



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Acting Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2010

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. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
Oct. 27	Nov. 17	Dec. 7	Dec. 22	***Dec. 22***	Jan. 12 '11	Feb. 16 '11	May 16 '11
Nov. 10	Dec. 1	Dec. 21	Jan. 5 '11	Jan. 7 '11	Jan. 26 '11	Mar. 2 '11	May 30 '11
Nov. 24	Dec. 15	Jan. 4 '11	Jan. 19 '11	Jan. 21 '11	Feb. 9 '11	Mar. 16 '11	June 13 '11
Dec. 8	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
Dec. 22	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, November 10, 2010	December 1, 2010
12	Wednesday, November 24, 2010	December 15, 2010
13	Wednesday, December 8, 2010	December 29, 2010

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, November 9, 2010, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the October 20, 2010, Iowa Administrative Bulletin.

ACCOUNTANCY EXAMINING BOARD[193A]

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

Certificate and license renewal fees, 12.1 Notice **ARC 9202B** 11/3/10

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Crop pests—firewood labeling, 46.13, 46.16 Filed **ARC 9190B** 11/3/10

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; continuing education; standards of practice and principles of professional ethics, amendments to chs 11, 13, 25, 27 Filed **ARC 9218B** 11/3/10

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Disqualifying criminal convictions, 11.35(2)"a"(2) Filed **ARC 9209B** 11/3/10

Retention of incomplete applications, 12.9 Notice **ARC 9203B** 11/3/10

Class B license not issued for driver's education endorsement, 13.11(1) Filed **ARC 9207B** 11/3/10

Application for substitute teacher license, 13.16(1) Filed **ARC 9205B** 11/3/10

Substitutes in driver's education classroom, 13.16(3) Filed **ARC 9206B** 11/3/10

Elementary school teacher librarian endorsement, 13.28(21) Filed **ARC 9210B** 11/3/10

Secondary school teacher librarian endorsement, 13.28(22) Filed **ARC 9211B** 11/3/10

School teacher librarian endorsement, 13.28(23) Filed **ARC 9212B** 11/3/10

Administrator licenses for applicants from non-Iowa preparation programs, 18.6 Notice **ARC 9199B** 11/3/10

Class A licenses, 18.7 Notice **ARC 9200B** 11/3/10

Class B licenses, 18.8 Notice **ARC 9201B** 11/3/10

Paraeducator concentration area—students with vision impairments, 24.4(7) Filed **ARC 9204B** 11/3/10

Disqualifying criminal convictions, 25.3(1)"b"(1) Filed **ARC 9208B** 11/3/10

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Filing of reconciled bank statement, 4.21 Filed **ARC 9216B** 11/3/10

HUMAN SERVICES DEPARTMENT[441]

Promoting healthy marriage program, amendments to ch 47 Filed **ARC 9172B** 11/3/10

Interim assistance reimbursement, ch 57 Filed **ARC 9174B** 11/3/10

Food assistance program—categorical eligibility, 65.39 Filed **ARC 9173B** 11/3/10

Medicaid coverage for mental health prescription drugs, 78.2(4)"a" Filed **ARC 9175B** 11/3/10

Provider reimbursement rates, 79.1, 79.16, 85.25(1) Filed **ARC 9176B** 11/3/10

Collection of court-ordered support, 95.6, 95.7(8)"b," 98.81 Filed **ARC 9177B** 11/3/10

Collection services center—electronic transmission of payments, 97.1, 97.4, 97.5 Notice **ARC 9215B** 11/3/10

Review, adjustment, and modification of court orders for child and medical support, amendments to ch 99 Notice **ARC 9195B** 11/3/10

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Statement of actuarial opinion; regulatory asset adequacy issues summary, 5.34(6)"b"(2), 5.34(7) Filed **ARC 9184B** 11/3/10

Mortality adjustment factors (X factors) in deficiency reserve calculation, 47.4(2)"c" Filed **ARC 9181B** 11/3/10

Mortality tables, 94.3 Filed **ARC 9182B** 11/3/10

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

State parks and recreation areas, 61.5, 61.11(6) Filed **ARC 9186B** 11/3/10

Fireworks displays at state parks and recreation areas, ch 65 Notice of Termination **ARC 9185B** 11/3/10

Falconry regulations, 101.1 to 101.5 Filed **ARC 9189B** 11/3/10

Falconry regulations for hunting game, 102.1, 102.2, 102.4 Filed **ARC 9188B** 11/3/10

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Reductions in fees, amendments to chs 2, 3, 8, 10, 12, 17 Notice of Termination **ARC 9179B** 11/3/10

Exemption from pharmacist continuing education requirements, 2.12(1)“b”	Notice	ARC 9192B	11/3/10
Certified pharmacy technicians—certification in good standing required, 3.3, 3.5, 3.12			
	Notice	ARC 9193B	11/3/10
Hospital pharmacy practice, 7.6(2)“b,” 7.7(7)	Notice	ARC 9183B	11/3/10
Pharmacy maintenance of staff logs, 8.4	Notice	ARC 9194B	11/3/10
Administration of immunizations by pharmacists, 8.33	Notice of Termination	ARC 9178B	11/3/10
Emergency prescriptions—permitted written formats, 10.22(2)“c”	Notice	ARC 9196B	11/3/10
Sterile compounding practices—beyond-use date, approved storage periods, 13.2,			
13.13(1)“e”	Filed	ARC 9180B	11/3/10
Sterile compounding practices—anteroom requirements, 13.27(4)	Notice	ARC 9187B	11/3/10
Contested cases, discipline—corrections and clarifications, amendments to chs 35, 36			
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PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Audit of continuing education, 4.11	Filed	ARC 9171B	11/3/10
Board of physician assistants—filing of electronic prescriptions, 327.6(1)	Filed	ARC 9217B	11/3/10

REVENUE DEPARTMENT[701]

Interest rate for calendar year 2011, 10.2(30)	Notice	ARC 9197B	11/3/10
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TREASURER OF STATE[781]

LIFT small business loan program—eligibility, 4.6(3)	Filed	ARC 9214B	11/3/10
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Certificates of franchise authority for cable and video service, 44.1, 44.3(3), 44.4, 44.6, 44.7			
	Notice	ARC 9198B	11/3/10

WORKERS’ COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Implementation of paperless filing system, amendments to chs 1 to 5, 8, 11	Notice	ARC 9213B	11/3/10
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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

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

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Des Moines, Iowa 50319
Telephone (515)281-3084
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Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

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

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

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

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

EDUCATIONAL EXAMINERS BOARD[282]

Retention of incomplete applications, 12.9 IAB 11/3/10 ARC 9203B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 24, 2010 1 p.m.
Administrator licenses for applicants from non-Iowa preparation programs, 18.6 IAB 11/3/10 ARC 9199B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 24, 2010 1 p.m.
Class A licenses, 18.7 IAB 11/3/10 ARC 9200B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 24, 2010 1 p.m.
Class B licenses, 18.8 IAB 11/3/10 ARC 9201B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 24, 2010 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality certification, 61.2(2)“g” IAB 10/20/10 ARC 9153B	Fifth Floor West Conference Room (5W) Wallace State Office Bldg. Des Moines, Iowa	November 9, 2010 1 p.m.
Underground storage tanks—review procedures and acceptance of reports from certified groundwater professionals, 135.9(11), 135.10(11), 135.12 IAB 10/20/10 ARC 9152B	Meeting Room B, Public Library 1401 5th St. Coralville, Iowa	November 9, 2010 1 p.m.
	Norelius Community Library 1403 1st Ave. South Denison, Iowa	November 10, 2010 1 p.m.
	Fourth Floor West Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	November 15, 2010 1 p.m.

HUMAN SERVICES DEPARTMENT[441]

Nursing facilities; quality improvement initiative grants, 81.50(7), 81.52(4), ch 166 IAB 10/20/10 ARC 9157B	Rooms 128 and 129 Iowa Medicaid Enterprise 100 Army Post Rd. Des Moines, Iowa	November 10, 2010 2 to 4 p.m.
Collection services center—electronic transmission of payments, 97.1, 97.4, 97.5 IAB 11/3/10 ARC 9215B	Meeting Room B, Public Library 210 Court St. Burlington, Iowa	November 23, 2010 10 to 11 a.m.
	Liberty Room, First Floor Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	November 29, 2010 10 to 11 a.m.
	Conference Room A, Second Floor 6200 Aurora Ave. Urbandale, Iowa	November 29, 2010 10 to 11 a.m.
	Suite 225, Second Floor Commerce Building 520 Nebraska St. Sioux City, Iowa	November 29, 2010 9 to 10 a.m.

INSURANCE DIVISION[191]

Individual accident and health
insurance—rate hearings, 36.20
IAB 10/20/10 **ARC 9168B**

Insurance Division Offices
330 Maple St.
Des Moines, Iowa

November 16, 2010
10 a.m.

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Low-income housing tax credit
program—qualified allocation
plan, 12.1, 12.2
IAB 10/20/10 **ARC 9160B**

Authority Offices
2015 Grand Ave.
Des Moines, Iowa

November 9, 2010
9 to 11 a.m.

HOME partnership program,
39.2 to 39.9
IAB 10/20/10 **ARC 9159B**

Authority Offices
2015 Grand Ave.
Des Moines, Iowa

November 9, 2010
2 p.m.

PHARMACY BOARD[657]

Drugs in emergency medical
service programs, ch 11
IAB 10/6/10 **ARC 9116B**
(See **ARC 8923B**, IAB 6/30/10)

Board Office, Suite E
400 SW 8th St.
Des Moines, Iowa

November 4, 2010
1:30 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Physical and occupational
therapy—licensure, amendments
to chs 200, 202, 203, 207, 209
IAB 10/20/10 **ARC 9156B**

Fifth Floor Board Conference Room
Lucas State Office Bldg.
Des Moines, Iowa

November 9, 2010
8 to 8:30 a.m.

The following list will be updated as changes occur.

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

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

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 9202B

ACCOUNTANCY EXAMINING BOARD[193A]

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 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 12, "Fees," Iowa Administrative Code.

By shortening the time period for renewal, the proposed amendment to Chapter 12 implements an increase in the renewal fee for active and inactive CPA certificates and LPA licenses to \$100 annually for active certificates and licenses and \$50 annually for inactive certificates and licenses. The intent of the fee increase is to bring the certificate and licensing fees in line with the increasing costs of regulating the accounting profession.

This amendment is subject to waiver or variance pursuant to 193A—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before November 23, 2010. Comments should be addressed to Jodi Adams, CPA MBA, Accountancy Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to jodi.adams@iowa.gov.

