



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXI
May 20, 2009

NUMBER 24
Pages 2479 to 2632

CONTENTS IN THIS ISSUE

Pages 2492 to 2630 include **ARC 7767B** to **ARC 7798B**

AGENDA

Administrative rules review committee 2483

ALL AGENCIES

Agency identification numbers 2490
Citation of administrative rules 2481
Schedule for rule making 2482

DELAY LIFTED

Environmental Protection
Commission[567] Wastewater
disposal systems 2631

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Filed, Public health supervision—interval
for dental examination, 10.5(3)"a"(3)
ARC 7767B 2612

Filed, Dental and dental hygiene
examinations, 11.5(2)"e," 12.3, 12.4
ARC 7790B 2612

Filed, Appeal procedure for denial of
licensure and registration, 11.10, 20.8
ARC 7789B 2614

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Notice, Class B license—uniform
expiration date, 13.11(5) **ARC 7778B** 2492

EDUCATION DEPARTMENT[281]

Notice, Practitioner and administrator
preparation programs, 79.1 to 79.17,
79.19 to 79.21 **ARC 7780B** 2493

Notice, Financial management of
categorical funding, ch 98 **ARC 7781B** 2504

Filed, Physical activity and
cardiopulmonary resuscitation
course requirements, 12.2, 12.5 **ARC 7783B** . . . 2614

Filed, Statewide voluntary preschool
program, 16.1 to 16.15 **ARC 7787B** 2616

Filed, Certified school to career program,
rescind ch 48 **ARC 7786B** 2617

Filed, School breakfast and lunch
program—nutritional content
standards, 58.1, 58.2, 58.9 to
58.11 **ARC 7782B** 2618

Filed, Definition of "teacher" updated;
evaluator approval training, 83.2, 83.5
ARC 7785B 2620

Filed, Phase III, educational excellence
program, rescind ch 91 **ARC 7784B** 2621

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Delay Lifted, Wastewater disposal systems 2631

HUMAN SERVICES DEPARTMENT[441]

Notice, Family investment program
eligibility—assignment of support
payments, 41.22(7) **ARC 7776B** 2527

Notice, Hearing aids, 78.14 **ARC 7771B** 2528

Notice, Safety standards for children's
centers, ch 106 **ARC 7769B** 2530

Filed, Disability services
management—"county of residence,"
25.11, 25.13 to 25.17 **ARC 7768B** 2622

Filed, HAWK-I—increased income limits
and monthly cost sharing, 86.1, 86.2(2),
86.8 **ARC 7770B** 2623

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Medicare supplement insurance minimum standards, 15.3(4), 37.2, 37.3, 37.5 to 37.26, 37.50 to 37.59 **ARC 7795B** 2535

Notice, Business of insurance—genetic information, 15.11(5) **ARC 7797B** 2571

Filed Emergency, Business of insurance—genetic information, 15.11(5) **ARC 7796B** 2604

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Licensure of podiatrists, 220.2 to 220.4, 220.6, 220.7 **ARC 7779B** 2572

PUBLIC HEALTH DEPARTMENT[641]

Notice, Center for congenital and inherited disorders, 4.2 to 4.4, 4.6, 4.7 **ARC 7791B** 2575

Notice, Radiation, amendments to chs 39, 41 **ARC 7792B** 2582

Amended Notice, WIC food package approval criteria, 73.9(3) **ARC 7798B** 2587

Notice, Early childhood Iowa council, ch 83 **ARC 7794B** 2590

PUBLIC HEARINGS

Summarized list 2486

PUBLIC SAFETY DEPARTMENT[661]

Notice, Motor fuel dispensing—B-blend, 221.4(2) **ARC 7772B** 2595

Notice, Support and anchorage of manufactured homes—reinstallations, 322.11 **ARC 7777B** 2596

Filed, Sustainable design standards, ch 310 **ARC 7773B** 2625

Filed Emergency, Support and anchorage of manufactured homes—reinstallations, 322.11 **ARC 7775B** 2604

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Filed, Certification of residential and general real property appraisers, amend chs 1, 3, 4, 11, 12; adopt chs 5, 6; rescind chs 13, 14 **ARC 7774B** 2629

REVENUE DEPARTMENT[701]

Notice of electric and natural gas delivery tax rate changes. 2597

Notice, Petition for rule making, 7.61 **ARC 7793B** 2599

Notice, Responsibility of assessor, 71.1(1), 71.2(1) **ARC 7788B** 2601

TREASURER OF STATE

Notice—Public funds interest rates 2602

PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2009

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, May 29, 2009	June 17, 2009
1	Friday, June 12, 2009	July 1, 2009
2	Wednesday, June 24, 2009	July 15, 2009

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 9, 2009, at 10 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the June 3, 2009, Iowa Administrative Bulletin.

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Application by reciprocity, 2.2 Filed ARC 7737B 5/6/09

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

All Iowa opportunity foster care grant program—definition of "Iowa resident," 9.2 Filed ARC 7733B 5/6/09

CULTURAL AFFAIRS DEPARTMENT[221]

Iowa community cultural grants program—applicant eligibility, 6.3 Filed ARC 7734B 5/6/09

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Public health supervision—interval for dental examination, 10.5(3)"a"(3) Filed ARC 7767B 5/20/09

Dental and dental hygiene examinations, 11.5(2)"e," 12.3, 12.4 Filed ARC 7790B 5/20/09

Appeal procedure for denial of licensure and registration, 11.10, 20.8 Filed ARC 7789B 5/20/09

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Community microenterprise development organization grant program, ch 113

Notice ARC 7765B, also Filed Emergency ARC 7764B 5/6/09

Renewable fuel infrastructure program, 314.5(2)"e" Notice ARC 7763B 5/6/09

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Teacher licenses and endorsements—classes of licenses, 13.10(5), 13.11 to 13.14 Notice ARC 7751B 5/6/09

Class B license—uniform expiration date, 13.11(5) Notice ARC 7778B 5/20/09

Licenses, endorsements and authorizations, rescind 13.28(26), 13.28(27), 15.7(1) to 15.7(5),

15.8 Notice ARC 7744B 5/6/09

Renewal of substitute license, 20.7 Notice ARC 7748B 5/6/09

Substitute authorization, 22.2 Filed ARC 7745B 5/6/09

Definition of "practitioner," 25.2 Notice ARC 7747B 5/6/09

Issuance of professional service licenses, ch 27 Notice ARC 7743B 5/6/09

EDUCATION DEPARTMENT[281]

Physical activity and cardiopulmonary resuscitation course requirements, 12.2, 12.5(6),

12.5(19), 12.5(20) Filed ARC 7783B 5/20/09

Statewide voluntary preschool program, 16.1 to 16.15 Filed ARC 7787B 5/20/09

Certified school to career program, rescind ch 48 Filed ARC 7786B 5/20/09

School breakfast and lunch program—nutritional content standards, 58.1, 58.2, 58.9 to 58.11

Filed ARC 7782B 5/20/09

Practitioner and administrator preparation programs, 79.1 to 79.17, 79.19 to 79.21 Notice ARC 7780B 5/20/09

Definition of "teacher" updated; evaluator approval training, 83.2, 83.5 Filed ARC 7785B 5/20/09

Phase III, educational excellence program, rescind ch 91 Filed ARC 7784B 5/20/09

Financial management of categorical funding, ch 98 Notice ARC 7781B 5/20/09

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Application and renewal process, 3.2(3), 3.3 Filed ARC 7754B 5/6/09

Engineering licensure requirements, 4.1(4), 4.2(1) Filed ARC 7753B 5/6/09

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

State historical society award program, 21.3(2) Filed ARC 7755B 5/6/09

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Community disaster grants, ch 13 Filed ARC 7752B 5/6/09

HUMAN SERVICES DEPARTMENT[441]

Disability services management—"county of residence," 25.11, 25.13 to 25.17 Filed ARC 7768B 5/20/09

Applicant's/participant's responsibility to provide information or verification to department, 40.24(1), 40.27(4), 76.2, 76.7, 170.5 <u>Filed</u> ARC 7740B	5/6/09
Family investment program eligibility—assignment of support payments, 41.22(7) <u>Notice</u> ARC 7776B	5/20/09
Family-centered child welfare services; foster group care services, amend chs 75, 77, 83, 133, 150, 156; rescind chs 152, 157, 182, 183, 185; adopt ch 152 <u>Filed</u> ARC 7741B	5/6/09
Hearing aids, 78.14 <u>Notice</u> ARC 7771B	5/20/09
HAWK-I—increased income limits and monthly cost sharing, 86.1, 86.2(2), 86.8(1), 86.8(2) <u>Filed</u> ARC 7770B	5/20/09
Safety standards for children's centers, ch 106 <u>Notice</u> ARC 7769B	5/20/09

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Medicare supplement insurance minimum standards, 15.3(4), 37.2, 37.3, 37.5 to 37.26, 37.50 to 37.59 <u>Notice</u> ARC 7795B	5/20/09
Business of insurance—genetic information, 15.11(5) <u>Notice</u> ARC 7797B , also <u>Filed Emergency</u> ARC 7796B	5/20/09

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Additional employer contributions from employer-mandated reduction in hours, 4.6(4), 4.8, 6.3, 6.4, 15.5(1) <u>Notice</u> ARC 7760B , also <u>Filed Emergency</u> ARC 7759B	5/6/09
--	--------

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Preliminary notice of denial—public record, 9.15(1) <u>Filed</u> ARC 7756B	5/6/09
---	--------

PAROLE BOARD[205]

CORRECTIONS DEPARTMENT[201]"umbrella"

Certificates of employability, ch 9 <u>Filed</u> ARC 7742B	5/6/09
---	--------

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education for optometrists, 181.3(2)"c"(1) <u>Notice</u> ARC 7762B	5/6/09
Licensure of podiatrists, 220.2 to 220.4, 220.6, 220.7 <u>Notice</u> ARC 7779B	5/20/09

PUBLIC HEALTH DEPARTMENT[641]

Center for congenital and inherited disorders, 4.2, 4.3, 4.4, 4.6, 4.7 <u>Notice</u> ARC 7791B	5/20/09
Radiation, amendments to chs 39, 41 <u>Notice</u> ARC 7792B	5/20/09
WIC food package approval criteria, 73.9(3) ARC 7798B	5/20/09
Early childhood Iowa council, ch 83 <u>Notice</u> ARC 7794B	5/20/09

PUBLIC SAFETY DEPARTMENT[661]

Smoke detector requirements for single-family and multifamily residential buildings, 210.2 <u>Filed Emergency</u> ARC 7735B	5/6/09
Motor fuel dispensing—B-blend, 221.4(2) <u>Notice</u> ARC 7772B	5/20/09
Sustainable design standards, ch 310 <u>Filed</u> ARC 7773B	5/20/09
Support and anchorage of manufactured homes—reinstallations, 322.11 <u>Notice</u> ARC 7777B , also <u>Filed Emergency</u> ARC 7775B	5/20/09

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Organization; contested cases; licensure; gambling games; accounting and cash control, amend chs 1, 4 to 6, 11; adopt ch 12 <u>Notice</u> ARC 7758B	5/6/09
Harness racing; thoroughbred and quarter horse racing; gambling games, 9.7(1)"d"(3), 10.5, 10.6(2), 10.7(1)"d"(3), 11.1, 11.12(8)"a" <u>Filed</u> ARC 7757B	5/6/09

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Certification of residential and general real property appraisers, amend chs 1, 3, 4, 11, 12; adopt chs 5, 6; rescind chs 13, 14 <u>Filed</u> ARC 7774B	5/20/09
---	---------

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Definition of "moral turpitude," 2.1 <u>Filed</u> ARC 7736B	5/6/09
--	--------

REVENUE DEPARTMENT[701]

Petition for rule making, 7.61 Notice **ARC 7793B** 5/20/09
 Clarifications and updates, amendments to chs 10, 38, 40, 41, 43, 46, 48, 50, 52, 54, 59, 86,
 88, 89, 104 Filed **ARC 7761B** 5/6/09
 Responsibility of assessor, 71.1(1), 71.2(1) Notice **ARC 7788B** 5/20/09

TRANSPORTATION DEPARTMENT[761]

Motor carrier safety and hazardous materials regulations, 520.1(1) Filed **ARC 7750B** 5/6/09

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Updates and corrections to natural gas and electric technical standards, 10.12(1), 10.17,
 19.2(5)"g," 19.5(2), 19.6(3)"d," 19.8(3), 20.5(2), 25.2(5)"a" Notice **ARC 7749B** 5/6/09

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa Veterans Home—exempt income for incentive therapy or other programs,
 10.19(2)"a"(9) Notice **ARC 7746B** 5/6/09

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

Representative Marcella R. Frevert
 P.O. Box 324
 Emmetsburg, Iowa 50536

Senator Thomas Courtney
 2200 Summer Street
 Burlington, Iowa 52601

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

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

Representative Tyler Olson
 P.O. Box 2389
 Cedar Rapids, Iowa 52406

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

Representative Nathan Reichert
 1155 Iowa Avenue
 Muscatine, Iowa 52761

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

Representative Linda Upmeyer
 2175 Pine Avenue
 Garner, Iowa 50438

Joseph A. Royce
Legal Counsel
 Capitol
 Des Moines, Iowa 50319
 Telephone (515)281-3084
 Fax (515)281-8451

James Larew
Administrative Rules Coordinator
 Governor's Ex Officio Representative
 Capitol, Room 11
 Des Moines, Iowa 50319
 Telephone (515)281-0208

AGENCY	HEARING LOCATION	DATE AND TIME
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Community microenterprise development organization grant program, ch 113 IAB 5/6/09 ARC 7765B (See also ARC 7764B)	ICN Room 200 E. Grand Ave. Des Moines, Iowa	May 27, 2009 3 to 4:30 p.m.
Renewable fuel infrastructure program, 314.5(2)“e” IAB 5/6/09 ARC 7763B	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	May 26, 2009 2:30 to 4 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Teacher licenses and endorsements—classes of licenses, 13.10(5), 13.11 to 13.14 IAB 5/6/09 ARC 7751B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 27, 2009 1 p.m.
Class B license—uniform expiration date, 13.11(5) IAB 5/20/09 ARC 7778B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	June 10, 2009 1 p.m.
Licenses, endorsements, and authorizations, rescind 13.28(26), 13.28(27), 15.7(1) to 15.7(5), 15.8 IAB 5/6/09 ARC 7744B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Renewal of substitute license, 20.7 IAB 5/6/09 ARC 7748B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Definition of “practitioner,” 25.2 IAB 5/6/09 ARC 7747B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Issuance of professional service licenses, ch 27 IAB 5/6/09 ARC 7743B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
EDUCATION DEPARTMENT[281]		
Practitioner and administrator preparation programs, 79.1 to 79.17, 79.19 to 79.21 IAB 5/20/09 ARC 7780B	Conference Room 2NE, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 12, 2009 9 to 10 a.m.
Financial management of categorical funding, ch 98 IAB 5/20/09 ARC 7781B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 9, 2009 9 to 10 a.m.
HUMAN SERVICES DEPARTMENT[441]		
Safety standards for children’s centers, ch 106 IAB 5/20/09 ARC 7769B	Auditorium Wallace State Office Bldg. Des Moines, Iowa	June 10, 2009 9 to 10:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
INSURANCE DIVISION[191]		
Medicare supplement insurance minimum standards, 15.3(4), 37.2, 37.3, 37.5 to 37.26, 37.50 to 37.59 IAB 5/20/09 ARC 7795B	330 Maple St. Des Moines, Iowa	June 10, 2009 10 a.m.
Business of insurance—genetic information, 15.11(5) IAB 5/20/09 ARC 7797B (See also ARC 7796B herein)	330 Maple St. Des Moines, Iowa	June 10, 2009 11 a.m.
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]		
Additional employer contributions from employer-mandated reduction in hours, 4.6(4), 4.8, 6.3, 6.4 15.5(1) IAB 5/6/09 ARC 7760B (See also ARC 7759B)	7401 Register Dr. Des Moines, Iowa	May 26, 2009 9 a.m.
NURSING BOARD[655]		
ARNP supervision of fluoroscopy, 7.2 IAB 4/22/09 ARC 7714B	Des Moines West Room, Holiday Inn 1050 6th Ave. Des Moines, Iowa	June 3, 2009 6 p.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Continuing education for optometrists, 181.3(2)"c"(1) IAB 5/6/09 ARC 7762B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 27, 2009 8:30 to 9 a.m.
Licensure of podiatrists, 220.2 to 220.4, 220.6, 220.7 IAB 5/20/09 ARC 7779	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 17, 2009 9 to 9:30 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Center for congenital and inherited disorders, 4.2 to 4.4, 4.6, 4.7 IAB 5/20/09 ARC 7791B	Conference Call Hearing (To participate, call 1-866-685-1580 and enter pass code number 5152816466#)	June 9, 2009 10 to 11 a.m.
WIC food package approval criteria, 73.9(3) IAB 5/20/09 ARC 7798B (ICN Network)	ICN Room, 6th Floor Lucas State Office Bldg. Des Moines, Iowa (To confirm availability of site or to schedule a time to speak, call 515-281-4919)	June 10, 2009 9 to 10 a.m.
	Iowa State University 1 Lagomarcino Hall Corner of Knoll Rd. & Pamel Dr. Ames, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library Information Center—Kelinson Rm. 2950 Learning Center Campus Dr. Bettendorf, Iowa	June 10, 2009 9 to 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC HEALTH DEPARTMENT[641] (Cont'd)		
(ICN Network)	Public Library 524 Parkade Cedar Falls, Iowa	June 10, 2009 9 to 10 a.m.
	Loess Hills AEA 24997 Highway 92 Council Bluffs, Iowa	June 10, 2009 9 to 10 a.m.
	Keystone AEA - 1 2310 Chaney Rd. Dubuque, Iowa	June 10, 2009 9 to 10 a.m.
	Ft. Dodge Air National Guard 1649 Nelson Ave. Ft. Dodge, Iowa	June 10, 2009 9 to 10 a.m.
	Iowa Valley Community College 123 6th Ave. West Grinnell, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library 150 West Willman St. Hiawatha, Iowa	June 10, 2009 9 to 10 a.m.
	North Iowa Area Community College - 1 500 College Dr. Mason City, Iowa	June 10, 2009 9 to 10 a.m.
	Mount Pleasant Treatment Center 1200 East Washington Mount Pleasant, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library 300 S. Filmore St. Osceola, Iowa	June 10, 2009 9 to 10 a.m.
	Great Prairie AEA - 1 2814 N. Court St. Ottumwa, Iowa	June 10, 2009 9 to 10 a.m.
	Northwest AEA - 12 1520 Morningside Ave. Sioux City, Iowa	June 10, 2009 9 to 10 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Motor fuel dispensing—B-blend, 221.4(2) IAB 5/20/09 ARC 7772B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 9, 2009 9 a.m.
Support and anchorage of manufactured homes—reinstallations, 322.11 IAB 5/20/09 ARC 7777B (See also ARC 7775B herein)	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 9, 2009 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
RACING AND GAMING COMMISSION[491]		
Organization; contested cases; licensure; gambling games; accounting and cash control, amendments to chs 1, 4 to 6, 11, 12 IAB 5/6/09 ARC 7758B	Suite B 717 E. Court Ave. Des Moines, Iowa	May 26, 2009 9:30 a.m.
UTILITIES DIVISION[199]		
Emergency outage reporting requirements for certificated local exchange carriers, 22.2(9) IAB 4/8/09 ARC 7674B	Board Hearing Room 350 Maple St. Des Moines, Iowa	May 20, 2009 10 a.m.
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]		
Iowa Veterans Home—exempt income for incentive therapy or other programs, 10.19(2)“a”(9) IAB 5/6/09 ARC 7746B	Ford Memorial Conference Room Iowa Veterans Home 1301 Summit Marshalltown, Iowa	May 27, 2009 10 a.m. (If requested)

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

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

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

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

The following list will be updated as changes occur:

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

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 7778B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

This proposed amendment provides that Class B licenses shall expire on the same date for everyone. The new subrule states that a Class B license will expire on June 30 of the fiscal year in which it was issued plus one year. This change eliminates confusion and may assist the district in making personnel decisions.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 10, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 12, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt the following **new** subrule 13.11(5):

13.11(5) Expiration. This license will expire on June 30 of the fiscal year in which it was issued plus one year.

ARC 7780B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

The State Board of Education seeks to amend this chapter to update administrator preparation requirements to reflect current state and national standards (Item 20); to include requirements that address changing forms of delivery systems (Items 6, 8, 9, 11, 12, 13, 14, 18, and 19); to include specific rules for approval of professional educational programs that lead to state licensure in areas other than teacher or administrator preparation (Items 22 and 23); to change the schedule for site visits (Items 7 and 10); to include requirements that better prepare new educators to implement the required Iowa core curriculum (Items 19 and 20); and to provide further clarification of rules (Items 1, 2, 3, 4, 5, 15, and 17).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before 4:30 p.m. on June 12, 2009. Comments on the proposed amendments should be directed to Arlie Willems, Administrative Consultant, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3427; E-mail arlie.willems@iowa.gov; or fax (515)281-7700.

A public hearing will be held on June 12, 2009, from 9 to 10 a.m. in Conference Room 2NE, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Education and advise of specific needs by calling (515)281-5295.

These amendments are intended to implement Iowa Code sections 256.7(3), 256.16, and 272.25.

The following amendments are proposed.

ITEM 1. Amend rule 281—79.1(256) as follows:

281—79.1(256) General statement. Programs of practitioner and administrator preparation leading to licensure in Iowa are subject to approval by the state board of education, as provided in Iowa Code chapter 256. All programs having accreditation on August 31, 2001, are presumed accredited unless or until the state board takes formal action to remove accreditation. ~~All administrator preparation programs must submit program documentation between August 31, 2001, and August 31, 2002, for approval of administrator preparation programs under these rules. Commencing August 31, 2001, all program approval evaluations will be conducted under these rules.~~

ITEM 2. Amend rule **281—79.2(256)**, definitions of "Director," "Institution," "ISSL," "Practitioner candidates" and "Unit," as follows:

"*Director*" means director of ~~education~~ the department.

"*Institution*" means a college or university in Iowa offering practitioner, ~~including administrator,~~ preparation or an educational organization offering administrator preparation and seeking state board approval of its practitioner preparation program(s).

"*ISSL*" means Iowa Standards for School Leaders, ~~the ISSLLC standards with additional expectations for Iowa school leaders.~~

EDUCATION DEPARTMENT[281](cont'd)

“Practitioner candidates” means individuals who are enrolled in practitioner preparation programs leading to licensure as teachers, as administrators or as other professional school personnel that require a license issued by the board of educational examiners.

“Unit” means the organizational entity within an institution with the responsibility of administering and delivering the practitioner preparation program(s).

ITEM 3. Rescind the definition “ISLLC” in rule **281—79.2(256)**.

ITEM 4. Adopt the following **new** definitions in rule **281—79.2(256)**:

“Area education agency” or *“AEA”* means a regional service agency that provides school improvement services for students, families, teachers, administrators and the community.

“Delivery model” means the form in which the educator preparation program is delivered to candidates and may include conventional campus-based, face-to-face models, distance learning models, off-campus models, programs delivered through consortia arrangements, and programs or elements delivered by contracted outside providers.

“Distance learning” means a formal education process in which the major portion of the instruction occurs when the learner and the instructor are not in the same place at the same time and occurs through virtually any media including printed materials, videotapes, audio recordings, facsimiles, telephone communications, the ICN, Internet communications through E-mail, and Web-based delivery systems.

“Distance learning program” means a program in which over half of the required courses in the program occur when the learner and the instructor are not in the same place at the same time (see definition of distance learning). These programs include those offered by the professional educational unit through a contract with an outside vendor or in a consortium arrangement with other higher education institutions, area education agencies, or other entities.

“EPS” means Educational Leadership Policy Standards, national standards for educational administration.

“Facility” means a residential or other setting for a child in which the child receives an appropriate educational program. “Facility” includes a foster care facility as defined in Iowa Code section 237.1, a facility that provides residential treatment pursuant to Iowa Code chapter 125, an approved or licensed shelter care home as defined in Iowa Code section 232.2, subsection 34, an approved juvenile detention home as defined in Iowa Code section 232.2, subsection 32, and a psychiatric medical institution for children as defined in Iowa Code section 135H.1.

“ICN” means the Iowa communications network.

“Iowa core curriculum” means a legislatively mandated state initiative that provides local school districts and nonpublic schools a guide to delivering instruction to students based on consistent, challenging and meaningful content.

“Off-campus program” means a program offered by a unit on sites other than the main campus. Off-campus programs may be offered in the same state, in other states, or in countries other than the United States.

“Regional accreditation” means official approval by an agency or organization approved or recognized by the U.S. Department of Education.

ITEM 5. Amend rule 281—79.3(256) as follows:

281—79.3(256) Institutions affected. ~~All~~ In order to attain the authority to recommend candidates for Iowa licensure, colleges and universities offering ~~complete~~ practitioner preparation programs in Iowa, as well as other Iowa educational organizations engaged in the preparation of school administrators, shall meet the standards contained in this chapter to gain or maintain state board approval of their programs.

ITEM 6. Amend rule 281—79.4(256) as follows:

281—79.4(256) Criteria for Iowa practitioner preparation programs. Each institution seeking approval by the state board of its programs of practitioner preparation, including those programs offered by distance delivery models or at off-campus locations, must be regionally accredited and shall file evidence of the extent to which ~~it~~ each program meets the standards contained in this chapter by

EDUCATION DEPARTMENT[281](cont'd)

means of a written self-evaluation report and an evaluation conducted by the department. The ~~program~~ institution shall demonstrate such evidence by means of a template developed by the department and through a site visit conducted by the department. After the state board has approved the practitioner preparation programs of an institution, students who complete the programs and are recommended by the authorized official of that institution will be issued the appropriate license and endorsement(s).

ITEM 7. Amend rule **281—79.5(256)**, first unnumbered paragraph, as follows:

Approval, if granted, shall be for a term of ~~five~~ seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

ITEM 8. Amend rule 281—79.6(256) as follows:

281—79.6(256) Visiting teams. Upon application or reapplication for approval, a review team shall visit each institution for evaluation of its practitioner preparation program(s). When an institution offers off-campus practitioner preparation programs, the team may elect to include visits to some or all of the sites of the off-campus programs. The membership of the team shall be selected by the department with the concurrence of the institution being visited. The team may include faculty members of other practitioner preparation institutions; personnel from elementary and secondary schools, to include licensed practitioners; personnel of the state department of education; personnel of the board of educational examiners; and representatives from professional education organizations. Each team member should have appropriate competencies, background, and experiences to enable the member to contribute to the evaluation visit. The expenses for the ~~visiting~~ review team shall be borne by the institution.

ITEM 9. Amend rule 281—79.7(256) as follows:

281—79.7(256) Periodic reports. ~~Approved~~ Upon request of the department, approved programs shall make periodic reports ~~upon request of the department~~ which shall provide basic information necessary to keep records of each practitioner preparation program up to date and ~~to provide information necessary~~ to carry out research studies relating to practitioner preparation. The department may request that information be disaggregated by attendance center or delivery model or both.

ITEM 10. Amend rule 281—79.8(256) as follows:

281—79.8(256) Reevaluation of practitioner ~~or administrator~~ preparation programs. Every ~~five~~ seven years or at any time deemed necessary by the director, an institution shall file a written self-evaluation of its practitioner ~~or administrator~~ preparation programs to be followed by a review team visit. Any action for continued approval or rescission of approval shall be approved by the state board.

ITEM 11. Amend rule 281—79.9(256) as follows:

281—79.9(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to, or changes within, the curricula of an institution's approved practitioner ~~or administrator~~ preparation program. When an institution proposes a revision which exceeds the primary scope of its programs, including revisions which significantly change the delivery model(s), the revisions shall become operative only after having been approved by the state board.

ITEM 12. Amend rule 281—79.10(256) as follows:

281—79.10(256) Governance and resources standard. Governance and resources shall adequately support the preparation of practitioner candidates to meet professional, state and institutional standards in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

EDUCATION DEPARTMENT[281](cont'd)

79.10(1) A clearly understood governance structure provides guidance and support for the practitioner preparation program(s). Programs offered by various delivery models, including distance learning and off-campus models, are integrated appropriately into the governance structure of the institution.

79.10(2) The professional education unit has primary responsibility for all programs offered ~~at~~ by the institution for the initial and continuing preparation of teachers, administrators and other professional school personnel.

79.10(3) The unit's conceptual framework establishes the shared vision for the unit and provides the foundation for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation aligned with appropriate professional standards and best practice in classroom instruction and school leadership.

79.10(4) and **79.10(5)** No change.

79.10(6) When a unit is part of a college or university, the unit provides evidence of ongoing collaboration with ~~the arts and sciences~~ other departments of the institution, especially regarding content endorsements.

79.10(7) to **79.10(9)** No change.

79.10(10) Institutional commitment to the unit includes financial resources, facilities, appropriate educational materials, library services, and equipment to ensure the fulfillment of the institution's and unit's missions, and the delivery of quality programs, and preparation of practitioner candidates regardless of delivery model.

79.10(11) to **79.10(13)** No change.

79.10(14) The use of part-time faculty and graduate students in teaching roles is purposeful and is managed to ensure integrity, quality, and continuity of all programs, including those delivered by distance learning, off-campus, and other delivery models.

ITEM 13. Amend rule 281—79.11(256), introductory paragraph, as follows:

281—79.11(256) Diversity standard. The environment and experiences provided practitioner candidates shall support candidate growth in knowledge, skills, and dispositions to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

ITEM 14. Amend rule 281—79.12(256) as follows:

281—79.12(256) Faculty standard. Faculty qualifications and performance shall facilitate the professional development of practitioner candidates in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.12(1) Faculty members in professional education are adequately prepared for responsibilities assigned to them and have had experiences in situations similar to those for which the practitioner candidates are being prepared. Faculty members have experience and adequate preparation in effective methods for any model of program delivery in which they are assigned responsibilities.

79.12(2) Faculty members in all program delivery models instruct and model best practices in teaching, including the assessment of their own effectiveness as it relates to candidate performance.

79.12(3) Faculty members in all program delivery models are engaged in professional development as well as scholarly and service activities that relate to teaching, learning, and practitioner preparation.

79.12(4) Faculty members in all program delivery models collaborate regularly and in significant ways with colleagues in the professional education unit and other college/university units, schools, the department, area education agencies, and professional associations as well as with community representatives.

EDUCATION DEPARTMENT[281](cont'd)

79.12(5) Part-time faculty members and employed graduate assistants, ~~when employed, in all program delivery models~~ are identified as faculty members and meet the licensure background and experience requirements appropriate for their assigned responsibilities.

79.12(6) Faculty members ~~preparing in all program delivery models who prepare~~ practitioner candidates maintain an ongoing, meaningful involvement in activities in preschools or elementary, middle, or secondary schools, in AEAs, or in appropriate facilities. A minimum of 60 hours of such activities shall include team teaching or appropriate collaborative experiences during the period between approval visits. A maximum of 30 hours of the 60-hour requirement may be completed by supervising ~~preservice candidates in PK-12 classroom settings~~.

ITEM 15. Rescind rule **281—79.15(256)**.

ITEM 16. Renumber rules **281—79.13(256)** and **281—79.14(256)** as **281—79.14(256)** and **281—79.15(256)**.

ITEM 17. Adopt the following new rule 281—79.13(256) within Division II:

281—79.13(256) Assessment system and unit evaluation standard. The unit's assessment system shall appropriately monitor individual candidate performance and use those data in concert with other information to evaluate and improve the unit and its programs. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.13(1) Unit assessment system.

a. The unit utilizes a clearly defined management system for the collection, analysis, and use of assessment data.

b. The unit provides evidence that the assessment system is congruent with the institution's mission and the unit's framework for preparation of effective practitioners.

c. The unit demonstrates an alignment of unit standards with INTASC standards for teacher preparation, ISSL standards for administrator preparation, and appropriate standards for other professional programs, as well as with Iowa teaching standards, Iowa preparation core professional standards in subrule 79.15(7), and the Iowa board of educational examiners' licensing standards in 282—subrules 13.18(4), 13.18(5), 18.4(1), 18.4(2), and 18.9(1), and rule 282—18.10(272).

d. The unit clearly documents candidates' attainment of the unit standards.

e. The unit demonstrates propriety, utility, accuracy and fairness of both the overall assessment system and the instruments used and provides scoring rubrics or other criteria used in evaluation instruments.

f. The unit documents the quality of programs through the collective presentation of assessment data related to performance of practitioner candidates. Documentation shall include:

- (1) Data collected throughout the program, including data from all delivery models;
- (2) Evidence of evaluative data collected from practitioners who work with the unit's candidates;
- (3) Evidence of evaluative data collected by the unit through follow-up studies of graduates and their employers.

g. The unit explains the process for reviewing and revising the assessment system.

h. The unit demonstrates how the information gathered by the unit and from the candidate assessment system is shared with faculty and other stakeholders and used for program improvement.

79.13(2) Performance assessment system for candidates.

a. The system is an integral part of the unit's planning and evaluation system.

b. The system has multiple admission criteria and assessments to identify candidates who have the potential to become successful practitioners.

c. For teacher preparation programs, the system includes the administration of a basic skills test, with program admission denied to any applicant who fails to achieve the institution's designated criterion score.

EDUCATION DEPARTMENT[281](cont'd)

d. The system has multiple decision points. (Minimum: admission to professional education program; approval for student teaching, administrative field experience, or other culminating clinical experiences; and recommendation for licensure.)

e. The system includes a coherent, sequential assessment system for individual practitioner candidates. The assessment system is shared with faculty with guidance for course and program improvement, as well as assessment criteria and a process for ongoing feedback to practitioner candidates about their achievement of program standards with guidance for reflection and improvement. Data are drawn from multiple formative and summative assessments of each of the following, including, but not limited to, institutional assessment of content knowledge, professional knowledge, and pedagogical knowledge and their applications, and teaching or leadership performance including the effect on student learning.

f. Practitioner candidate performance is assessed at the same standard regardless of the place or manner in which the program is delivered.

79.13(3) The unit annually reports to the department such data as are required by the state and federal governments at dates determined by the department.

79.13(4) The department shall periodically conduct a survey of schools, agencies, or facilities that employ licensed graduates of approved programs to ensure that the graduates' needs are adequately met by their programs and by the approval process herein.

ITEM 18. Amend renumbered rule 281—79.14(256) as follows:

281—79.14(256) ~~Clinical Teacher preparation clinical practice standard.~~ The unit and its school partners shall provide field experiences and student teaching opportunities that assist candidates in becoming successful teachers in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.14(1) No change.

79.14(2) Clinical practice for teacher ~~and other professional school personnel~~ candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.14(3) to 79.14(10) No change.

79.14(11) The institution annually offers one or more workshops for all cooperating teachers to define the objectives of the student teaching experience, review the responsibilities of the cooperating teacher, and provide the cooperating teacher other information and assistance the institution deems necessary. The cumulative instructional time for the workshops shall be one school day or the equivalent hours, and the workshops shall utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants.

79.14(12) The institution ~~enters~~ shall enter into a written contract with ~~the~~ each cooperating school providing clinical experiences, including field experiences and student teaching, as stipulated in Iowa Code section 272.27.

ITEM 19. Amend renumbered rule 281—79.15(256) as follows:

281—79.15(256) ~~Candidate Teacher preparation candidate knowledge, skills and dispositions standard.~~ Teacher candidates shall demonstrate the content, knowledge and the pedagogical, and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.15(1) to 79.15(9) No change.

EDUCATION DEPARTMENT[281](cont'd)

79.15(10) Candidates seeking an ~~endorsement in elementary education~~ initial Iowa teaching license demonstrate competency in ~~content~~ coursework directly related to the ~~curricula commonly taught in Iowa elementary schools~~ Iowa core curriculum.

ITEM 20. Rescind rules 281—79.16(256) and 281—79.17(256) and adopt the following new rules in lieu thereof:

281—79.16(256) Administrator preparation clinical practice standard. The unit and its school partners shall provide clinical experiences that assist candidates in becoming successful school administrators in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.16(1) Clinical practice for administrator candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.16(2) Each administrator candidate participates in field experiences that include both observation and involvement in management and leadership responsibilities. Programs document clinical expectations at various developmental levels. Clinical expectations are directly linked to coursework throughout the program, reflect collaboration among program faculty, and are shared with candidates, supervisors and cooperating administrators.

79.16(3) Environments for clinical practice support learning in context and include all of the following:

- a. Scheduling and use of time and resources to allow candidates to participate with administrators and other practitioners and learners in the school setting.
- b. Administrator candidate learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school or educational facility.
- c. Opportunities for administrator candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.
- d. The involvement of administrator candidates in relevant responsibilities directed toward the improvement of teaching and learning to include demonstration of the capacity to facilitate the use of formative and summative assessment data in effecting student learning within their schools.

