(2) “a”(2) and paragraph 362.3(2) “b” for each subsequent renewal biennium beginning July 1, 2009. The temporary license holder may use only continuing education hours acquired during the current biennial license period for renewal.

362.2(4) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

362.2(5) No hours of continuing education shall be carried over into the next biennium.

362.2(6) It is the responsibility of each licensee to finance the cost of continuing education.
[ARC 7643B, IAB 3/25/09, effective 4/29/09]

645—362.3(154E,272C) Standards.

362.3(1) General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

- a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;
- b. Pertains to subject matters which integrally relate to the practice of the profession;
- c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

- d. Fulfills stated program goals, objectives, or both; and
- e. Provides proof of attendance to licensees in attendance including:
 - (1) Date, location, course title, presenter(s);
 - (2) Number of program contact hours; and
 - (3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

362.3(2) Specific criteria.

a. Continuing education shall be obtained by attending programs relating to the practice of interpreting or transliterating for the deaf or hard of hearing which meet the criteria in subrule 362.3(1) and are:

(1) Educational activities in which participants and faculty are present at the same time and attendance can be verified. Such activities include lectures, conferences, focused seminars, clinical and practical workshops, simultaneous live satellite broadcasts and teleconferences;

(2) Obtained in content areas that conform to the content areas specified in the Registry of Interpreters for the Deaf (RID) Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of CEUs required which is defined in 362.3(2) "b." RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

b. Each biennium, licensees shall obtain 40 hours (4 CEUs) of continuing education. The 40 hours shall include no less than 30 hours (3 CEUs) of professional studies. The remaining 10 hours (1 CEU) may be in either professional or general studies. The board shall accept proof of a current National Interpreter Certification or current Registry of Interpreters for the Deaf Certification in lieu of proof of the 40 hours of continuing education.

c. Continuing education hours of credit equivalents for academic coursework per biennium are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

1 CEU = 10 continuing education hours

d. Credit is given only for actual hours attended.

[ARC 7643B, IAB 3/25/09, effective 4/29/09]

645—362.4(154E,272C) Audit of continuing education report. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.5(154E,272C) Automatic exemption. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.6(272C) Continuing education exemption for disability or illness. Rescinded IAB 9/24/08, effective 10/29/08.

645—362.7(154E,272C) Grounds for disciplinary action. Rescinded IAB 9/24/08, effective 10/29/08.

These rules are intended to implement Iowa Code section 272C.2 and Iowa Code chapter 154E.

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NURSING BOARD[655]

[Prior to 8/26/87, see Nursing, Board of[590], renamed Nursing Board[655]
under the "umbrella" of Public Health Department by 1986 Iowa Acts, ch 1245]

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CHAPTER 3
LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

[Prior to 5/23/84, IAC, appeared as separate Chapters 3 and 4]

[Prior to 8/26/87, Nursing Board[590] Ch 3]

655—3.1(17A,147,152,272C) Definitions.

“Accredited or approved nursing program” means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or registration as an advanced registered nurse practitioner; or grants a baccalaureate, master’s or doctorate degree with a major in nursing.

“Address” means a street address in any state when a street address is available or a rural route address when a street address is not available.

“Applicant” means a person who is qualified to take the examination or apply for licensure.

“Endorsement” means the process by which a registered nurse/licensed practical nurse licensed in another jurisdiction becomes licensed in Iowa.

“Examination” means any of the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

“Fees” means those fees collected which are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. Application for original license based on the registered nurse examination, \$93 (plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).
2. Application for original license based on the practical nurse examination, \$93 (plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI).
3. Application for registered nurse/licensed practical nurse license by endorsement, \$119 (plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI).
4. Application for registration as an advanced registered nurse practitioner, \$81 for any length of registration up to three years.
5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.
6. For written verification of licensure status, not requiring certified statements, \$3 per license.
7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, \$175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the DCI and the FBI).
8. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$99 for a three-year period.
9. For a duplicate or reissued wallet card or original certificate to practice as a registered nurse/licensed practical nurse, or registration card or original certification to practice as an advanced registered nurse practitioner, \$20.
10. For late renewal of a registered nurse/licensed practical nurse license, \$50, plus the renewal fee as specified in paragraph “8” of this rule.
11. For a check returned for any reason, \$15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order.
12. For a certified copy of an original document, \$20.
13. For special licensure, \$62.
14. For the convenience of online license renewal, a charge will be assessed.
15. Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, \$50. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

“Inactive license” means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration

date, or the board has received notification that a licensee has declared another compact state as primary state of residency. Pursuant to 655—subrule 16.2(4), the former home state license shall no longer be valid upon the issuance of a new home state license.