This amendment is intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

The following amendment is proposed.

Amend rule 193A—12.1(542) as follows:

193A—12.1(542) Required fees. The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	not to exceed \$1500
Reexamination:	
Paid directly to CPA examination services	not to exceed \$1500
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	\$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Biennial <u>Annual</u> renewal of CPA certificate or LPA license—active status	\$100
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25
Biennial <u>Annual</u> renewal of CPA certificate or LPA license—inactive status	\$50
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

Penalty for failure to comply with continuing education requirements	\$50 to \$250
Original issuance of firm permit to practice	\$100
Annual renewal of firm permit to practice	\$100
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration
Interstate Transfer Form	\$25

ARC 9203B**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 12, “Fees,” Iowa Administrative Code.

The changes proposed in this new rule are needed to inform applicants about the processes that will be put in place in the Board office. For some time now, the staff has had difficulty determining when to close an application if an applicant has not completed the application process. This rule will clearly spell out the procedures.

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, November 24, 2010, 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 Monday, November 29, 2010. 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** rule 282—12.9(272):

282—12.9(272) Retention of incomplete applications.

12.9(1) Timeline for complete application materials to be submitted. Upon receipt of an incomplete application, the executive director will send a letter of deficiencies to the applicant stipulating that

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

complete application materials must be submitted to the board office within 45 days of the date the letter is received. If the materials are not received within that timeline, the application process will be closed. If the applicant submits information after the deadline, the application process requires submission of a complete set of application materials and fees, including late fees if applicable, for practicing with an expired license, without the proper endorsement, or without an Iowa board-issued license.

12.9(2) Background check. The background check fee will be valid for one year. If a license is not issued within one year of a completed background check, the background check shall be considered void.

12.9(3) Timeline for audited online renewals. Upon receipt of notification that the online renewal application has been audited, the applicant shall have 45 days to submit the official transcripts and mandatory reporter verification to the board office. If the materials are not received within that timeline, the applicant will be notified that the application process is closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees. If the license expires during the 45-day deadline and the applicant is teaching, the school district will be notified that the applicant's license is expired and the individual shall not continue teaching until the complete application materials are submitted to the board office.

12.9(4) Request for additional time. If the applicant is not able to submit the application materials within the 45-day deadline, the applicant may contact the executive director with a request for additional time. The applicant must submit verification as to the need for the additional time. The executive director will review the request and provide a written decision either approving or denying the request.

ARC 9199B**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 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

The changes proposed in this amendment update and remove obsolete language. The Board no longer offers an exchange license but does issue a Class A license for those applicants completing their administrator program out of state who may have deficiencies.

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, November 24, 2010, 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 Monday, November 29, 2010. 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.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator exchange license prepared out of state. An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

18.6(1) No change.

18.6(2) Authorization. Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator licensure was completed.

18.6(3) Conversion. Each individual receiving the one-year exchange license must complete any identified licensure deficiencies in order to be eligible for a professional administrator license in Iowa.

ARC 9200B

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 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

The changes proposed in this amendment update and remove obsolete language. The Board does not offer an exchange license for those applicants completing their administrative program out of state who have deficiencies. In addition, language in subrules 18.7(3) and 18.7(4) pertaining to teacher preparation has been stricken or revised because it is not required in the administrator preparation rule.

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, November 24, 2010, 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 Monday, November 29, 2010. 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.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The following amendment is proposed.

Amend rule 282—18.7(272) as follows:

282—18.7(272) Specific requirements for a Class A license. A nonrenewable Class A license valid for one year may be issued to an individual applicant who has completed an administrator preparation program under any one of the following conditions:

18.7(1) and **18.7(2)** No change.

~~**18.7(3) Recency.** The individual meets the requirement(s) for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credits and, where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).~~

~~**18.7(4) 18.7(3)** Based on an expired Iowa certificate or license, exclusive of a Class A, or Class B, Class C, or Class D license. The holder of an expired license, exclusive of a Class A, or Class B, Class C, or Class D license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.~~

~~**18.7(5)** Based on an administrative decision. The executive director is authorized to issue a Class A license to an applicant whose services are needed to fill positions in unique need circumstances.~~

~~**18.7(6) 18.7(4)** Based on evaluator requirement. The individual applicant has not completed the approved evaluator training requirement.~~

18.7(5) Authorization. Each Class A license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator licensure was completed.

18.7(6) Conversion. Each applicant receiving the one-year Class A license must complete any identified licensure deficiencies in order to be eligible for a professional administrator license in Iowa.

ARC 9201B

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 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

The changes proposed in this amendment update and remove obsolete language. An applicant with few of the requirements for licensure completed will have to go before the Board rather than to staff for a decision regarding licensure. The language in subrule 18.8(3) is stricken because the applicant will be required to go through the waiver process.

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, November 24, 2010, 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

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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 Monday, November 29, 2010. 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.

Amend rule 282—18.8(272) as follows:

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

18.8(1) Endorsement in progress. The individual has a valid Iowa teaching license, but is seeking to obtain an administrator endorsement. A Class B license may be issued if requested by an employer and the individual seeking this endorsement has completed at least ~~two-thirds~~ 75 percent of the requirements leading to completion of all requirements for this endorsement.

18.8(2) No change.

~~**18.8(3) Request for exception.** A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.~~

ARC 9215B**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 252D.22 and section 252D.17 as amended by 2010 Iowa Acts, Senate File 2088, section 337, the Department of Human Services proposes to amend Chapter 97, “Collection Services Center,” Iowa Administrative Code.

The proposed amendments implement a legislative requirement that payors of income begin submitting child support payments to the Collection Services Center electronically (rather than by check) no later than June 30, 2015, unless an exemption applies. The use of electronic funds transmission is a faster and safer way for payors of income to make payments. Since the payments are not sent through the U.S. mail, payments are received timely and provide a stable payment frequency for families receiving the support.

The amendments provide a phased-in implementation schedule, beginning with larger employers, since they often already have the capability to make other types of payments electronically. The schedule is as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Number of Employees</u>	<u>Deadline for Compliance</u>
1,000 or more	December 31, 2011
500 to 999	December 31, 2012
200 to 449	December 31, 2013
100 or more with an agent for payroll processing	December 31, 2013

Payors of income that have fewer than 200 employees and process their own payroll and all payors of income that have fewer than 100 employees are exempt from these requirements, since for these payors electronic submission would be less cost-effective and possibly more of a hardship to implement. The amendments emphasize electronic funds transmission, but also allow payment via a secure Web site as an alternative if electronic funds transmission is an undue hardship.

Requests for a waiver of any 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 amendments on or before November 23, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold public hearings for the purpose of receiving comments on the proposed amendments at the following dates, times and locations:

Meeting Room B Burlington Public Library 210 Court Street Burlington, Iowa	November 23, 2010 10 to 11 a.m.
Liberty Room, First Floor Mohawk Square 22 N. Georgia Avenue Mason City, Iowa	November 29, 2010 10 to 11 a.m.
Conference Room A, Second Floor 6200 Aurora Avenue Urbandale, Iowa	November 29, 2010 10 to 11 a.m.
Suite 225, Second Floor Commerce Building 520 Nebraska Street Sioux City, Iowa	November 29, 2010 9 to 10 a.m.

Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code section 252D.17 as amended by 2010 Iowa Acts, Senate File 2088, section 337.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **441—97.1(252B)**:

“*Electronic funds transmission*” means, for purposes of this chapter, the use of a NACHA-approved child support format for the electronic transmission of funds to the collection services center.

“*Employee*” shall have the same meaning provided this term in Iowa Code section 252G.1.

“*NACHA-approved child support format*” means a child support payment transmission format approved by the National Automated Clearing House Association (NACHA).

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*Web site*” means the Web site operated by the department of human services for the purpose of allowing a payor of income to make a support payment through electronic transmission to the collection services center.

ITEM 2. Renumber rule **441—97.5(252B)** as **441—97.4(252B)**.

ITEM 3. Amend renumbered rule 441—97.4(252B) as follows:

441—97.4(252B) Method of payment. Payments shall be accepted in specific forms from obligors and payors of income.

97.4(1) Form of payment. ~~Support~~ Except as otherwise provided in this rule and in rule 441—97.5(252D), support payments may be paid in the form of cash, check, bank draft, money order, preauthorized withdrawal of funds, or other financial instrument, and sent by mail to the collection services center, or by electronic ~~transfer~~ transmission of funds.

97.4(2) Treatment of insufficient funds payments. The unit shall have a process in place to handle insufficient funds payments.

a. An obligor ~~or payor of income~~ submitting an insufficient funds support payment to the collection services center shall be required to submit payments by cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

b. A payor of income submitting an insufficient funds support payment to the collection services center shall be required to submit payments through electronic funds transmission, cash, bank draft, or money order for a period of up to 12 months unless waived by the collection services center.

c. Insufficient funds payments shall not be credited to the collection services center account for the obligor or shall be removed from the account if credited before sufficiency was verified. Insufficient funds support payments shall be subject to additional collection by the collection services center for the dishonored amount.

~~*b. d.*~~ *d.* The collection services center shall not process additional payments other than cash, bank drafts or money orders from an obligor or payor of income who has previously submitted insufficient funds payments without first verifying the payment. The collection services center shall have a process in place to allow the obligor or the payor of income the opportunity to replace any additional moneys submitted for payment of support before processing in order to avoid additional insufficient funds entries into the official payment records on the affected cases.

97.4(3) No change.

ITEM 4. Adopt the following **new** rule 441—97.5(252D):

441—97.5(252D) Electronic transmission of payments. Payors of income shall electronically transmit to the collection services center the amounts withheld under an income withholding order.

97.5(1) Thresholds for electronic funds transmission. A payor of income shall transmit payment through electronic funds transmission if either of the following applies:

a. The payor of income employs 100 or more employees and uses an agent for payroll processing.

b. The payor of income employs 200 or more employees.

97.5(2) Use of the Web site. Unless paragraph 97.4(2) “*b*” applies, a payor of income required to use electronic funds transmission under subrule 97.5(1) may elect to submit payments electronically by using the Web site if the payor of income determines that using electronic funds transmission would cause undue hardship.