79.16(4) The field experience component for initial administrator licensure meets all of the following requirements:

- a. Includes experience for a minimum of 400 hours during each candidate's preparation program.
- b. Takes place in multiple educational settings that include diverse populations and students of different age groups.
- c. Takes place with appropriately licensed cooperating administrators.
- d. Includes communication among institution personnel, the candidate, and the cooperating administrator regarding candidate progress.
- e. Includes prescribed minimum expectations and responsibilities of the candidate for both leadership and managerial tasks as well as ethical behavior.
- f. Includes minimum expectations and responsibilities for the participating entities: cooperating administrators, school districts, accredited nonpublic schools, AEAs, and higher education supervising faculty members.
- g. Involves the candidate in professional meetings and other school-based activities directed toward the improvement of teaching and learning.
- h. Involves the candidate in communication and interaction with parents or guardians, community members, faculty and staff, and the cooperating administrator in the school.

79.16(5) PK-12 school and institution professionals share responsibility for the selection of cooperating administrators who demonstrate skills, knowledge, and dispositions appropriate for administrator practitioners.

EDUCATION DEPARTMENT[281](cont'd)

79.16(6) The unit is responsible for all of the following:

- a. Defining qualifications for candidates entering clinical practice and for cooperating administrators who mentor candidates in their clinical experiences.
- b. Providing quality supervision that includes primary responsibility for communication/collaboration with cooperating administrators and candidates.
- c. Responding to specific needs of cooperating schools.
- d. Selection, training, evaluation and support of institution faculty members who supervise administrator candidates.
- e. Selection, training, evaluation and support of school administrators who mentor administrator candidates.

79.16(7) Each administrator candidate develops and demonstrates the capacity to utilize assessment data in effecting student learning within the candidate's school(s).

79.16(8) Accountability for field experiences is demonstrated through the following:

- a. Collaboration between the cooperating administrator and the institution supervisors in formative evaluation of candidates to include identifying areas for improvement, developing and implementing plans for improvement, and determining final evaluation of the candidates.
- b. Use of authentic performance measures appropriate to the required assignments in the clinical experiences, with written documentation and completed evaluation forms included in administrator candidates' permanent institutional records.

79.16(9) The institution annually delivers one or more professional development opportunities for cooperating administrators to define the objectives of the field experience, review the responsibilities of cooperating administrators, build skills in coaching and mentoring, and provide cooperating administrators other information and assistance the institution deems necessary. The professional development opportunities shall utilize delivery strategies identified as appropriate for professional development and reflect information gathered through feedback from workshop participants.

79.16(10) The institution shall enter into a written contract with each cooperating school district or AEA that provides field experiences for administrator candidates as stipulated in Iowa Code section 272.27.

281—79.17(256) Administrator candidate knowledge, skills, and dispositions standard. Administrator candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.17(1) Each administrator candidate shall demonstrate through coursework the knowledge, skills and dispositions necessary to meet the following Iowa Standards for School Leaders (ISSL), at a level appropriate for a novice administrator:

- a. Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community (ISSL Standard 1: Shared Vision). Each administrator candidate:
 - (1) In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.
 - (2) Uses research and best practices in improving the educational program.
 - (3) Articulates and promotes high expectations for teaching and learning.
 - (4) Aligns and implements the educational programs, plans, actions, and resources with the district's vision and goals.
 - (5) Provides leadership for major initiatives and change efforts.
 - (6) Communicates effectively to various stakeholders regarding progress with school improvement plan goals.

EDUCATION DEPARTMENT[281](cont'd)

b. Advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development (ISSL Standard 2: Culture of Learning). Each administrator candidate:

- (1) Provides leadership for assessing, developing and improving climate and culture.
- (2) Systematically and fairly recognizes and celebrates accomplishments of staff and students.
- (3) Provides leadership, encouragement, opportunities and structure for staff to continually design more effective teaching and learning experiences for all students.
- (4) Monitors and evaluates the effectiveness of curriculum, instruction and assessment.
- (5) Evaluates staff and provides ongoing coaching for improvement.
- (6) Ensures that staff members receive professional development that directly enhances their performance and improves student learning.
- (7) Uses current research and theory about effective schools and leadership to develop and revise the administrator's professional growth plan.
- (8) Promotes collaboration with all stakeholders.
- (9) Is easily accessible and approachable to all stakeholders.
- (10) Is highly visible and engaged in the school community.
- (11) Articulates the desired school culture and shows evidence about how it is reinforced.

c. Ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment (ISSL Standard 3: Management). Each administrator candidate:

- (1) Complies with state and federal mandates and local board policies.
- (2) Recruits, selects, inducts, and retains staff to support quality instruction.
- (3) Addresses current and potential issues in a timely manner.
- (4) Manages fiscal and physical resources responsibly, efficiently, and effectively.
- (5) Protects instructional time by designing and managing operational procedures to maximize learning.
- (6) Communicates effectively with both internal and external audiences about the operations of the school.

d. Collaborating with families and community members, responding to diverse community interests and needs and mobilizing community resources (ISSL Standard 4: Family and Community). Each administrator candidate:

- (1) Engages family and community by promoting shared responsibility for student learning and support of the education system.
- (2) Promotes and supports a structure for family and community involvement in the education system.
- (3) Facilitates the connections of students and families to the health and social services that support a focus on learning.
- (4) Collaboratively establishes a culture that welcomes and honors families and community and seeks ways to engage them in student learning.

e. Acting with integrity, fairness and in an ethical manner (ISSL Standard 5: Ethics). Each administrator candidate:

- (1) Demonstrates ethical and professional behavior.
- (2) Demonstrates values, beliefs, and attitudes that inspire others to higher levels of performance.
- (3) Fosters and maintains caring professional relationships with staff.
- (4) Demonstrates appreciation for and sensitivity to diversity in the school community.
- (5) Is respectful of divergent opinions.

f. Understanding the profile of the community and responding to, and influencing, the larger political, social, economic, legal and cultural context (ISSL Standard 6: Societal Context). Each administrator candidate:

- (1) Collaborates with service providers and other decision makers to improve teaching and learning.
- (2) Advocates for the welfare of all members of the learning community.
- (3) Designs and implements appropriate strategies to reach desired goals.

EDUCATION DEPARTMENT[281](cont'd)

79.17(2) Each new administrative candidate successfully completes the appropriate evaluator training based on the Iowa teaching standards and ISSL standards provided by a state-approved evaluator trainer.

79.17(3) Each administrator candidate demonstrates the knowledge, skills, and dispositions necessary to support the implementation of the Iowa core curriculum.

79.17(4) Each administrator candidate demonstrates acquisition of knowledge about and skill in interpersonal and intergroup relations that contribute to the development of sensitivity to and understanding of the values, beliefs, cultures, and attitudes of individuals and the diverse groups found in a pluralistic society. The program shall provide evidence of candidates' attainment of such knowledge and skills through the integration of these human relations and cultural competency issues within the program's coursework.

79.17(5) Each administrator candidate demonstrates, within specific coursework dedicated to understanding exceptional learners, in other coursework, and in clinical experiences, the knowledge, skills, and dispositions necessary to meet the learning needs of all students, including students from diverse ethnic, racial, and socioeconomic backgrounds, students with disabilities, students who are gifted and talented, English language learners, and students who may be at risk of not succeeding in school.

79.17(6) Each administrator candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended, as well as standards developed by national professional organizations as appropriate for specific endorsement areas. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

ITEM 21. Reserve rule **281—79.18(256)**.

ITEM 22. Adopt **new** 281—Chapter 79, Division V heading, as follows:

DIVISION V
SPECIFIC EDUCATION STANDARDS APPLICABLE ONLY TO PRACTITIONER PREPARATION PROGRAMS
OTHER THAN TEACHER OR ADMINISTRATOR PREPARATION PROGRAMS

ITEM 23. Adopt the following **new** rules 281—79.19(256) to 281—79.21(256):

281—79.19(256) Purpose. This division addresses preparation of an individual seeking a license based on school-centered preparation for employment as one of the following: school guidance counselor, school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support and orientation and mobility specialist). (See also the board of educational examiners' 282—Chapter 15, regarding licenses for service other than as a teacher.)

281—79.20(256) Clinical practice standard. The unit and its school, AEA, and facility partners shall provide clinical experiences that assist candidates in becoming successful practitioners in accordance with the following provisions. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.20(1) Clinical practice for candidates supports the development of knowledge, dispositions, and skills that are identified in the unit standards. The unit ensures that clinical experiences occurring in all locations are well-sequenced, supervised by appropriately qualified personnel, monitored by the unit, and integrated into the conceptual framework of the program.

79.20(2) Candidates participate in clinical/field experiences that include both observation and involvement in professional responsibilities. Programs document clinical expectations at various developmental levels. Clinical expectations are directly linked to coursework throughout the program, reflect collaboration among program faculty, and are shared with candidates, supervisors and cooperating mentors.

79.20(3) Environments for clinical/field practice support learning in context and include all of the following:

EDUCATION DEPARTMENT[281](cont'd)

a. Scheduling and use of time and resources to allow candidates to participate with practitioners and learners in the school/agency/facility setting.

b. Learning that takes place in the context of providing high-quality instructional programs for students in a state-approved school, agency, or educational facility.

c. Opportunities for candidates to observe and be observed by others and to engage in discussion and reflection on clinical practice.

d. The involvement of candidates in relevant responsibilities directed toward the work for which they are preparing.

79.20(4) PK-12 school, AEA, or facility professionals share responsibility for the selection of cooperating mentors who demonstrate appropriate skills, knowledge, and dispositions.

79.20(5) The unit is responsible for all of the following:

a. Defining qualifications for candidates entering clinical practice and for cooperating mentors who support candidates in their clinical experiences.

b. Providing quality supervision that includes primary responsibility for communication/collaboration with cooperating mentors and candidates.

c. Responding to specific needs of cooperating schools and agencies.

d. Selection, training, evaluation and support of institution faculty members who supervise candidates.

79.20(6) Accountability for clinical experiences is demonstrated through the following:

a. Collaboration between the cooperating mentor and the college/university supervisors in formative evaluation of candidates to include identifying areas for improvement, developing and implementing plans for improvement, and determining final evaluation of the candidates.

b. Use of authentic performance measures appropriate to the required assignments in the clinical experiences, with written documentation and completed evaluation forms included in candidates' permanent institutional records.

79.20(7) The institution shall enter into a written contract with each cooperating school district, AEA, or facility that provides field experiences for candidates as stipulated in Iowa Code section 272.27.

281—79.21(256) Candidate knowledge, skills, and dispositions standard. Candidates shall demonstrate the content knowledge and the pedagogical and professional knowledge, skills and dispositions necessary to help all students learn in accordance with the provisions of the appropriate professional standards. All provisions of this standard shall be demonstrated appropriately and equitably for all programs regardless of delivery model, including programs delivered by distance learning and programs offered on campus, off campus, and through any other model of delivery.

79.21(1) Each candidate demonstrates acquisition of knowledge about and skill in interpersonal and intergroup relations that contribute to the development of sensitivity to and understanding of the values, beliefs, cultures, and attitudes of individuals and the diverse groups found in a pluralistic society. The program shall provide evidence of candidates' attainment of such knowledge and skills through the integration of these human relations and cultural competency issues within the program's coursework.

79.21(2) Each candidate meets all requirements established by the board of educational examiners for any endorsement for which the candidate is recommended, including the professional service license. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

ARC 7781B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 98, "Financial Management of Categorical Funding," Iowa Administrative Code.

This chapter provides guidance in a single document for school districts and area education agencies on financial management of funding pursuant to Iowa Code section 256.9(18), and for auditors examining the financial condition and transactions of school districts and area education agencies pursuant to Iowa Code section 11.6(1)"a"(1).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed rules on or before June 9, 2009, at 4:30 p.m. Comments on the proposed rules should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

A public hearing will be held on June 9, 2009, from 9 to 10 a.m. at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5296.

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670 and sections 11.6(1)"a"(1), 256C.4(1)"c," and 256D.4(3).

The following amendment is proposed.

Adopt the following **new** 281—Chapter 98:

CHAPTER 98
FINANCIAL MANAGEMENT OF CATEGORICAL FUNDING

DIVISION I
GENERAL PROVISIONS

281—98.1(256,257) Definitions. For the purposes of this chapter, the following definitions apply:

"Budgetary allocation" means the portion of the funding that is specifically earmarked for a particular purpose or designated program and which, in the case of the general fund, has been rolled into, or added to, the school district cost per pupil or school district regular program cost. Budgetary allocations may include both state aid and property tax. Budgetary allocations increase budget authority on the first day of the fiscal year for which the allocation has been certified or on the date that the school budget review committee approves modified allowable growth for a specific purpose or program; the budget authority remains even if the full amount of revenue is not received or if the local board does not levy a cash reserve. There is no assumption that a school district or area education agency will receive the same amount of revenue as it has received in budget authority due to delinquent property taxes, cuts in state aid, or legislative decisions to fund other instructional programs off the top of state aid. The school district or area education agency must expend the full amount of budget authority for the specific purposes for which it was earmarked. When the school district or state cost per pupil is transferred from one school district to another school district in the form of tuition as required by the

EDUCATION DEPARTMENT[281](cont'd)

Iowa Code, any budgetary allocation that is included in the school district or state cost per pupil shall be considered transferred to the receiving school district and shall be expended for the specific purpose for which it was earmarked.

“Categorical funding” means financial support from state and federal governments that is targeted for particular categories of students, special programs, or special purposes. This support is in addition to school district or area education agency general purpose revenue, is beyond the basic educational program, and most often has restrictions on its use. Where categorical funding requires a local match, that local match also is considered to be categorical funding. Categorical funding includes both grants in aid and budgetary allocations. Although grants in aid and budgetary allocations are both categorical funding, they are defined separately to distinguish unique characteristics of each type of categorical funding.

“Grants in aid” means financial support, usually from state or federal appropriations, that is either allocated to the school district or area education agency or for which a school district or area education agency applies. This support is paid separately from state foundation aid. In the general fund, grants in aid become miscellaneous income and increase budget authority when the support is received as revenue.

“Supplement, not supplant” means that the categorical funding shall be in addition to general purpose revenues; that categorical funding shall not be used to provide services required by federal or state law, administrative rule, or local policy; and that general purpose revenues shall not be diverted for other purposes because of the availability of categorical funding. Supplanting is presumed to have occurred if the school district or area education agency uses categorical funding to provide services that it was required to make available under other categorical funding or law, or uses categorical funding to provide services that it provided in prior years from general purpose revenues, or uses categorical funding to provide services to a particular group of children or programs that it uses general purpose revenues to provide the same or similar services to other groups of children or programs. These presumptions are rebuttable if the school district or area education agency can demonstrate that it would not have provided the services in question with general purpose revenues if the categorical funding had not been available.

281—98.2(256,257) General finance. The categorical funding provided for various purposes to school districts and area education agencies includes general financial characteristics that are detailed in the following subrules.

98.2(1) Indirect cost recovery. Categorical funding provided by the state to school districts or area education agencies is not eligible for indirect cost recovery unless the Iowa Code section authorizing the funding or allocation expressly states that indirect cost recovery is permitted from that source. If the Iowa Code permits indirect cost recovery, the school district or area education agency shall utilize its restricted indirect cost rate developed by the department for federal programs from data submitted by the school district or area education agency on its certified annual report.

98.2(2) Restriction on supplanting. Categorical funding shall supplement, but shall not supplant, expenditures in the appropriate fund into which the categorical funding is deposited and accounted for, unless the Iowa Code section authorizing the funding or allocation expressly states that supplanting is permitted from that source.

98.2(3) Mandatory carryforward. Any portion of categorical funding provided by the state that is not expended by the end of the fiscal year in which it was received by or for which it was allocated to the school district or area education agency shall be carried forward as a reserved fund balance and added to the subsequent year’s budget for that purpose. The funding can only be expended for the purposes permitted for that categorical funding. Where a local match is required for categorical funding, the amount unexpended at the end of the fiscal year that is carried forward shall not be used as part of the required local match.

98.2(4) Discontinued funding. In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency shall carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes which were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period.

EDUCATION DEPARTMENT[281](cont'd)

98.2(5) Expenditures. Expenditures from categorical funding shall be limited to direct costs of providing the program or service for which the funding was intended. Expenditures shall not include costs that are allocated costs or that are considered indirect costs or overhead. Expenditures for the functions of administration, business and central services, operation and maintenance of plant, transportation, enterprise and community service operations, facility acquisition and construction, or debt service generally are not allowed from categorical funding unless expressly allowed by the Iowa Code or if the expenditure represents a direct, allowable cost. In order for costs of administration, business and central services, operation and maintenance of plant, transportation, or enterprise and community service operations to be considered direct costs, the costs must be necessary because of something that is unique to the program that is causing the need for the service, not otherwise needed or not otherwise provided to similar programs; the costs must be in addition to those which are normally incurred; and the costs must be measureable directly without allocating. Where a local match is required for categorical funding, that local match requirement shall not be met by the use of other categorical funding except where expressly allowed by the Iowa Code. Expenditures shall not include reimbursing the school district or area education agency for expenditures it paid in a previous year in excess of the funding available for that year.

98.2(6) Restriction on duplication. The school district or area education agency shall not charge the same cost to more than one funding source.

98.2(7) Excess expenditures. The school district or area education agency shall not charge to categorical funding more expenditures than the total of the current year's funding or allocation plus any carryforward balance from the previous year.

98.2(8) Commingling prohibited. Categorical funding shall not be commingled with other funding. All categorical funding shall be accounted for separately from other funding. School districts and area education agencies shall use a project code and program code as defined by Uniform Financial Accounting for Iowa School Districts and Area Education Agencies, as appropriate or required.

281—98.3 to 98.10 Reserved.

DIVISION II
APPROPRIATE USE OF BUDGETARY ALLOCATIONS

281—98.11(257) Categorical and noncategorical student counts. The certified enrollment data collection includes both student counts related to budgetary allocations for the subsequent budget year that are provided for the purpose of offering a program that is in addition to the basic educational program for a specific category of students and student counts that are general in nature and can be used for any legal general fund purpose. Student counts that are general in nature are used to generate funding through the school aid foundation formula and are not intended to fund a specific program or a specific category of students. General student counts include the basic enrollment of full-time resident students.

Counts for part-time nonpublic students participating in public school classes pursuant to Iowa Code section 257.6(3) and counts for part-time dual enrolled competent private instruction students in grades 9 through 12 are the full-time equivalent enrollment of a regularly enrolled student. Counts for dual enrolled competent private instruction students in grades lower than grade 9 are the legislatively set equivalent of a regularly enrolled full-time student. Counts for part-time nonpublic students and for part-time dual enrolled competent private instruction students in grades 9 through 12 who participate in the postsecondary enrollment option Act classes are the full-time equivalent of a regularly enrolled student based on cost. Because these counts are the full-time equivalent of a regularly enrolled student, and are not in addition to the full-time equivalent, the funding generated within the school aid foundation formula based on these counts is considered general in nature.

Student counts related to categorical budgetary allocations are those that generate funding intended to be used for only that specific category of students being counted or for the specific program for which the additional counts are authorized in the Iowa Code.

EDUCATION DEPARTMENT[281](cont'd)

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students that is provided outside the basic educational program that is provided to regularly enrolled students by the school district.

98.12(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services. Appropriate uses of HSAP funding include, but are not limited to, the following:

a. Salary and benefits for the teacher of HSAP students. If the teacher is a part-time HSAP teacher and a part-time regular classroom teacher, then the portion of time that is related to HSAP may be charged to the program, but the portion of time that is related to the regular classroom shall not.

b. Staff development for the HSAP teacher.

c. Travel for the HSAP teacher.

d. Resources, materials, software, supplies, and purchased services that:

(1) Are necessary to provide the services of home school assistance, and

(2) Will remain with the school district for its K-12 home school assistance program.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs; capital expenditures; student transportation; administrative costs; dual enrollment program costs, including postsecondary enrollment options Act classes, even if for the same student who is in HSAP; or any other expenditures not directly related to HSAP. The HSAP shall not provide moneys or resources paid for with HSAP funding to parents or students utilizing the program.

281—98.13(256C,257) Statewide voluntary four-year-old preschool program. The statewide voluntary four-year-old preschool program is a program for a specific category of students. Funding for the program is for the purpose of providing a high-quality early learning environment for four-year-old children whose families choose to access such programs.

98.13(1) *Appropriate uses of categorical funding.* Because the program is specifically instructional, expenditures generally are limited to the functions of instruction, student support services and staff support services, but include expenditures required in 281—Chapter 16.

98.13(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the statewide voluntary four-year-old preschool program funding include, but are not limited to, indirect costs or use charges, capital expenditures other than equipment, facility acquisition, debt service, operational or maintenance costs or administrative costs that supplant, or any other expenditures not directly related to providing the statewide voluntary four-year-old preschool program or that supplant existing public funding for preschool programming.

281—98.14(257) Supplementary weighting. Supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of students and staff between school districts and providing postsecondary opportunities for qualified students. It is assumed that supplementary weighting covers only a portion of the costs of sharing or providing postsecondary opportunities and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the supplementary weighting funding separate from the general purpose revenues.

281—98.15(257) Operational function sharing supplementary weighting. Operational function sharing supplementary weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting sharing of management-level staff. It is assumed that operational function sharing supplementary weighting covers only a portion of the costs of sharing management-level staff and shall be fully expended within the five-year period of sharing. Therefore, school districts are not required to account for the operational function sharing supplementary weighting funding separate from the general purpose revenues.

EDUCATION DEPARTMENT[281](cont'd)

281—98.16(257,280) Limited English proficiency (LEP) weighting. Limited English proficiency weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of providing funding for the excess costs of instruction of limited English proficiency students above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant modified allowable growth to continue funding of the excess costs beyond the four years of weighting. Funding for the limited English proficiency weighting and the modified allowable growth for limited English proficiency programs are both categorical funding and may have different restrictions than the federal limited English proficiency funding.

98.16(1) *Appropriate uses of categorical funding.* Appropriate uses of funding for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures include, but are not limited to, salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in limited English proficiency programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of limited English proficiency students and community services specific to limited English proficiency.

98.16(2) *Inappropriate uses of categorical funding.* Inappropriate uses of funding for the limited English proficiency program include, but are not limited to, indirect costs, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the limited English proficiency program beyond the scope of the regular classroom.

281—98.17(256B,257) Special education weighting. Special education weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of students. Further information on the special education program is provided in 281—Chapter 41.

281—98.18(257) At-risk formula supplementary weighting. At-risk formula supplementary weighting provides funding in addition to the student count that generates general purpose revenues for the purpose of providing additional instruction and services to an identified group of at-risk and alternative school secondary students pursuant to Iowa Code section 257.11(4) “a.”

98.18(1) *Appropriate uses of categorical funding.* Appropriate uses of at-risk formula supplementary weighting funding include costs to develop or maintain at-risk pupils’ programs, which may include alternative school programs, and include, but are not limited to:

a. Salary and benefits for the teacher(s) of students participating in the at-risk or alternative school programs and salary and benefits for guidance counselors or a dean of students dedicated to working directly and exclusively with identified students beyond the services provided by the school district to students that are not identified as at risk. If the teacher (or counselor) is part-time at-risk and part-time regular classroom teacher (counselor), then the portion of time that is related to the at-risk program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with at-risk students and programs involving intervention strategies.

c. Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students at risk,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district’s at-risk program plan, and
- (4) Will remain with the K through 12 at-risk program.

98.18(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the at-risk formula supplementary weighting funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation,

EDUCATION DEPARTMENT[281](cont'd)

administrative costs other than those related to a separate school located off site and where the administrator is assigned exclusively to this program, or any other expenditures not directly related to providing the at-risk or alternative school program beyond the scope of the regular classroom program.

281—98.19(257) Reorganization incentive weighting. Reorganization incentive weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of incenting reorganization of school districts to increase student learning opportunities. It is assumed that reorganization incentive weighting covers only a portion of the costs of reorganizing and shall be fully expended within the fiscal year. Therefore, school districts are not required to account for the reorganization incentive weighting funding separate from the general purpose revenues.

281—98.20(257) Gifted and talented program. Gifted and talented program funding is included in the school district cost per pupil calculated for each school district under the school foundation formula. The per-pupil amount increases each year by the allowable growth percentage. This amount must account for not more than 75 percent of the school district's total gifted and talented program budget. The school district must also provide a local match from the school district's regular program district cost and the local match portion must be a minimum of 25 percent of the total gifted and talented program budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the gifted and talented program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

The purpose of the gifted and talented funding described in Iowa Code section 257.46 is to provide for identified gifted students' needs beyond those provided by the regular school program pursuant to each gifted student's individualized plan. The funding shall be used only for expenditures that are directly related to providing the gifted and talented program.

98.20(1) *Appropriate uses of categorical funding.* Appropriate uses of the gifted and talented program funding include, but are not limited to:

a. Salary and benefits for the teacher of gifted and talented students. If the teacher is a part-time gifted and talented and a part-time regular classroom teacher, then the portion of time that is related to the gifted and talented program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

b. Staff development for the gifted and talented teacher.

c. Resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed on the gifted students' individualized plans, and
- (4) Will remain with the K through 12 gifted and talented program.

98.20(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the gifted and talented program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the gifted and talented program beyond the scope of the regular classroom.

281—98.21(257) Returning dropout and dropout prevention program. Returning dropout and dropout prevention programs are funded through a school district-initiated request to the school budget review committee for modified allowable growth pursuant to Iowa Code sections 257.38 to 257.41. This amount must account for not more than 75 percent of the school district's total dropout prevention budget. The school district must also provide a local match from the school district's regular program district cost, and the local match portion must be a minimum of 25 percent of the total dropout prevention budget. In addition, school districts may receive donations and grants, and the school district may contribute more local school district resources toward the program. The 75 percent portion, the local match, and all donations and grants shall be accounted for as categorical funding.

EDUCATION DEPARTMENT[281](cont'd)

98.21(1) Purpose of categorical funding. The purpose of the dropout prevention funding is to provide funding to meet the needs of identified students at risk of dropping out of school beyond the instructional program and services provided by the regular school program. The funding shall be used only for expenditures that are directly related to the returning dropout and dropout prevention program.

a. Returning dropouts are resident pupils who have been enrolled in a public or nonpublic school in any of grades 7 through 12 who withdrew from school for a reason other than transfer to another school or school district and who subsequently reenrolled in a public school in the school district.

b. Potential dropouts are resident pupils who are enrolled in a public or nonpublic school who demonstrate poor school adjustment as indicated by two or more of the following:

- (1) High rate of absenteeism, truancy, or frequent tardiness.
- (2) Limited or no extracurricular participation or lack of identification with school, including but not limited to expressed feelings of not belonging.
- (3) Poor grades, including but not limited to failing in one or more school subjects or grade levels.
- (4) Low achievement scores in reading or mathematics which reflect achievement at two years or more below grade level.
- (5) Children in grades kindergarten through 3 who meet the definition of at-risk children adopted by the department of education.

98.21(2) Appropriate uses of categorical funding. Appropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to:

a. Salary and benefits for the teacher(s) of students participating in the dropout prevention programs, alternative programs, and alternative schools, and salary and benefits for guidance counselors or a dean of students dedicated to working directly and exclusively with identified students beyond the services provided by the school district to students who are not identified as at risk of becoming dropouts. If the teacher (or counselor) is a part-time dropout prevention and part-time regular classroom teacher (counselor), then the portion of time that is related to the dropout prevention program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

b. Professional development for all teachers and staff working with at-risk students and programs involving dropout prevention strategies.

c. Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

- (1) Meet the needs of K through 12 identified students at risk of dropping out or returning dropouts,
- (2) Are beyond those provided by the regular school program,
- (3) Are necessary to provide the services listed in the school district's dropout prevention plan, and
- (4) Will remain with the K through 12 returning dropout and dropout prevention program.

98.21(3) Inappropriate uses of categorical funding. Inappropriate uses of the returning dropout and dropout prevention program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs other than those related to a separate school located off site and where the administrator is assigned exclusively to this program, or any other expenditures not directly related to providing the returning dropout and dropout prevention program beyond the scope of the regular classroom.

281—98.22(257) Use of the unexpended general fund balance. The unexpended general fund balance is commonly called the secretary's balance and refers to the fund balance remaining in the general fund at the end of the fiscal year.

98.22(1) Authorization required. The school budget review committee may authorize a school district to spend a reasonable and specified amount from its unexpended general fund balance for either of the following purposes:

a. Furnishing, equipping, and contributing to the construction of a new building or structure for which the voters of the school district have approved a bond issue as provided by law or the tax levy provided in Iowa Code section 298.2.

EDUCATION DEPARTMENT[281](cont'd)

b. The costs associated with the demolition of an unused school building, or the conversion of an unused school building for community use, in a school district involved in a dissolution or reorganization under Iowa Code chapter 275, if the costs are incurred within three years of the dissolution or reorganization.

98.22(2) *Appropriate uses of categorical funding.* Appropriate uses of the unexpended general fund balance include a transfer from the general fund to the capital projects fund in the amount approved by the school budget review committee. The moneys in the capital projects fund shall be used exclusively for furnishing, equipping or constructing a new building or for demolishing an unused building.

98.22(3) *Inappropriate uses of categorical funding.* Inappropriate uses of the unexpended general fund balance include, but are not limited to, expenditures for salaries or recurring costs.

98.22(4) *Mandatory reversion of unused funding.* The portion of the unexpended general fund balance which is authorized to be transferred and expended shall increase budget authority. However, any part of the amount not actually spent for the authorized purpose shall revert to its former status as part of the unexpended general fund balance, and budget authority will be reduced by the amount not actually spent.

281—98.23(256D,257) Iowa early intervention block grant. Beginning with the fiscal year 2009-2010, the Iowa early intervention block grant program is converted from a grants in aid categorical funding to a budgetary allocation categorical funding. The program's goals for kindergarten through grade 3 are to provide the resources needed to reduce class sizes in basic skills instruction to the state goal of 17 students for every one teacher; provide direction and resources for early intervention efforts by school districts to achieve a higher level of student success in the basic skills, especially reading skills; and increase communication and accountability regarding student performance.

98.23(1) *Appropriate uses of categorical funding.* Appropriate uses of the Iowa early intervention block grant funding include providing programs, instructional support, and materials at the kindergarten through grade 3 level that include but are not limited to the following:

- a. Additional licensed instructional staff;
- b. Additional support for students, such as before- and after-school programs, tutoring, and intensive summer programs;
- c. The acquisition and administration of diagnostic reading assessments;
- d. The implementation of research-based instructional intervention programs for students needing additional support;
- e. The implementation of all-day, everyday kindergarten programs; and
- f. The provision of intensive training programs to classroom teachers to improve reading instruction and professional development in best practices.

98.23(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the Iowa early intervention block grant program funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures other than equipment, student transportation, or administrative costs.

281—98.24(257,294A) Educational excellence, Phase II. Beginning with the fiscal year 2009-2010, the educational excellence Phase II program is converted from a grants in aid categorical funding to a budgetary allocation categorical funding. Phase II of the educational excellence program is for the purpose of improving teacher salaries. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district, and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the educational excellence Phase II program funding is limited to additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, payments on the additional salary. Educational excellence Phase II program funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not

EDUCATION DEPARTMENT[281](cont'd)

be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the educational excellence Phase II program funding include any expenditures other than additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, payments on the additional salary.

281—98.25(257,284) Educator quality basic salary. Beginning with the fiscal year 2009-2010, the educator quality basic salary program is converted from a grants-in-aid categorical funding to a budgetary allocation categorical funding. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district, and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.25(1) *Appropriate use of categorical funding.* Appropriate use of the educator quality basic salary program funding is limited to additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, a pension and annuity retirement system established under Iowa Code chapter 294, payments on the additional salary, and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code subsection 282.10(4). Educator quality basic salary funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining, and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.25(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the educator quality basic salary program funding include any expenditures other than additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, a pension and annuity retirement system established under Iowa Code chapter 294, payments on the additional salary and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code subsection 282.10(4).

281—98.26(257,284) Educator quality professional development. Beginning with the fiscal year 2009-2010, the educator quality professional development program, including core curriculum professional development, is converted from a grants-in-aid categorical funding to a budgetary allocation categorical funding.

98.26(1) *Appropriate uses of categorical funding.* Appropriate uses of the educator quality professional development funding are limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; costs associated with implementing the individual professional development plans; and payments to a whole grade sharing partner school district as negotiated as part of the new or existing agreement pursuant to Iowa Code subsection 282.10(4). The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, and every reasonable effort to provide equal access to all teachers shall be made.

98.26(2) *Inappropriate uses of categorical funding.* Inappropriate uses of educator quality professional development funding include, but are not limited to, any expenditures that supplant professional development opportunities the school district otherwise makes available.

281—98.27 to 98.39 Reserved.

EDUCATION DEPARTMENT[281](cont'd)

DIVISION III
APPROPRIATE USE OF GRANTS IN AID

281—98.40(256,257,298A) Grants in aid. The state provides a large amount of categorical funding for various purposes to school districts and area education agencies in the form of grants in aid. Only those grants in aid allocated to a substantial number of the school districts and area education agencies through the department of education are included in these rules.

281—98.41(257,294A) Educational excellence, Phase I. Phase I of the educational excellence program is for the purpose of supporting the regular compensation for teachers.

98.41(1) *Appropriate use of categorical funding.* Appropriate use of the educational excellence Phase I program funding is limited to regular salary for teachers and the amount required to pay the employers' share of the federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, payments on the additional regular salary. Educational excellence Phase I program funding is to be fully expended in the fiscal year for which it is allocated.

98.41(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the educational excellence Phase I program funding include any expenditures other than regular salary for teachers and the amount required to pay the employers' share of the federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, payments on the regular salary.

281—98.42(257,284) Beginning teacher mentoring and induction program. The purpose of the beginning teacher mentoring and induction program is to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of teachers.

98.42(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning teacher mentoring and induction program funding include costs to provide each mentor of a beginning teacher with the statutory award for participation in the school district's or area education agency's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district or area education agency.

98.42(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning teacher mentoring and induction program funding include any costs not listed in subrule 98.42(1) as appropriate uses.

281—98.43(257,284A) Beginning administrator mentoring and induction program. The purpose of the beginning administrator mentoring and induction program is to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

98.43(1) *Appropriate uses of categorical funding.* Appropriate uses of the beginning administrator mentoring and induction program funding include costs to provide each mentor with the statutory award for participation in the school district's beginning administrator mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system, or a pension and annuity retirement system established under Iowa Code chapter 294, for such amounts paid by the school district.

98.43(2) *Inappropriate uses of categorical funding.* Inappropriate uses of beginning administrator mentoring and induction program funding shall include any costs that are not listed in subrule 98.43(1) as appropriate uses.

EDUCATION DEPARTMENT[281](cont'd)

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbook" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include, but are not limited to, reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district shall not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

281—98.45 to 98.59 Reserved.

DIVISION IV
APPROPRIATE USE OF SPECIAL TAX LEVIES AND FUNDS

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute shall be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund shall be used as a clearing account for another fund, and no fund may retire the debt of another fund unless specifically authorized in statute.

281—98.61(24,143,257,275,279,280,285,297,298,298A,301,473,670) General fund. All moneys received by a school corporation from taxes and other sources shall be accounted for in the general fund, except moneys required by law to be accounted for in another fund. If another fund specifically lists an expenditure to that other fund, it is assumed not to be appropriate to the general fund unless statute expressly states that it is an appropriate general fund expenditure. Each school district and each area education agency shall have only one general fund.

98.61(1) *Sources of revenue in the general fund.* Sources of revenue in the general fund include all moneys not required by law to be accounted for in another fund and interest on the investment of those moneys. Proceeds from the sale or disposition of property other than real property, proceeds from the lease of real or other property, compensation or rent received for the use of school property, sales of school supplies, and sales or rentals of textbooks shall be accounted for in the general fund. Proceeds for loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20

EDUCATION DEPARTMENT[281](cont'd)

may be accounted for in the general fund. Any revenue or receipt described in law as “miscellaneous income” or related to modified allowable growth is restricted to the general fund.

98.61(2) *Appropriate uses of the general fund.* Appropriate expenditures in the general fund include, but are not limited to, the following:

- a. Providing day-to-day operations to the district or area education agency, such as salaries, employee benefits, purchased services, supplies, and expenditures for instructional equipment.
- b. Purchasing school buses from unobligated funds on hand.
- c. Establishing and maintaining dental clinics for children and offering courses of instruction on oral hygiene.
- d. Employing public health nurses.
- e. Funding insurance agreements if the district has not certified a district management levy.
- f. Purchasing books and other supplies to be loaned, rented, or sold at cost to students.
- g. Purchasing safety eye-protective devices and safety ear-protective devices.
- h. Purchasing bonds and premiums for bonds for employees who have custody of funds belonging to the school district or area education agency or funds derived from extracurricular activities and other sources in the conduct of their duties.
- i. Paying assessed costs related to changes in boundaries, reorganization, or dissolution.
- j. Publishing the notices and estimates and the actual and necessary expenses of preparing the budget.
- k. Engraving and printing school bonds, in the case of a school district.
- l. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48 and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, where the original proceeds were accounted for in the general fund.
- m. Transferring interest and principal to the debt service fund when due for lease purchase agreements related to capital projects authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.
- n. Funding asbestos projects including the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans and record-keeping requirements relating to the presence of asbestos in school buildings and its removal or encapsulation.
- o. Funding energy conservation projects entered into with the department of natural resources or its duly authorized agents or representatives pursuant to Iowa Code section 473.20, in the case of a school district.
- p. Transferring to a capital projects fund as authorized by the school budget review committee, in the case of a school district.
- q. Transferring to a capital projects fund as funds are due to be expended on a capital project authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.
- r. Paying any other costs not required to be accounted for in another fund.