“*Late license*” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date on the wallet card. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

“*Licensee*” means a person who has been issued a certificate to practice as a registered nurse or licensed practical nurse under the laws of this state.

“*NCLEX®*” means National Council Licensure Examination for registered nurse/licensed practical nurse licensure.

“*Overpayment*” means payment in excess of the required fee. Overpayment less than \$10 received by the board shall not be refunded.

“*Reactivation*” means the process whereby an inactive licensee obtains a current license.

“*Reinstatement*” means the process by which any person whose license to practice nursing has been suspended, revoked or voluntarily surrendered by order of the board may apply for license consideration.

“*Repayment receipts*” means those moneys collected by a department or establishment that supplement an appropriation made by the legislature. Repayment receipts, as defined in Iowa Code section 8.2, apply to the definition of “fees,” paragraphs “5,” “6,” “9,” “12,” “14,” and “15” in this rule.

“*Temporary license*” means a license issued on a short-term basis for a specified time pursuant to subrule 3.5(3).

“*Unlicensed student*” means a person enrolled in a nursing education program who has never been licensed as a registered nurse or licensed practical/vocational nurse in any U.S. jurisdiction.

“*Verification*” means the process whereby the board provides a certified statement that the license of a registered nurse/licensed practical nurse is active, inactive, or encumbered, or an advanced registered nurse practitioner is registered in this state.

This rule is intended to implement Iowa Code section 147.80.

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one’s family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. The nurse shall maintain a copy of the license and shall have it available for inspection when engaged in the practice of nursing in Iowa.

3.2(2) Current Iowa licensure is not mandatory when:

a. A nurse who resides in another party state is recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E. The nurse shall maintain a copy of the license and shall have it available for inspection when engaged in the practice of nursing in Iowa.

b. A nurse who holds an active license in another state provides services to patients in Iowa only during interstate transit.

c. A nurse who holds an active license in another state provides emergency services in an area in which the governor of Iowa has declared a state of emergency.

3.2(3) A nurse who is enrolled in an approved nursing program shall hold an active license in the U.S. jurisdiction(s) in which the nurse provides patient care. An individual from another country who is enrolled in a course of study for registered nurses or licensed practical nurses shall hold an active license in the U.S. jurisdiction(s) in which the individual provides patient care.

This rule is intended to implement Iowa Code section 147.2.

655—3.3(17A,147,152,272C) Qualifications for licensure.

3.3(1) Applicants shall meet the requirements set forth in Iowa Code sections 147.3 and 152.7. Requirements include:

a. Graduation from an approved nursing program preparing registered nurses as defined in Iowa Code section 152.5(1) for registered nurse applicants or graduation from an approved nursing program preparing practical nurses as defined in Iowa Code section 152.5(1) for licensed practical nurse

applicants. Theory and clinical experience shall include medical nursing, surgical nursing, obstetric nursing and nursing of children. Registered nurse applicants shall additionally have completed theory and clinical experience in psychiatric nursing.

b. Passing NCLEX® or the State Board Test Pool Examination, the national examination used prior to 1982.

c. Approval by the board of those with a past felony conviction or a record of prior disciplinary action, regardless of jurisdiction.

3.3(2) The requirement listed in paragraph 3.3(1) “*b*” is subject to the following exceptions:

a. A practical nurse applicant must have written the same examination as that administered in Iowa and achieved a score established as passing for that test by the board unless the applicant graduated and was licensed prior to July 1951.

b. An applicant whose national examination scores do not meet the Iowa requirements in effect at the time of the examination and who wishes to become licensed in Iowa may appeal to the board. The board may require the applicant to pass the current examination.

This rule is intended to implement Iowa Code sections 147.2 and 152.7(3).

655—3.4(17A,147,152,272C) Licensure by examination.

3.4(1) Applicants shall meet qualifications for licensure set forth in subrule 3.3(1).

3.4(2) The board contracts with the National Council of State Boards of Nursing, Inc. to use the NCLEX® for registered nurses and licensed practical nurses.

a. The passing standard for the NCLEX® is determined by the board.

b. NCLEX® results are reported as pass or fail.

c. The NCLEX® is administered according to guidelines set forth by the National Council of State Boards of Nursing, Inc.

d. Examination statistics are available to the public.