97.5(3) Implementing electronic funds transmission. A payor of income implementing electronic funds transmission shall complete all the following before the implementation date specified in subrule 97.5(5):

a. Contact the collection services center to obtain file layout and case reconciliation information.

b. Provide to the collection services center:

(1) The contact information for the person responsible for electronic funds transmission for the payor of income or the payor of income’s agent for payroll processing;

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The contact information for the person responsible for payroll accounts for the payor of income or the payor of income's agent for payroll processing;

(3) The name and address of the authorized financial institution from which the payment will be withheld; and

(4) A sample file layout in a NACHA-approved child support format and, if necessary, a test file in a NACHA-approved child support format.

c. If needed upon review by the collection services center:

(1) Make corrections to the file layout to meet a NACHA-approved child support format, and

(2) Provide a corrected copy to the collection services center for review.

d. Upon approval of the file layout by the collection services center, provide an implementation date before the first submission of payment through electronic funds transmission.

97.5(4) *Maintaining information and file format after implementation.* A payor of income that has implemented electronic funds transmission shall:

a. Transmit both payment amounts and detailed information records in accordance with a NACHA-approved child support format.

b. Advise the collection services center of a payment error within two business days.

c. Provide the collection services center ten working days' advance notice when changing between NACHA-approved child support formats.

d. Correct case number or file problems identified by the collection services center before sending any additional files.

97.5(5) *Time frames for implementation.* A payor of income shall comply with the following implementation schedule:

a. A payor of income that employs 1,000 or more employees shall implement electronic funds transmission or begin using the Web site no later than December 31, 2011.

b. A payor of income that employs between 500 and 999 employees shall implement electronic funds transmission or begin using the Web site no later than December 31, 2012.

c. A payor of income that employs between 200 and 499 employees shall implement electronic funds transmission or begin using the Web site no later than December 31, 2013.

d. A payor of income that employs 100 or more employees and uses an agent for payroll processing shall implement electronic funds transmission or begin using the Web site no later than December 31, 2013.

97.5(6) *Exemption from electronic transmission.* To avoid undue hardship, a payor of income that has fewer than 200 employees or a payor of income that has fewer than 100 employees and uses an agent for payroll processing is exempt from using electronic transmission unless subrule 97.4(2) applies.

ITEM 5. Amend 441—**Chapter 97**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 252B.13A through 252B.17 and section 252D.17 as amended by 2010 Iowa Acts, Senate File 2088, section 337.

ARC 9195B

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 sections 252B.5(10) and 252H.4(4) and 2010 Iowa Acts, Senate File 2158, section 10, the Department of Human Services proposes to amend Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The proposed amendments are technical changes to conform the rules to statutory changes regarding the review, adjustment, and modification of court orders for child and medical support. The Child Support Recovery Unit is responsible for periodic review of support orders when the support has been assigned to the state due to the payee's receipt of public assistance. A parent also has the right to request the review of a support order for which the Unit is currently providing enforcement. The purpose of the review is to determine whether the amount of the support obligation should be adjusted in light of the current child support guidelines and the current circumstances of the parents.

The statutory changes were made to comply with the federal Deficit Reduction Act of 2005, Public Law 109-71, and have already been implemented. Those changes:

- Shortened some waiting periods for review and adjustment. Under the normal review process, the Child Support Recovery Unit must notify the parents of its intent to review the order, collect information from the parents and, after a waiting period, conduct the review and issue a notice of decision on the intended adjustment. The prereview waiting period, for example, has been reduced from 30 days to 15 days.

- Enabled the Child Support Recovery Unit to conduct a review using financial information to which the Unit already has access, notify the parents of the recalculated support amount, and ask if either parent disagrees. This abbreviated method of review is authorized in Iowa Code section 252H.14A as amended by 2010 Iowa Acts, Senate File 2158.

Under either process, the parent has the right to challenge the decision by requesting a second review or requesting a court hearing on the second review decision.

In addition, the proposed amendments to subrules 99.83(5), 99.85(1) and 99.85(3) update references to sections in the reorganized Iowa Code chapter 598. Other amendments are proposed to eliminate unnumbered paragraphs in the rules.

These amendments do not provide for waivers in specified situations because they are technical changes to conform the rules to statutory changes. The rules and Iowa Code chapter 252H already provide for parties' rights to challenge a review, obtain a second review, or present information to a judge if a party disagrees with the outcome of a review.

Any interested person may make written comments on the proposed amendments on or before November 23, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement 2009 Iowa Code Supplement section 252B.5 as amended by 2010 Iowa Acts, Senate File 2158, section 1, Iowa Code sections 252B.6, 252B.7 and 598.21C(2) and Iowa Code chapter 252H as amended by 2010 Iowa Acts, Senate File 2158.

The following amendments are proposed.

ITEM 1. Amend paragraph **99.62(1)“b”** as follows:

~~b. The right to any ongoing medical support obligation is currently assigned to the state and the support order does not already contain medical support provisions.~~

ITEM 2. Amend paragraph **99.62(3)“b”** as follows:

~~b. Procedures to modify a support order may be initiated when all of the following conditions are met: the order does not include provisions for medical support.~~

~~(1) The order does not include provisions for health insurance coverage or other medical support.~~

~~(2) Health insurance coverage for the children affected by the support order is available at a reasonable cost to the parent required to pay support.~~

~~(3) The children are not otherwise adequately covered under a health benefit plan by the custodial parent or spouse of the custodial parent, excluding coverage under Medicaid.~~

~~For the purpose of this rule, health insurance is considered reasonable in cost if it is employment-related or other group health insurance as specified in Iowa Code section 598.21(4)“a.”~~

ITEM 3. Amend subrules 99.63(2) to 99.63(4) as follows:

99.63(2) Notice of ~~intent to~~ review. One of the following shall apply:

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. At least ~~30~~ 15 days before the review is conducted, the child support recovery unit shall serve notice of its intent to review the order on each parent affected by the child support obligation. This notice shall include a request that the parties complete a financial statement and provide verification of income. The notice shall be served in accordance with Iowa Code section 252B.26 or 252H.15.

b. If the conditions of Iowa Code section 252H.14A(1) as amended by 2010 Iowa Acts, Senate File 2158, section 7, are met, the unit may conduct a review using information accessible to the unit without:

- (1) Issuing a notice under paragraph 99.63(2)“a,” or
- (2) Requesting additional information from the parent.

99.63(3) *Notice of review—outcome decision.* After the child support recovery unit completes the review of the child support obligation in accordance with rule 441—99.62(252B,252H), the unit shall ~~send~~ issue a notice to the last known address of each parent of decision in accordance with Iowa Code section 252H.14A or 252H.16 stating whether or not an adjustment is appropriate and, if so, the unit’s intent to enter an administrative order for adjustment.

a. and b. No change.

99.63(4) *Challenges to outcome of review.* Each parent shall be allowed ~~10 days from the date of the notice of decision~~ to submit a written request for a second review challenging ~~this~~ the determination to ~~of~~ the child support recovery unit. The procedure for challenging the determination is as follows:

a. The parent challenging the determination shall submit the request for a second review in writing to the child support recovery unit stating the reasons for the request and providing written evidence necessary to support the challenge. The request must be submitted:

- (1) Within 10 days from the date of a notice of decision issued pursuant to Iowa Code section 252H.16, or
- (2) Within 30 days from service of a notice of decision issued pursuant to Iowa Code section 252H.14A.

b. and c. No change.

d. ~~If~~ For a review initiated under Iowa Code section 252H.15, if either parent disputes the second decision, the objecting parent may request a court hearing within ~~30~~ 15 days from the date the notice of decision is issued or within 10 days of the date the second notice of decision is issued, whichever is later.

e. For a review initiated under Iowa Code section 252H.14A as amended by 2010 Iowa Acts, Senate File 2158, section 7, either parent may request a court hearing within 10 days of the issuance of the second notice of decision.

f. If the unit receives a timely written request or the unit determines that a court hearing is necessary, the unit shall certify the matter to the district court. An objecting parent may seek recourse by filing a private petition for modification through the district court.

ITEM 4. Amend subrule 99.64(1), introductory paragraph, as follows:

99.64(1) *Financial statements.* ~~Both~~ Except for a review initiated under Iowa Code section 252H.14A as amended by 2010 Iowa Acts, Senate File 2158, section 7, both parents subject to the order to be reviewed shall provide a financial statement and verification of income within ten days of service of the notice of the unit’s intent to review the obligation. If a review is initiated under Iowa Code section 252H.14A as amended by 2010 Iowa Acts, Senate File 2158, section 7, and the first notice of decision is challenged as described in subrule 99.63(4), both parents shall be requested to provide a financial statement and verification of income within ten days of the unit’s request.

ITEM 5. Amend subrule 99.64(2) as follows:

99.64(2) *Independent sources.* The child support recovery unit may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed.

a. These resources include, but are not limited to, the following: the Iowa workforce development department, the Iowa department of revenue, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. In the absence of other verification of income and deductions allowed under the mandatory support guidelines, the child support recovery unit may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent from the gross earned income confirmed by an independent source. A parent may challenge this estimate by providing verification of actual earned income deductions.

ITEM 6. Amend subrule 99.65(3) as follows:

99.65(3) *Private counsel.* After the notice of intent to review and adjust has been served issued as described in subrule 99.63(2) or 99.63(3), any party may choose to be represented personally by private counsel. Any party who retains private counsel shall notify the child support recovery unit of this fact in writing.

ITEM 7. Amend rule 441—99.66(252B,252H) as follows:

441—99.66(252B,252H) *Medical support.* The child support recovery unit, or its attorney, shall review the medical support provisions contained in any permanent child support order which is subject to review under rule 441—99.65(252B,252H) and shall include in any adjustment order a provision for an employment-related or other group health benefit plan medical support as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, Division I, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

ITEM 8. Amend subrule 99.67(2) as follows:

99.67(2) *Other documentation.* Supporting financial documentation such as state and federal income tax returns, paycheck stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court after the notice of intent to review and adjust has been served issued as described in subrule 99.63(2) or 99.63(3), unless otherwise prohibited by state or federal law.

ITEM 9. Amend **441—Chapter 99**, division IV, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Code sections Supplement section 252B.5 to as amended by 2010 Iowa Acts, Senate File 2158, section 1, Iowa Code sections 252B.6, 252B.7 and 598.21(9) 598.21C(2) and Iowa Code chapter 252H as amended by 2010 Iowa Acts, Senate File 2158.

ITEM 10. Amend subrule 99.83(5) as follows:

99.83(5) *Noncompliance by minor obligors.* The unit may initiate procedures to modify a support order if a parent requests modification in writing or the unit determines that it is appropriate when:

- a.* An obligor who is under 18 years of age fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section ~~598.21A~~ 598.21G; or
- b.* An obligor who is 19 years of age or younger fails to provide proof of compliance with education requirements described in Iowa Code section ~~598.21(4)“e”~~ 598.21B(2)“e”; or
- c.* The obligor no longer meets the age requirements as defined in Iowa Code section ~~598.21A~~ 598.21B(2)“e” or ~~598.21(4)“e.”~~ 598.21G.