98.61(3) *Inappropriate uses of the general fund.* Inappropriate expenditures in the general fund include the following:

- a. Purchasing land or improvements other than land for student construction projects.
- b. Purchasing or constructing buildings or for capital improvements to real property except under special circumstances authorized by the school budget review committee, in the case of a school district, or except as authorized under Iowa Code subsection 273.3(7), in the case of an area education agency.
- c. Modifying or remodeling school buildings or classrooms even if to make them accessible.
- d. Paying interest and principal on long-term indebtedness for which the original proceeds were not accounted for in the general fund.
- e. Funding lease-purchases.
- f. Purchasing portable buildings.
- g. Paying individuals or private organizations that are not audited and allowed and related to goods received or services rendered.

EDUCATION DEPARTMENT[281](cont'd)

h. Paying other costs that are not operating or current expenditures for public education and are not expressly authorized in the Iowa Code.

98.61(4) *Special levies.* The general fund includes two special levy programs available to school districts, but not to area education agencies, that are restricted by the Iowa Code.

a. Instructional support program. The instructional support program is a district-initiated program to provide additional funding to the district's general fund.

(1) Appropriate uses of instructional support program funding. Moneys received by a district for the instructional support program may be used for any general fund purpose except those listed as inappropriate uses in paragraph "b," subparagraph (2).

(2) Inappropriate uses of instructional support program funding. Moneys received by a district for the instructional support program shall not be used as, or in a manner which has the effect of, supplanting funds authorized to be received under Iowa Code sections 257.41 (returning dropouts and dropout prevention programs), 257.46 (gifted and talented programs), 298.4 (management fund levy), and 298.2 (physical plant and equipment fund levy), or to cover any deficiencies in funding for special education instructional services resulting from the application of the special education weighting plan under Iowa Code section 256B.9.

b. Educational improvement program. The educational improvement program is a district-initiated program available to districts in special circumstances to provide additional funding to the district's general fund if the district already has the instructional support program in place.

(1) Appropriate uses of educational improvement program funding. Moneys received by a district for the educational improvement program may be used for any general fund purpose.

(2) Inappropriate uses of educational improvement program funding. Inappropriate uses of educational improvement program funding include any expenditure not appropriate to the general fund.

281—98.62(279,296,298,670) Management fund. The purpose of this fund is to pay the costs of unemployment benefits; early retirement benefits; insurance agreements; and liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards; and judgments or settlements relating to such liability. The authority to establish a management fund is available to school districts but not to area education agencies.

98.62(1) *Sources of revenue in the management fund.* Sources of revenue in the management fund include a property tax and interest on the investment of those moneys.

98.62(2) *Appropriate uses of the management fund.* Appropriate expenditures in the management fund include the following:

- a.* Costs of unemployment benefits as provided in Iowa Code section 96.31.
- b.* Costs of liability insurance to protect the school districts from tort liability, loss of property, and environmental hazards.
- c.* Costs of a final court judgment entered against the district or a settlement made for a tort liability claim including interest accruing on the judgment or settlement to the expected date of payment.
- d.* Costs, including prepaid costs, of insurance agreements to protect the school districts from tort liability, loss of property, environmental hazards, or other risk associated with operations, but not including employee benefit plans.
- e.* Costs of early retirement benefits to employees under Iowa Code section 279.46 to pay a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging employees to retire before the normal retirement date for employees within the age range of 55 to 65 who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following school calendar.
- f.* Costs of a physical inventory conducted solely for the purpose of insurance.
- g.* Transfers to the debt service fund for payment of principal and interest when due on general obligation bonds issued under Iowa Code section 296.7 to protect the school district from tort liability, loss of property, environmental hazards, or other risk associated with operations.
- h.* Transfers to the appropriate fund for the portion of an insurance claim which was eligible under the insurance agreement but was denied because it was within the deductible limit.

EDUCATION DEPARTMENT[281](cont'd)

98.62(3) *Inappropriate uses of the management fund.* Inappropriate expenditures in the management fund include the following:

- a. Costs for employee health benefit plans.
- b. Costs to conduct physical inventories of property for purposes other than insurance.
- c. Costs to conduct actuarial studies.
- d. Costs for supplies or capital outlay.
- e. Transfer to a trust fund for other postemployment benefit (OPEB) cost or estimated cost calculated pursuant to Governmental Accounting Standards Board (GASB) Statement 45.
- f. Any other costs not expressly authorized in the Iowa Code.

281—98.63(298) Library levy fund. The board of directors of a school district in which there is no free public library may contract with any free public library for the free use of such library by the residents of the school district and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the agreed-upon consideration.

98.63(1) *Sources of revenue in the library levy fund.* Sources of revenue in the library levy fund include a property tax not to exceed \$0.20 per \$1000 of assessed value of the taxable property of the district and interest on the investment of those moneys.

98.63(2) *Appropriate uses of the library levy fund.* Appropriate expenditures in the library levy fund include expenditures necessary to provide a free public library.

98.63(3) *Inappropriate uses of the library levy fund.* Inappropriate expenditures in the library levy fund include the following:

- a. Capital expenditures related to land or buildings.
- b. Debt service.
- c. Any other costs not necessary to provide a free public library.

281—98.64(279,297,298,283) Physical plant and equipment levy (PPEL) fund. The physical plant and equipment levy (PPEL) consists of the regular PPEL not to exceed \$0.33 per \$1000 of assessed valuation and a voter-approved PPEL not to exceed \$1.34 per \$1000 of assessed valuation, for a total of \$1.67. The authority to establish a PPEL fund is available to school districts but not to area education agencies.

98.64(1) *Sources of revenue in the PPEL fund.* Sources of revenue in the PPEL fund include a property tax, income surtax, and interest on the investment of those moneys, and proceeds from loan agreements in anticipation of the collection of the voter-approved property. Proceeds from the condemnation, sale or disposition of real property are revenue to the PPEL fund. Proceeds from loans for equipment pursuant to Iowa Code section 279.48, federal loans for asbestos projects pursuant to Iowa Code section 279.52, or loans for energy conservation projects pursuant to Iowa Code section 473.20 may be accounted for in the PPEL fund. If the school board intends to enter into a rental, lease, or loan agreement, only a property tax shall be levied for those purposes.

98.64(2) *Appropriate uses of the PPEL fund.* Appropriate expenditures in the PPEL fund include the following:

- a. Purchase of grounds including the legal costs relating to the property acquisition, costs of surveys of the property, costs of relocation assistance under state and federal law, and other costs incidental in the property acquisition.
- b. Improvement of grounds including grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements.
- c. Construction of schoolhouses or buildings.
- d. Construction of roads to schoolhouses or buildings.

EDUCATION DEPARTMENT[281](cont'd)

e. Purchasing, leasing, or lease-purchasing a single unit of equipment or a single unit of technology exceeding \$500 in value per unit. "Single unit of equipment" means both equipment and furnishings and does not include bulk purchases or multiple purchases of units. The cost limitation for a single unit of equipment does not apply to recreational equipment or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air-conditioning units that are included in repairs to a building.

f. Transferring to debt service for payments when due of debts contracted for the erection or construction of schoolhouses or buildings, not including interest on bonds.

g. Procuring or acquisition of library facilities.

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. "Repairing" means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. "Reconstructing" means rebuilding or restoring as an entity a thing which was lost or destroyed.

i. Energy conservation projects.

j. Transferring interest and principal to the debt service fund when due for loans to purchase equipment authorized under Iowa Code section 279.48, for loans in anticipation of the collection of the voter-approved property under Iowa Code section 297.36, and loans to be used for energy conservation measures under Iowa Code section 473.20, in the case of a school district, when the original proceeds were accounted for in the PPEL fund.

k. The rental of facilities under Iowa Code chapter 28E.

l. Purchase of transportation equipment for transporting students.

m. Purchase of buildings or lease-purchase option agreements for school buildings.

n. Purchase of equipment for recreational purposes.

o. Payments to a municipality or other entity as required under Iowa Code section 403.19, subsection 2.

p. Asbestos projects including costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, development of management plans and record-keeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

q. Purchase, erect, or acquire a building for use as a school meal facility, and equip a building for that use.

98.64(3) *Inappropriate uses of the PPEL fund.* Inappropriate expenditures in the PPEL fund include the following:

a. Student construction.

b. Salaries and benefits.

c. Travel.

d. Supplies.

e. Facility, vehicle, or equipment maintenance.

f. Printing costs or media services.

g. Any other purpose not expressly authorized in the Iowa Code.

281—98.65(276,300) Public educational and recreational levy (PERL) fund. Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and on the grounds of the district. Financial support for the community education program shall be provided from funds raised pursuant to Iowa Code chapter 300 and from any private funds and any federal funds made available for the purpose of implementing community education. The authority to establish a PERL levy is available to school districts but not to area education agencies.

98.65(1) *Sources of revenue in the PERL fund.* Sources of revenue in the PERL fund include a property tax levy not to exceed \$0.135 per \$1000 of assessed valuation, any appropriation by the agencies

EDUCATION DEPARTMENT[281](cont'd)

involved in a cooperative effort under Iowa Code chapter 28E, federal grants, donations, and interest on the investment of those moneys.

98.65(2) *Appropriate uses of the PERL fund.* Appropriate expenditures in the PERL fund include the following:

a. Establishing and maintaining free public recreation places and playgrounds, including necessary accommodations.

b. Providing free public educational and recreational activities.

c. Establishing and supervising a free community education program.

d. Providing a community education director if a community education program is established.

98.65(3) *Inappropriate uses of the PERL fund.* Inappropriate expenditures in the PERL fund include the following:

a. Programs for which a fee may be charged such as before- and after-school programs and preschool programs.

b. Any other costs not necessary to provide free programs for community education and for public recreation places, playgrounds, and programs.

281—98.66(257,279,298A,565) District support trust fund. The district support trust fund is used to account for moneys received in trust where those moneys, both principal and interest, are to benefit the school district. The school district or area education agency shall not transfer its own resources to a district support trust fund. If the school district or area education agency has more than one district support trust, it will use locally assigned project codes pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to identify the different trusts in the same fund. The district support trust fund is not an irrevocable trust. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in the district support trust fund. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility as the trustee.

98.66(1) *Sources of revenue in the district support trust fund.* Sources of revenue in the district support trust fund include donations of cash, investment instruments, property, and interest on investments held. In a district support trust fund, both principal and interest are available to benefit the school district's programs.

98.66(2) *Appropriate uses of the district support trust fund.* Appropriate expenditures in the district support trust fund include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.66(3) *Inappropriate uses of the district support trust fund.* Inappropriate expenditures in the district support trust fund include transfers to nonprofit or private organizations or any expenditure which is not consistent with the terms of the agreement, legal to a school district, or for the benefit of the school district.

281—98.67(257,279,298A,565) Permanent funds. Permanent funds are used to account for resources received that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the school district's programs. The school district or area education agency shall not transfer its own resources to a permanent fund. The board of directors of the school district must take action to accept or establish each gift, devise, or bequest in permanent funds. It is the board's responsibility to ensure that the terms of the gift, devise, or bequest are compatible with the mission of and legal restrictions on the school district. Once accepted, gifts, devises, and bequests become public funding under the stewardship of the school district. If the purpose for which the moneys are to be spent is not in keeping with the overall objectives of the school district or legal authority of the school district, the board shall not assume responsibility of the moneys.

EDUCATION DEPARTMENT[281](cont'd)

98.67(1) Sources of revenue in the permanent funds. Sources of revenue in the permanent funds include donations of cash, investment instruments, property, and interest on investments held. In permanent funds, only interest is available to benefit the school district's programs.

98.67(2) Appropriate uses of the permanent funds. Appropriate expenditures in the permanent funds include those that are consistent with the terms of the agreement, are legal expenditures to a school district, and are for the benefit of the school district.

98.67(3) Inappropriate uses of the permanent funds. Inappropriate expenditures in the permanent funds include transfers to nonprofit or private organizations, expenditure from principal, or any expenditure which is not consistent with the terms of the agreement, or legal to a school district, or for the benefit of the school district, or any expenditure from the principal portion.

281—98.68(76,274,296,298,298A) Debt service fund. A debt service fund is used to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest. A school district or area education agency shall have only one debt service fund.

98.68(1) Sources of revenue in the debt service fund. Sources of revenue in the debt service fund include the levy on taxable property authorized by the voters pursuant to Iowa Code section 298.21 and necessary to service bonds that mature in the current year, transfers from other funds for payments of interest and principal when due that are required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code, and earnings from temporary investment of moneys in the debt service fund.

98.68(2) Appropriate uses of the debt service fund. Appropriate expenditures in the debt service fund include the following:

a. Payment of principal and interest of the lawful bonded indebtedness maturing in the current year as it becomes due. In determining how much is necessary to service bonds that mature in the current year, the board of directors shall consider the amount of earnings from temporary investments of debt service funds and beginning cash balances.

b. Payment of costs of registration of public bonds or obligations.

c. Payment of additional amounts as the board deems necessary to apply on the principal.

d. Payment of principal and interest when due that are required under a loan agreement, lease-purchase agreement, or other evidence of indebtedness authorized by the Iowa Code other than bonded indebtedness paid from resources transferred for that purpose to the debt service fund from other funds.

e. Payment of transfers to the PPEL fund by board resolution when funds remain in the debt service fund after payment of the entire balance of outstanding debt in accordance with the original purpose of the bonded indebtedness and after return of any excess amount transferred into the debt service fund from another fund or other indebtedness. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund pursuant to Iowa Code subsection 278.1(1) "e."

98.68(3) Inappropriate uses of the debt service fund. Inappropriate expenditures in the debt service fund include payment of debt issued by one fund from resources transferred from a different fund unless expressly authorized by the Iowa Code and any other expenditure not listed in subrule 98.68(2).

281—98.69(76,273,298,298A,423E,423F) Capital projects fund. Capital projects funds are used to account for financial resources to acquire or construct major capital facilities and to account for revenues from the previous local option sales and services tax for school infrastructure and the current state sales and services tax for school infrastructure. Boards of directors of school districts are authorized to establish more than one capital projects fund as necessary.

98.69(1) Sources of revenue in the capital projects fund. Sources of revenue in a capital projects fund include sale of general obligation bonds, grants and donations for capital facility projects, and transfers from other funds which authorized indebtedness for capital facility projects or which initiated a capital facility project or which received grants or other funding for capital projects, and tax receipts or revenue

EDUCATION DEPARTMENT[281](cont'd)

bonds issued for the state sales and services tax for school infrastructure. In the case of an area education agency, transfers from the general fund to a capital projects fund are limited to payments from proceeds accounted for in the general fund when payments are due on a capital project under a lease-purchase agreement pursuant to Iowa Code subsection 273.3(7).

98.69(2) *Appropriate uses of the capital projects fund.*

a. Appropriate expenditures in a capital projects fund, excluding state/local option sales and services tax for school infrastructure fund, include the following:

(1) Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, or teachers' or superintendents' home(s).

(2) Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

(3) Transferring to the PPEL fund or debt service fund by board resolution any balance remaining in a capital projects fund after the capital project is completed and after return of any excess amount transferred into the capital projects fund from another fund. The voters in the district may authorize the district to transfer the remaining balance to the general fund instead of the PPEL fund or debt service fund pursuant to Iowa Code subsection 278.1(1) "e."

b. Appropriate expenditures in the state/local option sales and services tax for the school infrastructure capital projects fund shall be expended in accordance with a valid revenue purpose statement if a valid revenue purpose statement exists, otherwise appropriate expenditures include the following in order:

(1) Payment of principal and interest on revenue bonds issued pursuant to Iowa Code sections 423E.5 and 423F.4 for which the revenue has been pledged.

(2) Reduction of debt service levies.

(3) Reduction of regular and voter-approved PPEL levies.

(4) Reduction of the PERL levy.

(5) Reduction of any schoolhouse tax levy under Iowa Code subsection 278.1(1) "e."

(6) Any authorized infrastructure purpose of the district pursuant to Iowa Code subsection 423F.3(6), which includes the following:

1. Payment or retirement of outstanding general obligation bonded indebtedness issued for school infrastructure purposes.

2. Payment or retirement of outstanding revenue bonds issued for school infrastructure purposes.

3. Purchasing, constructing, furnishing, equipping, reconstructing, repairing, improving, remodeling, or demolition of a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, or school bus garage.

4. Procuring a site, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field.

5. Expenditures listed in Iowa Code section 298.3.

6. Expenditures listed in Iowa Code section 300.2.

98.69(3) *Inappropriate uses of the capital projects fund.* Inappropriate expenditures in a capital projects fund include student construction or any expenditure not expressly authorized in the Iowa Code. Additionally, expenditures from the state/local options sales and services tax supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction in any district that has a certified enrollment of fewer than 250 pupils in the district or a certified enrollment of fewer than 100 pupils in the high school without a certificate of need issued by the department of education. This restriction does not apply to payment of outstanding general obligation bonded indebtedness issued pursuant to Iowa Code section 296.1 before April 1, 2003. This restriction also does not apply to costs to repair school buildings; purchase of equipment, technology or transportation equipment authorized under Iowa Code section 298.3; or for construction necessary to comply with the federal Americans With Disabilities Act. Expenditures from the state/local options sales and services tax revenues have the same restriction as expenditures from the supplemental school infrastructure amount, excluding the restriction on payments for bonds issued for new construction.

EDUCATION DEPARTMENT[281](cont'd)

281—98.70(279,280,298A) Student activity fund. The student activity fund must be established in any school district receiving moneys from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys collected through school activities are public funds that are the property of the school district and are under the financial control of the school board. Upon dissolution of an activity, such as a graduating class or student club, the surplus must be used to support other student activities in the student activity fund. Prudent and proper accounting of all receipts and expenditures in these accounts is the responsibility of the board. School districts may maintain subsidiary records for student activities if those records are reconciled to the official records on a monthly basis; however, all official accounting records of the student activity fund shall be maintained within the school district's chart of account pursuant to Uniform Financial Accounting for Iowa School Districts and Area Education Agencies.

98.70(1) Sources of revenue in the student activity fund. Sources of revenue in the student activity fund include income derived from student activities such as gate receipts, ticket sales, admissions, student club dues, donations, fund-raising events, and any other receipts derived from student body cocurricular or extracurricular activities, contests, and exhibitions as well as interest on the investment of those moneys.

98.70(2) Appropriate uses of the student activity fund. Appropriate expenditures in the student activity fund include ordinary and necessary expenses of operating school district-sponsored and district-supervised student cocurricular and extracurricular activities, including purchasing services from another school district to provide for the eligibility of enrolled students in interscholastic activities provided by the other school district when that school district does not provide an interscholastic activity for its students.

98.70(3) Inappropriate uses of the student activity fund. Inappropriate expenditures in the student activity fund include the following:

- a. Maintenance of funds raised by outside organizations.
- b. The cost of bonds for employees having custody of funds derived from cocurricular and extracurricular activities in the conduct of their duties. These are costs to the general fund.
- c. Expenditures that lack public purpose.
- d. Payments to any private organization unless a fundraiser was held expressly for that purpose and the purpose of the fundraiser was specifically identified.
- e. Transfers to any other fund of any surplus within the fund.
- f. Payments more properly accounted for in another fund such as public tax funds, trust funds, state and federal grants, textbook/library book fines, fees, rents, purchases or sales, sales of school supplies, or curricular activities.
- g. Use of the student activity fund as a clearing account for any other fund.
- h. Cash payments to student members of activity groups.
- i. The cost of optional equipment or customizing uniforms.
- j. The cost of uniforms when the following two tests are not met:
 - (1) The activity is a part of the school's educational program, and
 - (2) The wearing of the uniform or equipment is necessary in order to participate.
- k. Hospital or medical claims for student injuries or procurement of student medical insurance.
- l. Optional costs related to activities that are not necessary to the cocurricular and extracurricular program such as promotional costs.
- m. Membership fees in student activity-related associations if the fees are optional, i.e., nonmember schools may participate in sponsored events.
- n. Costs to participate in or to allow students to participate in any cocurricular and extracurricular interscholastic athletic contest or competition not sponsored or administered by either the Iowa High School Athletic Association or the Iowa Girls High School Athletic Union.

281—98.71(256B,257,298A) Special education instruction fund. The special education instruction fund is used to account for the revenues and expenditures of the special education instructional program that an area education agency provides for its member districts under Iowa Code subsection 273.9(2).

EDUCATION DEPARTMENT[281](cont'd)

This does not include special education support services as provided by Iowa Code subsection 273.9(3) which are accounted for in the general fund.

98.71(1) Sources of revenue in the special education instruction fund. Sources of revenue in the special education instruction fund include tuition charged to districts with students in the special education instruction program and interest on the investment of those moneys.

98.71(2) Appropriate uses of the special education instruction fund. Appropriate expenditures in the special education instruction fund include those authorized to a school district pursuant to Iowa Code chapter 256B and 281—Chapter 41.

98.71(3) Inappropriate uses of the special education instruction fund. Inappropriate expenditures in the special education instruction fund include expenditures not allowed to school districts pursuant to Iowa Code chapter 256B and 281—Chapter 41.

281—98.72(282,298A) Juvenile home program instruction fund. The juvenile home program instruction fund is used to account for the revenues and expenditures for the educational program for students residing in juvenile homes as provided by Iowa Code section 282.30. The juvenile home program supplements, but does not supplant expenditures required of an area education agency under Iowa Code chapter 273. Revenues and expenditures related to federal or state grants serving students in the juvenile homes that supplement, rather than supplant the juvenile home program are included in the general fund, rather than the juvenile home fund.

98.72(1) Sources of revenue in the juvenile home program instruction fund. Sources of revenue in the juvenile home program instruction fund include an advance paid pursuant to Iowa Code section 282.31, tuition billed to resident districts, grants in aid and interest on the investment of those moneys.

98.72(2) Appropriate uses of the juvenile home program instruction fund. Appropriate expenditures in the juvenile home program instruction fund include ordinary and necessary expenditures to provide an instructional program to students residing in juvenile homes.

98.72(3) Inappropriate uses of the juvenile home program instruction fund. Inappropriate expenditures in the juvenile home program instruction fund include the following:

- a. Costs estimated or allocated that are expenditures of the agency, such as insuring agency property.
- b. Costs that are not ordinary and necessary to provide instruction.
- c. Debt service.
- d. Capital outlay related to facilities.

281—98.73(283A,298A) School nutrition fund. All school districts shall operate or provide for the operation of lunch programs at all attendance centers in the school district. A school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program.

98.73(1) Sources of revenue in the school nutrition fund. Sources of revenue in the school nutrition fund include food sales to pupils and adults, ancillary food services, state and federal grants in aid for the operation of a nutrition program, gifts, sales of services to other funds, donated government commodities, and interest on investment of school nutrition fund moneys. Also included are fees charged for providing food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board. The charges for such services must be no less than the actual costs involved in providing the services including the value of donated government commodities.

98.73(2) Appropriate uses of the school nutrition fund. Appropriate expenditures in the school nutrition fund include the following:

- a. Expenditures necessary to operate a school breakfast or lunch program such as salaries and benefits for employees necessary to operate the food service program, food, purchased services, supplies, and school nutrition equipment not included in Iowa Code section 283A.9.

EDUCATION DEPARTMENT[281](cont'd)

b. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises in accordance with the rules of the board of directors of the school district if those costs are reimbursed by another fund, organization, or individual.

98.73(3) *Inappropriate uses of the school nutrition fund.* Inappropriate expenditures in the school nutrition fund include the following:

a. Costs to provide food service for school staff and ancillary food services to staff meetings and authorized organizations for meetings on the premises at less than actual costs involved in providing the services including the value of donated government commodities.

b. Operating transfers to any other fund.

c. Costs to purchase, construct, reconstruct, repair, remodel, or otherwise acquire or equip a building for use as a school meal facility. These costs are permitted from the PPEL fund.

d. Costs estimated or allocated that are expenditures of the district.

281—98.74(279,298A) Child care and before- and after-school programs fund. The board of directors of a school district may operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade 6 before and after school, or to both.

98.74(1) *Sources of revenue in the child care fund.* Sources of revenue in the child care fund include a fee established by the board for the cost of participation in the program. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. The board may require the parent or guardian to furnish transportation of the child. If the board does not establish a fee, it must finance the program through grants or donations. The board may utilize or make application for program subsidies from any existing child care funding streams.

98.74(2) *Appropriate uses of the child care fund.* Appropriate expenditures in the child care fund include salaries and benefits for employees necessary to operate the child care program or before- and after-school program, purchased services, supplies, and equipment.

98.74(3) *Inappropriate uses of the child care fund.* Inappropriate expenditures in the child care fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the child care program or before- and after-school program.

281—98.75(298A) Regular education preschool fund. The board may establish a preschool for students who are not of school age.

98.75(1) *Sources of revenue in the regular education preschool fund.* Sources of revenue in the regular education preschool fund include a fee established by the board for the cost of participation in the program. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed-upon fee. If the board does not establish a fee, it must finance the program through grants or donations. The statewide voluntary four-year-old preschool program established under Iowa Code chapter 256C shall not be accounted for in the regular education preschool fund.

98.75(2) *Appropriate uses of the regular education preschool fund.* Appropriate expenditures in the regular education preschool fund include salaries and benefits for employees necessary to operate the regular education preschool program, purchased services, instructional supplies, and instructional equipment.

98.75(3) *Inappropriate uses of the regular education preschool fund.* Inappropriate expenditures in the regular education preschool fund include debt service, capital outlay related to facilities, or any other expenditure not ordinary and necessary to operate the regular education preschool program or before- and after-school program.

281—98.76(298A) Student construction fund. If the board of directors of a school district establishes a construction program whereby students learn a construction trade and the facility constructed is sold to

EDUCATION DEPARTMENT[281](cont'd)

cover costs of construction, the revenues and expenses will be accounted for in the student construction fund.

281—98.77(298A) Other enterprise funds. Enterprise funds are used to account for any activity for which a fee is charged to external users for goods and services. Enterprise funds are required to be used to account for any activity whose principal revenue sources are fees and charges to recover the costs of providing goods or services where those fees and charges are permitted by the Iowa Code. Funds discussed in rules 98.73(283A,298A) through 98.76(298A) are enterprise funds. In addition, enterprise funds include those activities related to community service enterprises or enterprises that support the school curricular program. Community service enterprises are activities provided by the district for a fee to the general community or segment of the community that are not in the PERL or library funds such as public libraries, community pool, community wellness center, and community or adult education. Enterprises that support the school program include activities such as a student farm, greenhouse, cooperative purchasing, school stores, or major resale activities.

281—98.78 to 98.81 Reserved.

281—98.82(298A) Internal service funds. Internal service funds are used to account for the financing of services provided within the district to provide goods or services to other funds, component units, or other governments on a cost-reimbursement basis. The use of an internal service fund is appropriate only for activities in which the agency, school district or area education agency is the predominant participant in the activity. If the district or area education agency is not the primary user of the goods or services provided by the internal service fund, then the activity should be accounted for in an enterprise fund rather than an internal service fund. Internal service funds include, but are not limited to, self-insurance funds, flex-benefit (cafeteria) plan funds, print shops, health reimbursement arrangements (HRAs), central warehousing and purchasing, and central data processing.

281—98.83 to 98.91 Reserved.

281—98.92(257,279,298A,565) Private purpose trust funds. Private purpose trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are not irrevocable trusts and are used to account for assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and therefore cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. Scholarship trust funds are an example of private purpose trust funds. If a school district has more than one scholarship trust, the school district shall use project codes in accordance with Uniform Financial Accounting for Iowa School Districts and Area Education Agencies to separately account for the trusts. The district or area education agency shall not transfer its own resources to a private purpose trust fund.

98.92(1) Sources of revenue in private purpose trust funds. Sources of revenue in the private purpose trust fund include donations of cash, investment instruments, property, and interest on investments held.

98.92(2) Appropriate uses of private purpose trust funds. Appropriate expenditures in the private purpose trust fund include those that are consistent with the terms of the agreement or are for the benefit of a private purpose other than the school district. None of the expenditures will be for the benefit of the school district's programs.

98.92(3) Inappropriate uses of private purpose trust funds. Inappropriate expenditures in the private purpose trust fund include any expenditure which is not consistent with the terms of the agreement, not legal to a school district, or that benefits the school district's programs.

281—98.93(298A) Other trust funds. Trust funds are fiduciary funds established to account for gifts the school district receives to be used for a particular purpose or to account for moneys and property received and administered by the school district as trustee. These trust funds are used to account for

EDUCATION DEPARTMENT[281](cont'd)

assets held by a school district in a trustee capacity to benefit individuals, private organizations, or other governments, and cannot be used to support the school district's own programs. These trust funds include both those that allow use of only the interest on the investments and those that allow use of both principal and interest. The school district or area education agency shall not transfer its own resources to a trust fund. Other trust funds may include but not be limited to pension trust funds and investment trust funds. Pension trust funds are used to account for resources that are required to be held in trust for members and beneficiaries of defined benefit pension plans, defined contribution plans, other postemployment benefit plans, or other benefit plans. Typically, these funds are used to account for local pension and other employee benefit funds that are provided by a school district in lieu of or in addition to any state retirement system. Investment trust funds are used to account for the external portion (i.e., the portion that does not belong to the school district) of investment pools operated by the school district.

281—98.94 to 98.100 Reserved.

281—98.101(298A) Agency funds. Agency funds are used to account for funds that are held in a custodial capacity by the school district for individuals, private organizations, or other governments. Agency funds may include moneys collected for another government, a grant consortium when the school district serves as fiscal agent for the other school districts but has no managerial responsibilities, or funds for a teacher or a parent-teacher organization which has its own federal identification number (FIN). In an agency fund, the school district or area education agency merely renders a service as a custodian of the assets for the organization owning the assets and the school district or area education agency is not an owner. Agency funds typically involve only the receipt, temporary investment and remittance of assets to their rightful owners.

98.101(1) Sources of receipts in agency funds. Sources of receipts in the agency funds include temporary receipts of cash, investment instruments, property, and interest on investments held.

98.101(2) Appropriate uses of agency funds. Appropriate disbursements from an agency fund depend on the nature of the rightful owners' conditions or the responsibilities of the custodian. Typically, disbursement will involve remittance of assets to their rightful owners or to a third party on behalf and at the request of the rightful owners. The school district cannot disburse more funds at any point in time than it has received from the rightful owner.

98.101(3) Inappropriate uses of agency funds. Inappropriate disbursements from agency funds include any disbursement which is not consistent with the terms of the agreement, not legal to a school district, or that exceeds the amount of funds that have been received from the rightful owner or on behalf of the rightful owner.

281—98.102 to 98.110 Reserved.

281—98.111(24,29C,257,298A) Emergency levy fund. A school district may levy a tax for the emergency fund upon the approval of the state appeals board. Once the levy has been received, the district may request approval of the school budget review committee to transfer the funds to any other fund of the district for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in Iowa Code subsection 29C.2(1).

98.111(1) Sources of revenue in the emergency levy fund. Sources of revenue for the emergency levy fund include a tax levy not to exceed \$0.27 per \$1000 of assessed value of taxable property, and interest on those moneys.

98.111(2) Appropriate uses of emergency levy fund. Appropriate expenditures in the emergency levy fund include only transfers to other funds for the purpose of meeting deficiencies in a fund arising within two years of a disaster and upon the approval of the school budget review committee.

EDUCATION DEPARTMENT[281](cont'd)

98.111(3) *Inappropriate uses of emergency levy fund.* Inappropriate expenditures in the emergency levy fund include any expenditures other than a transfer to another fund and any transfer not approved by the school budget review committee.

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A, 300, 301, 423E, 423F, 565, and 670, and sections 11.6(1)“a”(1), 256C.4(1)“c,” and 256D.4(3).

ARC 7776B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services proposes to amend Chapter 41, “Granting Assistance,” Iowa Administrative Code.

The proposed amendment will require families approved for assistance under the Family Investment Program (FIP) to assign to the Department of Human Services their rights to any child support that is due during the period that the family receives FIP. The family will be entitled to receive any child support due for a period when the family did not receive FIP. This change is required by the Federal Deficit Reduction Act of 2005 and by 2008 Iowa Acts, chapter 1019.

Currently, the family assigns to the Department rights to any child support that is received during the period that the family receives FIP assistance, even if the support is due for a past period when the family did not receive assistance. The Department keeps all support received, up to the amount of the FIP assistance issued. With the implementation of this amendment, past-due support that is collected by the Department’s Child Support Recovery Unit will be released to the family.

Past-due support that is released to FIP participants will be considered as income when the Department determines continuing FIP eligibility and benefits. Past-due support that is received as a one-time payment will be considered as a nonrecurring lump sum. If the lump sum plus other countable income received in the same month exceeds the standard of need amount for the household size, a period of ineligibility for FIP will be imposed. If the past-due support is received on a regular, recurring basis, i.e., in regular monthly payments, it will be counted as unearned income in the month received.

This amendment does not provide for waivers in specified situations because the amendment benefits FIP participants by making past-due support collected available to them.

Any interested person may make written comments on the proposed amendment on or before June 10, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 239B.6 as amended by 2008 Iowa Acts, chapter 1019, section 1.

The following amendment is proposed.

Amend subrule 41.22(7) as follows:

41.22(7) *Assignment of support payments.* Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person that the applicant or recipient may have. ~~These~~ The assignment of support payments shall include rights to support in the applicant’s or recipient’s

HUMAN SERVICES DEPARTMENT[441](cont'd)

own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance ~~and which have accrued at the time the assignment is executed.~~

a. The assignment of support payments shall include rights to all support payments that accrue during the period of assistance but shall not exceed the total amount of assistance received.

b. An assignment is effective the same date all eligibility information is entered into the department's computer system and is effective for the entire period for which assistance is paid.

ARC 7771B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

The proposed amendment eliminates the requirement for completing two forms in order to qualify for Medicaid payment for a hearing aid. Through consultation with the Audiology and Hearing Aid Dispenser Medicaid Advisory Group, the Department has determined that the documentation required on Form 470-0361, Report of Examination for a Hearing Aid, and Form 470-0828, Hearing Aid/Evaluation Selection Report, is available in the patient record and can be submitted upon request. Copying the information onto these forms is a duplication of effort and is unnecessarily time consuming. Selected elements from these forms have been combined into new, shorter Form 470-4767, Examiner Report of Need for a Hearing Aid, which is required only in the few circumstances when prior approval of the hearing aid purchase is required.

This amendment does not provide for waivers in specified situations because it removes restrictions on hearing aid coverage. Requests for waiver of this rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before June 10, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

The following amendment is proposed.

Amend rule 441—78.14(249A) as follows:

441—78.14(249A) Hearing aids. Payment shall be approved for a hearing aid and examinations subject to the following conditions:

78.14(1) Physician examination. The ~~recipient member~~ shall have an examination by a physician to determine that the ~~recipient member~~ has no condition which would contraindicate the use of a hearing aid. This report shall be ~~made on Form 470-0361, Section A, Report of Examination for a Hearing Aid documented in the patient record.~~ The requirement for a physician evaluation shall be waived for ~~recipients members~~ 18 years of age ~~and or~~ older when the ~~recipient member~~ has signed an informed consent statement acknowledging that the ~~recipient member~~:

a. Has been advised that it may be in the ~~recipient's~~ member's best health interest to receive a medical evaluation from a licensed physician ~~prior to~~ before purchase of a hearing aid.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Does not wish to receive a medical evaluation prior to purchase of a hearing aid.

78.14(2) *Audiological testings.* A physician or an audiologist shall perform audiological testing as a part of making a determination that a recipient member could benefit from the use of a hearing aid. ~~The audiologist shall report audiological testing on Form 470-0361, Section B.~~ The department shall cover vestibular testing performed by an audiologist only when prescribed by a physician.

78.14(3) *Hearing aid evaluation.* A physician or an audiologist shall perform a hearing aid evaluation to establish if a recipient member could benefit from a hearing aid. ~~The physician or audiologist shall report the hearing aid evaluation on Form 470-0828, Hearing Aid Evaluation/Selection Report.~~ When a hearing aid is recommended for a recipient member, the physician or audiologist recommending the hearing aid shall see the recipient member at least one time within 30 days ~~subsequent to~~ after purchase of the hearing aid to determine that the aid is adequate.