3.4(3) Application—graduates of board-approved programs.

a. The board shall:

(1) Provide information about licensure application to applicants, nursing education programs in Iowa, and others upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript and notification of NCLEX® registration.

b. The applicant shall:

(1) Submit a completed application for license by examination.

(2) Submit two completed sets of the fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint packet and the criminal history background checks as identified in the definition of “fees” in rule 3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Register for the NCLEX® and submit registration fee to the national test service.

(5) Direct the nursing program to submit to the board an official nursing transcript denoting the date of entry, date of graduation, and diploma or degree conferred.

(6) Inform the board that the primary state of residence is Iowa or a noncompact state and provide a current street address.

(7) Self-schedule the examination at an approved testing center. Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.

(8) Complete NCLEX® registration within 12 months of board receipt of the application for license, fingerprint packet and fees. The board reserves the right to destroy documents after 12 months.

3.4(4) Application—individuals educated and licensed in another country.

a. The board shall:

(1) Provide information about licensure application to applicants and others upon request.

(2) Determine eligibility of each applicant upon receipt of:

1. Application for licensure by examination.
 2. Two completed sets of the fingerprint packet to facilitate a national criminal history background check.
 3. Application fee for license by examination plus the fee for evaluation of the fingerprint packet and the criminal history background checks as identified in the definition of “fees” in rule 3.1(17A,147,152,272C). All fees are nonrefundable.
 4. Notification of NCLEX® registration.
 5. Official nursing transcript denoting date of entry and date of graduation validated by the Commission on Graduates of Foreign Nursing Schools (CGFNS) or submitted by the program if the original transcript is in English.
 6. Validation of licensure/registration in the original country by CGFNS.
 7. Official certification submitted by CGFNS for registered nurse applicants.
 8. Nursing and science course report submitted by CGFNS for licensed practical nurse applicants.
 9. Verification of ability to read, write, speak and understand the English language as determined by the results of the Test of English as a Foreign Language (TOEFL) for licensed practical nurse applicants. The board shall determine the TOEFL passing standard. Applicants shall be exempt from the TOEFL examination when the native language is English; nursing education was completed in a college, university or professional school located in Australia, Canada (except Quebec), Ireland, New Zealand or the United Kingdom; language of instruction in the nursing program was English; and language of the textbooks in the nursing program was English.
 - b.* The applicant shall:
 - (1) Submit completed application for license by examination, including two sets of the completed fingerprint packet.
 - (2) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint packet and the criminal history background checks as identified in the definition of “fees” in rule 3.1(17A,147,152,272C). All fees are nonrefundable.
 - (3) Register for the NCLEX® and submit registration fee to the national test service.
 - (4) Direct CGFNS to validate the official nursing transcript or direct the nursing education program to submit to the board an official nursing transcript in English denoting the date of entry, date of graduation, and diploma or degree conferred.
 - (5) Direct CGFNS to validate licensure/registration in the original country.
 - (6) Complete CGFNS certification requirements for registered nurse applicants.
 - (7) Complete nursing and science course report requirements of the CGFNS Credentials Evaluation Service for practical nurse applicants.
 - (8) Complete TOEFL requirements for practical nurse applicants.
 - (9) Inform the board of primary state of residence and current mailing address.
 - (10) Self-schedule the examination at an approved testing center. Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.
 - (11) Complete NCLEX® registration within 12 months of board receipt of the application for license, fingerprint packet and fees. The board reserves the right to destroy documents after 12 months.
- 3.4(5) Application—individuals with disabilities.** Individuals with disabilities as defined in the Americans with Disabilities Act shall be provided modifications in the NCLEX® or NCLEX® administration.
- a.* The board shall:
 - (1) Notify applicants of the availability of test modifications for individuals with documented disabilities.
 - (2) Upon request, notify applicants of the process for obtaining board approval of test modification as defined in paragraph 3.4(5) “*b.*”
 - (3) Determine eligibility for test modification upon receipt of:
 1. Written request for test modifications in the NCLEX® or NCLEX® administration.

2. Written documentation of the applicant's disability and need for test modifications, including results of diagnostic testing when appropriate, submitted by a qualified professional with expertise in the area of the diagnosed disability, or interpretation of results.

3. Written documentation of test modifications provided to the applicant while enrolled in the nursing education program, if applicable.

b. The applicant shall:

(1) Submit to the board a written request for specific modifications in the NCLEX® or NCLEX® administration.