ITEM 11. Amend subparagraph **99.84(1)“b”(2)** as follows:

(2) If the modification is based on subrules 99.83(1) through 99.83(5), notice shall be provided to each parent. The notice shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26 or 252H.19.

ITEM 12. Amend subrules 99.85(1) and 99.85(3) as follows:

99.85(1) *Financial statements.* Parents subject to the order shall provide a financial statement and verification of income within ten days of a written request by the unit.

- a.* If the modification action is based on a substantial change of circumstances:
 - (1) ~~the~~ The requesting party must provide Form 470-2749, Request to Modify a Child Support Order, and documentation that proves the amount of change in net income and the date the change took place, such as:
 - (1) 1. Copies of state and federal income tax returns, W-2 statements, or pay stubs, or
 - (2) 2. A signed statement from an employer or other source of income.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) The unit shall review the request and documentation. If appropriate, the unit shall issue to each parent a notice of intent to modify the order as stated in subrule 99.84(1) and a financial statement. Each parent shall complete and sign the financial statement and return it to the unit with verification of income and deductions as described in subrule 99.1(3).

~~b. If the modification action is based on addition of a child; changing reserved, zero-dollar amount, or medical-provisions-only obligations; making a correction (if financial information is needed); or noncompliance by a minor obligor, as defined in Iowa Code section 598.21A or 598.21(4) "e," the~~ The unit may require a completed and signed financial statement and verification of income from each parent as described in subrule 99.1(3): if the modification is based on:

- (1) Addition of a child;
- (2) Changing a reserved or zero-dollar-amount obligation;
- (3) Changing a medical-provisions-only obligation;
- (4) Making a correction (if financial information is needed); or
- (5) Noncompliance by a minor obligor as defined in Iowa Code section 598.21B(2) "e" or 598.21G,

~~(4) c.~~ The unit may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if the parent possesses sufficient information to do so.

~~(2) d.~~ The unit may also use the most recent wage rate information published by the department of workforce development or the median income for parents on the unit caseload to estimate the net earned income of a parent when a parent has failed to return a completed financial statement when requested and complete and accurate information is not readily available from other sources.

~~(3) e.~~ Self-employment income will be determined as described in subrule 99.1(5).

99.85(3) Guidelines calculations.

a. The unit shall determine:

- (1) ~~the~~ The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and ~~shall determine~~
- (2) ~~medical~~ Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

b. If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section ~~598.21A~~ 598.21B(2) "e" or 598.21(4) "e," 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage; unless the parent's education, experience, or actual earnings justify a higher income.

ITEM 13. Amend rule 441—99.87(252H) as follows:

441—99.87(252H) Voluntary reduction of income.

99.87(1) The unit shall not modify the support order based on a substantial change of circumstances if a change in income is:

a. ~~due~~ Due to a voluntary reduction in net monthly income attributable to the actions of the party,₂ or ~~is~~

b. ~~due~~ Due to any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

99.87(2) The unit may request verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

ITEM 14. Amend **441—Chapter 99**, division V, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 252H as amended by 2010 Iowa Acts, Senate File 2158.

ARC 9185B**NATURAL RESOURCE COMMISSION[571]****Notice of Termination**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8817B**, amending Chapter 65, "Fireworks Displays—State Parks and Recreation Areas," Iowa Administrative Code.

The Department's Conservation and Recreation Division issues a variety of special event permits. It has been determined that a more comprehensive review of all special events needs to take place in order to develop consistent rules for the special events that are permitted by various bureaus within the Conservation and Recreation Division.

The Department is terminating the rule making commenced in **ARC 8817B** and will propose a new rule making after further Department review addresses any changes to the rules regarding fireworks displays in state parks and recreation areas.

ARC 9179B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 124.301, 124B.11, and 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 30, 2009, as **ARC 8429B**, proposing to amend Chapter 2, "Pharmacist Licenses," Chapter 3, "Pharmacy Technicians," Chapter 8, "Universal Practice Standards," Chapter 10, "Controlled Substances," Chapter 12, "Precursor Substances," and Chapter 17, "Wholesale Drug Licenses," Iowa Administrative Code.

The Notice proposed to decrease nearly all license and registration fee amounts, including renewal fees and late payment penalty fees, collected by the Board.

The Board is terminating the rule making commenced in **ARC 8429B** based on comments and objections received from the Iowa Pharmacy Association, an association of Iowa-licensed pharmacists. In addition, it has been more than 180 days since the publication of the rule making commenced in **ARC 8429B**, resulting in expiration of the Notice of Intended Action.

ARC 9192B**PHARMACY BOARD[657]****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 272C.2, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 2, "Pharmacist Licenses," Iowa Administrative Code.

The amendment was approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendment provides for an exemption from pharmacist continuing education requirements during any period in which a pharmacist is participating in a pharmacy residency program and requires that a pharmacist wishing such exemption petition the Board as soon as possible following commencement of the residency program and prior to completion of the program.

PHARMACY BOARD[657](cont'd)

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code section 272C.2.

The following amendment is proposed.

Amend paragraph **2.12(1)“b”** as follows:

b. Exemption for health-related graduate studies. A pharmacist who is continuing formal education in health-related graduate programs, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

ARC 9193B

PHARMACY BOARD[657]

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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 3, “Pharmacy Technicians,” Iowa Administrative Code.

The amendments were approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendments clarify that a certified pharmacy technician must maintain both the Iowa registration and the national technician certification in good standing in order to practice as a certified pharmacy technician in Iowa.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code section 155A.6A.

The following amendments are proposed.

ITEM 1. Amend rule 657—3.3(155A), introductory paragraph, as follows:

657—3.3(155A) Registration required. Any person employed in Iowa as a pharmacy technician, except a pharmacist-intern whose pharmacist-intern registration is in good standing with the board, shall obtain and maintain during such employment a current registration as a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician pursuant to these rules. An individual accepting employment as a pharmacy technician in Iowa who fails to register as a certified pharmacy technician, technician trainee, or uncertified technician as provided by these rules may be subject to

PHARMACY BOARD[657](cont'd)

disciplinary sanctions. A certified pharmacy technician accepting employment as a certified pharmacy technician in Iowa who fails to register as a certified pharmacy technician or who fails to maintain national certification may be subject to disciplinary sanctions.

ITEM 2. Amend rule 657—3.5(155A), introductory paragraph, as follows:

657—3.5(155A) Certification of pharmacy technicians. Except as provided in rule 657—3.6(155A) or subrule 3.5(3), effective July 1, 2010, all pharmacy technicians shall be required to be nationally certified as provided by this rule. National certification does not replace the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules. A certified pharmacy technician shall maintain the technician's national certification, in addition to the technician's Iowa registration, during any period of employment in an Iowa pharmacy as a certified pharmacy technician.

ITEM 3. Amend rule 657—3.12(155A) as follows:

657—3.12(155A) Registration certificates. The certificate of technician registration issued by the board to a certified pharmacy technician, pharmacy technician trainee, or uncertified pharmacy technician is the property of and shall be maintained by the registered technician. The certificate or a copy of the certificate shall be maintained in each pharmacy where the pharmacy technician works. Each pharmacy utilizing pharmacy technicians shall be responsible for verifying that all pharmacy technicians working in the pharmacy are registered, ~~and~~ that technician registrations remain current and active, and that a certified pharmacy technician's national certification remains current and active.

ARC 9183B

PHARMACY BOARD[657]

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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendments clarify the record requirements for identifying a pharmacist who is involved in the visual verification of a drug product or device that has been remotely verified and approved for dispensing when a hospital pharmacy is closed. The amendments further clarify that only a certified pharmacy technician may assist non-pharmacy personnel to locate a needed prescription drug when the pharmacy is closed and when the pharmacist in charge has so authorized the certified pharmacy technician.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code section 155A.13.

The following amendments are proposed.

PHARMACY BOARD[657](cont'd)

ITEM 1. Amend paragraph 7.6(2)“b” as follows:

b. If the pharmacist in charge has authorized the presence in the pharmacy of a pharmacy technician or a pharmacy support person to perform designated functions when the pharmacy is closed, only a certified pharmacy technician may assist another authorized, licensed health care professional to locate a drug or device pursuant to an emergent need. The pharmacy technician or the pharmacy support person may not dispense or deliver the drug, chemical, or device to the licensed health care professional. The licensed health care professional shall comply with established policies and procedures for obtaining drugs, devices, and chemicals when the pharmacy is closed. The licensed health care professional shall not ask or expect the pharmacy technician or the pharmacy support person to verify that the appropriate drug, chemical, or device has been obtained from the pharmacy.

ITEM 2. Amend subrule 7.7(7) as follows:

7.7(7) Pharmacist identified. The record of each patient-specific drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the preview and verification of the order. The record of each patient-specific drug or device visually verified pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the visual verification of the product.

ARC 9194B

PHARMACY BOARD[657]

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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendment requires that a log of the initials or unique identification codes identifying by name each pharmacy support person, in addition to pharmacists, pharmacist-interns, and pharmacy technicians, shall be maintained by the pharmacy and be available for inspection or copying for a minimum two years.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 155A.6B and 155A.13.

The following amendment is proposed.

Amend rule 657—8.4(155A) as follows:

657—8.4(155A) Pharmacist identification and staff logs.

8.4(1) No change.

8.4(2) Identification codes. A permanent log of the initials or identification codes identifying by name each dispensing pharmacist, pharmacist-intern, ~~and~~ pharmacy technician, and pharmacy support person shall be maintained for a minimum of two years and shall be available for inspection and copying by the board or its representative. The initials or identification code shall be unique to the individual to

PHARMACY BOARD[657](cont'd)

ensure that each pharmacist, pharmacist-intern, ~~and~~ pharmacy technician, and pharmacy support person can be identified.

8.4(3) and **8.4(4)** No change.

ARC 9178B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8915B**, proposing to amend Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The Notice proposed to rescind current rule 657—8.33(147,155A) and to adopt a new rule regarding the administration of immunizations by pharmacists. The proposed rule would define terms used in the rule and establish training and education requirements to qualify a pharmacist as authorized to administer vaccines pursuant to the rule. The proposed rule would establish the requirements for administration of influenza and pneumococcal vaccines via written protocol and for the administration of other vaccines via patient-specific prescription. Requirements for the documentation and recording of vaccine administration, reporting of the administration to the Immunization Registry Information System (IRIS), and reporting of serious complications to the patient's primary care physician and to the Vaccine Adverse Event Reporting System (VAERS) would be established.