78.14(4) *Hearing aid selection.* A physician or audiologist may recommend a specific brand or model appropriate to the recipient's member's condition. When a physician or an audiologist makes a general hearing aid recommendation, a hearing aid dispenser may perform the tests to determine the specific brand or model appropriate to the recipient's member's condition. ~~The physician, audiologists or hearing aid dispenser shall report the hearing aid selection on Form 470-0828, Hearing Aid Evaluation/Selection Report.~~

78.14(5) *Travel.* When a recipient member is unable to travel to the physician or audiologist because of health reasons, the department shall make payment for travel to the recipient's member's place of residence or other suitable location. The department shall make payment to physicians as specified in 78.1(8) and payment to audiologists at the same rate it reimburses state employees for travel.

78.14(6) *Purchase of hearing aid.* The department shall ~~make payment pay~~ for the type of hearing aid recommended when purchased from an eligible licensed hearing aid dispenser pursuant to rule 441—77.13(249A). The department shall ~~make payment pay~~ for binaural amplification when:

- a.* A child needs the aid for speech development, ~~or~~
- b.* The aid is needed for educational or vocational purposes, ~~or~~
- c.* The aid is for a blind ~~individual.~~ member.
- d.* ~~Payment for binaural amplification shall also be approved where the recipient's~~ The member's hearing loss has caused marked restriction of daily activities and constriction of interests resulting in seriously impaired ability to relate to other people, or ~~where lack~~
- e.* Lack of binaural amplification poses a hazard to a recipient's member's safety.

78.14(7) *Payment for hearing aids.*

a. to c. No change.

d. Prior approval. When prior approval is required, Form 470-4767, Examiner Report of Need for a Hearing Aid, shall be submitted along with the forms required by 441—paragraph 79.8(1) "a."

(1) Payment for the replacement of a hearing aid less than four years old shall require prior approval except when the recipient member is under 21 years of age. The department shall approve payment when the original hearing aid is lost or broken beyond repair or there is a significant change in the ~~person's~~ member's hearing that would require a different hearing aid. (Cross-reference 78.28(4) "a")

(2) Payment for a hearing aid costing more than \$650 shall require prior approval. The department shall approve payment for either of the following purposes (Cross-reference 78.28(4) "b"):

1. Educational purposes when the recipient member is participating in primary or secondary education or in a postsecondary academic program leading to a degree and an in-office comparison of an analog aid and a digital aid matched (+/- 5dB) for gain and output shows a significant improvement in either speech recognition in quiet or speech recognition in noise or an in-office comparison of two aids, one of which is single channel, shows significantly improved audibility.

2. No change.

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

ARC 7769B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to adopt new Chapter 106, "Safety Standards for Children's Centers," Iowa Administrative Code.

The proposed amendment would establish safety and facility standards for children's centers. Iowa Code chapter 237B requires the Department to establish standards, but does not delegate regulatory or enforcement authority to the Department or any other state agency. Thus, these rules do not establish a certification or licensure process or provide for enforcement.

Iowa Code chapter 237B specifies that the standards established shall be broad facility standards for the protection of children's safety and not program standards or other requirements involving program development or oversight of the programs provided to the children served by children's centers. The proposed rules cover definitions; application of the standards; provision of basic needs; protection from mistreatment, physical abuse, sexual abuse, and neglect; record checks; seclusion and restraints; health; safety; emergencies; and buildings.

This amendment does not provide for waivers in specified situations because the rules do not require compliance and the Department has no enforcement authority.

Any interested person may make written comments on the proposed amendment on or before June 10, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold a public hearing for the purpose of receiving comments on these proposed rules on Wednesday, June 10, 2009, from 9 to 10:30 a.m. at the Wallace State Office Building Auditorium, 502 East Ninth Street, Des Moines, Iowa. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Bureau of Policy Analysis and Appeals at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code chapter 237B.

The following amendment is proposed.

Adopt the following **new** 441—Chapter 106:

CHAPTER 106
SAFETY STANDARDS FOR CHILDREN'S CENTERS

PREAMBLE

The intent of this chapter is to establish safety standards for facilities that meet the definition of "children's center" pursuant to Iowa Code chapter 237B. Chapter 237B requires the department to establish standards but does not delegate regulatory or enforcement authority to the department or any other state agency. Thus, these rules do not establish a certification or licensure process or provide for enforcement.

Iowa Code chapter 237B specifies that the standards established shall be broad facility standards for the protection of children's safety and not program standards or other requirements involving program development or oversight of the programs provided to the children served by children's centers. These rules cover definitions; application of the standards; provision of basic needs; protection from

HUMAN SERVICES DEPARTMENT[441](cont'd)

mistreatment, physical abuse, sexual abuse, and neglect; record checks; seclusion and restraints; health; safety; emergencies; and buildings.

441—106.1(237B) Definitions.

“*Chemical restraint*” means the use of chemical agents including psychotropic drugs as a form of restraint. The therapeutic use of psychotropic medications is not considered chemical restraint.

“*Child*” means a person who is less than 18 years of age.

“*Children’s center*” means a privately funded facility that is designed to serve seven or more children at any one time who are not under the custody or authority of the department of human services, juvenile court, or another governmental agency and that offers one or more of the following services:

1. Child care.
2. Child care for children with a chronic illness.
3. Respite care.
4. Family support services.
5. Medical equipment.
6. Therapeutic day programming.
7. Educational enrichment.
8. Housing.

“*Control room*” means a locked room used for treatment purposes.

“*Mechanical restraint*” means restriction by the use of a mechanical device of a child’s mobility or ability to use the child’s hands, arms, or legs.

“*Physical restraint*” means direct physical contact required on the part of a staff member, volunteer, or others who perform duties under a subcontract with the children’s center to prevent a child from hurting self, others, or property.

441—106.2(237B) Application of the standards. These rules shall apply to all facilities that meet the definition of “children’s center” pursuant to Iowa Code chapter 237B. In the event that a children’s center is also subject to licensure, certification, registration, or regulation pursuant to another provision of law, those legal requirements shall take precedence over these rules.

441—106.3(237B) Providing for basic needs.

106.3(1) A children’s center shall provide the following for children in its care:

- a. Adequate shelter;
- b. Nourishing food and water; and
- c. Opportunities for adequate sleep, exercise, cleanliness, and health maintenance.

106.3(2) A children’s center shares responsibility for meeting these needs with the children’s parents, guardians, or other primary caretakers, depending upon the amount of time the child spends in the children’s center each day.

441—106.4(237B) Protection from mistreatment, physical abuse, sexual abuse, and neglect. The state of Iowa prohibits child abuse as defined in Iowa Code chapter 232, criminal assault, and other criminal acts of violence. A children’s center shall not use discipline that amounts to child abuse or a criminal act of violence.

106.4(1) A children’s center shall have written policies that:

- a. Prohibit mistreatment, physical abuse, sexual abuse, and neglect of children;
- b. Define types of discipline and the reasons discipline would be used; and
- c. Specify reporting and enforcement procedures for the children’s center.

106.4(2) Discipline policies shall be discussed with:

- a. Staff, volunteers, or others who perform duties under a subcontract with the children’s center; and
- b. Parents or guardians before children are admitted to the children’s center.

HUMAN SERVICES DEPARTMENT[441](cont'd)

106.4(3) A children's center shall not employ or use as a volunteer or subcontractor any person who poses any threat to the children in the center's care.

106.4(4) A children's center shall have written policies related to:

- a. Children's communication with their parents, guardians, and other outside authorities.
- b. Children's ability to receive visitors who have been approved by their parents or guardians.
- c. Confidentiality and reasonable privacy for children. The children's center shall afford children and their families privacy and confidentiality unless doing so would jeopardize a child's health or safety.
- d. Children's ability to keep personal belongings that connect the children to their families and community, such as clothing, pictures, and other items.
- e. Children's ability to participate in normal community activities that have been approved by their parents or guardians.

106.4(5) A children's center shall not impose unreasonable rules and restrictions that prevent communication and connections with parents, guardians, other family members, or authorities.

106.4(6) A children's center shall share its written policies related to communication, visitors, personal belongings, and participation in community activities with a child's parents or guardians before a child is admitted to the children's center.

441—106.5(237B) Record checks.

106.5(1) A children's center shall conduct record checks for:

a. Any owner, director, staff member, volunteer, or other person who performs duties under a subcontract with the children's center and who:

- (1) Has direct responsibility for children, or
- (2) Has access to a child when the child is alone.

b. Anyone living in the children's center who is 14 years of age or older.

106.5(2) The record checks shall be conducted to determine whether the person:

- a. Has any founded child abuse reports;
- b. Has any founded dependent adult abuse reports;
- c. Has any criminal convictions; or
- d. Has been placed on the sex offender registry.

106.5(3) Every applicant for employment shall submit to the children's center a written, signed and dated statement that discloses:

- a. Any substantiated instances of child abuse, neglect, or sexual abuse committed by the person;
- b. Any substantiated instances of dependent adult abuse committed by the person; and
- c. Any convictions of crimes involving the mistreatment or exploitation of a child.

106.5(4) A children's center may request additional information from the central abuse registry or the Iowa department of public safety.

106.5(5) If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the children's center shall evaluate the crime or founded child abuse or dependent adult abuse to determine whether or not the crime or founded child abuse or founded dependent adult abuse merits prohibition of employment or any voluntary or subcontracted position. The evaluation shall consider:

- a. The nature and seriousness of the crime or founded abuse in relation to the position sought,
- b. The time elapsed since the commission of the crime or founded abuse,
- c. The circumstances under which the crime or founded abuse was committed,
- d. The degree of rehabilitation, and
- e. The number of crimes or founded abuses committed by the person involved.

441—106.6(237B) Seclusion and restraints.

106.6(1) A children's center shall not physically restrain a child unless it is necessary to prevent the child from hurting self, others, or property. Physical restraint must be conducted in a standing position whenever possible. Prone restraint is prohibited.

HUMAN SERVICES DEPARTMENT[441](cont'd)

106.6(2) A children's center shall not put a child into time-out seclusion for more than one hour. A child shall never be secluded in an area that is locked or out of the view of staff, volunteers, or others who perform duties under a subcontract with the children's center.

106.6(3) At no time shall a children's center use a control room, mechanical restraint, or chemical restraint.

441—106.7(237B) Health.

106.7(1) A children's center shall obtain, store, prepare, and serve food and water free from contamination.

106.7(2) A children's center shall have written health policies that include criteria for excluding a sick child from the center.

106.7(3) A children's center shall have written policies and procedures related to disease control and the use of universal precautions with the handling of any bodily excrement or discharge, including blood and breast milk. A children's center shall take precautions to prevent the spread of infectious and communicable disease.

106.7(4) A children's center shall seek immediate medical attention for a child when it is necessary to ensure that the child remains healthy.

106.7(5) A children's center shall have written policies and procedures to ensure that staff, volunteers, or others who perform duties under a subcontract with the children's center demonstrate clean personal hygiene sufficient to prevent or minimize the transmission of illness or disease.

106.7(6) A children's center shall be required to report to the department of public health any reportable disease.

106.7(7) A children's center shall have written policies on physical examination reports or health status statements for all children in the center's care.

106.7(8) A children's center shall have written policies and procedures for the dispensing, storage, authorization, and recording of all prescription and nonprescription medications.

106.7(9) A children's center shall ensure that a clearly labeled first-aid kit is available and easily accessible to staff, volunteers, or others who perform duties under a subcontract with the children's center at all times whenever children are in the center, in the outdoor play area, and on field trips. The kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in an area inaccessible to children.

106.7(10) A children's center shall have written policies on reporting illness or injury to parents or guardians. These policies shall be shared with parents or guardians before a child is admitted to the children's center. Incidents resulting in a serious injury to a child or significant change in health status shall be reported immediately to the parent or guardian.

106.7(11) A children's center shall have written policies on smoking and tobacco use that comply with Iowa state law.

441—106.8(237B) Safety.

106.8(1) A children's center shall maintain a staff-to-child ratio and follow safe practices that are based on the ages and needs of the children in care to ensure adequate supervision and child safety.

106.8(2) Poison control centers' telephone numbers shall be posted in prominent locations and readily available. All poisonous or caustic drugs or materials shall:

- a. Be plainly labeled;
- b. Be stored separately from other drugs in a specific, well-illuminated cabinet, closet, or storeroom;
- c. Be stored in a manner that prevents accidental or intentional ingestion; and
- d. Be accessible only to authorized persons.

106.8(3) A children's center shall have written policies regarding fishing ponds, lakes, or any bodies of water located on or near the center's grounds and accessible to children.

- a. All swimming pools shall conform to state and local health and safety regulations.
- b. Adult supervision shall be provided at all times when children are near or in the water.

HUMAN SERVICES DEPARTMENT[441](cont'd)

106.8(4) A children's center shall have written policies regarding transportation of a child that ensure compliance with Iowa Code section 321.446 regarding child restraint devices.

- a. Drivers of vehicles shall possess a valid driver's license.
- b. Drivers shall not operate a vehicle while under the influence of alcohol, illegal drugs, or prescription or nonprescription drugs that could impair their ability to operate a motor vehicle.
- c. All vehicles used for children's center activities shall be maintained in safe operating condition.

106.8(5) Animals kept on site shall:

- a. Be in good health with no evidence of disease,
- b. Be of such disposition as to not pose a safety threat to any person, and
- c. Be maintained in a clean and sanitary manner.

106.8(6) Offensive or dangerous weapons and ammunition shall be kept under lock and key and inaccessible to children. When these weapons are used, a children's center shall have written policies regarding their purpose, use, and storage.

441—106.9(237B) Emergencies.

106.9(1) A children's center shall have written emergency plans for responding to evacuations, fires, tornadoes, floods, blizzards, other weather incidents, power failures, bomb threats, chemical spills, earthquakes, or other natural or man-made disasters that could create structural damage to the children's center or pose health or safety hazards.

- a. The emergency plans shall include guidelines for responding to situations involving intruders within the children's center and grounds, intoxicated persons, lost or abducted children, and evacuations.
- b. Evacuations shall be practiced periodically.

106.9(2) The emergency plans shall include procedures for annual training regarding the contents and implementation of the plans for staff, volunteers, or others who perform duties under a subcontract with the children's center.

106.9(3) A children's center shall have:

- a. Written policies and procedures for medical and dental emergencies; and
- b. Sufficient information and authorization to meet the medical and dental emergencies of children.

106.9(4) Emergency telephone numbers shall be readily available, including emergency telephone numbers for parents or guardians.

441—106.10(237B) Buildings. A children's center shall ensure that the facility and grounds, playground surfaces and other areas, and all related equipment are safe and free from hazards.

106.10(1) A children's center shall comply with requirements established by the fire marshal for the applicable type of occupancy and shall comply with any applicable additional fire safety requirements established by local ordinance, including fire inspections.

- a. Smoke detectors shall be installed on all levels of the center.
- b. The center shall be equipped with fire extinguishers.
- c. The center's exits shall be unobstructed at all times.

106.10(2) A children's center shall be structurally sound. Any new facility or existing facility that is extensively renovated shall be constructed in compliance with applicable requirements of the state of Iowa building code established pursuant to Iowa Code chapter 103A and with any local building code in force at the time of construction.

106.10(3) A children's center located in a building built before 1960 shall conduct a visual assessment for lead hazards that exist in the form of peeling or chipping paint.

- a. If the presence of peeling or chipping paint is found, the paint shall be presumed to be lead-based paint unless a certified inspector as defined in department of public health rules at 641—Chapter 70 determines that it is not lead-based paint.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. In the absence of the determination that peeling or chipping paint is not lead-based, a children's center shall use safe work methods as defined by the state department of public health to eliminate human exposure or likely exposure to lead-based paint hazards.

These rules are intended to implement Iowa Code chapter 237B.

ARC 7795B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 514D.3, 514D.4, 514D.9 and 507B.12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, "Unfair Trade Practices," and Chapter 37, "Medicare Supplement Insurance Minimum Standards," Iowa Administrative Code.

The rules in Chapter 37 provide for the standardization of coverage and simplification of terms and benefits of Medicare supplement policies. The proposed amendments bring the current rules into conformance with revisions to the model regulation issued by the National Association of Insurance Commissioners (NAIC). The proposed amendments also establish new Division II of Chapter 37 which contains portions of the NAIC model regulation on advertising of Medicare supplement policies. The Division intends that the proposed amendments will go into effect August 19, 2009, and that Iowa insurance companies and producers will comply with the rules beginning August 19, 2009, for policies sold or issued on or after August 19, 2009.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 10, 2009. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

There will be a public hearing on June 10, 2009, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapters 507B and 514D.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 15.3(14):

15.3(14) Compliance with Medicare supplement advertising rules. Insurers and producers shall comply with the Medicare supplement advertising rules set forth in 191—Chapter 37, Division II.

ITEM 2. Amend **191—Chapter 37**, title, as follows:

MEDICARE SUPPLEMENT INSURANCE ~~MINIMUM STANDARDS~~

INSURANCE DIVISION[191](cont'd)

ITEM 3. Adopt the following **new** division heading immediately preceding rule **191—37.1(514D)**:

DIVISION I
MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

ITEM 4. Rescind subrule **37.2(3)**.

ITEM 5. Amend rule **191—37.3(514D)**, definition of “Medicare Advantage,” as follows:
“*Medicare Advantage plan*” means a plan of coverage for health benefits under Medicare Part C (as defined in 42 U.S.C. 1395w-28(b)(1)), and includes:

1. to 3. No change.

ITEM 6. Adopt the following **new** definitions in rule **191—37.3(514D)**:

“*1990 standardized Medicare supplement benefit plan*,” “*1990 standardized benefit plan*” or “*1990 plan*” means a group or individual policy of Medicare supplement insurance issued on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010, and includes Medicare supplement insurance policies and certificates renewed on or after June 1, 2010, which are not replaced by the issuer at the request of the insured.

“*2010 standardized Medicare supplement benefit plan*,” “*2010 standardized benefit plan*” or “*2010 plan*” means a group or individual policy of Medicare supplement insurance issued with an effective date for coverage on or after June 1, 2010.

“*Prestandardized Medicare supplement benefit plan*” or “*prestandardized plan*” means a group or individual policy of Medicare supplement insurance issued prior to January 1, 1992.

ITEM 7. Amend subrule 37.5(1) as follows:

37.5(1) Except for permitted preexisting condition clauses as described in 37.6(1) “a,” and 37.7(1) “a,” and 37.8(1) “a,” no policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy if such policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

ITEM 8. Amend rule 191—37.6(514D), catchwords, as follows:

191—37.6(514D) Minimum benefit standards for prestandardized Medicare supplement benefit plan policies or certificates issued for delivery prior to January 1, 1992.

ITEM 9. Amend paragraph **37.6(1)“c”** as follows:

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible ~~amount and copayment percentage factors~~, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

ITEM 10. Amend rule 191—37.7(514D), introductory paragraph, as follows:

191—37.7(514D) Benefit standards for 1990 standardized Medicare supplement benefit plan policies or certificates issued ~~or delivered~~ for delivery on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after January 1, 1992, and with an effective date for coverage prior to June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

ITEM 11. Amend paragraph **37.7(1)“c”** as follows:

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible ~~amount and copayment percentage factors~~, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

INSURANCE DIVISION[191](cont'd)

ITEM 12. Adopt the following **new** paragraph **37.7(1)“h”**:

h. If an issuer makes a written offer to the Medicare supplement policyholders or certificate holders of one or more of its plans, to exchange during a specified period the insured's 1990 standardized plan (as described in rule 191—37.9(514D)) for a 2010 standardized plan (as described in rule 191—37.10(514D)), the offer and subsequent exchange shall comply with the following requirements:

(1) An issuer need not provide justification to the commissioner if the insured exchanges a 1990 standardized policy or certificate for an issue-age-rated 2010 standardized policy or certificate at the insured's original issue age and duration. If an insured's 1990 standardized policy or certificate to be exchanged is priced on an issue-age rate schedule at the time of such offer, the rate charged to the insured for the new 2010 exchanged standardized policy or certificate shall recognize the policy reserve buildup, due to the prefunding inherent in the use of an issue-age rate basis, for the benefit of the insured. The method proposed to be used by an issuer must be filed with the commissioner pursuant to rule 191—37.15(514D).

(2) The rating class of the new 2010 standardized policy or certificate shall be the class closest to the insured's class of the replaced coverage.

(3) An issuer may not apply new preexisting condition limitations or a new incontestability period to the new 2010 standardized policy or certificate for those benefits contained in the exchanged 1990 standardized policy or certificate of the insured, but may apply preexisting condition limitations of no more than six months to any added benefits contained in the new 2010 standardized policy or certificate not contained in the exchanged 1990 standardized policy or certificate.

(4) The new 2010 standardized policy or certificate shall be offered to all policyholders or certificate holders within a given plan, except where the offer or issue would be in violation of state or federal law.

ITEM 13. Renumber rule **191—37.8(514D)** as **191—37.9(514D)**.

ITEM 14. Adopt the following **new** rule 191—37.8(514D):

191—37.8(514D) Benefit standards for 2010 standardized Medicare supplement benefit plan policies or certificates issued for delivery with an effective date for coverage on or after June 1, 2010. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. Insurers may begin submitting policies and certificates to the division for approval on or after January 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010, remain subject to the requirements of rule 191—37.7(514D).

37.8(1) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this chapter.

a. A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because the losses involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

b. A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

c. A Medicare supplement policy or certificate shall provide that benefits designed to cover cost-sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes.

d. No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

INSURANCE DIVISION[191](cont'd)

e. Each Medicare supplement policy shall be guaranteed renewable.

(1) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual.

(2) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(3) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under subparagraph 37.8(1)“*e*”(5), the issuer shall offer certificate holders an individual Medicare supplement policy which (at the option of the certificate holder):

1. Provides for continuation of the benefits contained in the group policy; or

2. Provides for benefits that otherwise meet the requirements of paragraph 37.8(1)“*e.*”

(4) If an individual is a certificate holder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

1. Offer the certificate holder the conversion opportunity described in subparagraph 37.8(1)“*e*”(3); or

2. At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(5) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the group policy that is being replaced on that policy’s date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

f. Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

g. Suspension of benefits.

(1) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificate holder for the period (not to exceed 24 months) in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificate holder notifies the issuer of the policy or certificate within 90 days after the date the individual becomes entitled to assistance.

(2) If suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance, the policy or certificate shall be automatically reinstated effective as of the date of termination of entitlement if the policyholder or certificate holder provides notice of loss of entitlement within 90 days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement.

(3) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder or certificate holder if the policyholder or certificate holder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder or certificate holder provides notice of loss of coverage within 90 days after the date of the loss.

(4) Reinstatement of coverage as described in subparagraphs 37.8(1)“*g*”(2) and (3):

1. Shall not provide for any waiting period with respect to treatment of preexisting conditions;

2. Shall provide for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and

INSURANCE DIVISION[191](cont'd)

3. Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

37.8(2) Standards for basic (core) benefits common to Medicare supplement insurance benefit plans A, B, C, D, F, F with high deductible, G, M and N. Every issuer of Medicare supplement insurance benefit plans shall make available to each prospective insured a policy or certificate including only the following basic (core) package of benefits. An issuer may make available to prospective insureds any of the other Medicare supplement insurance benefit plans in addition to the basic core package, but not in lieu of it. The basic core package must provide:

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period;

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

c. Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

e. Coverage for the coinsurance amount or, in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; and

f. Hospice Care: Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses.

37.8(3) Standards for additional benefits. The following additional benefits shall be included in Medicare supplement benefit Plans B, C, D, F, F with high deductible, G, M, and N as provided by rule 191—37.10(514D):

a. Medicare Part A Deductible: Coverage for 100 percent of the Medicare Part A inpatient hospital deductible amount per benefit period;

b. Medicare Part A Deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period;

c. Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A;

d. Medicare Part B Deductible: Coverage for 100 percent of the Medicare Part B deductible amount per calendar year regardless of hospital confinement;

e. One hundred percent of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge; and

f. Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for 80 percent of the billed charges for Medicare eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of \$250, and a lifetime maximum benefit of \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

INSURANCE DIVISION[191](cont'd)

ITEM 15. Amend renumbered rule 191—37.9(514D), catchwords, as follows:

191—37.9(514D) Standard Medicare supplement benefit plans for 1990 standardized Medicare supplement benefit plan policies or certificates with an effective date for coverage prior to June 1, 2010.

ITEM 16. Renumber rule **191—37.9(514D)** as **191—37.11(514D)**.

ITEM 17. Renumber rule **191—37.10(514D)** as **191—37.12(514D)**.

ITEM 18. Adopt the following **new** rule 191—37.10(514D):

191—37.10(514D) Standard Medicare supplement benefit plans for 2010 standardized Medicare supplement benefit plan policies or certificates with an effective date for coverage on or after June 1, 2010. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates with an effective date for coverage before June 1, 2010, remain subject to the requirements of rules 191—37.6(514D) and 191—37.9(514D).

37.10(1) Issuer to make form available.

a. An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic (core) benefits, as defined in subrule 37.8(2).

b. If an issuer makes available any of the additional benefits described in subrule 37.8(3) or offers standardized benefit Plans K or L (as described in paragraphs 37.10(5) “*h*” and “*i*”), then the issuer shall make available to each prospective policyholder and certificate holder, in addition to a policy form or certificate form with only the basic (core) benefits as described in paragraph 37.10(1) “*a*,” a policy form or certificate form containing either standardized benefit Plan C (as described in paragraph 37.10(5) “*c*”) or standardized benefit Plan F (as described in paragraph 37.10(5) “*e*”).

37.10(2) No groups, packages or combinations of Medicare supplement benefits other than those listed in this rule shall be offered for sale in this state, except as may be permitted in subrule 37.10(6) and rule 191—37.11(514D).

37.10(3) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans listed in rule 191—37.10(514D) and conform to the definitions in rule 191—37.3(514D). Each benefit plan shall be structured in accordance with the format provided in subrules 37.8(2) and 37.8(3), or, in the case of Plan K or L, each benefit plan shall be structured in accordance with the format provided in paragraphs 37.10(5) “*h*” and “*i*.” Each plan shall list the benefits in the order shown. For purposes of this rule, “structure, language, and format” means style, arrangement and overall content of a benefit.

37.10(4) In addition to the benefit plan designations required in subrule 37.10(3), an issuer may use other designations to the extent permitted by law.

37.10(5) Makeup of 2010 standardized benefit plans.

a. Standardized Medicare supplement benefit Plan A shall include only the following: The basic (core) benefits as defined in subrule 37.8(2).

b. Standardized Medicare supplement benefit Plan B shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible as defined in paragraph 37.8(3) “*a*.”

c. Standardized Medicare supplement benefit Plan C shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) “*a*,” “*c*,” “*d*,” and “*f*,” respectively.

d. Standardized Medicare supplement benefit Plan D shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible,

INSURANCE DIVISION[191](cont'd)

skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "a," "c," and "f," respectively.

e. Standardized Medicare supplement (regular) Plan F shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "a," "c," "d," "e," and "f," respectively.

f. Standardized Medicare supplement Plan F with high deductible shall include only the following: 100 percent of covered expenses following the payment of the annual deductible set forth in subparagraph 37.10(5) "f"(2).

(1) The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B deductible, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "a," "c," "d," "e," and "f," respectively.

(2) The annual deductible in Plan F with high deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by (regular) Plan F, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary of the U.S. Department of Health and Human Services to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars.

g. Standardized Medicare supplement benefit Plan G shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, 100 percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "a," "c," "e," and "f," respectively.

h. Standardized Medicare supplement Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

(1) Part A hospital coinsurance from the sixty-first through ninetieth day: Coverage of 100 percent of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period;

(2) Part A hospital coinsurance from the ninety-first through one hundred fiftieth day: Coverage of 100 percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period;

(3) Part A hospitalization after 150 days: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 100 percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balance;

(4) Medicare Part A deductible: Coverage for 50 percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in subparagraph 37.10(5) "h"(10);

(5) Skilled nursing facility care: Coverage for 50 percent of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in subparagraph 37.10(5) "h"(10);

(6) Hospice care: Coverage for 50 percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in subparagraph 37.10(5) "h"(10);

(7) Blood: Coverage for 50 percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in subparagraph 37.10(5) "h"(10);

INSURANCE DIVISION[191](cont'd)

(8) Part B cost sharing: Except for coverage provided in subparagraph 37.10(5) "h"(9), coverage for 50 percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder or certificate holder pays the Part B deductible until the out-of-pocket limitation is met as described in subparagraph 37.10(5) "h"(10);

(9) Part B preventive services: Coverage of 100 percent of the cost sharing for Medicare Part B preventive services after the policyholder or certificate holder pays the Part B deductible; and

(10) Cost sharing after out-of-pocket limits: Coverage of 100 percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of \$4000 in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

i. Standardized Medicare supplement Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

(1) The benefits described in subparagraphs 37.10(5) "h"(1), (2), (3) and (9);

(2) The benefits described in subparagraphs 37.10(5) "h"(4), (5), (6), (7) and (8), but substituting 75 percent for 50 percent; and

(3) The benefit described in subparagraph 37.10(5) "h"(10), but substituting \$2000 for \$4000.

j. Standardized Medicare supplement Plan M shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 50 percent of the Medicare Part A deductible, 100 percent of skilled nursing facility care, and 100 percent of medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "b," "c," and "f," respectively.

k. Standardized Medicare supplement Plan N shall include only the following: The basic (core) benefit as defined in subrule 37.8(2), plus 100 percent of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in paragraphs 37.8(3) "a," "c," and "f," respectively, with copayments in the following amounts:

(1) The lesser of \$20 or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and

(2) The lesser of \$50 or the Medicare Part B coinsurance or copayment for each covered emergency room visit; however, this copayment shall be waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense.

37.10(6) New or innovative benefits: An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits shall include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits must not adversely impact the goal of Medicare supplement simplification. New or innovative benefits shall not include an outpatient prescription drug benefit. New or innovative benefits shall not be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan. The commissioner shall use any guidelines issued by the National Association of Insurance Commissioners in determining whether to approve new or innovative benefits.

ITEM 19. Renumber rule **191—37.11(514D)** as **191—37.13(514D)**.

ITEM 20. Renumber rule **191—37.12(514D)** as **191—37.14(514D)**.

ITEM 21. Renumber rule **191—37.13(514D)** as **191—37.15(514D)**.

ITEM 22. Renumber rule **191—37.14(514D)** as **191—37.16(514D)**.

ITEM 23. Rescind rule **191—37.17(514D)**.

ITEM 24. Renumber rule **191—37.15(514D)** as **191—37.17(514D)**.

ITEM 25. Amend renumbered paragraph **37.17(4)“c”** as follows:

c. The outline of coverage provided to applicants pursuant to this subrule consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit

INSURANCE DIVISION[191](cont'd)

plan offered by the issuer. The outline of coverage shall be in the language and format prescribed below in no less than 12-point type. All plans ~~“A” to “L”~~ shall be shown on the cover page, and the plans that are offered by the issuer shall be prominently identified. Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

ITEM 26. Rescind renumbered paragraph **37.17(4)“d”** and adopt the following new paragraph in lieu thereof:

d. The following items shall be included in the outline of coverage in the order prescribed below.

Benefit Chart of Medicare Supplement Plans Sold for Effective Dates on or After June 1, 2010. This chart shows the benefits included in each of the standard Medicare supplement plans. Every company must make Plan “A” available. Some plans may not be available in your state.

Plans E, H, I, and J are no longer available for sale. [This sentence shall not appear after June 1, 2011.]

INSURANCE DIVISION[191](cont'd)

Basic Benefits:

- **Hospitalization** – Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
- **Medical Expenses** – Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services. Plans K, L and N require insureds to pay a portion of Part B coinsurance or copayments.
- **Blood** – First three pints of blood each year.
- **Hospice** – Part A coinsurance.

A	B	C	D	F	F*	G	K	L	M	N
Basic, including 100% Part B co-insurance	Basic, including 100% Part B co-insurance*		Basic, including 100% Part B co-insurance	Hospitalization and preventive care paid at 100%; other basic benefits paid at 50%	Hospitalization and preventive care paid at 100%; other basic benefits paid at 75%	Basic, including 100% Part B co-insurance	Basic, including 100% Part B co-insurance, except up to \$20 copayment for office visit, and up to \$50 copayment for ER			
		Skilled Nursing Facility Co-insurance	Skilled Nursing Facility Co-insurance	Skilled Nursing Facility Co-insurance		Skilled Nursing Facility Co-insurance	50% Skilled Nursing Facility Co-insurance	75% Skilled Nursing Facility Co-insurance	Skilled Nursing Facility Co-insurance	Skilled Nursing Facility Co-insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible		Part A Deductible	50% Part A Deductible	75% Part A Deductible	50% Part A Deductible	Part A Deductible
		Part B Deductible		Part B Deductible						
				Part B Excess (100%)		Part B Excess (100%)				
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency		Foreign Travel Emergency			Foreign Travel Emergency	Foreign Travel Emergency
							Out-of-pocket limit \$[4140]; paid at 100% after limit reached	Out-of-pocket limit \$[2070]; paid at 100% after limit reached		

* Plan F also has an option called a high deductible plan F. This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[1860] deductible. Benefits from high deductible plan F will not begin until out-of-pocket expenses exceed \$[1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.

INSURANCE DIVISION[191](cont'd)

PREMIUM INFORMATION

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES

Use this outline to compare benefits and premiums among policies.

This outline shows benefits and premiums of policies sold for effective dates on or after June 1, 2010. Policies sold for effective dates prior to June 1, 2010, have different benefits and premiums. Plans E, H, I, and J are no longer available for sale. [The last sentence of this paragraph shall not appear after June 1, 2011.]