(2) Direct a qualified professional with expertise in the area of the diagnosed disability or interpretation of test results to submit to the board written documentation of the applicant's disability and need for specific test modifications, including the history of the disability and results of diagnostic testing.

(3) Direct the nursing program to submit to the board documentation of test modifications provided to the applicant while enrolled in the nursing education program, if applicable.

(4) Complete examination application requirements defined in subrule 3.4(3) or 3.4(4).

3.4(6) Reexamination.

a. An applicant who has graduated from an approved practical nurse program and has failed the NCLEX-PN® is eligible to take the NCLEX-PN® an indefinite number of times.

b. An applicant who has graduated from an approved registered nurse program and has failed the NCLEX-RN® is eligible to take the NCLEX-RN® an indefinite number of times.

c. An applicant who fails the NCLEX® and reapplies for license by examination shall be required to complete application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service. Two sets of the completed fingerprint packet, plus the fee identified in the definition of "fees" in rule 3.1(17A,147,152,272C), are required if 12 months have passed since the previous criminal history background check.

3.4(7) Certificate of license by examination. Upon completion of the relevant qualifications for license by examination defined in these rules, the board shall issue a certificate of license by examination and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license pending receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.36, 147.80 and 152.7(3).

655—3.5(17A,147,152,272C) Licensure by endorsement.

3.5(1) *Qualifications for licensure by endorsement.* The endorsee shall meet the qualifications for licensure defined in subrule 3.3(1).

3.5(2) *Applicants currently licensed in another state.* Application for licensure to practice as a registered nurse or licensed practical nurse by endorsement shall be made according to the following process:

a. The board shall:

(1) Provide application forms and instructions to applicants upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, and verification of license submitted by state of original license or the National Council of State Boards of Nursing, Inc.

b. The applicant shall:

(1) Submit a completed application form for license by endorsement.

(2) Submit two sets of the fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit the fee for license by endorsement plus the fee for evaluation of the fingerprint packet and the criminal history background checks as identified in the definition of "fees" in rule 3.1(17A,147,152, 272C). All fees are nonrefundable.

(4) Direct the nursing program to submit to the board an official nursing transcript denoting the date of entry, date of graduation and diploma or degree conferred.

(5) Submit the application form for verification of original licensure. If the original state of licensure participates in the National Council of State Boards of Nursing, Inc. Electronic Nurse Licensure System (NURSUS), send form and application fee directly to the National Council of State Boards of Nursing, Inc.

(6) Submit evidence attesting that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule 655—16.2(152) or that the primary state of residence is a noncompact state.

(7) Complete the application process within 12 months from the date of receipt of the application. The board reserves the right to destroy the documents after 12 months.

c. An endorsement applicant who has been disciplined by a licensing authority in another state must indicate the jurisdiction of the action(s) when submitting application materials. A copy of all relevant disciplinary documents will be obtained for board review prior to a determination regarding licensure. The board may impose special conditions for licensure if deemed appropriate.

d. A license shall not be issued to an applicant who fails to complete the licensure process within 12 months from the date of receipt of the application.

3.5(3) Temporary license. A temporary license shall be issued to an applicant who is licensed in another state if the applicant meets the qualifications for a license as outlined in subrule 3.3(1). The application form and endorsement fee plus the fee for evaluation of the fingerprint packet and the criminal history background checks as identified in the definition of “fees” in rule 3.1(17A,147,152,272C), verification of license form and two sets of the fingerprint packet to facilitate a national criminal history background check shall be on file in the office of the board prior to the issuance of the temporary license.

a. A temporary licensee may use the appropriate title of registered nurse or licensed practical nurse and the appropriate abbreviation R.N. or L.P.N.

b. The temporary wallet card must be signed by the licensee to be valid. The temporary license shall be issued for a period of 30 days. A second temporary license may be issued for a period not to exceed 30 days or at the discretion of the executive director.

c. A temporary license shall be issued to an applicant who has incurred disciplinary action in another state when the license is not currently encumbered.

d. A temporary license shall not be issued to an applicant with a past felony conviction.

3.5(4) Certificate of license by endorsement. Upon completion of the endorsement procedures defined in these rules, the board shall issue a certificate of license by endorsement and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license pending receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.2 and 152.9.

655—3.6(17A,147,152,272C) Special licensure for those licensed in another country. A special license may be granted by the board on an individual basis to allow a nurse licensed in another country who is not eligible for endorsement to practice nursing in Iowa for a fixed period of time under certain conditions. Special licensure shall allow the nurse to provide care in a specialty area, provide consultation or teaching where care is directed, serve as a research or teaching assistant, or obtain clinically based continuing education.