The Board is terminating the rule making commenced in **ARC 8915B** based on comments and objections received from health care professionals and health care professional organizations. The Board finds that further discussion and negotiation among interested professionals are necessary to resolve unanticipated issues regarding the proposed amendment.

ARC 9196B**PHARMACY BOARD[657]****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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment was approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendment clarifies the requirement for reducing an oral prescription to a written format, providing that the written format may be a computer-generated print of the information required for the prescription and is not limited to a handwritten format.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 124.308 and 155A.27.

The following amendment is proposed.

PHARMACY BOARD[657](cont'd)

Amend paragraph **10.22(2)“c”** as follows:

c. The pharmacist shall prepare a temporary written record of the emergency prescription. The temporary written record shall consist of a hard copy of the electronic transmission or a written record of the oral transmission authorizing the emergency dispensing. A written record is not required to consist of a handwritten record and may be a printed facsimile or a print of a computer-generated record of the prescription if the printed record includes all of the required elements for the prescription. If the emergency prescription is transmitted by the practitioner's agent, the record shall include the name and title of the individual who transmitted the prescription.

ARC 9187B

PHARMACY BOARD[657]

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 Pharmacy hereby gives Notice of Intended Action to amend Chapter 13, “Sterile Compounding Practices,” Iowa Administrative Code. The amendment was approved at the September 28, 2010, meeting of the Board of Pharmacy.

The proposed amendment provides for an exception for the placement of a compounding aseptic isolator (CAI) within an ISO Class 8 anteroom or ante area when the CAI meets ISO Class 5 atmospheric environment conditions.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 126.10, 155A.2, 155A.13, and 155A.28.

The following amendment is proposed.

Amend subrule 13.27(4) as follows:

13.27(4) Anteroom requirements. ~~An~~ Except for a CAI that meets the conditions specified in subrule 13.27(3) exempting the CAI from placement in an ISO Class 7 cleanroom, an anteroom or ante area shall be located adjacent to the buffer area and maintained at ISO Class 8 air quality. This area is to be used for unpacking and disinfecting supplies for storage and for hand sanitizing and gowning. If the sterile preparation area is to be used only for the compounding of low- and medium-risk preparations, the ante area shall be clearly demarcated for the compounding of low- and medium-risk preparations. If the sterile preparation area is to be used for the compounding of high-risk preparations, the ante area shall be physically separated from the buffer area.

ARC 9191B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 35, “Contested Cases,” and Chapter 36, “Discipline,” Iowa Administrative Code.

The amendments were approved at the September 28, 2010, regular meeting of the Board of Pharmacy.

The proposed amendments correct the name of the Board by deleting the term “Examiners” and correct the title of the executive director, formerly the executive secretary/director. The proposed amendments also eliminate an invalid Iowa Code reference in Item 20. Proposed amendments in Items 4, 11, 18, and 23 clarify the process for delivery of various documents and communications relating to contested cases and disciplinary actions.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 23, 2010. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 17A.10 to 17A.23, 124.304, 124B.12, 126.17, 147.76, 155A.6, 155A.12, 155A.13, 155A.13A, 155A.15 to 155A.18, 155A.26, 205.11, 272C.3 to 272C.6, 272C.9, and 272C.10.

The following amendments are proposed.

ITEM 1. Amend rule 657—35.1(17A,124,124B,126,147,155A,205,272C) as follows:

657—35.1(17A,124,124B,126,147,155A,205,272C) Scope and applicability. This chapter applies to contested case proceedings, including licensee, registrant, or permittee discipline, conducted by the board of pharmacy ~~examiners~~.

ITEM 2. Amend rule **657—35.2(17A,272C)**, definition of “Board,” as follows:

“*Board*” means the Iowa board of pharmacy ~~examiners~~.

ITEM 3. Amend rule **657—35.2(17A,272C)**, definition of “Presiding officer,” as follows:

“*Presiding officer*” means members of the board of pharmacy ~~examiners~~, or the administrative law judge assigned to preside over the case pursuant to rule 657—35.6(17A,272C).

ITEM 4. Amend subrule 35.5(1) as follows:

35.5(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery. Delivery may be executed by:

- ~~a. Personal service as provided in the Iowa Rules of Civil Procedure; or~~ delivery;
- ~~b. Certified mail, return receipt requested, to the last address on file with the board; or~~
- ~~c. Certified mail to the last address on file with the board;~~
- ~~e- d. First-class mail to the last address on file with the board; or~~

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e. Facsimile. Facsimile transmission may be used as the sole method of delivery if the party to be served has filed a written request that board communications be sent by facsimile and has provided a facsimile telephone number for that purpose;

f. Other electronic transmission. Other electronic transmission, such as E-mail, may be used as the sole method of delivery if the party to be served has filed a written request that board communications be sent by such other electronic transmission and has provided an address for that purpose; or

d. g. Publication, as provided in the Iowa Rules of Civil Procedure.

ITEM 5. Amend rule 657—35.6(17A,272C) as follows:

657—35.6(17A,272C) Presiding officer for nondisciplinary hearings.

35.6(1) *Request for administrative law judge.* Any party may request that an administrative law judge employed by the department of inspections and appeals be assigned to render a proposed decision in a nondisciplinary hearing. The written request shall be filed with the executive ~~secretary/director~~ director within 20 days after service of a notice of hearing identifying or describing the presiding officer as the members of the board.

35.6(2) *Grounds for denial.* The executive ~~secretary/director~~ director may deny the request only upon a finding that one or more of the following apply:

a. to h. No change.

35.6(3) *Written ruling.* The executive ~~secretary/director~~ director shall issue a written ruling specifying the grounds for the decision within 20 days after a request for an administrative law judge is filed.

35.6(4) and **35.6(5)** No change.

ITEM 6. Amend subrule 35.11(3) as follows:

35.11(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the board of ~~pharmacy examiners~~.

ITEM 7. Amend subrule 35.11(5) as follows:

35.11(5) *Proof of mailing.* Proof of mailing includes one of the following:

- a.* A legible United States Postal Service postmark on the envelope;
- b.* A certificate of service;
- c.* A notarized affidavit; or
- d.* A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

Date

Signature

ITEM 8. Amend rule 657—35.13(17A,272C) as follows:

657—35.13(17A,272C) Subpoenas.

35.13(1) *Issuance of investigatory subpoenas.*

a. The board's executive ~~secretary/director~~ director or designee may, upon the written request of a board investigator or on the executive ~~secretary/director's~~ director's own initiative, subpoena books, papers, records, and other real evidence which the executive ~~secretary/director~~ director determines are necessary for the board to decide whether to institute a contested case proceeding. In the case of

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a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

(1) to (4) No change.

b. A written request for a subpoena or the executive ~~secretary/director's~~ director's written memorandum in support of the issuance of a subpoena shall contain the following:

(1) to (4) No change.

c. Each subpoena shall contain:

(1) to (4) No change.

(5) The signature, address and telephone number of the executive ~~secretary/director~~ director or designee;

(6) and (7) No change.

d. to g. No change.

35.13(2) Issuance of subpoenas in a contested case.

a. Subpoenas issued in a contested case may compel the attendance of witnesses at depositions or hearings, and may compel the production of books, papers, records, and other real evidence. A command to produce evidence or to permit inspection may be joined with a command to appear at deposition or hearing, or may be issued separately. Upon written request, the executive ~~secretary/director~~ director or designee shall issue subpoenas. A request for a subpoena of patient records must confirm the conditions described in subrule 35.13(1), paragraph "a," prior to the issuance of the subpoena.

b. No change.

c. Each subpoena shall contain, as applicable:

(1) to (8) No change.

(9) The signature, address, and telephone number of the executive ~~secretary/director~~ director or designee;

(10) and (11) No change.

d. Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the executive ~~secretary/director~~ director or designee shall mail copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

e. to h. No change.

35.13(3) No change.

ITEM 9. Amend subrule 35.15(1) as follows:

35.15(1) Request or order for conference. Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the executive ~~secretary/director~~ director to all parties. For good cause the presiding officer may permit variances from this rule.

ITEM 10. Amend rule 657—35.16(17A,272C) as follows:

657—35.16(17A,272C) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer or, in the case of a ~~license~~ licensee or registrant disciplinary hearing, to the executive ~~secretary/director~~ director.

35.16(1) Requirements of application. A written application for a continuance shall:

a. to c. No change.

An oral application for a continuance may be made if the presiding officer, or in a disciplinary hearing the executive ~~secretary/director~~ director, waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer or, in a disciplinary hearing, by the executive ~~secretary/director~~ director. No application for continuance shall

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be made or granted without notice to all parties except in an emergency where notice is not feasible. The board may waive notice of such requests for a particular case or an entire class of cases.

35.16(2) Consideration of application. In determining whether to grant a continuance, the presiding officer, or in a disciplinary hearing the executive ~~secretary/director~~ director, may consider:

a. to i. No change.

The presiding officer, or in a disciplinary hearing the executive ~~secretary/director~~ director, may require documentation of any grounds for continuance.

ITEM 11. Amend paragraph **35.19(9)“d”** as follows:

d. Be delivered to the licensee, permittee, or registrant ~~by personal service or by certified mail, return receipt requested by one of the methods provided for in subrule 35.5(1).~~

ITEM 12. Amend subrule 35.22(6) as follows:

35.22(6) Others authorized to communicate with presiding officer. The executive ~~secretary/director~~ director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 35.22(1).

ITEM 13. Amend subrule 35.22(10) as follows:

35.22(10) Sanctions for violation. The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule, including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the board. Violation of ex parte communication prohibitions by board personnel shall be reported to the executive ~~secretary/director~~ director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

ITEM 14. Amend subrule 35.26(5) as follows:

35.26(5) Scheduling. The board of ~~pharmacy examiners~~ shall issue a schedule for consideration of the appeal.

ITEM 15. Amend subrule 35.27(3) as follows:

35.27(3) Time of filing. The application shall be filed with the board of ~~pharmacy examiners~~ within 20 days after issuance of the final decision.

ITEM 16. Amend subrule 35.27(4) as follows:

35.27(4) Notice to other parties. A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board of ~~pharmacy examiners~~ shall serve copies on all parties.

ITEM 17. Amend subrule 35.28(1) as follows:

35.28(1) When available.

a. Any party to a contested case proceeding may petition the board of ~~pharmacy examiners~~ for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The board may rule on the stay or authorize the presiding officer to do so.