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[Insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult "Medicare and You" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page a chart showing the services, Medicare payments, plan payments and insured payments, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this subrule. An issuer may use additional benefit plan descriptions on these charts pursuant to subrule 37.10(4).]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

INSURANCE DIVISION[191](cont'd)

PLAN A

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$0	\$[992] (Part A deductible)
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	\$0	Up to \$[124] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

INSURANCE DIVISION[191](cont'd)

PLAN B

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	\$0	Up to \$[124] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.			
	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

INSURANCE DIVISION[191](cont'd)

PLAN C

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.			
	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

INSURANCE DIVISION[191](cont'd)

PLAN D

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.			
	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

INSURANCE DIVISION[191](cont'd)

PLAN F or HIGH DEDUCTIBLE PLAN F
 MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan F after you have paid a calendar year \$[1860] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$[1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[1860] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[1860] DEDUCTIBLE,**] YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

*** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

[**This high deductible plan pays the same benefits as Plan F after you have paid a calendar year \$[1860] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are \$[1860]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[1860] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[1860] DEDUCTIBLE,**] YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	100%	\$0
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[1860] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[1860] DEDUCTIBLE,**] YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$[131] (Part B deductible)	\$0
Remainder of Medicare-Approved Amounts	80%	20%	\$0

INSURANCE DIVISION[191](cont'd)

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[1860] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[1860] DEDUCTIBLE,**] YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare's requirements including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	\$0
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	100%	0%
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

INSURANCE DIVISION[191](cont'd)

PLAN K

*You will pay half the cost sharing of some covered services until you reach the annual out-of-pocket maximum of \$[4000] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual maximum, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called “Excess Charges”) and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[496] (50% of Part A deductible)	\$[496] (50% of Part A deductible)♦
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE** You must meet Medicare’s requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[62] a day	Up to \$[62] a day ♦
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	50%	50%♦
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare’s requirements, including a doctor’s certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	50% of copayment/coinsurance	50% of Medicare copayment/coinsurance♦

*** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy’s “Core Benefits.” During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

**** Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts****	\$0	\$0	\$[131] (Part B deductible)**** ♦
Preventive Benefits for Medicare-Covered Services	Generally 75% or more of Medicare-Approved Amounts	Remainder of Medicare-Approved Amounts	All costs above Medicare-Approved Amounts
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 10%	Generally 10% ♦
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of [\$4140])*
BLOOD			
First 3 pints	\$0	50%	50%♦
Next \$[131] of Medicare-Approved Amounts****	\$0	\$0	\$[131] (Part B deductible)**** ♦
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 10%	Generally 10% ♦
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

* This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[4140] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*****	\$0	\$0	\$[131] (Part B deductible) ♦
Remainder of Medicare-Approved Amounts	80%	10%	10%♦

*****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

INSURANCE DIVISION[191](cont'd)

PLAN L

* You will pay one-fourth of the cost sharing of some covered services until you reach the annual out-of-pocket limit of \$[2070] each calendar year. The amounts that count toward your annual limit are noted with diamonds (♦) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called “Excess Charges”) and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

** A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[744] (75% of Part A deductible)	\$[248] (25% of Part A deductible)♦
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE** You must meet Medicare’s requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[93] a day	Up to \$[31] a day♦
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	75%	25%♦
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare’s requirements, including a doctor’s certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	75% of copayment/coinsurance	25% of copayment/coinsurance♦

*** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy’s “Core Benefits.” During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

**** Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts****	\$0	\$0	\$[131] (Part B deductible)**** ♦
Preventive Benefits for Medicare-Covered Services	Generally 75% or more of Medicare- Approved Amounts	Remainder of Medicare-Approved Amounts	All costs above Medicare-Approved Amounts
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 15%	Generally 5% ♦
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs (and they do not count toward annual out-of-pocket limit of \$[2070])*
BLOOD			
First 3 pints	\$0	75%	25%♦
Next \$[131] of Medicare-Approved Amounts****	\$0	\$0	\$[131] (Part B deductible) ♦
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 15%	Generally 5%♦
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

* This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[2070] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*****	\$0	\$0	\$[131] (Part B deductible) ♦
Remainder of Medicare-Approved Amounts	80%	15%	5%♦

***** Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

INSURANCE DIVISION[191](cont'd)

PLAN M

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION** Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$(496) (50% of Part A deductible)	\$(496) (50% of Part A deductible)
61st through 90th day	All but \$[248] a day	\$(496) a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$(496) a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0**
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE You must meet Medicare's requirements, including a doctor's certification of terminal illness.	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Generally 20%	0%
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts****	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible) ♦
Remainder of Medicare-Approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

INSURANCE DIVISION[191](cont'd)

PLAN N

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[992]	\$[992] (Part A deductible)	\$0
61st through 90th day	All but \$[248] a day	\$[248] a day	\$0
91st day and after:			
—While using 60 lifetime reserve days	All but \$[496] a day	\$[496] a day	\$0
—Once lifetime reserve days are used:			
—Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
—Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital.			
First 20 days	All approved amounts	\$0	\$0
21st through 100th day	All but \$[124] a day	Up to \$[124] a day	\$0**
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
You must meet Medicare's requirements, including a doctor's certification of terminal illness.			
	All but very limited copayment/coinsurance for outpatient drugs and inpatient respite care	Medicare copayment/coinsurance	\$0

** NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time, the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

INSURANCE DIVISION[191](cont'd)

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

* Once you have been billed \$[131] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
MEDICAL EXPENSES— IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	Generally 80%	Balance, other than up to \$[20] per office visit and up to \$[50] per emergency room visit. The copayment of up to \$[50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.	Up to \$[20] per office visit and up to \$[50] per emergency room visit. The copayment of up to \$[50] is waived if the insured is admitted to any hospital and the emergency visit is covered as a Medicare Part A expense.
Part B Excess Charges (Above Medicare-Approved Amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next \$[131] of Medicare-Approved Amounts**	\$0	\$0	\$[131] (Part B deductible)
Remainder of Medicare-Approved Amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOME HEALTH CARE MEDICARE-APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	\$0	\$0
—Durable medical equipment			
First \$[131] of Medicare-Approved Amounts*	\$0	\$0	\$[131] (Part B deductible) ♦
Remainder of Medicare-Approved Amounts	80%	20%	\$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

INSURANCE DIVISION[191](cont'd)

- ITEM 27. Renumber rule **191—37.16(514D)** as **191—37.18(514D)**.
- ITEM 28. Renumber rules **191—37.18(514D)** to **191—37.21(514D)** as **191—37.19(514D)** to **191—37.22(514D)**.
- ITEM 29. Renumber rule **191—37.22(514D)** as **191—37.26(514D)**.
- ITEM 30. Renumber rule **191—37.23(514D)** as **191—37.24(514D)**.
- ITEM 31. Adopt the following **new** rule 191—37.23(514D):

191—37.23(514D) Prohibition against use of genetic information and requests for genetic testing. This rule applies to all policies with policy years beginning on or after May 21, 2009.

37.23(1) For the purposes of this rule only, the following definitions shall apply:

“Family member” means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual.

“Genetic information” means, with respect to any individual, information about such individual’s genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. “Genetic information” includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman includes genetic information of any fetus carried by such pregnant woman or, with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term “genetic information” does not include information about the sex or age of any individual.

“Genetic services” means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education.

“Genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. The term “genetic test” does not mean:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or
2. An analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

“Issuer of a Medicare supplement policy or certificate” means the same as “issuer” as defined in rule 191—37.3(514D) and includes third-party administrator, or other person acting for or on behalf of such issuer.

“Underwriting purposes” means:

1. Rules for or determination of eligibility (including enrollment and continued eligibility) for benefits under the policy;
2. The computation of premium or contribution amounts under the policy;
3. The application of any preexisting condition exclusion under the policy; and
4. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits.

37.23(2) An issuer of a Medicare supplement policy or certificate:

- a. Shall not deny or condition the issuance or effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) of an individual on the basis of the genetic information with respect to such individual; and
- b. Shall not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual.

37.23(3) Nothing in subrule 37.23(2) shall be construed to limit the ability of an issuer, to the extent otherwise permitted by law, from:

- a. Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or

INSURANCE DIVISION[191](cont'd)

b. Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of another individual who is covered under the policy. In such case, the manifestation of a disease or disorder in one individual cannot also be used as genetic information about other group members and to further increase the premium for the group.

37.23(4) An issuer of a Medicare supplement policy or certificate shall not request or require an individual or a family member of such individual to undergo a genetic test.

37.23(5) Subrule 37.23(4) shall not be construed to preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under Part C of Title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with subrule 37.23(2).

37.23(6) For purposes of carrying out subrule 37.23(5), an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose.

37.23(7) Notwithstanding subrule 37.23(4), an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met:

a. The request is made pursuant to research that complies with Part 46 of Title 45, Code of Federal Regulations, or equivalent federal regulations, and any applicable state or local law or regulations for the protection of human subjects in research.

b. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that:

- (1) Compliance with the request is voluntary; and
- (2) Noncompliance will have no effect on enrollment status or premium or contribution amounts.

c. No genetic information collected or acquired under this subrule shall be used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate.

d. The issuer notifies the Secretary of the U.S. Department of Health and Human Services in writing that the issuer is conducting activities pursuant to the exception provided for under this subrule, including a description of the activities conducted.

e. The issuer complies with such other conditions as the Secretary of the U.S. Department of Health and Human Services may by regulation require for activities conducted under this subrule.

37.23(8) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information for underwriting purposes.

37.23(9) An issuer of a Medicare supplement policy or certificate shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment.

37.23(10) If an issuer of a Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of subrule 37.23(9) if such request, requirement, or purchase is not in violation of subrule 37.23(8).

ITEM 32. Renumber rule **191—37.24(514D)** as **191—37.25(514D)**.

ITEM 33. Reserve rules **191—37.27** to **191—37.49**.

ITEM 34. Adopt the following **new** division heading in **191—Chapter 37**:

DIVISION II
MEDICARE SUPPLEMENT ADVERTISING

ITEM 35. Adopt the following **new** rules 191—37.50(507B,514D) to 191—37.59(507B,514D):

191—37.50(507B,514D) Purpose. The purpose of the rules in this division is to provide prospective purchasers with clear and unambiguous statements in the advertisement of Medicare supplement

INSURANCE DIVISION[191](cont'd)

insurance and to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplement insurance. This purpose is intended to be accomplished by the establishment of guidelines and permissible and impermissible standards of conduct in the advertising of Medicare supplement insurance in a manner which prevents unfair, deceptive and misleading advertising and which is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance producers and companies.

191—37.51(507B,514D) Applicability.

37.51(1) “Insurer,” for the purpose of these rules, shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd’s, fraternal benefit society, health maintenance organization, hospital service corporation, medical service corporation, prepaid health plan and any other legal entity which is defined as an “issuer” in rule 191—37.3(514D) and is engaged in the advertisement of itself, or Medicare supplement insurance.

These rules shall apply to any “advertisement” of Medicare supplement insurance, as that term is defined in rule 191—37.52(507B,514D), unless otherwise specified in Division II of this chapter, that the insurer or producer knows or reasonably should know is intended for presentation, distribution or dissemination in this state when the presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer or producer, as those terms are defined in rule 191—15.2(507B).

37.51(2) Advertising materials that are reproduced in quantity shall be identified by form numbers or other identifying means. The identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

37.51(3) The requirements of Iowa Code chapter 507B and 191—Chapter 15 also shall apply to insurers and producers to which 191—Chapter 37, Division II, applies, unless specifically exempted therein.

191—37.52(507B,514D) Definitions. In addition to the definitions in Iowa Code section 507B.2 and rule 191—15.2(507B), the following definitions shall apply to 191—Chapter 37, Division II. When there is a definition for a term in this rule and also in Iowa Code section 507B.2 or rule 191—15.2(507B), the definition in this rule shall take precedence.

“*Advertisement*” includes:

1. The definition of “advertisement” in rule 191—15.2(507B).
2. Advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.
3. The definition of “advertisement” does not include:
 - Items excluded in the definition of “advertisement” in rule 191—15.2(507B).
 - Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract.
 - Court-approved material ordered by a court to be disseminated to policyholders.

“*Certificate*” means any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

“*Institutional advertisement*” means an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of Medicare supplement insurance, or the promotion of the insurer as a seller of Medicare supplement insurance.

“*Lead-generating device*” means any communication directed to the public that, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of Medicare supplement insurance.

“*Limitation*” means any provision other than an exception or a reduction that restricts coverage under the policy.

“*Medicare*” means “The Health Insurance for the Aged Act, Title XVIII of The Social Security Amendments of 1965 as Then Constituted or Later Amended,” or Title I, Part I, of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America, and also known as the “Health

INSURANCE DIVISION[191](cont'd)

Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof,” or words of similar import.

“*Medicare supplement insurance*” means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations that is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

“*Person*” means a natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

“*Reduction*” means any provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable had the reduction not been used.

191—37.53(507B,514D) Form and content of advertisements. An insurer must clearly identify its Medicare supplement insurance policy as an insurance policy. A policy trade name must be followed by the words “Insurance Policy” or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

191—37.54(507B,514D) Testimonials or endorsements by third parties. In addition to complying with 191—subrule 15.3(7), when a testimonial refers to benefits received under a Medicare supplement insurance policy, the insurer shall retain the specific claim data, including claim number, date of loss, and other pertinent information, for a period of four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials that do not correctly reflect the present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

191—37.55(507B,514D) Use of statistics; jurisdictional licensing; status of insurer. Advertisements shall be in compliance with 191—subrule 15.3(5) and with the following:

37.55(1) An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, the advertisement shall state clearly that the data do not relate to the policy being advertised.

37.55(2) An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

37.55(3) An advertisement shall not create the impression directly or indirectly that the insurer, the insurer’s financial condition or status, the insurer’s payment of its claims, or the merits, desirability or advisability of the insurer’s policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this state or of the United States government.

37.55(4) An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of this state or of the United States government. “Approval” of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, its advertising or its financial condition.

191—37.56(507B,514D) Identity of insurer. Advertisements shall be in compliance with 191—subrule 15.3(9) and with the following:

37.56(1) Advertisements, stationery or envelopes that employ words, letters, initials, symbols or other devices are not permitted if they are so similar to those used by governmental agencies or other insurers that they may lead the public to believe:

a. The advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurers;

INSURANCE DIVISION[191](cont'd)

b. The advertiser is the same as, is connected with or is endorsed by the governmental agencies or the other insurers.

37.56(2) No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.

37.56(3) No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised, or that any producer who may call upon the consumer in response to the advertisement, is connected with a governmental agency, such as the Social Security Administration.

37.56(4) No advertisement may incorporate the word “Medicare” in the title of the plan or policy being advertised unless, wherever it appears, the word is qualified by language differentiating the plan or policy from Medicare. Such an advertisement, however, shall not use the phrase “_____ Medicare Department of the _____ Insurance Company,” or language of similar import.

37.56(5) No advertisement shall be used that fails to include a disclaimer to the effect of “Not connected with or endorsed by the U.S. government or the federal Medicare program.”

37.56(6) No advertisement may imply that the reader may lose a right, privilege or benefit under federal, state or local law if the reader fails to respond to the advertisement.

37.56(7) No insurer may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

37.56(8) All advertisements used by producers or solicitors of an insurer shall have prior written approval of the insurer before the advertisements may be used.

37.56(9) A producer who makes contact with a consumer as a result of acquiring that consumer’s name from a lead-generating device shall disclose that fact in the initial contact with the consumer.

191—37.57(507B,514D) Introductory, initial or special offers.

37.57(1) Enrollment periods.

a. An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such representation is true. An advertisement shall not contain phrases describing an enrollment period as “special,” “limited,” or similar words or phrases when the insurer uses such enrollment periods as the usual method of advertising Medicare supplement insurance.

b. An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than six months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall be not fewer than 10 days and not more than 40 days from the date that the enrollment period is advertised for the first time. This rule applies to all advertising media, e.g., mail, newspapers, electronic mail, Web sites, radio, television, magazines and periodicals, used by any one insurer. This rule is not applicable to solicitations of employees or members of a particular group or association that otherwise would be eligible for group, blanket or franchise insurance. The phrase “any one insurer” in this paragraph includes all the affiliated companies of a group of insurance companies under common management or control. The phrase “a particular insurance product” in this paragraph means an insurance policy that provides benefits substantially different from those contained in any other policy. Different terms of renewability, an increase or decrease in the dollar amounts of benefits, or an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product’s being offered as a different product eligible for concurrent or overlapping enrollment periods.

c. This rule prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless either is true.

INSURANCE DIVISION[191](cont'd)

37.57(2) An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium shall be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term “juxtaposition” means side by side or immediately above or below.

37.57(3) Special awards, such as a “safe driver’s award,” shall not be used in connection with advertisements of Medicare supplement insurance.

37.57(4) An invitation to inquire, which means an advertisement having as its objective the creation of a desire to inquire further about Medicare supplement insurance that is limited to a brief description of coverage, shall contain a provision in the following or substantially similar form:

“This policy has [exclusions] [limitations] [reductions of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance producer or the company [whichever is applicable].”

191—37.58(507B,514D) Enforcement procedures—certificate of compliance. Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of these rules must file with the insurance division, with the insurer’s annual statement, a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that, to the best of the authorized officer’s knowledge, information and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied with or were made to comply in all respects with the provisions of these rules and the laws of this state as implemented and interpreted by these rules.

191—37.59(507B,514D) Filing for prior review. The commissioner may, at the commissioner’s discretion, require the filing with the insurance division, for review prior to use, of any Medicare supplement insurance advertising material.

ITEM 36. Amend **191—Chapter 37**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 507B and 514D.

ARC 7797B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 507B.12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B. The proposed amendment provides that an action by an insurer not in compliance with the Genetic Information Nondiscrimination Act of 2008 (P.L. 110-233, 122 Stat. 881) is an unfair trade practice under Chapter 15. The Division anticipates that insurers will comply with the amendment on and after May 22, 2009.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 10, 2009. Such written materials should be directed to Rosanne Mead, Assistant

INSURANCE DIVISION[191](cont'd)

Insurance Commissioner, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, fax (515)281-3059.

Also, there will be a public hearing on June 10, 2009, at 11 a.m. in the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment also was Adopted and Filed Emergency and is published herein as **ARC 7796B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 507B.

ARC 7779B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry hereby gives Notice of Intended Action to amend Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

These proposed amendments clarify that a residency program must be completed before permanent licensure is issued; remove language that requires the Board to give an applicant approval to sit for Part III of the examination; and require participating faculty of a podiatric college in Iowa who have clinical privileges to obtain permanent licensure, removing the faculty's eligibility for temporary licensure.

Any interested person may make written comments on the proposed amendments no later than June 17, 2009, addressed to Roxanne Sparks, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail rsparks@idph.state.ia.us.

A public hearing will be held on June 17, 2009, from 9 to 9:30 a.m. in the Fifth Floor Board Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 149 and 272C.

The following amendments are proposed.

ITEM 1. Rescind rule 645—220.2(149) and adopt the following **new** rule in lieu thereof:

645—220.2(149) Requirements for licensure. The following criteria shall apply to licensure:

220.2(1) An 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 the Board of Podiatry, Bureau of Professional Licensure, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

220.2(2) An 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.

220.2(3) Each application shall be accompanied by the appropriate fees payable to the Board of Podiatry. The fees are nonrefundable.

220.2(4) No application will be considered complete until official copies of academic transcripts are received, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board.

220.2(5) Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

220.2(6) 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. Retained upon written request of the applicant. The applicant is responsible for requesting that the file be retained.

220.2(7) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.2(8) An applicant who graduated from a podiatric college on or after January 1, 1995, shall present documentation of successful completion of a residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

220.2(9) Passing score reports for Part I, Part II, and Part III of the NBPME examination shall be sent directly from the examination service to the board.

ITEM 2. Rescind rule 645—220.3(149) and adopt the following **new** rule in lieu thereof:

645—220.3(149) Written examinations.

220.3(1) The examinations required by the board shall be Part I, Part II, and Part III of the NBPME.

220.3(2) The applicant has responsibility for:

- a. Making arrangements to take the examinations; and
- b. Arranging to have the examination score reports sent directly to the board from the NBPME.

220.3(3) A passing score as recommended by the administrators of the NBPME examinations shall be required.

ITEM 3. Rescind rule 645—220.4(149) and adopt the following **new** rule in lieu thereof:

645—220.4(149) Educational qualifications.

220.4(1) A new applicant for permanent or temporary licensure to practice as a podiatrist shall present official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board.

220.4(2) Foreign-trained podiatrists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org; or International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a podiatry program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

ITEM 4. Rescind rule 645—220.6(147,149) and adopt the following **new** rule in lieu thereof:

645—220.6(147,149) Temporary license.

220.6(1) A temporary license may be issued for one year and may be annually renewed at the discretion of the board.

220.6(2) Each applicant shall:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. Submit a completed 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;

b. Submit the appropriate fees payable to the Board of Podiatry. The fees are nonrefundable;

c. Have official copies of academic transcripts sent directly to the board of podiatry from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

d. Request that passing score reports of the NBPME examination Part I and Part II be sent directly to the board of podiatry from the National Board of Podiatric Medical Examiners;

e. Furnish an affidavit by the institution director or dean of an approved podiatric college from this state, attesting that the applicant has been accepted into the school's residency program. The residency program must be approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;

f. Request 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 the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

220.6(3) An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state, and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

220.6(4) The ultimate decision to issue a temporary license resides with the board, and a temporary license shall be surrendered if the reason for issuance ceases to exist.

ITEM 5. Rescind rule 645—220.7(149) and adopt the following **new** rule in lieu thereof:

645—220.7(149) Licensure by endorsement. An applicant who has been a licensed podiatrist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office.

220.7(1) The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:

a. Submits to the board a completed application;

b. Pays the licensure fee;

c. Shows evidence of licensure requirements that are similar to those required in Iowa;

d. Provides the board with official copies of academic transcripts, verifying graduation from a college of podiatric medicine approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association. Transcripts must be sent directly from the school to the board; and

e. 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 the verification provides:

- (1) Licensee's name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

220.7(2) An applicant shall submit the passing score reports for Part I and Part II of the NBPME examination. An applicant who graduated from a podiatric college in 1961 or earlier, is currently licensed in another state, and has practiced for the 24 months immediately prior to application may be exempted from passing Part I and Part II of the NBPME examination based on the applicant's credentials and the discretion of the board.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

220.7(3) An applicant shall submit passing score reports for Part III of the NBPME examination. An applicant who passed the Part III NBPME examination more than three years prior to the date of application in Iowa must submit proof of podiatry practice for one of the last three years.

220.7(4) An applicant who graduated from a podiatric college on or after January 1, 1995, must present documentation of successful completion of a residency approved by the American Podiatric Medical Association's Council on Podiatric Medical Education.

ARC 7791B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 135.11 and 136A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

These proposed amendments provide for an increase in the neonatal metabolic screening fee; require birthing providers to retain documentation of neonatal metabolic screening waivers and provide notification to the Department; and rename the Expanded Maternal Serum Alpha-Fetoprotein Screening Program to reflect the broader scope of testing available. Finally, technical amendments for the purpose of clarifying program acronyms are included.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 9, 2009. Such written comments should be directed to Kimberly Noble Piper, State Genetics Coordinator, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kpiper@idph.state.ia.us.

A public hearing will be held by conference call on June 9, 2009, from 10 to 11 a.m. Individuals may participate by calling 1-866-685-1580 and entering the following pass code: 5152816466#.

These amendments are intended to implement Iowa Code chapter 136A.

The following amendments are proposed.

ITEM 1. Amend rule **641—4.2(136A)**, definitions of "Central laboratory," "Central registry," "Residual neonatal metabolic screening specimen" and "Transferring hospital," as follows:

"*Central laboratory*" means the University Hygienic Laboratory (UHL), which is designated as the screening laboratory to perform testing and reporting for the Iowa neonatal metabolic screening and ~~expanded Iowa maternal serum alpha-fetoprotein~~ prenatal screening programs.

"*Central registry*" means the Iowa registry for congenital and inherited disorders (IRCID).

"*Residual neonatal metabolic screening specimen*" means ~~a~~ the portion of the specimen that may be left over after the completion of newborn screening services by all activities necessary for the Iowa neonatal metabolic screening program are completed.

"*Transferring hospital*" means the birthing hospital that transfers the infant to ~~a~~ another hospital.

ITEM 2. Adopt the following new definitions in rule **641—4.2(136A)**:

"*Iowa maternal prenatal screening program*" or "*IMPSP*" means a screening test designed to identify women with an increased risk of having a baby with a congenital or inherited disorder or women at risk of developing a problem later in pregnancy.

"*Residual maternal prenatal serum screening specimen*" means the portion of the specimen that may be left over after all necessary activities of the Iowa maternal prenatal screening program are completed.

"*University hygienic laboratory*" or "*UHL*" means the designated central testing laboratory.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 3. Amend rule 641—4.3(136A), introductory paragraph, as follows:

641—4.3(136A) Iowa neonatal metabolic screening program (INMSP). This program provides comprehensive neonatal metabolic screening services for hereditary and congenital disorders for the state to allow children and their families the earliest possible opportunity to receive appropriate early intervention services. The program includes the following: birthing hospitals, birth centers, health care providers, ~~central laboratory~~ UHL, follow-up consultants, and consulting physicians.

ITEM 4. Amend subrule 4.3(1) as follows:

4.3(1) Newborn screening policy.

a. No change.

b. As new disorders are recognized and new technologies and tests become available, the center shall follow protocols developed by the department in regard to the addition of disorders to or the deletion of disorders from the screening panel. The state board of health shall provide final approval for the addition of disorders to or the deletion of ~~new disorders to~~ from the screening panel.

c. The center may monitor individuals identified as having a genetic or metabolic ~~disease~~ disorder for the purpose of conducting public health surveillance or intervention and for determining whether early detection, treatment, and counseling lead to the amelioration or avoidance of the adverse outcomes of the ~~disease~~ disorder. Birthing hospitals or birth centers and health care providers shall provide patient data and records to the center upon request to facilitate the monitoring. Any identifying information provided to the center shall remain confidential pursuant to Iowa Code section 22.7(2).

ITEM 5. Amend subrule 4.3(2) as follows:

4.3(2) Neonatal metabolic screening procedure for facilities and providers.

a. No change.

b. *Waiver.* Should a parent or guardian refuse the screening, said refusal shall be documented ~~in writing on the Iowa neonatal metabolic screening program waiver for newborn screening refusal form in the mother's medical record. The parent or guardian and licensed attending health care provider shall sign the waiver.~~ The birthing hospital, birth center, or attending health care provider shall provide ~~notify~~ the central laboratory with a copy of the waiver within six days of the refusal. ~~The original copy of the waiver shall become a part of the infant's medical record.~~

c. No change.

d. *Submission of specimens.* All specimens shall be delivered via courier service or, if courier service is not available, forwarded by first-class mail or other appropriate means within 24 hours after collection to the ~~University Hygienic Laboratory, the center's designated central laboratory~~ UHL.

e. *Processing of specimens.* The ~~central laboratory~~ UHL shall process specimens within 24 hours of receipt. The ~~central laboratory~~ UHL shall notify the submitting health care provider, birthing hospital, birth center, or drawing laboratory of an unacceptable specimen and the need for another specimen.

f. *Reporting of presumptive positive test results.* A presumptive positive test result shall be reported within 24 hours to the consulting physician, or the physician's designee, who shall then notify the attending health care provider and the birthing hospital, birth center, or drawing laboratory. This initial report shall be followed by a ~~written~~ report to the birthing hospital, birth center, or drawing laboratory and, subsequently, to the ~~attending~~ health care provider who undertakes primary pediatric care of the newborn at the birthing facility.

ITEM 6. Amend paragraph **4.3(3)“c”** as follows:

c. ~~Beginning November 1, 2004, a~~ A physician or other health care professional who undertakes primary pediatric care of an infant delivered in Iowa shall ~~order~~ arrange for the neonatal metabolic screening ~~for completion~~ if a neonatal metabolic screening result is not in the infant's medical record. ~~The health care professional who undertakes primary pediatric care of the infant shall arrange for the neonatal metabolic screening.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 7. Amend paragraph **4.3(4)“e”** as follows:

e. Notification. The birthing hospital or birth center shall report the neonatal metabolic screening results ~~in written form~~ to the ~~licensed attending~~ health care provider who has undertaken primary pediatric care of the infant.

ITEM 8. Amend subrule **4.3(5)**, introductory paragraph, as follows:

4.3(5) ~~Central laboratory UHL responsibility.~~ The ~~central laboratory~~ UHL shall:

ITEM 9. Amend subrule 4.3(6) as follows:

4.3(6) *Follow-up program responsibility.* Under the direction of consulting physicians, metabolic, endocrine, pulmonary and hemoglobinopathy follow-up programs shall be available for all individuals identified by the metabolic screening as ~~affected~~ having an abnormal screen result.

a. No change.

b. The follow-up programs shall submit a written annual report of the previous fiscal year by September 30 of each year. The report shall include:

(1) The number of presumptive positive results and confirmed positive results by disorder,

(2) Method and timing of referrals made to the follow-up programs,

~~(2)~~ (3) Each individual's age at confirmation of disorder,

~~(3)~~ (4) Each individual's age when treatment began,

~~(4)~~ (5) Type of treatment for each individual with a disorder, and

~~(5)~~ (6) A written summary of educational and follow-up activities.

c. In collaboration with the ~~central laboratory~~ UHL, the follow-up programs shall submit a proposed budget and narrative justification for the upcoming fiscal year to the center by January 31 of each year.

d. No change.

e. ~~The consulting physician will oversee the respective follow up programs.~~

ITEM 10. Amend paragraph **4.3(8)“a”** as follows:

a. A neonatal metabolic screening specimen collection form consists of a filter paper containing the dried blood spots on filter paper (DBS) specimen and the attached requisition that contains information about the infant and birthing hospital, birth center, or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form.

(1) ~~Specimen collection forms~~ The residual DBS specimen shall be held for five years in a locked area at the ~~central laboratory~~ UHL.

(2) The residual DBS specimen ~~collection forms~~ shall be ~~retained~~ stored for the first year at -70 degrees C.

(3) After one year, the residual DBS specimen ~~collection forms~~ shall be archived for four additional years at room temperature.

(4) The residual DBS specimen ~~collection forms~~ shall be incinerated after five years of completion of the retention period.

ITEM 11. Amend subparagraph **4.3(8)“b”(1)** as follows:

(1) Investigators shall submit ~~to the center~~ proposals to use residual DBS specimens to the center. Any intent to utilize information associated with the ~~residual neonatal metabolic screening specimen for requested specimens as part of~~ the research study must be clearly delineated in the proposal.

ITEM 12. Amend subrule 4.3(9) as follows:

4.3(9) ~~Neonatal metabolic screening INMSP fee determination.~~

a. The department shall annually review and determine the fee to be charged for all activities associated with the INMSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The neonatal metabolic screening fee is ~~\$97~~ \$112.

b. No change.

e. ~~Provisions of special medical formula through this funding allocation shall be available to an individual only after the individual has shown that all benefits from third party payers including, but not limited to, health insurers, health maintenance organizations, Medicare, Medicaid, WIC and other~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~government assistance programs have been exhausted. In addition, a full fee and a sliding fee scale shall be established and used for those persons able to pay all or a part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula. The placement on the sliding fee scale shall be determined and reviewed at least annually.~~

ITEM 13. Amend subrule 4.3(10) as follows:

4.3(10) *Special medical formula and foods program.*

a. A special medical formula and foods program for individuals with inherited diseases of amino acids and organic acids who are identified through the Iowa neonatal metabolic screening program is provided by the University of Iowa.

b. Payments received from clients based on third-party payment, sliding fee scales and donations shall be used to support the administration of and the purchase of special medical formula and foods.

c. The funding allocation from the INMSP fee will be used as the funder of last resort after all other available funding options have been pursued by the special medical formula and foods program.

d. Provisions of special medical formula and foods through this funding allocation shall be available to an individual only after the individual has shown that all benefits from third-party payers including, but not limited to, health insurers, health maintenance organizations, Medicare, Medicaid, WIC and other government assistance programs have been exhausted. In addition, a full fee and a sliding fee scale shall be established and used for those persons able to pay all or part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula and foods. Placement of individuals on the sliding fee scale shall be determined and reviewed at least annually.

~~*d. e.* The central laboratory UHL shall act as the fiscal agent.~~

~~*e. f.* The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.~~

ITEM 14. Amend rule 641—4.4(136A) as follows:

641—4.4(136A) Expanded Iowa maternal serum alpha-fetoprotein prenatal screening program (IMPSP). This program provides comprehensive ~~second trimester~~ maternal prenatal screening services for the state.

4.4(1) *Maternal screening policy.* It shall be the policy of the state of Iowa that all pregnant women are offered the Iowa ~~expanded maternal serum alpha-fetoprotein (MSAFP)/Quad Screen~~ maternal prenatal screening. The Iowa ~~expanded MSAFP/Quad Screen~~ measures the maternal serum levels of ~~alpha-fetoprotein, unconjugated estriol, human chorionic gonadotropin, and inhibin A~~ to provide maternal prenatal screening program provides a risk assessment for open neural tube defects, ventral wall defects, Down syndrome, and Trisomy 18, ~~and Smith-Lemli-Opitz.~~

a. If a patient desires this screening test, ~~the specimen shall be drawn and submitted by her health care provider shall direct that a specimen be drawn and submitted to the University Hygienic Laboratory, the center's designated central laboratory UHL.~~

b. As new technologies and tests become available, the center shall follow protocols developed by the department with regard to the addition of disorders to or the deletion of disorders from the screening program.

4.4(2) *Maternal screening procedure.*

a. *Collection of specimens.* A serum or clotted blood specimen shall be collected from the patient ~~during 15 to 20 weeks of gestation~~ within the appropriate gestational range indicated by the requested screen.

b. *Processing of specimens.* The ~~central laboratory UHL~~ shall test specimens within three working days of receipt.

c. No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

4.4(3) Consulting physician responsibility. A consulting physician shall be designated by the center in collaboration with the ~~central laboratory~~ UHL to provide interpretation of test results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal test results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program, with assistance from the consulting physician, shall:

a. In collaboration with the ~~central laboratory~~ UHL, submit a proposed budget and narrative justification for the upcoming fiscal year to the center by January 31 of each year, and

b. No change.

4.4(4) ~~Central laboratory~~ UHL responsibility. The ~~central laboratory~~ UHL shall:

a. Contract with a courier service to provide transportation and delivery of maternal prenatal serum specimens.

b. Contact all entities submitting specimens to inform them of the courier's schedule.

~~c.~~ c. Test specimens within three working days of receipt.

~~b.~~ d. Distribute specimen collection kits and other materials to health care provider offices and drawing facilities as required.

~~e.~~ e. Inform the submitting health care provider or drawing facility of an unacceptable specimen and request another specimen.

~~f.~~ f. Provide educational materials concerning specimen collection procedures.

~~e.~~ g. Have available for review a written quality assurance program covering all aspects of its screening activity.

~~f.~~ h. Act as a fiscal agent for program charges encompassing the analytical, technical, administrative, educational and follow-up costs for the screening program.

4.4(5) ~~Iowa expanded MSAFP/Quad Screen~~ IMPSP fee determination. The department shall annually review and determine the fee to be charged for all activities associated with the ~~MSAFP/Quad Screen~~ IMPSP. The review and determination of the fee shall be completed at least one month prior to the beginning of the fiscal year.

4.4(6) Sharing of information and confidentiality. Reports, records, and other information collected by or provided to the ~~Iowa expanded MSAFP/Quad screening program~~ IMPSP relating to a patient's maternal serum prenatal screening results and follow-up information are confidential records pursuant to Iowa Code section 22.7.

a. No change.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) to (3) No change.

(4) A researcher, upon documentation of parental patient consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department and the state board of health.

4.4(7) Retention, use and disposition of residual maternal ~~serum~~ prenatal screening specimens.

a. A maternal serum screening specimen collection consists of laboratory tubes with maternal serum ~~screening specimens and attached~~ and associated information about the patient, health care provider, or drawing laboratory.

(1) ~~Maternal serum screening~~ The residual serum specimens shall be held for a specified period of time in a locked area at the ~~central laboratory~~ UHL in accordance with ~~central laboratory~~ UHL policy and procedures.

(2) Reserved.

b. Research use.

(1) Investigators shall submit ~~to the center~~ proposals to use ~~maternal serum screening~~ residual serum specimens to the center. Any intent to utilize information associated with the ~~residual maternal serum screening specimen for~~ requested specimens as part of the research study must be clearly delineated in the proposal.

(2) and (3) No change.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(4) Research on anonymized or identifiable residual specimens shall be allowed in instances where research would further maternal ~~serum~~ prenatal screening activities or general medical knowledge for existing public health surveillance activities.

ITEM 15. Amend rule 641—4.6(136A) as follows:

641—4.6(136A) Neuromuscular and other related genetic disease program (NMP). This program provides comprehensive services statewide for individuals and families with neuromuscular disorders through outreach clinics and statewide, active surveillance for selected neuromuscular disorders.

4.6(1) to 4.6(3) No change.

~~4.6(4) Surveillance for selected neuromuscular disorders. Rescinded IAB 8/4/04, effective 9/8/04.~~

~~4.6(5) Definition. Rescinded IAB 8/4/04, effective 9/8/04.~~

~~4.6(6) Central registry activities. Rescinded IAB 8/4/04, effective 9/8/04.~~

ITEM 16. Amend rule 641—4.7(136A) as follows:

641—4.7(136A) Iowa registry for congenital and inherited disorders (IRCID). ~~The central registry. This program~~ provides active statewide surveillance for ~~selected~~ congenital and inherited disorders. ~~Selected congenital and inherited~~ These disorders include birth defects, ~~and~~ neuromuscular disorders, metabolic disorders, and all stillbirths. ~~The program also may conduct active statewide surveillance of live births without a reportable congenital or inherited disorder to serve as controls for epidemiological surveys. Surveillance activities for specific congenital and inherited disorders will be conducted for the period of time that adequate financial support is available.~~

4.7(1) Definitions.

a. Birth defects shall be defined as any major structural or genetic abnormality that may adversely affect a child's health and development. The abnormality must be diagnosed or its signs and symptoms must be recognized within the first year of life.

b. ~~Neuromuscular disorders include diagnoses involving the muscle, nerve, or neuromuscular junction~~ shall be defined as Duchenne and Becker muscular dystrophies.

c. Metabolic disorders shall be defined as those disorders included in the INMSP screening panel.

d. Stillbirths shall be defined as an unintended fetal death occurring after a gestational period of 20 completed weeks or an unintended fetal death of a fetus with a weight of 350 or more grams. Stillbirth is synonymous with fetal death.

4.7(2) Surveillance policy for birth defects and neuromuscular disorders.

a. ~~Birth defects~~ Congenital disorders, including birth defects, occurring in Iowa are reportable conditions, and records of these ~~birth defects disorders~~ shall be abstracted pursuant to 641—1.3(139A) and maintained in ~~a central registry~~ the IRCID. Congenital disorders surveillance shall be performed in order to determine the occurrence and trends of such disorders, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for congenital disorders, to contribute to prevention strategies, and to assist in the planning for and provision of services to children with congenital disorders and their families.

b. ~~—Birth defects surveillance shall be performed in order to determine the occurrence and trends of birth defects, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with birth defects and their families, and to identify environmental and genetic risk factors for birth defects.~~

~~e. b.~~ Records for selected neuromuscular disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in ~~a central registry~~ the IRCID. Selected neuromuscular disorders include Duchenne and Becker muscular dystrophies. Selected neuromuscular disorders surveillance shall be performed in order to determine the occurrence and trends of the selected neuromuscular disorders, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to children with selected neuromuscular disorders and their families ~~for the period of time that adequate financial support is available for this project.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. Records for selected metabolic disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Selected metabolic disorders surveillance shall be performed in order to determine the occurrence and trends of the selected metabolic disorders, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to children with selected metabolic disorders and their families.

d. Stillbirths occurring in Iowa are reportable conditions, and records of these stillbirths shall be abstracted pursuant to 641—1.3(139A) and maintained in the IRCID. Stillbirth surveillance shall be performed in order to determine the occurrence and trends of stillbirths, to conduct thorough and complete epidemiological surveys to identify environmental and genetic risk factors for stillbirths, and to assist in the planning for and provision of services to prevent stillbirths.