1. Upon request, the board shall provide application materials to the applicant or sponsor.

2. The applicant shall provide identifying information, history of felony conviction, history of licensure in another jurisdiction, and reason for special licensure.

3. The applicant shall complete the application, submit a fee as identified in rule 3.1(17A,147,152,272C) and provide evidence of certification by the Commission on Graduates of Foreign Nursing Schools (CGFNS), or a Test of English as a Foreign Language (TOEFL) score of at least 500 for the paper-based TOEFL or 173 for the computer-based TOEFL.

4. Board staff shall determine the validity of the request based on the need, duration and location of special licensure identified on the application, and staff shall notify the applicant of ineligibility for

special licensure if the application is incomplete, or demonstrates a felony conviction, or evidence of licensure in another jurisdiction.

5. The board shall grant special licensure to eligible applicants. The license shall be identified as a special license and identify duration and conditions as designated in this rule. The period of special licensure shall be determined by the board and may be extended at the request of the applicant.

6. If the board denies special licensure, the individual may be eligible for licensure by examination in accord with subrule 3.4(4).

7. The licensee shall be subject to all rules and regulations promulgated by the board except those pertaining to verification, renewal, late renewal, inactivation, reactivation and continuing education requirements.

This rule is intended to implement Iowa Code section 147.2.

655—3.7(17A,147,152,272C) License cycle.

3.7(1) Name and address changes. Written notification to the board of name and address changes is mandatory as defined in Iowa Code section 147.9. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.7(2) New licenses. The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

3.7(3) Renewal. At least 60 days prior to expiration of the license, the licensee shall be notified by mail that a renewal application is available at the board's Internet address. Renewal applications are also available by mail upon request.

a. The required materials and the renewal fee as specified in rule 3.1(17A,147,152,272C) are to be submitted to the board office 30 days before license expiration.

b. When the licensee has satisfactorily completed the requirements for renewal 30 days before expiration of the previous license, a renewal wallet card shall be mailed to the licensee before expiration of the previous license.

c. A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in paragraph "g."

d. A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in paragraph "g."

e. A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in paragraph "g."

Training may be completed through separate courses as identified in paragraphs "c" and "d" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

f. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "c" to "e," including program date(s), content, duration, and proof of participation.

g. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

h. The board may select licensees for audit of compliance with the requirements in paragraphs “c” to “g.”

3.7(4) *Late renewal.* The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 3.1(17A,147,152,272C).

To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card.

3.7(5) *Inactive status.* The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—subrule 16.2(4), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. If the inactive license is not reactivated, it shall remain inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as practicing nursing with an inactive license, disciplinary proceedings shall be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

d. To reactivate the license, the licensee shall contact the board office.

(1) The licensee shall be provided an application, a continuing education report form, fingerprint packet and statement of the fees. The reactivation fee and criminal history background check fee are specified in the definition of “fees” in rule 3.1(17A,147,152,272C).

(2) The licensee shall have obtained 12 contact hours of continuing education, as specified in 655—Chapter 5, within the 12 months prior to reactivation.

(3) Upon receipt of the completed reactivation application, required continuing education materials, two sets of the fingerprint packet to facilitate a national criminal history background check, fees for both the reactivation and the criminal history background check and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the licensee’s birth month. The board staff may issue a certificate of license pending receipt of a report on the applicant from the DCI/FBI.

3.7(6) *Duplicate wallet card or certificate.* A duplicate wallet card or certificate shall be required if the current card or certificate is lost, stolen, destroyed or not received by the licensee within 60 days from the date the license is issued. The licensee shall be issued a duplicate wallet card or certificate upon receipt of an application for a duplicate wallet card or certificate and receipt of the fee as specified in rule 3.1(17A,147, 152,272C). If the licensee notifies the board that the wallet card or certificate has not been received within 60 days after being issued, no fee shall be required. A fee is applicable when the licensee fails to notify the board of a name or address change.

3.7(7) *Reissue of a certificate or wallet card.* The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

This rule is intended to implement Iowa Code sections 147.2 and 147.9 to 147.11.

655—3.8(17A,147,152,272C) *Verification.* Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 3.1(17A,147,152, 272C), the board shall provide a certified statement to another jurisdiction or entity that the license of a registered nurse/licensed practical nurse is active, inactive or encumbered in Iowa.