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

ITEM 18. Amend subrule 35.30(2) as follows:

35.30(2) Issuance of order.

a. No change.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the board;

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- (3) Certified mail to the last address on file with the board;
- (4) First-class mail to the last address on file with the board; or
- (5) Facsimile. Facsimile transmission may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by facsimile and has provided a facsimile telephone number for that purpose; or

(6) Other electronic transmission. Other electronic transmission, such as E-mail, may be used as the sole method of delivery if the party to be served has filed a written request that board communications be sent by such other electronic transmission and has provided an address for that purpose.

c. No change.

ITEM 19. Amend subrule 36.2(5) as follows:

36.2(5) Investigation of allegations. In order to determine if probable cause exists for a disciplinary hearing, the board, the executive ~~secretary/director~~ director, or someone designated by the executive ~~secretary/director~~ director shall cause an investigation to be made into the allegations of the complaint. The licensee, registrant, or permittee ~~complained of~~ who is the subject of the complaint shall be given the opportunity to present to the investigator a position or defense respecting the allegations of the complaint prior to the commencement of a contested case.

ITEM 20. Amend rule 657—36.4(17A,124,124B,126,147,155A,272C) as follows:

657—36.4(17A,124,124B,126,147,155A,272C) Disciplinary proceedings. The proceeding for revocation, suspension, or other disciplinary sanctions against a pharmacy license, a wholesale drug license, a pharmacy technician registration, a pharmacy support person registration, a pharmacist-intern registration, or a license to practice pharmacy, or the denial of or refusal to issue or renew a license or registration, or the suspension, denial, or revocation of a permit to handle precursor substances shall be substantially in accordance with the procedures set forth in 657—Chapter 35 and these rules, which are in addition to the procedures stated in Iowa Code ~~sections 147.58 et seq., and chapter 17A and Iowa Code section 155A.16.~~

ITEM 21. Amend subrule 36.5(1) as follows:

36.5(1) Preparation of notice. The executive ~~secretary/director~~ director shall prepare the notice of hearing upon direction to do so by the board upon a probable cause determination.

ITEM 22. Amend paragraph **36.6(1)“b”** as follows:

b. The board chairperson may designate the executive ~~secretary/director~~ director or one or more board members with authority to negotiate on behalf of the board.

ITEM 23. Amend rule 657—36.10(17A,272C) as follows:

657—36.10(17A,272C) Notification of decision. All parties to a proceeding hereunder shall be promptly furnished with a copy of any final decision or order ~~either in person or by first-class mail~~ by one of the methods provided for in 657—subrule 35.5(1), or by telephone if necessary to ensure that the parties learn of the decision or order first.

ITEM 24. Amend subrule 36.14(1) as follows:

36.14(1) Request. Upon written request of the respondent and approval by the executive ~~secretary/director~~ director of the board, an informal reinstatement conference may be held before the board.

ITEM 25. Amend subrule 36.18(3) as follows:

36.18(3) Fees, costs are part of disciplinary order. Fees and costs assessed by the board pursuant to subrule 36.18(2) shall be calculated by the board's executive ~~secretary/director~~ director and shall be entered as part of the board's final disciplinary order. The board's final disciplinary order shall specify the time period in which the licensee or registrant shall pay the assessed fees and costs.

ARC 9197B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes shall be 5 percent for the calendar year 2011 (0.4% per month). The Department shall also pay interest at the 5 percent rate on refunds. The rate for calendar year 2010 was also 5 percent (0.4% per month).

The proposed amendment 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 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 December 7, 2010, to the Policy Section, Taxpayer Services 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 November 23, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services 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 Services and Policy Division, Department of Revenue, at (515)281-8450 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 December 3, 2010.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is proposed.

Adopt the following **new** subrule 10.2(30):

10.2(30) Calendar year 2011. The interest rate upon all unpaid taxes which are due as of January 1, 2011, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2011. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2011. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2011.

USURY

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

November 1, 2009 — November 30, 2009	5.50%
December 1, 2009 — December 31, 2009	5.50%
January 1, 2010 — January 31, 2010	5.50%
February 1, 2010 — February 28, 2010	5.50%
March 1, 2010 — March 31, 2010	5.75%
April 1, 2010 — April 30, 2010	5.75%
May 1, 2010 — May 31, 2010	5.75%
June 1, 2010 — June 30, 2010	5.75%
July 1, 2010 — July 31, 2010	5.50%
August 1, 2010 — August 31, 2010	5.25%
September 1, 2010 — September 30, 2010	5.00%
October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%

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UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to Iowa Code sections 17A.4 and 476.2, and 2010 Iowa Acts, Senate File 2324, the Utilities Board (Board) gives notice that on October 14, 2010, the Board issued an order in Docket No. RMU-2010-0003, In re: Revisions to Rules Governing Certificates of Franchise Authority for Cable and Video Service [199 IAC 44], “Order Commencing Rule Making.”

The proposed amendments correspond to 2010 Iowa Acts, Senate File 2324, which made several changes to Iowa Code chapter 477A (2009) and became effective on enactment on April 12, 2010. The Board’s rules at 199 IAC 44 implement the terms of Iowa Code chapter 477A. The Board proposes to amend those rules to conform to the new requirements in 2010 Iowa Acts, Senate File 2324. The proposed amendments include new notice and application requirements; allow the Board 30 days to issue a certificate of franchise authority, unless more time is needed for review; eliminate the application and other fees included in the current rules in light of a new provision allowing the Board to assess its costs associated with a certificate; and include new provisions regarding what happens when a certificate holder fails to commence operations or ceases providing service. The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board’s Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before November 23, 2010. The statement should be filed electronically through the Board’s Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on

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paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

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

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2 and sections 477A.2(4) and 477A.3 as amended by 2010 Iowa Acts, Senate File 2324.

The following amendments are proposed.

ITEM 1. Amend rule 199—44.1(17A,476,82GA,SF554) as follows:

199—44.1(17A,476,82GA,SF554 477A) Authority and purpose. These rules are intended to implement ~~2007 Iowa Acts, Senate File 554~~ Iowa Code chapter 477A, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures ~~and filing fees~~ for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

ITEM 2. Amend subrule 44.3(3) as follows:

44.3(3) Initial application. Within ~~15 business~~ 30 calendar days after receiving an application and affidavit from an applicant using a form developed by and available from the board, the board shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The board shall not issue a certificate of franchise authority to an applicant unless the board finds that all of the following requirements have been met. If the board needs additional information to determine whether the requirements in paragraphs "g," "h" and "i" are met and that determination cannot be made within the initial 30-day period, the board may docket the application for further review and take an additional 60 calendar days to make that determination. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

a. A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa;

b. A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules;

c. A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered;

d. A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable; The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant's proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.

e. The address of the applicant's principal place of business and the names and titles of the applicant's principal executive officers with direct authority over and responsibility for the applicant's cable or video operations; ~~and~~

f. The telephone number for customer service contact.

~~The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant's proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.~~

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g. Documentation that the applicant possesses sufficient managerial, technical, and financial capability to provide the cable service or video service proposed in the service area. An applicant or its subsidiary which has a board-issued certificate of public convenience and necessity to provide telephone service pursuant to Iowa Code section 476.29 shall be exempt from the provisions of this paragraph.

h. Copies of advertisements or news releases announcing the applicant's intent to provide cable service or video service in the service area intended for release if the certificate of franchise authority is granted. If such items are not available at the time the application is filed, the applicant shall file copies with the board when they become available.

i. A schedule of dates by which the applicant intends to commence operation in each municipality proposed to be served within the service area. The applicant shall file timely updates to this schedule to maintain accuracy.

ITEM 3. Amend rule 199—44.4(17A,476,82GA,SF554) as follows:

199—44.4(17A,476,82GA,SF554 477A) Notice to municipality and incumbent cable provider. A competitive service provider shall notify affected municipalities and incumbent cable providers of its plan to offer service as provided in this rule.

44.4(1) Notice of intent to provide service. At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service pursuant to a board-issued certificate of franchise authority, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. All notices required by this subrule shall be sent by certified mail. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

44.4(2) a. The competitive cable service provider or competitive video service provider shall file a copy of the notice required by this rule with the board on the date that the notice is provided.

44.4(3) b. If the competitive cable service provider or competitive video service provider determines that its entry into the market will be delayed, no further notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin.

44.4(2) Notice of application. In addition to the notice of intent to provide service, an applicant shall notify each municipality with authority to grant a franchise in the applicant's proposed service area that the applicant has filed an application with the board for a certificate of franchise authority. This notice shall be mailed on the date the application is filed with the board and shall be sent by certified mail.

ITEM 4. Rescind rule 199—44.6(17A,476,82GA,SF554) and adopt the following **new** rule in lieu thereof:

199—44.6(17A,476,477A) Revocation of certificates, termination of service, reinstatement of previously terminated municipal franchises.

44.6(1) Certificate holder fails to commence operation. If a certificate holder fails to commence operation of the cable service or video service proposed in its application within 12 months from the date the board granted the certificate holder's application, the board may determine that the certificate holder is not in compliance with the certificate and may revoke the certificate. The board shall notify any incumbent cable operator affected by the revocation.

44.6(2) Reinstatement of previously terminated municipal franchise upon revocation. In the event a certificate is revoked as provided in subrule 44.6(1), the municipal franchise agreement which was in effect between the incumbent cable provider and municipality before being terminated pursuant to Iowa Code section 477A.2(6) and rule 199—44.5(17A,476,82GA,SF554) after the certificate holder filed its notice of intent to provide service shall be reinstated for the remaining duration of the municipal franchise agreement, provided that the agreement would have remained in effect for at least 60 days prior to termination and provided that the municipal franchise agreement was terminated after April 12,

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2010. Within 90 days of receiving notice from the board that a certificate has been revoked as provided in subrule 44.6(1), the incumbent cable provider shall comply with the terms of the previous municipal franchise agreement.

44.6(3) Certificate holder ceases to provide service. In the event a certificate holder ceases to engage in construction or operation of a cable system or video service network or ceases operation of a cable system or video service network and is no longer providing service, the certificate holder shall notify the affected municipality, the board, and the incumbent cable provider on the date that construction or service is terminated. If the municipal franchise agreement which was in effect between the incumbent cable provider and the municipality before being terminated pursuant to Iowa Code section 477A.2(6) and rule 199—44.5(17A,476,82GA,SF554) after the certificate holder filed its notice of intent to provide service would have remained in effect for at least 60 days prior to termination and was terminated after April 12, 2010, the agreement shall be reinstated and shall be in effect for the remaining term of that agreement. The incumbent cable provider shall comply with the terms of the previous municipal franchise agreement within 90 days of notification by the certificate holder that it has ceased construction of a cable or video service system or is no longer providing services.