4.7(3) ~~Central registry~~ IRCID activities.

a. The center shall establish an agreement with the University of Iowa to implement the activities of the ~~central registry~~ IRCID.

b. The ~~central registry~~ IRCID shall use the birth defects, ~~and neuromuscular disorders, metabolic disorders, and stillbirth~~ coding schemes ~~defined~~ developed by the Centers for Disease Control and Prevention (CDC).

c. The ~~central registry~~ IRCID staff shall review hospital records, clinical charts, physician's records, vital records, ~~and prenatal records, and fetal death evaluation protocols~~ pursuant to 641—1.3(139A), information from the INMSP, RGCS, NMP, and the IMPSP, and any other information that the ~~central registry~~ IRCID deems necessary and appropriate for ~~birth defects~~ congenital and inherited disorders surveillance.

~~d. — A reportable birth defect or neuromuscular disorder occurring in a fetal death or pregnancy termination may be included in the central registry.~~

4.7(4) Department responsibility.

a. When a live infant's medical records are ascertained by the ~~central registry~~ IRCID, the department or its designee shall inform the parent or legal guardian by letter that this information has been collected and provide the parent or guardian with information about services for which the child and family may be eligible.

b. The center and the ~~central registry~~ IRCID shall annually release aggregate medical and epidemiological information to medical personnel and appropriate state and local agencies for the planning and monitoring of services for children with ~~birth defects~~ congenital or inherited disorders and their families.

4.7(5) Confidentiality and disclosure of information. Reports, records, and other information collected by or provided to the ~~central registry~~ IRCID relating to a person known to have or suspected of having a ~~birth defect or neuromuscular~~ congenital or inherited disorder are confidential records pursuant to Iowa Code ~~section~~ sections 22.7 and 136A.7.

a. Personnel of the ~~central registry~~ IRCID and the department shall maintain the confidentiality of all information and records used in the review and analysis of ~~birth defects or neuromuscular~~ congenital or inherited disorders, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. ~~Central registry personnel~~ IRCID staff are authorized pursuant to 641—1.3(139A) to gather all information relevant to the review and analysis of ~~birth defects or neuromuscular~~ congenital or inherited disorders. This information may include, but is not limited to, hospital records, physician's records, clinical charts, ~~birth records, death records, fetal death records,~~ vital records, prenatal records, vital records, and other reports relevant and necessary for ~~birth defects and neuromuscular disorders~~ surveillance. fetal death evaluation protocols, information from the INMSP, RGCS, NMP, and the maternal prenatal screening program, and any other information that the IRCID deems necessary and appropriate for congenital and inherited disorders surveillance. IRCID staff are permitted to review hospital records, clinical charts, physician's records, vital records, and prenatal records, information from the INMSP, RGCS, NMP, and IMPSP and any other information that the IRCID deems necessary and appropriate for live births without a reportable congenital and inherited disorder to serve as controls for epidemiological surveys.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. No individual or organization providing information to the ~~central registry~~ IRCID in accordance with this rule shall be deemed or held liable for divulging confidential information.

4.7(6) *Access to information in the ~~central registry~~ IRCID.* The ~~central registry~~ IRCID and the department shall not release confidential information except to the following, under the following conditions:

a. to *c.* No change.

d. A representative of a federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The information provided shall not include the personal identifiers of an infant or child with a reportable ~~birth defect or neuromuscular~~ congenital or inherited disorder.

e. Researchers, in accordance with the following:

(1) All proposals for research using the ~~central registry~~ IRCID data to be conducted by persons other than program staff shall first be submitted to and accepted by the researcher's institutional review board. Proposals shall then be reviewed and approved by the department and the ~~central registry's~~ IRCID's internal advisory committee before research can commence.

(2) The ~~central registry~~ IRCID shall submit to the ~~central registry's~~ IRCID's internal advisory committee for approval a protocol describing any research conducted by the ~~central registry~~ IRCID in which the ~~central registry~~ IRCID deems it necessary to contact case subjects and controls.

f. No change.

ARC 7792B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," and Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," Iowa Administrative Code.

Items 1 and 13 amend rules to reflect current federal regulations. The remaining items are amended to meet Nuclear Regulatory Commission compatibility requirements.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 9, 2009. Such written materials should be directed to Chief of Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or E-mail atostleb@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are proposed.

ITEM 1. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~July 9, 2008~~ September 2, 2009.

ITEM 2. Amend subparagraph **39.4(3)"a"(2)** as follows:

(2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 39.4(3)"a"(1) or equivalent regulations of the U.S. Nuclear Regulatory Commission, or any agreement state ~~or licensing state~~,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

except in accordance with a specific license issued pursuant to ~~39.4(29)~~ or the general license provided in ~~39.4(90)~~ 10 CFR 32.11.

ITEM 3. Amend subparagraph **39.4(3)“a”(5)** as follows:

(5) A manufacturer, processor, or producer of a product or material ~~in an agreement state~~ is exempt from the requirements for a license and from these rules to the extent that the manufacturer, processor, or producer transfers radioactive material contained in a product or material in concentrations not in excess of the requirements in Appendix A of this chapter and introduced into the product or material by a licensee holding a specific license issued by ~~an agreement state~~ or the U.S. Nuclear Regulatory Commission expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

ITEM 4. Amend paragraph **39.4(3)“b”** as follows:

b. Exempt quantities.

(1) Except as provided in 39.4(3)“b”(3), ~~and (4), and (5)~~, any person is exempt from the requirements for a license and from these rules to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in Appendix B of this chapter.

(2) Any person who possesses radioactive material received or acquired under ~~the a general license issued for manufacture of devices and equipment under special license from NRC~~ is exempt from the requirements for a license set forth in this chapter to the extent that such person possesses, uses, transfers or owns such radioactive material. ~~Such exemption does not apply for radium 226.~~

(3) This paragraph (39.4(3)“b”) does not authorize for purposes of commercial distribution the production, packaging, ~~or repackaging~~ or transfer of radioactive material ~~for purposes of commercial distribution~~, or the incorporation of radioactive material into products intended for commercial distribution.

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Appendix B of this chapter, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under 39.4(3) or equivalent regulations of the U.S. Nuclear Regulatory Commission, any agreement state or licensing state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.18 of 10 CFR 32, ~~or by the agency pursuant to 39.4(29)“b,”~~ which license states that the radioactive material may be transferred by the licensee to persons exempt under 39.4(3)“b” or the equivalent regulations of the U.S. Nuclear Regulatory Commission, an agreement state, or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing by-product material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in Appendix B of this chapter, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this chapter.

ITEM 5. Amend subparagraph **39.4(3)“c”(1)** as follows:

(1) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into, the following products, or persons who initially transfer for sale or distribution the following products containing radioactive material, any person is exempt from the requirements for a license set forth in this chapter and from these rules to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:

1. and 2. No change.

~~3. —Lock illuminators containing not more than 15 millicuries (555 MBq) of tritium or not more than 2 millicuries (74 MBq) of promethium-147 installed in automobile locks. The radiation dose rate~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~from each lock illuminator containing promethium-147 will not exceed 1 millirad (10 µGy) per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber.~~

~~4. 3. Precision balances containing not more than 1 millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before December 17, 2007.~~

~~5. Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium.~~

~~6. 4. Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before December 17, 2007.~~

~~7. Thermostat dials and pointers containing not more than 25 millicuries (925 MBq) of tritium per thermostat.~~

~~8. 5. Electron tubes, provided that each tube does not contain more than one of the following specified quantities of radioactive material:~~

- ~~• 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;~~
- ~~• 1 microcurie (37 kBq) of cobalt-60;~~
- ~~• 5 microcuries (185 kBq) of nickel-63;~~
- ~~• 30 microcuries (1.11 MBq) of krypton-85;~~
- ~~• 5 microcuries (185 kBq) of cesium-137; and~~
- ~~• 30 microcuries (1.11 MBq) of promethium-147.~~

And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed 1 millirad (10 µGy) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. For purposes of ~~39.4(3)“e”(1)“8,”~~ 39.4(3)“c”(1)“5,” the term “electron tubes” ~~include~~ includes spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

~~9. 6. Ionizing radiation measuring instruments, for purposes of internal calibration or standardization, containing one or more sources of radioactive material, provided that:~~

- ~~• Each source contains no more than one exempt quantity set forth in Appendix B of this chapter;~~
- ~~• Each device contains no more than ten exempt quantities. For purposes of this requirement, a device’s source(s) may contain either one type of or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Appendix B of this chapter, provided that the sum of such fractions shall not exceed unity; or~~
- ~~• For americium-241, 0.05 microcurie (1.85 kBq) is considered an exempt quantity under 39.4(3)“e”(1)“9.” 39.4(3)“c”(1)“6.”~~

~~10. Spark gap irradiators containing not more than 1 microcurie (37 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons (11.4 l) per hour.~~

7. Ionization chamber smoke detectors containing not more than 1 microcurie (µCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

ITEM 6. Rescind and reserve subparagraph **39.4(3)“c”(4)**.

ITEM 7. Amend subparagraph **39.4(22)“d”(3)**, numbered list, as follows:

1. to 7. No change.

8. Shall transfer or dispose of the device containing radioactive material only by export as provided by 39.4(22)“d”(3)“7,” by transfer to another general licensee as authorized in 39.4(22)“d”(3)“9,” to a person authorized to receive the device by a specific license issued by the agency, the NRC, an agreement state or a licensing state whose specific license authorizes the person to receive the device or which authorizes waste collection, or as otherwise approved under 39.4(22)“d”(3):

- Shall furnish a report to this agency within 30 days after the transfer of a device to a specific licensee or export. The report must contain the identification of the device by manufacturer’s (or initial transferor’s) name, model number, and serial number; the name, address and license number of the

PUBLIC HEALTH DEPARTMENT[641](cont'd)

person receiving the device (license number not applicable if device is exported); and the date of the transfer;

- Shall obtain written agency approval before transferring the device to any other specific licensee not specifically identified in 39.4(22)“d”; however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval if the holder:

- Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

- Removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by 39.4(22)“d”(3)“1”) so that the device is labeled in compliance with 641—40.63(136C) of these rules; however the manufacturer, model number, and serial number must be retained;

- Obtains manufacturer’s or initial transferor’s information concerning maintenance that would be applicable under the specific license (such as leak-testing procedures); and

- Reports the transfer under 39.4(22)“d”(3)“8” of this chapter.

9. to 15. No change.

ITEM 8. Rescind and reserve paragraphs **39.4(29)“a”** and **“c.”**

ITEM 9. Amend subparagraph **39.4(29)“j”(2)**, numbered list, as follows:

1. to 4. No change.

5. Shall provide to the agency a copy of each individual’s; ~~certification by the Board of Pharmaceutical Specialties, the NRC, or agreement state license, or the permit issued by a licensee of broad scope, and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to 39.4(29)“j”(2)“2,” first and third bulleted paragraphs, the individual to work as an authorized nuclear pharmacist.~~

- Certification by a specialty board whose certification process has been recognized by the NRC or an agreement state as specified in 641—paragraph 41.2(78)“a” with the written attestation signed by a preceptor as required by 641—paragraph 41.2(78)“c”; or

- NRC or agreement state license; or

- Permit issued by a licensee of broad scope; and

- State pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to 39.4(29)“j”(2)“2,” first and third bulleted paragraphs, the individual to work as an authorized nuclear pharmacist.

ITEM 10. Amend paragraph **39.4(29)“1,”** introductory paragraph, as follows:

1. Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 641—41.2(136C) for use as a calibration, transmission, or reference source or for the uses listed in 641—subrules 41.2(41), 41.2(43), ~~and 41.2(49), and 41.2(88)~~ will be approved if:

ITEM 11. Rescind and reserve paragraph **39.4(29)“n.”**

ITEM 12. Amend subparagraph **39.4(90)“a”(6)** as follows:

(6) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided by 39.4(90)“a” except by transfer to a person: specifically licensed by the agency, another agreement state or the U.S. Nuclear Regulatory Commission to receive such material.

1. ~~Specifically licensed by the agency, another agreement state or the U.S. Nuclear Regulatory Commission to receive such material, or~~

2. ~~Exempt from the requirements for a license for such material under 39.4(3)“a.”~~

ITEM 13. Amend paragraph **41.2(1)“b”** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of May 3, 2006 September 2, 2009.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 14. Amend subrule 41.2(19) as follows:

41.2(19) Assay of radiopharmaceutical dosages. A licensee shall:

- a. No change.
- b. Assay, before medical use, the activity of each radiopharmaceutical dosage of a photon-emitting radionuclide to verify that the dosage does not exceed 30 microcuries (1.1 MBq); ~~and~~
- c. Measure, by direct measurement or by combination of measurements and calculations, the activity of each dosage of an alpha- or beta-emitting radionuclide prior to medical use, except for unit dosages obtained from a manufacturer or preparer licensed pursuant to 641—paragraph 39.4(29)“j” or equivalent NRC or agreement state requirements;
- d. Not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent unless otherwise directed by the authorized user; and
- ~~e.~~ Retain a record of the assays required by 41.2(19)“a” for three years. To satisfy this requirement, the record shall contain the:
 - (1) to (5) No change.

ITEM 15. Amend paragraph **41.2(27)“a”** as follows:

- a. The licensee may authorize the release from its control of any individual who has been administered ~~radiopharmaceuticals~~ unsealed radioactive materials or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 0.5 rem (5 mSv). (NUREG-1556, Vol. 9, “Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Licenses,” describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 0.5 rem (5 mSv).)

ITEM 16. Amend paragraph **41.2(30)“a,”** introductory paragraph, as follows:

- a. A licensee may hold radioactive material with a physical half-life half-life of less than or equal to 120 days, except for Cobalt 57 for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of 641—subrule 40.70(1) without regard to its radioactivity if the licensee:

ITEM 17. Amend subparagraphs **41.2(57)“a”(1)** and **(2)** as follows:

- (1) The system ~~shall~~ must have been calibrated using a system or source traceable to the National Institute of Standards and Technology and published protocols accepted by nationally recognized bodies, or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The calibration ~~shall~~ must have been performed within the previous two years and after any servicing that may have affected system calibration; or
- (2) The system ~~shall~~ must have been calibrated within the previous four years; 18 to 30 months after that calibration, the system ~~shall~~ must have been intercompared with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the American Association of Physicists in Medicine. The results of the intercomparison ~~must have indicated~~ indicate that the calibration factor of the licensee’s system ~~had~~ has not changed by more than 2 percent. The licensee ~~shall~~ may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, if applicable, and sources of the same radionuclide as the source used at the licensee’s facility.

ITEM 18. Amend paragraph **41.2(57)“b”** as follows:

- b. The licensee shall have available for use a dosimetry system for spot-check measurements. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with 41.2(57)“a.” This comparison ~~shall~~ must have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system ~~shall~~ may be the same system used to meet the requirement in 41.2(57)“a.”

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 19. Amend subparagraph **41.2(67)“a”(1)** as follows:

(1) Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies, ~~which include the topics listed in~~ as described in 41.2(67)“c”(1)“1” and “2”; and

ITEM 20. Amend subparagraph **41.2(68)“a”(1)** as follows:

(1) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies ~~that include the topics listed in~~ as described in 41.2(68)“c”(1)“1” and “2”; and

ITEM 21. Amend subparagraph **41.2(71)“b”(3)** as follows:

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in 41.2(70) or 41.2(71), or before May 3, 2006, meets the requirements in 10 CFR 35.490 or 35.491, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in ~~41.2(71)“a” and “b”~~ 41.2(71)“b”(1) and (2) and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

ARC 7798B

PUBLIC HEALTH DEPARTMENT[641]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends the Notice of Intended Action to amend Chapter 73, “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),” Iowa Administrative Code.

The original Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7669B**. The Department was unable to hold the public hearing scheduled for April 28, 2009, due to an issue with the scheduling of the ICN. This amended Notice establishes a new public hearing on June 10, 2009, with 14 ICN locations.

The purpose of the proposed amendment is to be consistent with federal changes to the requirements of the WIC food package that become effective October 1, 2009, and that will affect 74,500 Iowa WIC participants. The amendment also reserves the Department’s right to limit the number of foods for the WIC-approved food list based on accessibility, availability, retail value of product, USDA recommendations, increased number of WIC participants, and change in appropriation of funds.

The Department has made the following changes to the proposed amendment that was published on April 8, 2009, as **ARC 7669B**. In paragraph “e,” subparagraph (6), the word “frozen” was added, and the words “of nonrefrigerated juice” were removed. In paragraph “f,” subparagraph (1), the words “low-fat, reduced fat” have been replaced with “1%” and the word “skim” has been added. In paragraph “i,” the words “or AA” have been added. In paragraph “n,” the word “canned” has been removed.

Any interested person may make written or oral suggestions or comments on the amendment on or before June 10, 2009. Comments should be directed to Julie McMahan, Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Fourth Floor, Des Moines, Iowa 50319-0075; telephone (515)281-3104; or fax (515)281-4913.

There will also be a public hearing on June 10, 2009, from 9 to 10 a.m. utilizing the Iowa Communications Network (ICN). The hearing will be conducted from 14 sites. Please call (515)281-4919 to schedule a time to speak at the hearing and to confirm the availability of the requested site. The hearing will originate from the Department of Public Health ICN Room, Sixth Floor, Lucas State Office Building, 321 East 12th, Des Moines, and will be accessible from the following ICN sites:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Iowa State University – 1 Lagomarcino Hall
 Corner of Knoll Road and Pamel Dr.
 Ames

Bettendorf Public Library
 Information Center – Kelinson Room
 2950 Learning Center Campus Drive
 Bettendorf

Cedar Falls Public Library
 524 Parkade
 Cedar Falls

Loess Hills AEA
 24997 Highway 92
 Council Bluffs

Keystone Area Education Agency – 1
 2310 Chaney Road
 Dubuque

Ft. Dodge Air National Guard
 1649 Nelson Avenue
 Ft. Dodge

Iowa Valley Community College
 123 6th Avenue West
 Grinnell

Hiawatha Public Library
 150 West Willman Street
 Hiawatha

North Iowa Area Community College – 1
 500 College Drive
 Mason City

Mount Pleasant Treatment Center
 1200 East Washington
 Mount Pleasant

Osceola Public Library
 300 S. Filmore Street
 Osceola

Great Prairie Area Education Agency – 1
 2814 N. Court Street
 Ottumwa

Northwest Area Education Agency – 12
 1520 Morningside Ave.
 Sioux City

This amendment is intended to implement Iowa Code section 135.11.

The following amendment is proposed.

Amend subrule 73.9(3) as follows:

73.9(3) Criteria for approving products for inclusion in the WIC food package.

- a. A product shall meet the federal regulations governing the WIC food package.
- b. Variety in the food package is encouraged to increase the likelihood of products being used ~~as well as~~ and to allow participants to exercise responsibility in shopping.
- c. Changes to the approved food list take effect on October 1 in years when new vendor contracts are signed. Inquiries from food companies about new and continuing products must be received prior to February 1 of the year vendor contracts expire to be guaranteed consideration. The state reserves the right to change the food list more frequently if necessary.
- d. Cereals shall meet federal guidelines for ~~sugar and iron~~ content and shall also meet the following conditions:
 - (1) They ~~shall be~~ are carried by current Iowa WIC-approved vendors.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) The product form and marketing approach ~~shall be~~ are consistent with the promotion of good nutrition and education.

(3) If a group of cereals from one manufacturer have similar names and package designs and some do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants.

(4) Ready-to-eat cold cereals are ranked by the six major distributors to Iowa ~~WIC vendors~~ grocery retailers based on volume of total sales. Hot cereals are ranked in the same way. Multiple ~~varieties~~ container sizes of a single ~~brand of cereal~~ variety shall be considered as one ~~brand~~ variety for the purposes of constructing this ranking. The ~~state office~~ department compiles data from all distributors to develop an overall ranking or ranked list. ~~The top 16 name brand cold cereals, the top 3 varieties of private label (store) brand cold cereals and the top 2 hot cereals that qualify are selected.~~ At least half of the cereals authorized on the WIC-approved food list must have whole grain as the primary ingredient by weight and must meet labeling requirements for making a health claim as a whole grain food with moderate fat content. The department reserves the right to limit the number of approved cereals for administrative efficiency.

(5) Product ~~shall have~~ has been available in retail grocery stores in Iowa for one year prior to the effective date of inclusion in the WIC-approved food list.

e. Juices shall meet the federal guidelines for vitamin C content and all of the following conditions:

(1) Juices ~~shall be~~ are 100 percent juice and contain no added sugar, sweeteners or artificial sweeteners.

(2) The brand ~~shall be~~ is carried by current Iowa WIC-approved vendors. Juices are ranked by the six major distributors to Iowa ~~WIC vendors~~ grocery retailers based on volume of total sales. ~~The top two name brands of each flavor of juice (e.g., tomato, orange, grapefruit, grape, apple, or blended) and form of juice (single strength or concentrated) that meet the selection criteria will be approved.~~ Any private-label (store) brands that meet the selection criteria will also be ~~approved~~ considered.

(3) The product form and marketing approach ~~shall be~~ are consistent with the promotion of good nutrition and education.

(4) If a group of juices from one manufacturer have similar names and package designs and some do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants. Single-strength and concentrated varieties of juice with the same brand name will be evaluated separately.

(5) Product ~~shall have~~ has been available in retail grocery stores in Iowa for one year prior to the effective date of inclusion in the WIC-approved food list.

(6) ~~Concentrated~~ Frozen fruit juices must be single flavors ~~of juice~~.

f. The following conditions apply to dairy products:

(1) To qualify, brands of whole, ~~low fat, reduced fat~~ 1%, or fat-free skim milk marketed in Iowa must contain or be fortified with vitamins A and D to meet the federal standards. The department reserves the right to disqualify brands ~~that significantly exceed the average price of other brands or which are marketed as providing additional health benefits~~ which have a retail value of 115 percent or higher than the state average for this product.

(2) Fluid milk with added bacterial cultures or enzymes, including but not limited to sweet acidophilus or lactose-reduced milk, may qualify. Brands are approved by the department on a case-by-case basis.

(3) All brands of natural cheese designated in the USDA WIC regulations qualify. The cheese shall have no added flavors (e.g., smoke flavoring, peppers, wine).

g. All brands of dried beans or peas are approved whether packaged or purchased in bulk; however, no mixes are allowed.

h. Any brand of peanut butter qualifies as long as it does not contain other ingredients such as jelly. Brands may be either refrigerated or nonrefrigerated.

i. Eggs shall be fresh, Grade A or AA large ~~or smaller~~ chicken eggs. ~~Specialty eggs, including those with health or nutrition claims and significantly higher prices,~~ Eggs which have a retail value of 115 percent or higher than the state average for this product shall not be approved.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

j. Any brand of tuna or salmon qualifies if it is either water- or oil-packed, in cans or pouches, chunked, solid, or flaked, ~~and is in six ounce minimum size containers.~~ Tuna Fish packaged with other items such as crackers, ~~or~~ relish or other flavorings may not be purchased. Albacore tuna is not allowed.

k. Commercial infant formula shall meet the following conditions:

(1) It ~~shall have~~ is registered with the Food and Drug Administration as complying with the legal definition of infant formula.

(2) It ~~shall comply~~ complies with the calorie and iron content prescribed by the federal WIC regulations.

(3) It ~~has been~~ is approved by the USDA for use in the WIC program.

(4) The product form and marketing approach ~~shall be~~ are consistent with the promotion of good nutrition and education.

(5) All of the formula marketed under ~~that one~~ one label shall meet all standards. If a similar, nonqualifying formula is marketed along with a qualifying formula, participants may be easily confused. Therefore, the qualifying formula shall not be approved.

~~(6) "Special formulas," as described in the regulations, must be approved by the USDA.~~

l. At least two whole grain options that meet federal guidelines will be provided.

m. Infant food fruits, vegetables and meats must meet the federal guidelines.

n. Fresh and frozen vegetables and fruits that meet federal guidelines will be available for purchase with cash value vouchers specifically for fruits and vegetables.

o. Soy beverages shall meet federal guidelines.

p. Products will be evaluated for use in the Iowa WIC program based on nutrient content, packaging, container size, labeling, availability to wholesale distributors, cost and participant preference. The state reserves the right to limit the number of foods for the WIC-approved food list based on accessibility, availability, retail value of product, USDA recommendations, increased number of WIC participants, changes in appropriation of funds and administrative efficiency.

~~*q.*~~ In addition to the criteria specified above, the department reserves the right to further restrict the number of brands of any products in order to contain the cost of the food package through competitive procurement of rebate contracts or other similar means.

r. The department reserves the right to discontinue specific brand names and products if the cost is 115 percent or higher than the state average for that particular product.

ARC 7794B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 83, "Early Childhood Iowa Council," Iowa Administrative Code.

The Early Childhood Iowa Council was established by the General Assembly to serve as the lead entity for Iowa's early childhood system building efforts. The ECI Council will serve as the advisory body for the development and implementation of a comprehensive early care, health and education system. These rules set forth membership and operating procedures for the Council and describe how the Department will coordinate efforts among stakeholders.

Any interested person may make written comments or suggestions on the proposed rules on or before June 9, 2009. Such written comments should be directed to Gretchen Hageman, Department of Public

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6013 or by E-mail to ghageman@idph.state.ia.us.

These rules are intended to implement Iowa Code sections 135.173 and 135.174.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 83:

CHAPTER 83
EARLY CHILDHOOD IOWA COUNCIL

641—83.1(135) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Co-chairpersons*” means the co-chairpersons of each of the six component groups, who have been elected by the majority of the early childhood Iowa council’s membership present at the annual meeting.

“*Council*” means the early childhood Iowa (ECI) council.

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*First years first*” means the account that is created in the Iowa empowerment fund (Iowa Code section 28.9(5)) under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are appropriated to the department of management to be used for the community empowerment-related purposes for which the moneys were received.

“*Lead agency*” means the Iowa department of public health.

“*Steering committee*” means the coordinating body of the council’s activities.

641—83.2(135) Purpose and vision.

83.2(1) The council is established to oversee the development of a comprehensive, integrated early care, health and education system by encouraging collaboration around desired results.

a. The council serves as an alliance of stakeholders for the early care, health, and education systems that affect children ages zero through five and their families.

b. The council serves in an advisory capacity to the governor, general assembly, public and private policy bodies, early childhood boards, state departments and their pertinent early childhood projects and initiatives and may serve other identified early care, health, and education initiatives.

c. The council may advise agencies in the state with respect to the integration of services and programs for children and families.

83.2(2) Activities of the council shall be aligned around the ECI vision: Every child, beginning at birth, will be healthy and successful.

641—83.3(135) Membership. ECI council members shall include a representative of any organization that touches the lives of children ages zero through five in the state; has endorsed the purpose, vision, and guiding principles adopted for the early childhood system by the council; and has formally asked to be a member and remains actively engaged in council activities. Members are self-appointed to the council.

83.3(1) The council shall include but not be limited to representatives from the following organizations:

a. State agencies including the departments of public health, human rights, human services, management—office of empowerment, workforce development, economic development, and education;

b. Nongovernmental organizations;

c. Early care, health, and education providers;

d. Professional organizations;

e. Advocacy organizations;

f. Parent organizations.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

83.3(2) The ECI council will serve as the required State Advisory Council initiated through the Head Start federal legislation (42 USC 9801, Section 642B) and will play a role in ensuring that the following entities are represented:

- a. Head Start state collaboration office;
- b. Iowa Head Start Association;
- c. State child care administrator or designee;
- d. Early Intervention Services, Early ACCESS (Part C, IDEA);
- e. Health and mental health organizations;
- f. Local Head Start agencies;
- g. Local area education agencies;
- h. Institutions of higher education.

83.3(3) The council shall work to ensure geographic, cultural, and ethnic diversity among membership.

641—83.4(135) Meetings. The council shall meet no fewer than three times a year in such locations as it deems appropriate.

83.4(1) Notice of routine meetings and agendas shall be made available to the members a minimum of five working days prior to the meeting.

83.4(2) All meetings shall be open to the public in accordance with the open meetings law, Iowa Code chapter 21.

641—83.5(135) Minutes. In accordance with Iowa Code chapter 21, the council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

83.5(1) The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

83.5(2) The minutes shall be available on the early childhood Iowa Web site.

641—83.6(135) Duties. The council's duties shall include but are not limited to all of the following:

83.6(1) Conduct a statewide needs assessment at least every five years; update the assessment annually concerning the quality and availability of early care, health, and education programs; and conduct an assessment of infrastructure needs (professional development system, diversity, and workforce).

83.6(2) Coordinate the development and implementation of an ECI strategic plan.

83.6(3) Assist in the development and implementation of responsibilities across agencies and other entities to achieve ECI strategic goals.

83.6(4) Identify opportunities for and barriers to collaboration and coordination among federally funded and state-funded early care, health, and education programs and services, including collaboration and coordination among state agencies responsible for administering such programs.

83.6(5) Work with the Iowa empowerment board in developing public/private partnerships to support the early childhood system through the first years first account in the Iowa empowerment fund and other efforts for expanding investment of private funding in the early childhood system. As this and similar efforts to expand and coordinate investments from all public and private sources evolve and mature, the council shall make recommendations to the lead agency for identifying or creating a private nonprofit organization to serve as a fiscal agent for the early childhood system or another approach for increasing public and private investment in the system.

83.6(6) Enhance collaboration and coordination of early care, health, and education services with other entities, including but not limited to the following services: early childhood education and development, health care, oral health, mental health care, welfare, child protective services, community environment, early literacy services, reading readiness programs, services relating to children with special health care needs, nutrition and physical activity, services for children with limited English proficiency and homeless children, and services provided by child welfare agencies.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

83.6(7) Develop recommendations to increase overall participation of children in early education services, including outreach to underrepresented and special populations.

83.6(8) Develop recommendations regarding the establishment of a unified data collection system for early childhood development programs and services throughout the state.

83.6(9) Develop recommendations regarding statewide professional development systems for early care, health, and education providers.

83.6(10) Assess the capacity and effectiveness of two- and four-year public and private institutions of higher education in the state for supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in high-quality early care, health, and education services.

83.6(11) Make recommendations for the implementation and advancement of the state's early learning standards.

83.6(12) Provide advice and recommendations to leadership of the executive branch and general assembly on system development that affects children ages zero through five and their families.

83.6(13) Report annually by December 31 to the governor and general assembly. The report shall include but is not limited to all of the following:

a. The status and results of the council's efforts to engage the public regarding the early care, health, and education needs of children ages zero through five and the efforts to develop and promote private-sector involvement with the early childhood system.

b. The status of the community empowerment initiative and the overall early childhood system in achieving the following initial set of desired results identified in Iowa Code section 28.2:

- (1) Healthy children.
- (2) Children ready to succeed in school.
- (3) Safe and supportive communities.
- (4) Secure and nurturing families.
- (5) Secure and nurturing early care and education environments.

641—83.7(135) Steering committee. The council shall operate with a steering committee to organize, manage, and coordinate the activities of the council and the component groups. The steering committee may choose to appoint a chairperson.

83.7(1) *Membership of steering committee.* The membership of the steering committee shall consist of the following:

- a.* The co-chairpersons of the council's six component groups;
- b.* The chairperson of the state agency liaison team or designee;
- c.* The community empowerment facilitator or designee;
- d.* The staff person for the early childhood Iowa council; and
- e.* Others as designated by the council.

83.7(2) *Duties of steering committee.* The steering committee's duties shall include the following:

- a.* Identify and discuss information and issues to be addressed by the full council;
- b.* Establish the framework for overall council business, including the calendar of meetings and the agenda for council meetings;
- c.* Facilitate the implementation of the memoranda of agreement among the state agencies described in rule 641—83.10(135);
- d.* Provide organizational, management and coordination support as needed for the activities of the council and the component groups; and
- e.* Ensure that the council addresses its duties and responsibilities as described in this chapter.

83.7(3) *Steering committee actions.* The steering committee may act on behalf of the council as necessary. All decisions the steering committee makes shall be reported back to the ECI council.

641—83.8(135) Component groups. The council shall maintain component groups that address key components of the early childhood system in the state. The component groups shall ensure that each

PUBLIC HEALTH DEPARTMENT[641](cont'd)

component of the system is present and functioning as well as possible and shall work, as appropriate, on the implementation of specific strategies within the ECI strategic plan.

83.8(1) The council may change component groups as deemed necessary by the council. Initially, there shall be six component groups:

- a. Governance, planning and administration.
- b. Professional development.
- c. Public engagement.
- d. Quality services and programs.
- e. Resources and funding.
- f. Results accountability.

83.8(2) Two co-chairpersons of each component group shall provide leadership for the six component groups and serve on the steering committee.

a. One co-chairperson from each component group shall represent government and one co-chairperson shall represent nongovernment organizations.

b. The term of office for all component group co-chairpersons shall be three years. If a co-chairperson is unable to complete the person's term, an interim co-chairperson will be appointed. No co-chairperson shall serve more than two consecutive terms. However, whenever a vacancy occurs, any person appointed to fill such vacancy shall hold office for the remainder of the unexpired term. After having served the unexpired term, the appointee may hold that office for two three-year terms. The terms of the co-chairpersons shall be staggered.

c. The process to apply for a position as a co-chairperson of a component group shall be developed by the governance, planning and administration component group and approved by the ECI council. The governance, planning and administration component group shall oversee the application and selection process.

d. Co-chairpersons shall be selected by each component group by the start of the state fiscal year and then reviewed by the steering committee to ensure broad representation. The ECI council shall vote on component group co-chairpersons at the first council meeting of the state fiscal year. The vote shall be determined by the majority of members present at the meeting.

641—83.9(135) State agency liaison team.

83.9(1) Purpose. The ECI state agency liaison team shall provide input into the efforts of the ECI council. The state agency liaison team also functions as a catalyst within individual agencies, promoting change and alignment with the early care, health, and education system.

83.9(2) Membership. The state agency liaison team shall consist of the directors or chief administrators, or their designees that have sufficient authority to commit resources and act on behalf of their agencies, from the following state agencies and programs:

- a. Child health specialty clinics.
- b. Office of community empowerment in the department of management.
- c. Department of education.
- d. Division of libraries and information services of the department of education.
- e. Office of the governor.
- f. Department of human rights.
- g. Department of human services.
- h. Postsecondary education institutions, including but not limited to institutions of higher learning under the control of the state board of regents and Iowa community colleges.
- i. Department of public health.
- j. Department of public health, dental director
- k. Department of workforce development.
- l. Department of economic development.
- m. Additional members to the team not already identified herein, as designated by the governor.

83.9(3) Chairperson. The state agency liaison team will select a chairperson.

83.9(4) Duties. The duties of the state agency liaison team shall include the following:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- a. Align all state departments' activities with the ECI strategic plan.
- b. Integrate program development and state agency coordination.
- c. Develop memoranda of agreement to promote system development and integration and to clarify the roles and responsibilities of partner agencies.
- d. Work with the lead agency in building public/private partnerships.
- e. Collaborate with other departments and with private-sector service providers as necessary to ensure seamless and comprehensive services.
- f. Support and align the ECI Web site with other agencies and improve Web communication.

641—83.10(135) Lead agency and other state agencies.

83.10(1) *Lead agency.* The lead agency for support of the council shall be the department of public health.

83.10(2) *Duties.* The department shall work with the council, steering committee and state agency liaison team to provide leadership for system development. The department shall also conduct the following activities:

- a. Enter into memoranda of agreement with the departments of education, human services, human rights, management—office of empowerment, economic development, and workforce development to formalize the state agencies' commitments to collaborating with and integrating an early care, health, and education system;
- b. Work with private businesses, foundations, and nonprofit organizations to develop sustained funding;
- c. Maintain a Web site for the council and component groups;
- d. Promulgate any needed revisions to administrative rules based on stakeholder input, including but not limited to input from the council.

83.10(3) *Staff.* Staff for the ECI council shall be provided by the lead agency as funding is available. These rules are intended to implement Iowa Code sections 135.173 and 135.174.

ARC 7772B**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 221, "Flammable and Combustible Liquids," Iowa Administrative Code

Iowa Code chapter 101 authorizes the State Fire Marshal to establish standards for the safe dispensing of flammable liquids. Generally, dispensing of flammable liquids is only allowed using dispensers listed by an independent testing laboratory for use with the liquid being dispensed. An exception to this practice has been made for blends of ethanol for which no listed dispensers exist. The Fire Marshal has determined that a parallel exception is appropriate for blends of biodiesel and petroleum diesel fuel containing up to 20 percent biodiesel. The amendment proposed herein would create a parallel exception for dispensing of biodiesel blends to that which already exists for ethanol blends.