This rule is intended to implement Iowa Code sections 147.2 and 147.8.

655—3.9(17A,272C) License denial.

3.9(1) An applicant who has been denied licensure by the board may appeal the decision and request a hearing on related issues. A notice of appeal and request for hearing must be served upon the board within 30 days following the date the notification of licensure denial was mailed to the applicant. The request for hearing shall specifically delineate the facts to be contested at hearing.

3.9(2) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 4.

This rule is intended to implement Iowa Code chapters 17A and 272C.
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[∞] Two or more ARCs

¹ History relating also to “Licensure to Practice—Licensed Practical Nurse,” Ch 4 prior to IAC 5/23/84.

² Effective date of 11/9/88 delayed 70 days by the Administrative Rules Review Committee at its October meeting. Delay lifted by ARRC 11/16/88.

CHAPTER 16
NURSE LICENSURE COMPACT

655—16.1(152E) Definitions.

“*Board*” means a party state’s regulatory body responsible for issuing nurse licenses.

“*Information system*” means the coordinated licensure information system.

“*Primary state of residence*” means the state of a person’s declared fixed permanent and principal home for legal purposes; domicile.

“*Public*” means any individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc.

655—16.2(152E) Issuance of a license by a compact party state.

16.2(1) No applicant for initial licensure will be issued a compact license granting a multistate privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX® examination or its predecessor examination used for licensure.

16.2(2) A nurse applying for a license in a home party state shall produce evidence of the nurse’s primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include, but is not limited to:

- a. A driver’s license with a home address;
- b. Voter registration card displaying a home address;
- c. Federal income tax return declaring the primary state of residence; or
- d. Military Form No. 2058 — State of Legal Residence Certificate.
- e. A W-2 from the U.S. government or any bureau, division or agency thereof indicating the declared state of residence.

16.2(3) A nurse on a visa from another country who is applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single-state license will be issued by the party state.

16.2(4) A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state that issued the license.

16.2(5) When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e., a single-state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance.

16.2(6) A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse’s licensure application in the new home state for a period not to exceed 30 days.

16.2(7) The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the 30-day period set out in 16.2(2) of this rule shall be stayed until resolution of the pending investigation.

16.2(8) The former home state license shall no longer be valid upon the issuance of a new home state license.

16.2(9) If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten business days, and the former home state may take action in accordance with that state’s laws and rules.

[ARC 7665B, IAB 3/25/09, effective 4/29/09]

655—16.3(152E) Limitations on multistate licensure privilege—discipline.

16.3(1) All home state board disciplinary orders, agreed or otherwise, which limit the scope of the licensee’s practice or require monitoring of the licensee as a condition of the order shall include the requirement that the licensee will limit the licensee’s practice to the home state during the pendency of the order. This requirement may allow the licensee to practice in other party states with prior written authorization from both the home state and party state boards.

16.3(2) An individual who held a license that was surrendered, revoked, or suspended or who submitted an application that was denied for cause in a prior state of primary residence may be issued a single-state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once an individual is eligible for licensure in the prior state(s), a multistate license may be issued.

[ARC 7665B, IAB 3/25/09, effective 4/29/09]

655—16.4(152E) Information system.

16.4(1) Levels of access.

a. The public shall have access to nurse licensure information limited to:

- (1) The nurse's name.
- (2) Jurisdiction(s) of licensure.
- (3) License expiration date(s).
- (4) Licensure classification(s) and status(es).
- (5) Public emergency and final disciplinary actions, as defined by contributing state authority.
- (6) The status of multistate licensure privileges.

b. Nonparty state boards shall have access to all information system data except current significant investigative information and other information as limited by contributing party state authority.

c. Party state boards shall have access to all information system data contributed by the party states and other information as limited by contributing nonparty state authority.

16.4(2) The licensee may request in writing to the home state board review of the data relating to the licensee in the information system. In the event a licensee asserts that any data relating to the licensee is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The board shall verify and within ten business days correct inaccurate data in the information system.

16.4(3) The board shall report to the information system within ten business days, a disciplinary action, agreement or order which requires participation in alternative programs or which limits practice or requires monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority), dismissal of complaint, and changes in status of disciplinary action, or licensure encumbrance.

16.4(4) Current significant investigative information shall be deleted from the information system within ten business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.

16.4(5) Changes to licensure information in the information system shall be completed within ten business days upon notification by the board.

These rules are intended to implement Iowa Code chapter 152E.

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NATURAL RESOURCES DEPARTMENT

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