ITEM 5. Adopt the following **new** rule 199—44.7(17A,476,477A):

199—44.7(17A,476,477A) Assessment of board costs. The board may allocate and charge the expenses attributable to its duties pursuant to Iowa Code chapter 477A as amended by 2010 Iowa Acts, Senate File 2324, directly to the person filing an application for a certificate of franchise authority or subsequent notice regarding a certificate issued by the board or any other proceeding relating to a certificate of franchise authority.

ITEM 6. Amend **199—Chapter 44**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and ~~2007 Iowa Acts, Senate File 554~~ chapter 477A.

ARC 9213B**WORKERS' COMPENSATION DIVISION[876]****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 86.8, the Workers' Compensation Commissioner hereby gives Notice of Intended Action to amend Chapter 1, “Purpose and Function,” Chapter 2, “General Provisions,” Chapter 3, “Forms,” Chapter 4, “Contested Cases,” Chapter 5, “Declaratory Orders,” Chapter 8, “Substantive and Interpretive Rules,” and Chapter 11, “Electronic Data Interchange (EDI),” Iowa Administrative Code.

These amendments are proposed to implement a paperless filing system for contested cases, petitions for declaratory orders, and electronic filing under the Electronic Data Interchange (EDI).

The Division has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 23, 2010, to the Workers' Compensation Commissioner, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319.

These amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

These amendments are intended to implement Iowa Code sections 85.26, 86.8, 86.11, 86.12 and 86.13.

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The following amendments are proposed.

ITEM 1. Adopt the following **new** unnumbered paragraph at the end of rule **876—1.1(86,17A)**:

The division of workers' compensation requires the filing of EDI forms, petitions, pleadings, responses, and any other submissions to be effectuated by use of the division's paperless electronic record filing and electronic claim submission system (PERFECT System). The Web site address for the PERFECT System is www.perfect.iwd.iowa.gov.

ITEM 2. Adopt the following **new** rules 876—2.7(86) to 876—2.9(86):

876—2.7(86) Official record. The electronic record made and maintained by the division of workers' compensation is the official record of a case unless recording by different means is ordered under 876—subrule 4.48(12).

876—2.8(86) Document requirements. Pleadings, responses to pleadings, exhibits, and transcripts submitted to the division of workers' compensation shall be scanned, attached, and filed as portable document format (.pdf) image-on-text documents (searchable .pdf). Transcripts submitted shall include an index. Attachments shall not exceed 5 MB. Documents exceeding 5 MB shall be divided and submitted as separate attachments to comply with this size limit. All filings pursuant to this rule shall be submitted via the PERFECT System unless otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner.

876—2.9(86) Effective date of PERFECT System rules. All rules of the division of workers' compensation that relate to the PERFECT System shall be effective on [effective date of this rule].

ITEM 3. Amend subrules 3.1(1) and 3.1(2) as follows:

3.1(1) First report of injury (FROI). The first report of injury (FROI) contains general information concerning the employee, the employer and the claimed injury. It is to be filed whether or not an adjudication or admission of liability for the injury exists and is to be filed as provided in Iowa Code section 86.11 and 876—Chapter 11. The first report of injury is to be filed when demanded by the commissioner pursuant to Iowa Code section 86.12 and when an employer is served with an original notice and petition that alleges an injury for which a first report has not been filed. If an original notice and petition alleges multiple injury dates, only one first report of injury should be filed, and the date of injury reported should be the date the reporter uses when adjusting the claim. In the event the transmission of a first report of injury (FROI) contains errors (TE), the errors shall be corrected within five days of the date of notification by the agency.

3.1(2) Subsequent report of injury (SROI). The subsequent report of injury (SROI) provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, agreeing to the weekly benefit rate and agreeing to make payments under the Workers' Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within 30 days of the first payment. When liability on a claim is denied, a letter shall be sent to claimant stating reasons for denial and a claim denial report shall be filed. The subsequent report of injury (SROI) shall also be filed when compensation is terminated or interrupted. Medical data supporting the action taken shall be filed when temporary total disability or temporary partial disability exceeds 13 weeks or when the employee sustains a permanent disability. In the event the transmission of a subsequent report of injury (SROI) contains errors (TE), the errors shall be corrected within 15 days of the date of notification by the agency.

ITEM 4. Amend rule 876—4.3(85,85A,86,87), introductory paragraph, as follows:

876—4.3(85,85A,86,87) Compliance proceedings. If the workers' compensation commissioner shall have reason to believe that there has not been compliance with the workers' compensation law by any person or entity, the commissioner may on the commissioner's own motion give notice to the person or entity and schedule a hearing for the purpose of determining whether or not there has been compliance by the person or entity. The notice shall state the time and place of the hearing and a brief statement of

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the matters to be considered. The notice of hearing may be given by ordinary mail or by the PERFECT System and may be given to the insurer for the employer in lieu of the employer as permitted by Iowa Code section 87.10 if the insurer has filed a report, pleading or motion that acknowledges that it is the insurer for the claim at issue. Following the hearing, the commissioner may issue a finding regarding compliance. In the event a failure to comply is found, the commissioner may impose sanctions in accordance with Iowa Code sections section 86.12, 86.13 or 86.13A or order compliance within a specified time and under specified circumstances. The workers' compensation commissioner may file a certified copy of the order in an appropriate district court and may file a certified copy of the order with the Iowa insurance division [~~commerce department~~] of the department of commerce with a request for action by the insurance division upon failure to comply with the order.

ITEM 5. Amend rule 876—4.7(86,17A), introductory paragraph, as follows:

876—4.7(86,17A) Delivery of notice, orders, rulings and decisions. Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by regular mail or by electronic mail from the division of workers' compensation's PERFECT System. ~~On or after July 1, 2009, a proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by E-mail.~~

ITEM 6. Amend paragraphs 4.8(2)"a" and "b" as follows:

a. For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, gradual or cumulative injury, occupational disease or occupational hearing loss alleged, a filing fee shall be paid at the time of filing. The filing fee for original notices and petitions filed on or after July 1, 1988, but before July 1, 2009, is \$65. The filing fee for petitions filed on or after July 1, 2009, is \$100. No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; ~~burial benefits, Iowa Code section 85.28;~~ determination of dependency, Iowa Code sections 85.42, 85.43, and 85.44; equitable apportionment, Iowa Code section 85.43; ~~second injury fund, Iowa Code sections 85.63 to 85.69;~~ vocational rehabilitation benefits, Iowa Code section 85.70; approval of legal, medical and other fees under Iowa Code section 86.39; commutation, Iowa Code sections 85.45 to 85.48; employee's examination, Iowa Code section 85.39; employee's examination or sanctions, Iowa Code section 85.39; application for alternate care, Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest, Iowa Code section 85.21; interest, Iowa Code section 85.30; penalty, Iowa Code section 86.13; application for approval of third-party settlement, Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions filed pursuant to 876—Chapter 5. An amendment to a petition that was filed on or after July 1, 1988, that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.

b. ~~One filing fee shall be required for as many original notices and petitions as are filed on the same day on account of one employee against a single alleged employer or against entities alleged to be employers in the alternative or alleged to be dual employers. A filing fee shall be required for each original notice and petition filed.~~ If filing fees have been overpaid, the amount overpaid shall be refunded to the party who made the overpayment.

ITEM 7. Rescind and reserve paragraph 4.8(2)"e."

ITEM 8. Amend paragraphs 4.8(2)"g" and "h" as follows:

g. The filing fee shall be paid at the same time the petition is filed. ~~Checks should be made payable to the "Iowa Division of Workers' Compensation."~~ If the payment of the filing fee is made by an insufficient funds check or a check on which payment is stopped or a check on which payment is otherwise not honored, it will be treated as a failure to pay the correct filing fee. See 4.8(2)"e." One check may be submitted for payment of more than one filing fee if more than one filing fee is due from a petitioner for cases filed on account of an employee. ~~Separate checks must be submitted for each~~

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~~petitioner's case or cases.~~ The filing fee shall be paid electronically with a credit card or electronic check or by other electronic means as allowed within the PERFECT System maintained by the division of workers' compensation. Cash or nonelectronic payment will not be accepted without an order granting permission for nonelectronic payment. Any statute of limitations is not stayed if a party has requested nonelectronic payment and is awaiting an order.

h. The workers' compensation commissioner may accept for filing an original notice and petition without prepayment of the filing fee if in the discretion of the workers' compensation commissioner the petitioner is unable to pay the fee at the time of filing. A deferral of payment of the filing fee shall only be granted upon written application by the petitioner. The application shall be filed at the same time the original notice and petition is filed. The application shall be in the form required by the workers' compensation commissioner and shall ~~include an affidavit signed by the petitioner~~ be verified by the petitioner. When payment of the filing fee is deferred, provisions for payment of the filing fee must be included in any settlement submitted to the workers' compensation commissioner for approval or taxed as costs. When the application for deferral of payment of the filing fee is denied, the filing fee shall be paid as ordered. See 4.8(2) "e."

ITEM 9. Amend rule 876—4.9(17A) as follows:

876—4.9(17A) Appearance Appearances and responses, pleading pleadings and motions. Appearances and responses, pleadings and motions shall be made using the division of workers' compensation's PERFECT System. Registration with the division of workers' compensation's PERFECT System and approval by the workers' compensation commissioner are required for parties using the PERFECT System to file appearances and responses, pleadings and motions. Registration is accepted at www.perfect.iwd.iowa.gov. After a matter has been commenced and the respondent has been served with original notice, subsequent filings or submissions do not require proof of service to parties of record who are registered with the PERFECT System as those parties will be automatically notified by the system of a filing. Responses to pleadings and motions shall be made as follows:

4.9(1) Respondent—appearance. A respondent shall appear by filing an answer or a motion within 20 days after the service of the original notice and petition upon the respondent. ~~The appearance shall include the E-mail address and the fax number of the respondent, if available, if the respondent is not represented by counsel. The caption of an answer shall disclose the file number of the compliance file in which the first report of injury was filed for the injury that is alleged in the original notice and petition.~~ A respondent shall file a response by answer or motion by using the PERFECT System for all claims in which a petition was filed within the system or pursuant to an order of the workers' compensation commissioner or a deputy workers' compensation commissioner.

4.9(2) to 4.9(5) No change.

4.9(6) Form, submission and ruling on motions. All motions, including pre-answer motions, and motions for summary judgment ~~and applications for adjudication of law points~~, shall have appended to them a concise memorandum brief and argument. All motions ~~and applications for adjudication of law points~~ except motions for summary judgment shall be deemed submitted without hearing on the record presented on the tenth day following filing. Motions for summary judgment shall be deemed submitted as provided in Iowa Rule of Civil Procedure 1.981. Resistances to motions ~~and applications for adjudication of law points~~ shall have appended to them a concise memorandum brief and argument, and shall be filed on or before the date of submission. Briefs and arguments are waived unless appended to the motion, application or resistance.