Any interested party may submit comments on the proposed amendment to the Agency Rules Administrator, Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319 by mail; by telephone to (515)725-6185; by fax to (515)725-6195; or by E-mail to admrule@dps.state.ia.us. Comments must be received by 4:30 p.m. on June 9, 2009.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

A public hearing on this proposed amendment will be held at 9 a.m. on June 9, 2009, in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The hearing room is fully accessible. Persons wishing to speak at the hearing should contact the Agency Rules Administrator by E-mail to admrule@dps.state.ia.us or telephone at (515)725-6185 at least one day prior to the hearing.

The proposed amendment is subject to the general waiver provisions which govern rules of the Fire Marshal.

This amendment is intended to implement Iowa Code chapter 101.

The following amendment is proposed.

Amend subrule 221.4(2) as follows:

221.4(2) Add the following new section:

2206.7.1.1 Dispensing of ~~E-blend~~ blended biofuels.

2206.7.1.1.1 Definitions.

"B-blend" means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including no more than 20 percent biodiesel, as defined in Iowa Code section 214A.1.

"E-10" means a blend of petroleum and ethanol including no more than 15 percent ethanol intended for use as a motor vehicle fuel.

"E-blend" means a blend of petroleum and ethanol including more than 15 percent ethanol intended for use as a motor vehicle fuel.

2206.7.1.1.2 E-blend may only be dispensed if both of the following apply:

(a) Only a dispenser listed by an independent testing laboratory as compatible with ethanol blended gasoline shall be used to dispense E-blend.

(b) The owner or operator or a person authorized by the owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

2206.7.1.1.3 B-blend may only be dispensed if both of the following apply:

(a) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(b) The owner or operator or a person authorized by the owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

ARC 7777B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby gives Notice of Intended Action to amend

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Chapter 322, “State Building Code—Manufactured Housing Support and Anchorage Systems,” Iowa Administrative Code.

Requirements for manufactured housing installation in Iowa are established by the Building Code Commissioner as part of the State Building Code. Many of these requirements carry out mandates established by the U.S. Department of Housing and Urban Development, which delegates to states the authority to regulate manufactured homes under the Federal Manufactured Housing Program. These requirements for Iowa are contained in 661—Chapter 322. This proposed rule making addresses an issue related to the reinstallation of a previously installed manufactured home, whether reinstalled in the same location or a new location. Specifically, this rule making will allow for the reinstallation of a manufactured home without the requirement that the piers be driven below the frost line. The Building Code Commissioner finds that this requirement is onerous and, therefore, is moving to eliminate it as expeditiously as possible. Rule 661—322.11(103A) is replaced in its entirety in order to add a new subrule 322.11(2), which specifically addresses reinstallation of manufactured homes, and to make related changes to the wording of other subrules and to cross references.

A public hearing on this proposed amendment will be held on June 9, 2009, at 10 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. Persons may present their views concerning this amendment at the public hearing either orally or in writing. Persons who wish to make oral presentations at the hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning this proposed amendment to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on June 9, 2009. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on June 9, 2009.

This amendment was also adopted through emergency rule-making procedures. The Adopted and Filed Emergency rule making is published herein as **ARC 7775B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 103A.9.

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and the natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2008 by each taxpayer, for replacement taxes payable in the 2009-2010 fiscal year.

2008 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA RATE CHANGES ONLY

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3211	Bancroft Municipal Utilities	0.00086258
3228	Bigelow Municipal Electric Utility	0.00199975
3216	Buffalo Municipal Electric System	0.00000241
3221	Cedar Falls Municipal Elec. Utility	0.00031426
3230	City of Fredericksburg	0.00000519
3244	Denison Municipal Utilities	0.00001027

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3252	Fontanelle Municipal Utilities	0.00032282
3267	Hopkinton Municipal Utilities	0.00000972
3277	Laurens Municipal Utilities	0.00027651
3282	Manilla Municipal Elec. Utilities	0.00011049
3112	Manning Municipal Electric	0.00025992
3234	Onawa Municipal Utilities	0.00009856
3321	Sioux Center Municipal Utilities	0.00000091
3332	Traer Municipal Utilities	0.00064764
3338	Waverly Light & Power	0.00072786

CO. #	IOU's - ELECTRIC	DELIVERY TAX RATE
7305	Omaha Public Power District	0.00120095

CO. #	REC's	DELIVERY TAX RATE
4218	Butler County REC	0.00086367
4219	Calhoun County Electric Coop	0.00128039
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00255831
4287	Consumers Energy	0.00209921
4246	East-Central Iowa REC	0.00194547
4247	Eastern Iowa Light & Power	0.00068026
4249	Farmers Electric Coop - Kalona	0.00038414
4254	Freeborn-Mower Cooperative	0.00093376
4255	Glidden Rural Electric Coop	0.00050787
4260	Grundy Electric Cooperative	0.00052127
4261	Guthrie County REC	0.00171195
4262	Hancock Co. REC	0.00122396
4265	Harrison County REC	0.00079472
4266	Hawkeye Tri-County Electric Coop	0.00074169
4223	Heartland Power Coop	0.00034914
4273	Iowa Lakes Electric Coop	0.00061874
4279	Linn County REC	0.00147445
4280	Lyon Rural Electric Coop	0.00064172
4290	Midland Power Cooperative	0.00111480
4299	Nishnabotna Valley REC	0.00065194
4300	North West Rural Electric Coop	0.00040048
4308	Osceola Electric Coop	0.00039419
4313	Pleasant Hill Community Line	0.00027397
4316	Rideta Electric Coop	0.00275586
4320	Sac County Rural Electric Coop	0.00077896

REVENUE DEPARTMENT(cont'd)

CO. #	REC's	DELIVERY TAX RATE
4379	Southwest Iowa Service Coop	0.00286067
4329	T.I.P. Rural Electric Coop	0.00207423
4348	Western Iowa Power Coop	0.00092047
4352	Woodbury County REC	0.00107097
4353	Wright Co. REC	0.00047626

**2008 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA
RATE CHANGES ONLY**

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5238	Coon Rapids Municipal Gas	0.00002986
5275	Lamoni Municipal Gas	0.00072078
5281	Manilla Municipal Gas	0.00029039
5283	Manning Municipal Gas	0.00015256
5340	Wayland Municipal Gas	0.00311509
5349	Winfield Municipal Gas	0.00047758

CO. #	IOU's - GAS	DELIVERY TAX RATE
5270	IES Utilities	0.00695400
5272	Interstate Power	0.00304661
5289	MidAmerican Energy	0.01018386
5312	Peoples Natural Gas	0.00837820

ARC 7793B

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," Iowa Administrative Code.

This proposed amendment adds a new rule to Chapter 7 related to a petition for rule making. At present, the Department does not have its own rule regarding a petition for rule making. The Department has received one request related to a petition for rule making in the past and has received some general questions regarding rule making. Thus, the Department decided to add a rule related to the petition for rule-making procedures as allowed in Iowa Code chapter 17A. The general state model rule is the basis for the Department's proposed rule.

REVENUE DEPARTMENT[701](cont'd)

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions. Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than June 22, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 9, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by June 10, 2009.

This amendment is intended to implement Iowa Code chapter 17A.

The following amendment is proposed.

Adopt the following **new** rule 701—7.61(17A):

701—7.61(17A) Petition for rule making.

7.61(1) Form of petition. Any person or agency may file a petition for rule making at the Office of the Director, Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the director. The department will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF REVENUE

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

The petition must provide the following information:

- a. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
- b. A citation to any law deemed relevant to the department’s authority to take the action urged or to the desirability of that action.
- c. A brief summary of petitioner’s arguments in support of the action urged in the petition.
- d. A brief summary of any data supporting the action urged in the petition.
- e. The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the proposed action which is the subject of the petition.
- f. Any request by petitioner for a meeting.
- g. Any other matters deemed relevant that are not covered by the above requirements.

REVENUE DEPARTMENT[701](cont'd)

7.61(2) Form signed and dated. The petition must be signed and dated by the petitioner or the petitioner's representative. It must also include the name, mailing address, telephone number and, if requested, the E-mail address of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

7.61(3) Denial by department. The department may deny a petition because it does not substantially conform to the required form or because all the required information has not been provided.

7.61(4) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The department may request a brief from the petitioner or from any other person concerning the substance of the petition.

7.61(5) Status of petition. Inquiries concerning the status of a petition for rule making may be made to the Office of the Director, Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319.

7.61(6) Informal meeting. If requested by petitioner in the petition, the department may schedule an informal meeting between the petitioner and the department, or a member of the staff of the department, to discuss the petition. The department may request that the petitioner submit additional information or argument concerning the petition. The department may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department by any person.

7.61(7) Action required. Within 60 days after the filing of the petition, or within an extended period as agreed to by the petitioner, the department must, in writing, either: (a) deny the petition and notify petitioner of its action and the specific grounds for the denial; or (b) grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial of the petition or granting of the petition on the date that the department mails or delivers the required notification to petitioner.

7.61(8) New petition. Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject when the new petition contains the required information that was the basis for the original denial.

This rule is intended to implement Iowa Code chapter 17A.

ARC 7788B

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

Item 1 amends subrule 71.1(1) to provide that the assessor shall classify property, but not value property, according to its present use and not its highest and best use.

Item 2 amends subrule 71.2(1) to provide that the valuation of real estate established by the assessor shall not be based on a speculative highest and best use not supported by current comparable sales.

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

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

REVENUE DEPARTMENT[701](cont'd)

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than June 22, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 9, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by June 10, 2009.

These amendments are intended to implement Iowa Code section 441.21.

The following amendments are proposed.

ITEM 1. Amend subrule 71.1(1) as follows:

71.1(1) Responsibility of assessors. All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property. An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building (dual classification). A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify ~~and value~~ property according to its present use and not according to its highest and best use. ~~For example, property currently used as a golf course shall be assessed and valued by the assessor as a golf course even though its highest and best potential use may be an industrial park or commercial development.~~ See subrule 71.1(8) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

ITEM 2. Amend subrule 71.2(1) as follows:

71.2(1) Responsibility of assessor: The valuation of real estate as established by city and county assessors shall be the actual value of the real estate as of January 1 of the year in which the assessment is made and shall not be based on a speculative highest and best use not supported by current comparable sales. New parcels of real estate created by the division of existing parcels of real estate shall be assessed separately as of January 1 of the year following the division of the existing parcel of real estate.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 4.75%.

TREASURER OF STATE(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective May 9, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .35%
32-89 days	Minimum .55%
90-179 days	Minimum .50%
180-364 days	Minimum .70%
One year to 397 days	Minimum 1.00%
More than 397 days	Minimum 1.40%

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

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

ARC 7796B

INSURANCE DIVISION[191]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 507B.12, the Insurance Division hereby amends Chapter 15, “Unfair Trade Practices,” Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B. The amendment provides that an action by an insurer not in compliance with the Genetic Information Nondiscrimination Act of 2008 (P.L. 110-233, 122 Stat. 881) is an unfair trade practice under Chapter 15. Insurers must comply with the amendment on and after May 22, 2009.

In compliance with Iowa Code section 17A.4(3), the Division finds that notice and public participation are unnecessary because the amendment merely makes violation of a particular federal law a violation of state law as well. Insurers have had sufficient notice with the requirements of this law because the federal law went into effect in May 2008, and compliance with the federal law is required on and after May 22, 2009. Because health insurance is under the jurisdiction of both federal and state law, this amendment ensures consistent regulation.

The Division also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment, 35 days after publication, should be waived and this amendment should be made effective on May 22, 2009, because those entities to which the federal law applies must comply beginning May 22, 2009. This amendment ensures consistent regulation.

This amendment is also published herein as **ARC 7797B** to allow for public comment.

The Insurance Division adopted this amendment on May 1, 2009.

This amendment became effective on May 22, 2009.

This amendment is intended to implement Iowa Code chapter 507B.

The following amendment is adopted.

Adopt the following **new** subrule 15.11(5):

15.11(5) Genetic information. Any action by an insurer that is not in compliance with Title I of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110-233, 122 Stat. 881) shall be considered an unfair trade practice and shall be subject to the penalties of Iowa Code chapter 507B and of these rules.

[Filed Emergency 5/1/09, effective 5/22/09]

[Published 5/20/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7775B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 322, “State Building Code—Manufactured Housing Support and Anchorage Systems,” Iowa Administrative Code.

Requirements for manufactured housing installation in Iowa are established by the Building Code Commissioner as part of the State Building Code. Many of these requirements carry out mandates established by the U.S. Department of Housing and Urban Development, which delegates to states the authority to regulate manufactured homes under the Federal Manufactured Housing Program. These requirements for Iowa are contained in Chapter 322. The current rule making addresses an issue related to the reinstallation of a previously installed manufactured home, whether reinstalled in the same location

PUBLIC SAFETY DEPARTMENT[661](cont'd)

or a new location. Specifically, this rule making allows for the reinstallation of a manufactured home without the requirement that piers be driven below the frost line. The Building Code Commissioner finds that this requirement is onerous and, therefore, is moving to eliminate it as expeditiously as possible. Rule 661—322.11(103A) is replaced in its entirety in order to add a new subrule 322.11(2), which specifically addresses reinstallation of manufactured homes, and to make related changes to the wording of other subrules and to cross references.

Pursuant to Iowa Code section 17A.4(3), the Building Code Commissioner finds that notice and public participation are unnecessary because removal of an onerous requirement will facilitate relocation of manufactured homes and purchases of used manufactured homes.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Building Code Commissioner further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective May 1, 2009. Making the amendment effective as quickly as possible will confer a benefit on the public by facilitating relocation of existing manufactured homes and purchases of used manufactured homes as the weather turns warm.

This amendment is also proposed in a Notice of Intended Action published herein as **ARC 7777B** to allow for public comment. A public hearing regarding the proposed amendment will be held on June 9, 2009.

This amendment is intended to implement Iowa Code section 103A.9.

This amendment became effective May 1, 2009.

The following amendment is adopted.

Rescind rule 661—322.11(103A) and adopt the following **new** rule in lieu thereof:

661—322.11(103A) Support and anchorage of manufactured homes.

322.11(1) First time installation. Manufactured homes shall be installed according to one of the following requirements, as applicable:

a. Homes manufactured prior to October 20, 2008, which are being installed for the first time shall be installed with support and anchorage as recommended by the manufacturer and as required by federal manufactured home construction and safety standards, 24 CFR Section 3280.306(b), as published April 1, 2004; or

b. Homes manufactured on or after October 20, 2008, which are being installed for the first time shall be installed with support and anchorage as recommended by the manufacturer and as required in accordance with 24 CFR Part 3285, Model Manufactured Home Installation Standards, as published April 1, 2008; or

c. With a support and anchorage system which is designed by an Iowa-licensed professional engineer and which meets or exceeds the requirements of 24 CFR Part 3285 as published April 1, 2008; or

d. Homes installed in areas subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 may be installed in compliance with subrule 322.11(5).

322.11(2) Reinstallation of homes.

a. The provisions of this subrule apply only to homes that have been previously installed in the United States and are being reinstalled at either the same location or a different location.

b. The following definitions apply to this subrule.

“*Ground anchor*” means a specific anchoring assembly device designed to transfer home anchoring loads to the ground.

“*Pier*” means that portion of the support system between the footing and the manufactured home, exclusive of shims. Types of piers include, but are not limited to: manufactured steel stands; pressure-treated wood; manufactured concrete stands; concrete blocks; and portions of foundation walls.

“*Pier footing*” means that portion of a support system which supports the piers or blocking, is sized to adequately support the weight of the home at that load point, and is capable of transferring all design loads to the ground.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“*Support system*” means pilings, columns, footings, piers, foundation walls, shims, and any combination thereof that, when properly installed, support the manufactured home.

c. Homes reinstalled pursuant to subrule 322.11(2) must meet the following requirements. Requirements in this paragraph regarding the reinstallation of homes are mandatory minimum requirements.

(1) Aboveground support systems must meet the manufacturer’s specifications or must meet the requirements of subrule 322.11(3).

(2) Ground anchors must meet the manufacturer’s specifications or subrule 322.11(4). Engineered ground anchoring systems that do not extend to the frost line may be used only if they are approved by the commissioner.

NOTE 1: Pier footings may be, but are not required to be, placed below the frost line.

NOTE 2: If the home is still under a manufacturer’s warranty, the manufacturer’s installation instructions should be followed or the warranty may be void

d. Pursuant to 661—subrule 16.623(2), prior to the reinstallation of a manufactured home, the installer reinstalling the home or the installer hired to inspect the home that is being reinstalled by the owner shall complete the portion of the installation certificate relating to the installation of frost-protected footings. This portion of the certificate must state that the home is not being installed with frost-protected footings and must be signed and witnessed by the installer and the owner. Upon completion of the reinstallation, the installer shall complete and submit the certificate to the commissioner as prescribed by 661—subrule 16.623(2).

NOTE: Iowa Code sections 335.30 and 414.28 have requirements that may affect the reinstallation of homes.

322.11(3) Requirements for support system installations.

a. Piers placed on foundations shall be installed and centered directly under the main frame longitudinal beams. The piers should not be farther apart than 10 feet on centers for manufactured homes 12 feet wide or less and not more than 8 feet on centers for manufactured homes over 12 feet wide to less than 16 feet wide and no more than 6 feet on centers for manufactured homes 16 feet wide or more. The main frame, front or back, should not extend farther than 2 feet beyond the centerline of the end piers.

NOTE: When making excavations for footings and piers on private property, installers shall take precautions to ensure that no telephone, electrical, plumbing or water lines are contacted. Utility line locations shall be verified with the property owner or property owner’s representative.

b. Pier foundations shall be placed on level, undisturbed soil or on controlled fill that is free of grass and organic materials. (A small amount of sand may be of use to provide a level surface.) All pier foundations shall be set level, and piers must be installed plumb. The pier foundation shall be at least a 16" × 16" × 4" solid concrete pad, precast or poured in place, or other approved material. Two nominal 4" × 8" × 16" solid concrete blocks may be used provided that the joint between the blocks is parallel to the main frame longitudinal beam. Concrete used in foundations shall have a 28-day compressive strength of not less than 3,000 pounds per square inch (3,000 psi).

c. Unless otherwise directed by the owner of the site, the soil-bearing capacity of the site may be assumed to be 2,000 pounds per square foot. The acceptable construction under this subrule is based upon a soil-bearing capacity of 2,000 pounds per square foot. Sites with less soil-bearing capacity will require increased-size footings.

EXPLANATION: The permissible footing sizes and pier spacing are based upon a combined live and dead load of 65 pounds per square foot of unit. This assumes that the full snow and internal live load will not be present at the same time.

d. Piers may be constructed of concrete or undamaged nominal 8" × 8" × 16" concrete blocks, open-celled or solid, placed on the pier foundation. All open-celled concrete block shall be installed with the cells of the block in a vertical position. Nominal 2" × 8" × 16" or nominal 4" × 8" × 16" solid concrete blocks may be utilized as needed to achieve the necessary heights of the piers for a particular installation. A nominal 2" × 8" × 16" wood plate, or equivalent, shall be placed on top of each pier, unless there is at least 4 inches of solid block, with shims fitted and driven between the wood plate or

PUBLIC SAFETY DEPARTMENT[661](cont'd)

solid block and the main frame longitudinal beam. The wood blocking shall not occupy more than a nominal 2 inches of vertical space, and shims shall not occupy more than 1 inch of vertical space. Shims which have a thickness of more than 3/8" shall be hardwood.

(1) Piers up to 40 inches in height, except corner piers over three blocks high (a nominal 24"), may be of single-block construction and shall be installed transverse (right angle) to the main frame longitudinal beam.

(2) Piers over 40 inches in height but not exceeding 80 inches in height and corner piers over three blocks high shall be of double-block construction with every other course either parallel or transverse (right angle) to the main frame longitudinal beam. These piers shall be capped with a nominal 16" × 16" × 4" solid concrete block or equivalent. Wood blocking and hardwood shims shall be installed accordingly.

(3) Piers over 80 inches in height shall be of reinforced concrete or of double-block construction and installed exactly according to the procedure given in subparagraph (2) above. Only celled concrete blocks shall be used (with open cells vertical) with 3/8" diameter or larger steel reinforcing rods placed in the pier corners and all cells filled with 3,000 psi concrete. Wood blocking and shims shall be installed accordingly.

322.11(4) Requirements for anchorage systems. When instructions are not provided by the manufacturer, ties shall be attached vertically and diagonally to a system of ground anchors in a manner as illustrated in Figures 4 and 5. The minimum number of ties required are listed in Table 6–A. There shall be a diagonal tie between the ground anchors and the unit at each vertical tie. Additional diagonal ties may be required between vertical ties. The ties shall be as evenly spaced as practicable along the length of the unit with not over 8 feet open on each end.

a. Ties may be either steel cable, steel strapping, or other materials that meet the requirements of 322.11(4) "f." Ties are to be fastened to ground anchors and drawn tight with galvanized turnbuckles or yoke-type fasteners and tensioning devices. Turnbuckles shall be ended with jaws of forged or welded eyes (hook ends are not approved).

b. When continuous straps (over-the-top tie-downs) are provided as vertical ties, they should be positioned at rafters and studs to prevent structural damage. Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single double-head ground anchor provided that the anchor used is capable of carrying the combined loads and is included on a list of approved products maintained by the commissioner.

c. Cable used for ties shall be either galvanized steel or stainless steel and shall have a breaking strength of at least 4,725 pounds. Cable should be either 7/32" diameter or greater (7 × 7) steel cable or 1/4" diameter or greater (7 × 19) aircraft cable. All cable ends should be secured with at least two I-bolt-type cable clamps or other nationally approved fastening devices.

d. When flat steel straps are used as ties, they shall be type 1, class B, grade 1, 1 1/4" wide and 0.035" thick, conforming with federal standard QQ-S-781-F, with a breaking strength of at least 4,725 pounds. Zinc coating (weather protection) shall be a minimum of 0.30 ounces per square foot of surface. Steel strap ties shall terminate with D-rings, bolts, or other nationally approved fastening devices that will not cause distortion or reduce the breaking strength of the ties.

e. The direction of pull of the diagonal ties should be at a right angle to the main frame longitudinal beam. Connection of the diagonal tie to the main frame longitudinal beam should be in accordance with anchor system instructions for those fastening devices. When steel strap ties are used, care should be exercised that the minimum bending radius is adhered to so the breaking strength is not reduced.

f. Anchors and anchorage materials shall meet the following requirements:

(1) The anchorage materials shall be capable of resisting an allowable minimum working load of 3,150 pounds (pullout in a vertical direction) with no more than 2 percent elongation and shall withstand a 50 percent overload. All anchorage materials shall be resistant to weathering deterioration at least equivalent to that provided by a coating of zinc on steel strapping of not less than 0.30 ounces per square foot surface coated. Anchors to reinforced concrete slab or to rock shall be of comparable strength as provided within this paragraph.

(2) Each ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to 3,150 pounds in the direction of the ties plus a 50 percent overload (4,750 pounds total)

PUBLIC SAFETY DEPARTMENT[661](cont'd)

without failure. Failure shall be considered to have occurred when the point of connection between the tie and anchor moves more than 2 inches at 4,750 pounds in the direction of the vertical tie when anchoring equipment is installed in accordance with the anchorage manufacturer's instructions. Those ground anchors which are designed to be installed so that the loads on the anchor are other than direct withdrawal shall be designed and installed to resist an applied design load of 3,150 pounds at 45° from horizontal without displacing the anchor more than 4 inches horizontally at the point where the tie attaches to the anchor.

(3) Anchors designed for connection of multiple ties shall be capable of resisting the combined working load and overload consistent with the intent expressed in this paragraph.

(4) Ground anchors shall be installed so that the load-carrying portion of the anchor in its final working position is below the frost depth (42 inches), and the anchor head shall be at ground level. Total anchor length shall be more than 42 inches as necessary.

NOTE: When installing ground anchors on private property, installers shall take precautions to ensure that no telephone, electrical, plumbing or water lines are contacted. Utility line locations shall be verified with the property owner or property owner's representative.

TABLE 6-A
MINIMUM NUMBER OF TIEDOWNS
REQUIRED FOR SINGLEWIDE MOBILE HOMES

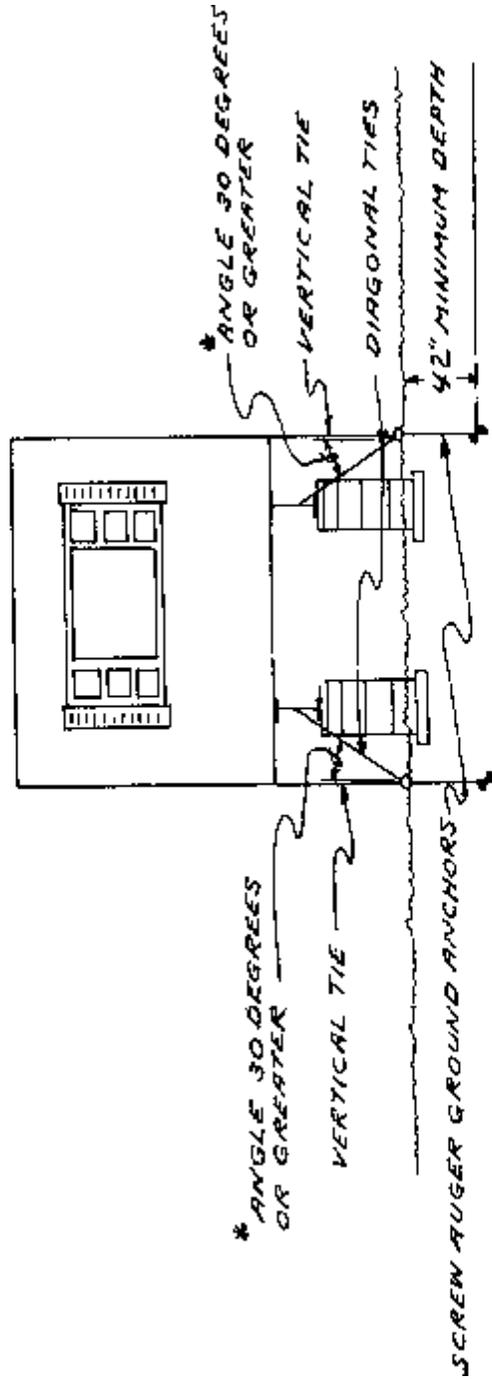
MOBILE HOME BOX LENGTH NOT EXCEEDING	MINIMUM NUMBER OF TIEDOWNS PER SIDE	
	DIAGONAL TIES	VERTICAL TIES*
40'-0"	3	2
54'-0"	3	2
73'-0"	4	2
84'-0"	5	2

*If more than the minimum number of vertical or diagonal ties have been supplied, they shall all be used.

1. Doublewide mobile homes shall comply with Table 6-A except that no vertical ties are required.
2. Wherever a vertical tie and a diagonal tie lie in a plane that is vertical and transverse to the main longitudinal beam, both ties may be connected to the same ground anchor, providing that the particular anchor withstands both loadings.
3. This table shall be used only if there are no manufacturer's approved installation requirements.

FIGURE A

MOBILE HOME TIEDOWN

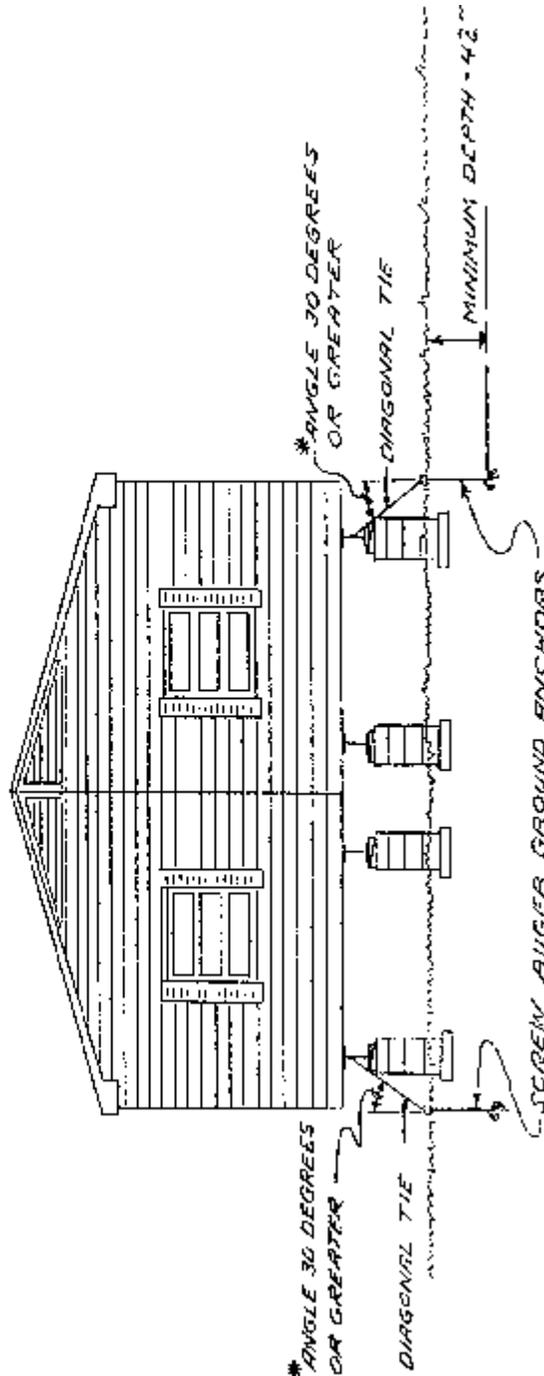


* DIAGONAL TIE SHALL DEVIATE FROM A VERTICAL DIRECTION 30 DEGREES OR MORE.

FIGURE 5

DOUBLE WIDE MOBILE HOME TIEDOWN

* DIAGONAL TIE SHALL DEVIATE FROM A VERTICAL DIRECTION 30 DEGREES OR MORE.



322.11(5) Installations in disaster emergency areas. In an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, a manufactured home may be installed without a permanent support system provided that all of the following apply:

- a. The installation complies with anchorage requirements and aboveground support requirements specified by the manufacturer or specified in subrule 322.11(4) as applicable;
- b. A government agency or a third-party contractor is contractually obligated to regularly inspect the home while it is occupied and to loosen the ties or straps used in the anchoring system as needed between November 15 of each year and April 15 of the following year, in order to prevent frost heave from affecting the home, and to retighten the ties or straps on or after April 15 and prior to May 15 of the following year; and

PUBLIC SAFETY DEPARTMENT[661](cont'd)

c. The home shall be vacated within 18 months after installation without a support system which is fully compliant with subrules 322.11(1), 322.11(2), 322.11(3) and 322.11(4). A home installed in compliance with this subrule may continue to be occupied if it has been reinstalled in compliance with the provisions of this rule that would apply in the absence of a proclaimed disaster emergency.

[Filed Emergency 4/29/09, effective 5/1/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7767B**DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 10, "General Requirements," Iowa Administrative Code.

The amendment modifies licensee responsibilities under public health supervision by eliminating the provision that a public health supervision agreement must specify a period of time, no more than 12 months, in which an examination by a dentist must occur prior to provision of further hygiene services by the hygienist. The amendment is adopted in response to a petition for rule making filed by the Iowa Dental Hygienists' Association seeking to remove barriers to access to dental care. The amendment allows the dentist and hygienist to determine the appropriate interval for a dental examination based on the needs of the patients in a public health setting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 11, 2009, as **ARC 7555B**. A public hearing on the amendment was held on March 3, 2009. Numerous written and oral comments were received. This amendment is identical to that published under Notice.

This amendment was approved at the April 15, 2009, regular meeting of the Iowa Dental Board.

This amendment is intended to implement Iowa Code section 153.15.

This amendment will become effective on June 24, 2009.

The following amendment is adopted.

Amend subparagraph **10.5(3)"a"(3)** as follows:

(3) Specify a period of time, ~~no more than 12 months~~, in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; and

[Filed 4/21/09, effective 6/24/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7790B**DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," and Chapter 12, "Dental and Dental Hygiene Examinations," Iowa Administrative Code.

The purpose of these amendments is to remove the examination administered by the American Board of Dental Examiners, Inc. (ADEX) from the list of examinations that dental hygiene applicants may complete to qualify for licensure by examination. The ADEX examination is no longer administered by the Central Regional Dental Testing Service, Inc. (CRDTS), of which Iowa is a member. Applicants for dental hygiene licensure by examination may take either the CRDTS examination or the Western Regional Examining Board, Inc. (WREB) examination to qualify for licensure.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 11, 2009, as **ARC 7567B**. A public hearing on the amendments was held on March 3, 2009. No oral or written comments were received. One change to the noticed rules has been made. In Item 3, subrules 12.4(1) to 12.4(3) have been amended to clarify procedures for retaking a failed examination. Previously, the

DENTAL BOARD[650](cont'd)

CRDTS dental hygiene examination consisted of two separate parts; however, beginning in April 2009, the CRDTS examination has only one part.

These amendments were approved at the April 15, 2009, regular meeting of the Iowa Dental Board. The Iowa Dental Board ratified the recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes for the dental hygiene examination for licensure.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

These amendments will become effective on June 24, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **11.5(2)“e”** as follows:

e. Evidence of successful completion of the examination taken in the last five years, with resulting scores, administered by ~~the American Board of Dental Examiners, Inc.~~, the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

ITEM 2. Amend rule 650—12.3(147,153) as follows:

650—12.3(147,153) Clinical examination procedure for dental hygiene.

12.3(1) To meet the requirements for dental hygiene licensure by examination, applicants shall complete the examination administered by either the American Board of Dental Examiners, Inc. (ADEX), the Central Regional Dental Testing Service, Inc. (CRDTS), or the Western Regional Examining Board, Inc. (WREB).

12.3(2) Examinees shall meet the requirements for testing and follow the procedures established by either the American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.

12.3(3) Prior to December 31, 2003, the examinee must attain an average grade of 70 percent on the examination. Effective January 1, 2004, the examinee must attain a comprehensive score that meets the standard for passing established by ~~ADEX~~, CRDTS, or WREB.

12.3(4) Each examinee shall be required to perform such practical demonstrations as may be required by the ~~American Board of Dental Examiners, Inc., the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc.~~ for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

ITEM 3. Amend subrules 12.4(1) to 12.4(3) as follows:

12.4(1) Method of counting failures.

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS or WREB.

b. A dental hygiene examinee who fails ~~one or both parts of the examination shall have one examination failure recorded. A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.~~

c. No change.

12.4(2) Remedial education required prior to third examination. ~~a-~~ Prior to the third examination attempt, a dental hygiene examinee must submit proof of a minimum of 40 hours of additional formal education or a minimum of 40 hours of clinical experience that is approved in advance by the dental hygiene committee.

b. ~~A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.~~

12.4(3) Remedial education required prior to fourth examination. ~~a-~~ Prior to the fourth examination attempt, a dental hygiene examinee must submit proof of satisfactory completion of the equivalent of an additional semester of dental hygiene at a university or school approved by the dental hygiene committee.

DENTAL BOARD[650](cont'd)

~~b. — A dental hygiene examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental hygiene examinee who has not passed both parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.~~

ITEM 4. Amend subrule 12.4(5) as follows:

12.4(5) Failures of other examinations. If a dental hygiene examinee applies for the ~~American Board of Dental Examiners, Inc.,~~ the Central Regional Dental Testing Service, Inc., or the Western Regional Examining Board, Inc., examination after having failed any other state or regional examination, the failures shall be considered ~~ADEX,~~ CRDTS, or WREB failures for the purposes of retakes.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7789B

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," and Chapter 20, "Dental Assistants," Iowa Administrative Code.

These amendments specify the appeal procedure for denial of licensure or registration.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 11, 2009, as **ARC 7575B**. A public hearing on the amendments was held on March 3, 2009. No oral or written comments were received. These amendments are identical to those published under Notice.

These amendments were approved at the April 15, 2009, regular meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code sections 147.3, 147.4 and 147.29.

These amendments will become effective on June 24, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [11.10, 20.8] is being omitted. These amendments are identical to those published under Notice as **ARC 7575B**, IAB 2/11/09.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

[For replacement pages for IAC, see IAC Supplement 5/20/09.]

ARC 7783B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these amendments implement section 142 of the legislation and its mandate of minimum time periods of physical activity for elementary and secondary pupils, as well as its mandate that every pupil who is physically able to do so complete a certification course for cardiopulmonary resuscitation by the end of grade 12.

EDUCATION DEPARTMENT[281](cont'd)

The amendment in Item 1 adds a definition of “physical activity,” clarifying that the concept includes more than components of the physical education model. The amendment in Item 2 includes the statutory exemption for both the physical activity requirement and the cardiopulmonary resuscitation course completion requirement. The new subrules in Item 3 describe the physical activity requirement and the cardiopulmonary resuscitation course completion requirement.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as **ARC 7504B**. A public hearing was held via the Iowa Communications Network (ICN) on February 3, 2009, and public comments were allowed until close of business on that same date. Approximately 50 persons attended the public hearing, and roughly half of those in attendance spoke. In addition, 21 written comments were received.

Many of the concerns raised by school officials were about the accountability for the physical activity requirement in subrule 12.5(19). The Department has developed a sample agreement for schools and school districts to use to track compliance with the physical activity requirement. The remainder of those commenting raised objections to the underlying legislation, expressed concerns that are not germane, or asked questions about implementation.

Since the Notice of Intended Action was published, two changes have been made to the amendments. As the result of public comment regarding accountability for the physical activity requirement, the duration of the agreement referenced in paragraph 12.5(19)“b” has been increased from no more than one semester to no more than one school year. The other change is not related to public comment. To avoid any confusion regarding what is meant by “spirit” activities, that term has been replaced in paragraph 12.5(19)“a” with the word “similar.”

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2425, sections 142 and 145.

These amendments will become effective June 24, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition in rule **281—12.2(256)**:

“*Physical activity*” means any movement, manipulation, or exertion of the body that can lead to improved levels of physical fitness and quality of life.

ITEM 2. Amend subrule 12.5(6) as follows:

12.5(6) ~~*Physical education and health courses exemption*~~ *Exemption from physical education course, health course, physical activity requirement, or cardiopulmonary resuscitation course completion.* A pupil shall not be required to enroll in ~~either a physical education or health courses course~~ if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to enroll in a health course if the pupil’s parent or guardian files a written statement with the school principal that the course conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(19) regarding physical activity if the pupil’s parent or guardian files a written statement with the school principal that the requirement conflicts with the pupil’s religious beliefs. A pupil shall not be required to meet the requirements of subrule 12.5(20) regarding completion of a cardiopulmonary resuscitation course if the pupil’s parent or guardian files a written statement with the school principal that the completion of such a course conflicts with the pupil’s religious beliefs.

ITEM 3. Adopt the following **new** subrules 12.5(19) and 12.5(20):

12.5(19) *Physical activity requirement.* Subject to the provisions of subrule 12.5(6), physically able pupils in kindergarten through grade 5 shall engage in physical activity for a minimum of 30 minutes each school day. Subject to the provisions of subrule 12.5(6), physically able pupils in grades 6 through 12 shall engage in physical activity for a minimum of 120 minutes per week in which there are at least five days of school.

a. This requirement may be met by pupils in grades 6 through 12 by participation in the following activities including, but not limited to:

EDUCATION DEPARTMENT[281](cont'd)

(1) Interscholastic athletics sponsored by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union;

(2) School-sponsored marching band, show choir, dance, drill, cheer, or similar activities;

(3) Nonschool gymnastics, dance, team sports, individual sports; or

(4) Similar endeavors that involve movement, manipulation, or exertion of the body.

b. When the requirement is to be met in full or in part by a pupil using one or more nonschool activities, the school or school district shall enter into a written agreement with the pupil. The agreement shall state the nature of the activity and the starting and ending dates of the activity and shall provide sufficient information about the duration of time of the activity each week. The agreement shall also be signed by the school principal or principal's designee and by at least one parent or guardian of the pupil if the pupil is a minor. The pupil shall sign the agreement, regardless of the age of the pupil. The agreement shall be effective for no longer than one school year. There is no limit to the number of agreements that a school or school district may have with any one pupil during the enrollment of the pupil.

c. In no event may a school or school district reduce the regular instructional time, as defined by "unit" in subrule 12.5(14), for any pupil to enable the pupil to meet the physical activity requirement. However, this requirement may be met by physical education classes, activities at recess or during class time, and before- or after-school activities.

d. Schools and school districts must provide documentation that pupils are being provided with the support to complete the physical activity requirement. This documentation may be provided through printed schedules, district policies, student handbooks, and similar means.

12.5(20) *Cardiopulmonary resuscitation course completion requirement.* Subject to the provisions of subrule 12.5(6), at any time prior to the end of twelfth grade, every pupil physically able to do so shall have completed a psychomotor course that leads to certification in cardiopulmonary resuscitation. A school or school district administrator may waive this requirement for any pupil who is not physically able to complete the course. A course that leads to certification in CPR may be taught during the school day by either a school or school district employee or by a volunteer, as long as the person is certified to teach a course that leads to certification in CPR. In addition, a school or school district shall accept certification from any nationally recognized course in cardiopulmonary resuscitation as evidence that this requirement has been met by a pupil. A school or school district shall not accept auditing of a CPR course, nor a course in infant CPR only. This subrule is effective for the graduating class of 2011-2012.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7787B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 16, "Statewide Voluntary Preschool Program," Iowa Administrative Code.

2008 Iowa Acts, chapter 1181, section 69, predicated a school district's continued participation in the statewide voluntary preschool program that was created in 2007 Iowa Acts, chapter 148, on the district's compliance with accountability provisions. These amendments implement the legislation by providing a process for the Department and districts to utilize and by clarifying that a district remains in the statewide voluntary preschool program while the district is working to become compliant.

Notice of Intended Action was published in the March 11, 2009, Iowa Administrative Bulletin as **ARC 7608B**. Public comments were allowed until close of business on March 31, 2009. No written or oral comments were received.

These amendments are identical to those published under Notice.

An agencywide waiver provision is provided in 281—Chapter 4.

EDUCATION DEPARTMENT[281](cont'd)

These amendments are intended to implement Iowa Code section 256C.5(2)“b.”

These amendments will become effective June 24, 2009.

The following amendments are adopted.

ITEM 1. Strike “82GA, HF877” wherever it appears in rules **281—16.1(82GA, HF877)** to **281—16.15(82GA, HF877)** and insert “256C” in lieu thereof.

ITEM 2. Adopt the following **new** paragraph **16.11(1)“c”**:

c. Continuation of a school district’s participation in the preschool program for a second or subsequent budget year is subject to the approval of the department based upon the school district’s compliance with the accountability requirements in rule 281—16.3(256C) and the department’s on-site review of the school district’s implementation of the preschool program. The department shall follow the procedure set forth in subrule 16.13(3) if a district is found to be noncompliant with one or more of the accountability requirements.

ITEM 3. Adopt the following **new** subrule 16.13(3):

16.13(3) Noncompliance with program requirements. If the department determines that a participating district does not meet one or more of the accountability requirements provided in rule 281—16.3(256C), the department shall inform the school district of appropriate actions that shall be taken by the school district. The school district shall submit an action plan that is approved by the department and contains reasonable timelines for coming into compliance. The department shall facilitate technical assistance when requested. If the department determines that the school district is not taking the necessary actions in a timely manner, the director of the department may terminate the school district’s contract as provided in subrule 16.8(2), second unnumbered paragraph. Until such time as the school district’s contract is terminated, the school district may continue to participate in the statewide voluntary preschool program.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7786B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby rescinds Chapter 48, “Certified School to Career Program,” Iowa Administrative Code.

Chapter 48 was adopted in 1998 to implement Iowa Code sections 15.361 to 15.367. Those sections were repealed by 1998 Iowa Acts, chapter 1225, sections 21 and 40, effective July 1, 2004. This amendment rescinds Chapter 48 because the rules in the chapter are obsolete.

Notice of Intended Action was published in the March 11, 2009, Iowa Administrative Bulletin as **ARC 7609B**. Public comments were allowed until close of business on March 31, 2009. No written or oral comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code section 256.7(5).

This amendment will become effective June 24, 2009.

The following amendment is adopted.

Rescind and reserve **281—Chapter 48**.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7782B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 58, "School Breakfast and Lunch Program," Iowa Administrative Code.

2008 Iowa Acts, Senate File 2425, division XI, created the "Healthy Kids Act." Specifically, these amendments implement sections 140 and 141 of the legislation and their mandate of nutritional content standards for foods and beverages sold or provided on school grounds during the school day. The first four items are amendments necessary to accommodate a new division of rules within Chapter 58. Item 5 creates the rules that establish the nutritional content standards for affected foods and beverages and establishes the scope of these rules.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as **ARC 7503B**. A public hearing was held via the Iowa Communications Network (ICN) on February 3, 2009, and public comments were allowed until close of business on that same date. Approximately 100 persons attended the public hearing; 21 of those present at the public hearing spoke. In addition, 85 written comments were received.

The majority of those commenting raised concerns about the need for more time to make adjustments (education of students, parents, and vendors); the need for a definition of regulated fundraising; a desire that the school day be defined more expansively; and the fact that no yogurt meeting the standards was available on the market. Other concerns were raised regarding the need for clarity regarding the fiber/whole grain standard; allowing or not allowing the use of nonnutritive sweeteners; and the desire for secondary students to have more choices.

As a result of public comment, the following changes were made:

- Yogurt is unrestricted.
- The effective date was changed to July 1, 2010, except as noted in the charts in rule 58.11(256).
- A definition of "regulated fundraising" is added.
- The fiber/whole grain standard has been clarified.
- Secondary students have fewer restrictions than elementary students.

No definition of school day was added to these rules, and no standard was made more strict.

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement Iowa Code sections 256.7(29), 256.9(59) and 256.9(60) [2008 Iowa Acts, Senate File 2425, sections 140 and 141].

These amendments will become effective July 1, 2010.

The following amendments are adopted.

ITEM 1. Amend **281—Chapter 58**, title, as follows:

SCHOOL BREAKFAST AND LUNCH PROGRAM; NUTRITIONAL CONTENT STANDARDS
FOR OTHER FOODS AND BEVERAGES

ITEM 2. Amend rule 281—58.1(283A) as follows:

281—58.1(283A,256) Authority of state department. Iowa Code chapter 283A authorizes the department of education to administer the school breakfast and lunch programs in the public and nonpublic schools of the state. Iowa Code sections 256.7(29), 256.9(59), and 256.9(60) authorize the state board of education to establish nutritional content standards for foods and beverages sold or provided on school grounds during the school day.

ITEM 3. Amend **281—Chapter 58** by adding the following **new** division title to precede rule 281—58.2(283A):

EDUCATION DEPARTMENT[281](cont'd)

SCHOOL BREAKFAST AND LUNCH PROGRAM

ITEM 4. Amend rule 281—58.2(283A), introductory paragraph, as follows:

281—58.2(283A) Definitions. For the purposes of this ~~chapter~~ division, the following definitions apply:

ITEM 5. Amend **281—Chapter 58** by adopting new division II, title, as follows:

DIVISION II
NUTRITIONAL CONTENT STANDARDS FOR OTHER FOODS AND BEVERAGES

ITEM 6. Adopt the following new rules 281—58.9(256) to 281—58.11(256) in division II:

281—58.9(256) Definitions. For the purposes of this division, the following definitions apply:

“A la carte food sales” means foods or beverages offered for sale by the school as part of the school’s food service program during the time the reimbursable school breakfast or lunch is served and that are not part of the reimbursable breakfast or lunch.

“Regulated fundraising” means the sale of foods or beverages on school property targeted primarily to PK-12 students by or through other PK-12 students, student groups, school organizations, or on-campus school stores.

“School” means a school district or accredited nonpublic school.

“School breakfast program or school lunch program” means a program under which breakfasts and lunches or lunches are served by any school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

281—58.10(256) Scope. The rules in this division regulate the nutritional content of foods and beverages sold or provided on the school grounds of any school during the school day, including foods and beverages sold via vending machines, foods and beverages sold as a la carte items, and foods and beverages sold as part of regulated fundraising. These rules do not regulate the nutritional content of foods or beverages provided through a school breakfast program or school lunch program; sold as a part of other fundraising events; sold at concession stands; provided by parents, other volunteers, or students for class events; or provided by staff for consumption by staff or students. The board of directors of a public school district or the authorities in charge of an accredited nonpublic school may, but are not required to, prescribe reasonable rules for their staff, volunteers, students, and parents, guardians, or custodians of students to adhere to regarding foods and beverages provided on school grounds by staff, volunteers, students, and parents, guardians, or custodians of students.

281—58.11(256) Nutritional content standards.

Foods Table

Nutrient	A la Carte, Vending, and Regulated Fundraising Items
Calories	≤ NSLP entrée items* OR ≤ 400 calories per entrée item ≤ NSLP sides* OR ≤ 200 calories
Sodium	≤ NSLP entrée items* OR ≤ 600 mg per entrée item [≤ 480 mg/serving entrées (2014)] ≤ NSLP sides* OR ≤ 400 mg/serving sides [≤ 200 mg/serving sides (2014)]

EDUCATION DEPARTMENT[281](cont'd)

Saturated fat	≤ 10% calories (excluding reduced fat cheese)
Trans fat	≤ 0.5 gm/serving
Total fat	≤ 35% calories (excluding nuts, seeds, nut butters and reduced fat cheese)
Sugar	≤ 35% calories (excluding fruits and yogurts)
Dietary fiber/whole grain	50% of grains offered must be whole grain

*NSLP (National School Lunch Program) menu items offered in the same portion size and frequency per week as they appear on the NSLP menu.

Beverages Table

Beverage	A la Carte, Vending, and Regulated Fundraising Items
Milk	Low fat/nonfat regular Low fat/nonfat flavored with no nonnutritive sweeteners In addition: ≤ 27 gm sugar/8 oz (2014) ≤ 24 gm sugar/8 oz (2017) ≤ 22 gm sugar/8 oz (2020)
100% Fruit/Vegetable Juice	No added sweeteners
Water	No added nonnutritive sweeteners
Sports Drinks, Flavored Water	None are to be made available to elementary students during the school day as vending machine, a la carte, or regulated fundraising items
Caffeinated Beverages	None are to be made available to elementary students during the school day as vending machine, a la carte, or regulated fundraising items, with the exception of beverages that contain trace amounts of naturally occurring caffeine-related substances (e.g., chocolate milk)
Sodas/ Carbonated Beverages	None are to be made available to any students during the school day as vending machine, a la carte, or regulated fundraising items

In addition to compliance with the above tables, schools and school districts that offer a la carte, vending, and regulated fundraising items shall ensure that those offerings include at least two fruits or non-fried vegetables, with no more than one being a juice option.

ITEM 7. Amend **281—Chapter 58**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 283A and sections 256.7(29), 256.9(59) and 256.9(60).

[Filed 5/1/09, effective 7/1/10]

[Published 5/20/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7785B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 83, “Teacher Quality Program,” Iowa Administrative Code.

2008 Iowa Acts, chapter 1181, section 76, amended the definition of “teacher.” Item 1 parallels the statutory change. Item 2 addresses a concern raised to the Department earlier regarding a beginning teacher who possesses an evaluator license and who was evaluating other teachers. While Iowa Code section 284.10 states that preference in enrollment in evaluator training offerings shall be given to

EDUCATION DEPARTMENT[281](cont'd)

administrators, it is possible for teachers to enroll in evaluator training and obtain certification from the Board of Educational Examiners enabling them to evaluate other teachers. The amendment in Item 2 gives more guidance to districts that face this situation.

Notice of Intended Action was published in the January 14, 2009, Iowa Administrative Bulletin as **ARC 7489B**. Public comments were allowed until close of business on February 3, 2009. No written or oral comments were received.

These amendments are identical to those published under Notice.

An agencywide waiver provision is provided in 281—Chapter 4.

These amendments are intended to implement Iowa Code chapter 284.

These amendments will become effective June 24, 2009.

The following amendments are adopted.

ITEM 1. Amend rule **281—83.2(284,284A)**, definition of “Teacher,” as follows:

“*Teacher*” means an individual holding a practitioner’s license or a statement of professional recognition issued under Iowa Code chapter 272, who is employed in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position. ~~“Teacher” includes a licensed individual employed on a less than full time basis by a school district through a contract between the school district and an institution of higher education with a practitioner preparation program in which the licensed teacher is enrolled.~~

ITEM 2. Amend rule 281—83.5(284), introductory paragraph, as follows:

281—83.5(284) Evaluator approval training. The department shall approve eligible providers and their programs to conduct evaluator training. Only individuals certified through programs approved by the department shall qualify for evaluator certification by the board of educational examiners. A beginning teacher who has evaluator certification from the board of educational examiners shall not evaluate other teachers until the beginning teacher is no longer a probationary employee. Approved evaluator training programs shall be designed to align with the Iowa teaching standards and criteria, provide evaluators with the skills to conduct comprehensive evaluations and performance reviews as required by Iowa Code chapter 284, and provide for the evaluation of the progress made on individual professional development plans. This training for evaluators shall incorporate components of theory, demonstration, practice, and application of evaluation knowledge and skills.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7784B

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby rescinds Chapter 91, “Phase III, Educational Excellence Program,” Iowa Administrative Code.

Chapter 91 was adopted in 1987 to implement Iowa Code sections 294A.12 to 294A.20. Those sections were repealed by 2003 Iowa Acts, chapter 180, section 70. This amendment rescinds Chapter 91 because the rules in the chapter are obsolete.

EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the March 11, 2009, Iowa Administrative Bulletin as **ARC 7610B**. Public comments were allowed until close of business on March 31, 2009. No written or oral comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code section 256.7(5).

This amendment will become effective June 24, 2009.

The following amendment is adopted.

Rescind and reserve **281—Chapter 91**.

[Filed 5/1/09, effective 6/24/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7768B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 225C.6 and 331.438(4), the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

The amendments define the role of the "county of residence" as it relates to the central point of coordination process for services to persons with mental illness, chronic mental illness, mental retardation, developmental disabilities, or brain injury. Under these amendments, all new applications for services would be directed to a person's county of residence rather than the county of legal settlement. The person may be eligible for the services that are outlined in the management plan for the county of residence. These services would be purchased according to the contracted rates of the county of residence.

Under current rules, a person must apply to the central point of coordination for the consumer's county of legal settlement, regardless of where the person is living, and may be eligible only for services listed in the management plan of the county of legal settlement. This sometimes leads to confusion for applicants and may be a barrier to applying for services.

These amendments may result in a county's paying for services that are not in its county management plan or paying a different rate than the county pays for persons living in the county. These changes are in line with what was intended by the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission's original January 2004 restructuring report.

These amendments do not provide for waivers in specified situations because waivers would lead to uncertainty among applicants and providers.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7626B**. The Department also held a public hearing to receive comments on the Notice of Intended Action. One person submitted written comments and one attended the hearing. Comments concerned the necessity for the changes and their impact on procedures for initial approval and for reauthorization of services.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on April 16, 2009. These amendments are identical to those in the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 331.424A, 331.439, and 331.440.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective on July 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [25.11, 25.13 to 25.17] is being omitted. These amendments are identical to those published under Notice as **ARC 7626B**, IAB 3/11/09.

[Filed 4/22/09, effective 7/1/09]

[Published 5/20/09]

[For replacement pages for IAC, see IAC Supplement 5/20/09.]

ARC 7770B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 514I.5(8) and 2008 Iowa Acts, chapter 1188, section 14, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

These amendments will:

- Increase the HAWK-I income limits from 200 percent of the federal poverty level to 300 percent of the federal poverty level (\$5,513 per month for a family of four) beginning July 1, 2009.
- Implement increased monthly cost sharing for children with countable family income at or more than 200 percent of the federal poverty level (\$20 per month per child up to a maximum of \$40 per family).

The eligibility change was enacted in 2008 Iowa Acts, chapter 1188, as the "HAWK-I Expansion Program." This legislation also gives the HAWK-I Board the authority to set cost-sharing amounts for children with family income between 200 and 300 percent of the federal poverty level.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7635B**. The Department received no comments on the Notice of Intended Action.

The Department has made the following changes to the rules as published in the Notice of Intended Action:

- Added new Item 4 to make technical changes to reflect the current name of the Food Assistance Program and the program's change from issuing benefits by paper coupons to electronic benefits transfer.
- Revised subrules 86.8(1) and 86.8(2) to clarify that the countable income the Department considers when determining the premium amount is the family's gross countable income minus 20 percent of any earned income. (See Items 5 and 6.)

The HAWK-I Board adopted these amendments on April 20, 2009.

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

These amendments shall become effective on July 1, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **441—86.1(514I)**:

"*Earned income*" means the earned income of all parents, spouses, and children under the age of 19 who are not students who are living together in accordance with subrule 86.2(3). Income shall be countable earned income when a person produces it as a result of the performance of services. "Earned income" includes:

1. All income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, and

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. The net profit from self-employment determined by comparing gross income produced from self-employment with the allowable costs of producing the income. The allowable costs of producing self-employment income shall be determined by the costs allowed for income tax purposes. Additionally, the cost of depreciation of capital assets identified for income tax purposes shall be allowed as a cost of doing business for self-employed persons. Losses from a self-employment enterprise may not be used to offset income from any other source.

“*Gross countable income*” means gross income minus exemptions permitted by paragraph 86.2(2)“b.”

“*Gross income*” means a combination of the following:

1. Earned income,
2. Unearned income, and
3. Recurring lump-sum income prorated over the time the income is intended to cover.

“*Recurring lump-sum income*” means earned and unearned lump-sum income that is received on a regular basis. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

“*Self-employed*” means that a person satisfies any of the following conditions:

1. The person is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
2. The person establishes the person’s own working hours, territory, and methods of work; or
3. The person files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

“*Unearned income*” means cash income of all parents, spouses, and children under the age of 19 who are living together in accordance with subrule 86.2(3) that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. Social security benefits, meaning the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

ITEM 2. Amend subrule 86.2(2), introductory paragraph, as follows:

86.2(2) *Income.* ~~Countable income shall not exceed 200 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.~~

ITEM 3. Rescind paragraph **86.2(2)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Gross countable income. In determining initial and ongoing eligibility for the HAWK-I program, gross countable income shall not exceed 300 percent of the federal poverty level for a family of the same size.

ITEM 4. Amend subparagraph **86.2(2)“b”(3)** as follows:

(3) The value of ~~the coupon allotment~~ benefits issued in the Food Stamp Assistance Program.

ITEM 5. Rescind subrule 86.8(1) and adopt the following **new** subrule in lieu thereof:

86.8(1) *Income considered.* The countable income considered in determining the premium amount shall be the family’s gross countable income minus 20 percent of the family’s earned income.

ITEM 6. Amend subrule 86.8(2) as follows:

86.8(2) *Premium amount.* ~~The premium amount shall be \$10 per month per child up to a maximum of \$20 per month per family.~~ Premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

- (1) The eligible child is an American Indian or Alaskan Native; or

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The family's countable income is less than 150 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds 150 percent of the federal poverty level for a family of the same size but does not exceed 200 percent of the federal poverty level for a family of that size, the premium is \$10 per child per month with a \$20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds 200 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

[Filed 4/28/09, effective 7/1/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7773B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby adopts new Chapter 310, "Sustainable Design Standards," Iowa Administrative Code.

Iowa Code section 103A.8B was newly enacted in 2008. It authorizes and requires the Building Code Commissioner, with the approval of the Building Code Advisory Council, to establish sustainable design or green building standards. These standards will be part of the State Building Code but will apply to construction projects only if triggered by another provision of law. During 2008, the standards proposed herein were applied to establish eligibility for enhancements to tax credits that apply to development in designated brownfield and grayfield areas.

The rules adopted herein are considered by the Building Code Commissioner to be the start of an ongoing process of development of sustainable design standards for the state of Iowa. Major developments are occurring in the evolution of these standards, and significant changes are likely to occur in the next few years, so it is anticipated that there will be periodic revisions to these standards on an ongoing basis. Nevertheless, it is essential that initial standards be in place by July 1, 2009, as they are specified to be the basis for awarding enhanced tax credits for projects being developed in designated grayfield and brownfield areas.

Notice of Intended Action proposing these rules was published in the Iowa Administrative Bulletin as **ARC 7657B** on March 25, 2009. A public hearing to accept comment on the proposed rules was held on April 14, 2009. Numerous comments were received.

Iowa Code section 103A.8B requires the Building Code Commissioner to obtain recommendations from the Office of Energy Independence and the Department of Natural Resources prior to adoption of these rules. Both agencies provided recommendations indicating agreement with the rules as proposed in the Notice of Intended Action.

A request was received from the Home Builders Association of Iowa to add the National Green Building Standard, which is published by the International Code Council, to the options available to obtain approval as a sustainably designed project for residential construction. Several comments were received from others supporting the use of the National Green Building Standard only if a higher level of certification within the system specified therein was used. At the direction of the Building Code Advisory Council, use of the National Green Building Standard with certification at the bronze, or lowest, level was incorporated as an option for approval as a sustainably designed project for residential construction only.

A request was received from the Green Building Institute to add the Green Globes assessment system to the options available for approval as a sustainably designed project. It was impractical to fully consider this request prior to the adoption of these rules, but the Building Code Commissioner intends to consider

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the addition of the Green Globes assessment system to the options available for sustainably designed projects in the future.

The American Chemistry Council endorsed the use of the energy standard for commercial construction published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) in ASHRAE 90.1-2007, as specified in the proposed rules and included in the rules as adopted herein, but recommended that projects be approved as sustainably designed only if they result in 25 percent less energy use than would result from minimal compliance with the standard. This recommendation was not adopted. The American Chemistry Council also asked that all green building rating systems be treated equally. Philosophically, the Building Code Commissioner agrees that various rating systems should be allowed as a basis for approval of sustainably designed projects, but it is essential that each rating system be evaluated independently. Additional systems will be considered for inclusion if their use is formally proposed and documentation regarding the basis for each system is provided to the Building Code Commissioner.

The Master Builders of Iowa submitted comments raising several questions, including a recommendation that the rules be clarified to stipulate that only the Building Code Commissioner may make a determination as to whether or not a project is sustainably designed. This suggestion was included in the adopted rules to ensure consistency regarding these determinations.

The Iowa Association of School Boards submitted comments, including a recommendation that the level of Leadership in Energy and Environmental Design (LEED) certification required be less than the gold level. The Building Code Commissioner and the Building Code Advisory Council elected to retain the use of the gold level for projects seeking tax credits or tax refunds on the basis of compliance with the standards but adopted the use of the silver level of certification for other projects to meet sustainable design standards. Any school construction projects that may be subject to these standards in the future are likely to fall into this latter category.

Another commenter also objected to the requirement to achieve gold-level certification under the LEED Green Building Rating System, administered by the U.S. Green Building Council, contending that this requirement is too restrictive. The same commenter also asked that a specific edition of LEED be identified. The request to identify a specific version of LEED was adopted in these rules. Version 3.0 of LEED, which became available on April 27, 2009, is used wherever LEED is referenced.

A comment was received proposing that a committee of technical experts be established to advise the Building Code Commissioner when questions arise regarding equivalency between different systems for determining whether construction projects are sustainably designed. Although the rules do not provide for such a committee, the Building Code Commissioner agrees with this suggestion and plans to form an advisory committee of technical experts to advise on equivalency issues, especially when application is made to use a sustainable design framework other than those explicitly referenced in these rules.

An additional editorial change made from the proposed rules was a modification of the definition of “residential” to be consistent with the definitions used in the International Building Code and the International Residential Code, which are adopted by reference in the State Building Code of Iowa.

The Preamble to the Notice of Intended Action solicited comments about sustainable design standards appropriate for Web portal businesses and data centers. No recommendations were received. There is an urgent need to identify such standards, and the Building Code Commissioner renews the request for submission of recommendations for sustainable design standards for these facilities. It is the intent of the Building Code Commissioner to adopt such standards at the earliest practicable opportunity, possibly through an emergency rule making.

These rules are intended to implement Iowa Code section 103A.8B.

These rules will become effective July 1, 2009.

The following amendment is adopted.

Adopt the following **new** 661—Chapter 310:

CHAPTER 310
SUSTAINABLE DESIGN STANDARDS

661—310.1(103A) Scope and purpose.

310.1(1) Scope. The standards established in this chapter apply to building construction projects in Iowa and are based upon state or federal statutory requirements; administrative rules adopted by state agencies that own, manage, regulate, or finance building construction projects; or federal regulations.

310.1(2) Purpose. The purpose of the standards and requirements included in this chapter is to promote sustainable design in building construction, which is defined as construction that meets current needs while not compromising the needs of future generations. Sustainable design standards are intended to minimize the adverse environmental impacts of construction and the built environment.

661—310.2(103A) Definitions. The following definitions apply to rules 661—310.1(103A) through 661—310.6(103A):

“*Commercial*” means a building construction project that is not residential.

“*Commissioner*” means the building code commissioner.

“*Residential*” means a building construction project that involves a building or buildings, each of which is a detached one- or two-family dwelling or which consists of townhouses not more than three stories above grade in height with a separate means of egress to the exterior of the building for each dwelling unit and consisting entirely of dwelling units and their accessory structures.

661—310.3(103A) Submission of projects.

310.3(1) Approval of building code commissioner required. Approval of a construction project as sustainably designed pursuant to these rules may be granted only by the building code commissioner. All requests for approval of a project as sustainably designed must be submitted to the Building Code Bureau, Fire Marshal Division, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319.

310.3(2) Building code approval required. No building construction project shall be approved as a sustainably designed project pursuant to these rules unless construction plans for the project have been approved by the building code commissioner as meeting the state building code or by a local building department as meeting the applicable local building code.

310.3(3) Projects subject to state building code. If approval as a sustainably designed project is requested for a project that is otherwise subject to the state building code, the submission materials required by 661—Chapter 300 shall include a statement that approval for the project as sustainably designed is being requested.

310.3(4) Projects subject to local building codes. If approval from the building code commissioner is sought for a project that is subject to a local building code and code enforcement, construction plans shall be submitted to the building code bureau as provided in 661—Chapter 300, with a cover letter stating that approval of the project as a sustainably designed project is being requested and that the project has been submitted for review to the local building department. Evidence of approval of the construction plans by the local building department shall be submitted to the building code bureau prior to issuance of the commissioner’s approval of the project as a sustainably designed project.

310.3(5) Projects not otherwise subject to state or local building codes. If approval as a sustainably designed project is sought for a building construction project that is otherwise not subject to the state building code or a local building code, construction plans for the project shall be submitted to the building code bureau and the project shall be subject to the state building code and to procedures and fees for review of construction plans and inspections as provided in 661—Chapter 300. The cover letter transmitted with the plans shall state that approval as a sustainably designed project is being requested and that the project is not subject to a local building code enforced by a local jurisdiction.

310.3(6) Application form. A completed application form prescribed by the commissioner shall be included with the submission of the construction plans for review of any project for which approval as a sustainably designed project is requested.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—310.4(103A) Sustainable design criteria for residential projects. A residential building construction project shall be approved as sustainably designed if it meets any of the following requirements:

310.4(1) Satisfaction of all of the mandatory criteria of the Iowa green streets criteria described in the publication Iowa Green Streets Criteria, published by the Iowa department of economic development, community development division; or

310.4(2) Compliance with ICC 700-2008, National Green Building Standard, published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, D.C. 20001, at the bronze level; or

310.4(3) Satisfaction of any alternative set of criteria submitted in advance to the commissioner and approved by the commissioner as equivalent to the requirements of either subrule 310.4(1) or 310.4(2).

661—310.5(103A) Sustainable design criteria for commercial projects. A commercial building construction project shall be approved as sustainably designed if it meets the following applicable requirements:

310.5(1) If approval as a sustainably designed project is being sought in order to qualify for a tax credit or tax refund, the project shall be approved as sustainably designed if the building receives certification from the United States Green Building Council at the gold level or better in the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, version 3.0; and if the building complies with the requirements of ASHRAE 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329.

EXCEPTION: If a good-faith effort has been made to obtain certification at the gold level or above in the LEED Green Building Rating System, version 3.0, and certification at the gold level has not been obtained, but certification at the silver level has been obtained, application may nonetheless be made to the building code commissioner for approval as a sustainably designed project. The commissioner may approve the project as sustainably designed provided that the building is fully in compliance with ASHRAE 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329, and demonstration is made to the satisfaction of the building code commissioner that a good-faith effort to achieve certification at the gold level was made and that the project demonstrates an emphasis on energy conservation.

310.5(2) If approval as a sustainably designed project is being sought other than for the purpose of obtaining a tax credit or tax refund, the project shall be approved as sustainably designed if the building receives certification from the United States Green Building Council at the silver level or better in the LEED Green Building Rating System, version 3.0; and if the building complies with the requirements of ASHRAE 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329.

EXCEPTION: If a good-faith effort has been made to obtain certification at the silver level or above in the LEED Green Building Rating System, version 3.0, and certification at the silver level or above has not been obtained, but certification has been obtained, application may nonetheless be made to the building code commissioner for approval as a sustainably designed project. The commissioner may approve the project as sustainably designed provided that the building is fully in compliance with ASHRAE 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, NE, Atlanta, GA 30329, and demonstration is made to the satisfaction of the building code commissioner that a good-faith effort to achieve certification at the silver level was made and that the project demonstrates an emphasis on energy conservation.

310.5(3) If the project includes only the following commercial structures, the project shall be approved as sustainably designed if it satisfies all of the mandatory criteria of the Iowa green streets criteria:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

- a. Day care centers.
- b. Vocational rehabilitation centers.
- c. Community centers.
- d. Senior centers.

EXCEPTION: Application may be made to the building code commissioner to accept satisfaction of all of the mandatory criteria of the Iowa green streets criteria, published by the Iowa department of economic development, community development division, as the basis for approval of other commercial projects as sustainably designed. Such submission should be limited to smaller commercial projects, and approval as a sustainably designed project is at the discretion of the building code commissioner, who shall award such approval only if the building code commissioner is convinced that the Iowa green streets criteria are applicable to the project. Written approval for use of the Iowa green streets criteria pursuant to this exception shall be sought and obtained prior to submission of an application for approval as a sustainably designed project.

310.5(4) The building satisfies any alternative set of criteria submitted in advance to the commissioner and approved by the commissioner as equivalent to the requirements set forth in subrule 310.5(1) or 310.5(2), as applicable.

661—310.6(103A) Fees.

310.6(1) *Projects subject to the state building code.* For any project for which approval as a sustainably designed project is requested from the commissioner and which is otherwise subject to the state building code, the additional fee for review for compliance with sustainable design standards shall be \$100, which shall be paid prior to review of the application.

310.6(2) *Projects subject to local building codes and code enforcement.* For any project approved by a local building department as compliant with the local building code and for which approval as a sustainably designed project is requested, a fee of \$250 shall apply and shall be paid prior to the commissioner's review of the application for approval as a sustainably designed project.

310.6(3) *Projects not otherwise subject to a building code.* For any project for which approval as a sustainably designed project is requested and which is not otherwise subject to a building code, the plan review fee shall be the same as the plan review fee for the project established in 661—subrule 300.4(2). An additional fee of \$100 for review for compliance with the requirements set forth in this chapter shall apply and shall be paid prior to review of the plan.

These rules are intended to implement Iowa Code section 103A.8B.

[Filed 4/29/09, effective 7/1/09]

[Published 5/20/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/20/09.

ARC 7774B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby amends Chapter 1, "Organization and Administration," Chapter 3, "Examination," and Chapter 4, "Associate Real Property Appraiser," rescinds Chapter 5, "Certified Residential Real Property Appraiser," and adopts new Chapter 5 with the same title, rescinds Chapter 6, "Certified General Real Property Appraiser," and adopts new Chapter 6 with the same title, amends Chapter 11, "Continuing Education," and Chapter 12, "Fees," and rescinds Chapter 13, "Certified Residential Appraiser Education Requirements," and Chapter 14, "Certified General Appraiser Residential Appraiser Requirements," Iowa Administrative Code.

The amendments to Chapters 1 and 3 reorganize provisions relating to types of appraiser classifications and to examinations, correct a typographical error, clarify grounds for denial of a

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

certificate, and rescind subrules whose content is now contained in new Chapters 5 and 6. The amendments to Chapter 4 remove an obsolete explanatory note at the beginning of the chapter and update the cross references in rule 193F—4.5(543D). New Chapters 5 and 6 reflect a complete rewrite of the existing chapters to provide for ease of reading in a manner that more accurately describes the certification process. The amendments to Chapter 11 further define requirements for hardship and disability provisions to bring the State of Iowa into compliance with federally mandated guidelines as set forth by the Appraisal Qualifications Board. The amendment to Chapter 12 adds the fees for voluntary submission of work product for review as provided in new Chapters 5 and 6. Chapters 13 and 14 are rescinded, and the relevant content is moved to new Chapters 5 and 6.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 25, 2009, as **ARC 7595B**. No public comments were received. No changes have been made from the Notice of Intended Action.

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

These amendments will become effective June 24, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 1, 3, 4, 11, 12; adopt Chs 5, 6; rescind Chs 13, 14] is being omitted. These amendments are identical to those published under Notice as **ARC 7595B**, IAB 2/25/09.

[Filed 4/29/09, effective 6/24/09]

[Published 5/20/09]

[For replacement pages for IAC, see IAC Supplement 5/20/09.]

AGENCY	RULE	DELAY
Environmental Protection Commission[567]	Items 2, 27, and 33 to 38 [IAB 3/11/09, ARC 7625B]	Effective date of April 15, 2009, delayed 70 days by the Administrative Rules Review Committee at its meeting held April 8, 2009. [Pursuant to §17A.4(7)] Delay Lifted: At its meeting held April 28, 2009, the Committee voted to lift the delay, effective April 29, 2009.