An order may be entered consolidating any motion for ruling with hearing of the contested case. Any party desiring a ruling on a motion prior to hearing may concisely set forth the necessity of prior ruling in the motion, application or resistance. If a pre-answer motion alleging lack of jurisdiction is overruled or consolidated with hearing of the contested case, the party shall plead to the merits and proceed to hearing of the contested case without submitting to the jurisdiction of the workers' compensation commissioner. If a motion attacking a pleading is consolidated with hearing of the contested case, the party shall respond to the pleading in the same manner as if the motion had been overruled.

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4.9(7) Consolidation. Any party may file a motion to consolidate common questions of fact and law surrounding an injury or a series of injuries. The motion shall be deemed approved if no resistance to the motion is filed with the workers' compensation commissioner within ten days of the filing of the motion. ~~No~~ An order granting the motion will be filed by the workers' compensation commissioner or a deputy workers' compensation commissioner. As an alternative, the parties may make an oral motion to consolidate common questions of fact or law at the time of the pretrial hearing. A ruling on the motion will be included with the order issued from the pretrial hearing.

4.9(8) Withdrawal of counsel. Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by delivering written objections and a request for a hearing to the Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319, within ten days following the date the notice was mailed or personally delivered to the client. Counsel requesting to withdraw shall provide assistance to the client in filing an objection to the motion to withdraw using the PERFECT System and shall notify the client that counsel will provide such assistance. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

4.9(9) No change.

This rule is intended to implement the provisions of Iowa Code section 17A.12.

ITEM 10. Amend rule 876—4.11(86), introductory paragraph, as follows:

876—4.11(86) Signatures Attestation of signatures on documents and papers. All documents and papers required by these rules, the Iowa rules of civil procedure as applicable, or a statutory provision shall be signed and the signature attested to by the party if unrepresented or the party's attorney if represented. A party or party's attorney registered with the PERFECT System shall attest to the signature of the party or the party's attorney as allowed with the system. The party's signature and attestation in addition to the attorney's signature and attestation shall be necessary only when otherwise required by these rules, the Iowa rules of civil procedure as applicable, ~~and~~ or any statutory provision.

ITEM 11. Amend rule 876—4.13(86), introductory paragraph, as follows:

876—4.13(86) Method of service. Except as provided in 876—4.6(85,86,17A) and 876—4.7(86,17A), service of all documents and papers to be served according to 876—4.12(86) and 876—4.18(85,86,17A) or otherwise upon a party represented by an attorney shall be made upon the attorney unless service upon the party is ordered by the workers' compensation commissioner. Service upon the attorney or party shall be made by using the PERFECT System. ~~delivery of a copy to or mailing a copy to the last-known address of the attorney or party, or if no address is known, by filing it with the division of workers' compensation. Delivery of a copy within this rule means: Handing it to the attorney or party; leaving it at the office of the attorney or party's office or with the person in charge of the office; or if there is no one in charge of the office, leaving it in a conspicuous place in the office; or if the office is closed or the person to be served has no office, leaving it at the person's dwelling house, or usual place of abode with some person of suitable age and discretion who is residing at the dwelling or abode. Service by mail under this rule is complete upon mailing. No documents or papers referred to in this rule shall be served by the workers' compensation commissioner.~~

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ITEM 12. Amend rule 876—4.15(86), introductory paragraph, as follows:

876—4.15(86) Proof of service. Proof of service of all documents and papers to be served on another party under 876—4.12(86) shall be fulfilled by filing the document or paper with the division of workers' compensation using the PERFECT System. ~~filed with the division of workers' compensation promptly, and in any event, before action is to be taken thereon by the workers' compensation commissioner or any party unless a responsive pleading has been filed. The proof shall show the date and manner of service and may be by written acknowledgment of service, by certification of a member of the bar of this state, by affidavit of the person who served the papers, or by any other proof satisfactory to the workers' compensation commissioner.~~

ITEM 13. Rescind and reserve rule **876—4.16(86)**.

ITEM 14. Amend subrule 4.19(3) as follows:

4.19(3) For contested cases that were filed on or after July 1, 2004, the following time limits govern prehearing procedure, completion of discovery and case management in contested cases, except proceedings under rules 876—4.46(17A,85,86) and 876—4.48(17A,85,86) and except when otherwise ordered by the workers' compensation commissioner or a deputy workers' compensation commissioner.

a. Within 120 days, ~~but not less than 60 days,~~ following filing of a petition, the counsel of record for all parties and all pro se litigants shall schedule a hearing or hearings by using the PERFECT System. ~~jointly contact the hearing administrator by telephone at (515)281-6621 between the hours of 8:30 a.m. and 11 a.m. central time, Monday through Friday, excluding holidays, or by E-mail at dwc.hearing@iwd.state.ia.us to schedule a hearing date, place and time. Claimant has primary responsibility for initiating the contact. The parties shall identify the case by file number and the names of the parties and request that the hearing be set at a specific date, place and time that is shown to be available on the hearing scheduler published on the division's Web site. Primary and backup times must be requested for hearings in venues other than Des Moines. When the contact is made by E-mail, a copy of the request shall be sent to each opposing party, and the hearing administrator will reply indicating whether or not the case is assigned at the time requested. If a request is denied, the parties shall continue to contact the hearing administrator by telephone or E-mail until the case is scheduled or a prehearing conference is ordered. A joint scheduling contact may be initiated by any party at any other time agreeable to the parties. If more than 120 days have elapsed since the petition was filed, any party may move to schedule the hearing at a particular date, time and place that is available and the parties have not scheduled a hearing or hearings, the hearing administrator may, without prior notice to the parties, assign the case for hearing at that any date, time and place. The hearing date shall be within 12 months following the date the petition was filed ~~or as soon thereafter as reasonably practicable as determined by the hearing administrator. If the parties fail to schedule the hearing with the hearing administrator, the case will be scheduled at the discretion of the hearing administrator without prior notice to the parties.~~~~

b. and *c.* No change.

d. At least ~~30~~ 45 days before hearing, counsel of record and pro se litigants shall serve a witness and exhibit list on all opposing counsel and pro se litigants and exchange all intended exhibits that were not previously required to be served. The witness list shall name all persons, except the claimant, who will be called to testify at the hearing or who will be deposed prior to the hearing in lieu of testifying at the hearing. ~~The~~ If the exhibit list does not contain actual exhibits, the exhibit list must specifically identify each exhibit in a way that permits the opposing party to recognize the exhibit. The description for a document should include the document's date, number of pages and author or source. Exhibits that were specifically identified when served pursuant to rule 876—4.17(17A,85,86) or in a discovery response may be collectively identified by describing the service such as "exhibits described in the notices served pursuant to rule 876—4.17(17A,85,86) on May 7, June 11 and July 9, 2004." Blanket references such as "all medical records," "personnel file" or "records produced during discovery" do not specifically identify an exhibit. ~~A party may serve a copy of the actual intended exhibits in lieu of an exhibit list.~~ At least 30 days before hearing, counsel of record and pro se litigants shall file proposed exhibits by utilizing the PERFECT System. Counsel of record and pro se litigants shall file all written objections

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and motions to exclude evidence at least 15 days before the hearing. Evidentiary depositions pursuant to Iowa Code section 86.18(2) may be taken at any time before the hearing in lieu of the witness testifying at the hearing.

e. If evidence is offered at hearing that was not disclosed in the time and manner required by these rules, as altered by order of the workers' compensation commissioner or a deputy workers' compensation commissioner or by a written agreement by the parties, the evidence ~~will~~ may be excluded if the objecting party shows that receipt of the evidence would be unfairly prejudicial. Sanctions may be imposed pursuant to 876—4.36(86) in addition to or in lieu of exclusion if exclusion is not an effective remedy for the prejudice. If a party offers an exhibit or document in paper form which is accepted by the workers' compensation commissioner or a deputy workers' compensation commissioner, the party shall have 5 working days to submit an electronic copy of the document by using the PERFECT System.

f. Counsel and pro se litigants shall prepare and electronically file a joint hearing report that defines the claims, defenses, and issues that are to be submitted to the deputy commissioner who presides at the hearing at least 15 days before the hearing. ~~The hearing report shall be signed by all counsel of record and pro se litigants and submitted to the deputy when the hearing commences.~~

g. If a filer is unable to meet a nonjurisdictional filing deadline because of a technical failure in the PERFECT System, the filer must file the document using the earliest available electronic or nonelectronic means. The filing of the document will be accepted by the division of workers' compensation as timely unless the commissioner or deputy commissioner determines that the untimely filing of the document should not be excused.

h. Jurisdictional deadlines, including but not limited to any applicable statute of limitations, cannot be extended. It is the filer's responsibility to ensure that a document is filed timely to comply with jurisdictional deadlines. A technical failure, including a failure of the PERFECT System, will not excuse a failure to comply with a jurisdictional deadline.

i. A filer is not excused from missing a jurisdictional or nonjurisdictional filing deadline because of problems attributable to the filer (such as telephone line problems, problems with the filer's Internet service provider, hardware problems, software problems, etc.).

ITEM 15. Amend rule 876—4.24(17A,86) as follows:

876—4.24(17A,86) Rehearing. Any party may file an application for rehearing of a proposed decision in any contested case by a deputy commissioner or a decision in any contested case by the workers' compensation commissioner within 20 days after the issuance of the decision. ~~A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein.~~ An application for rehearing shall be deemed denied unless the deputy commissioner or workers' compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

ITEM 16. Amend rule 876—4.27(17A,86), introductory paragraph, as follows:

876—4.27(17A,86) Appeal. Except as provided in 876—4.2(86) and 876—4.25(17A,86), an appeal to the commissioner from a decision, order or ruling of a deputy commissioner in contested case proceedings shall be commenced within 20 days of the filing of the decision, order or ruling by filing a notice of appeal with the workers' compensation commissioner. If two or more contested cases were consolidated for hearing, a notice of appeal in one of the cases is an appeal of all the cases. ~~The date the notice of appeal is filed shall be the date the notice of appeal is received by the agency.~~ *Miller v. Civil Constructors*, 373 N.W.2d 115 (Iowa 1985). The notice shall be served on the opposing parties as provided in 876—4.13(86). An appeal shall be heard in Polk County or in any location designated by the workers' compensation commissioner.

ITEM 17. Amend subrules 4.28(2) and 4.28(6) as follows:

4.28(2) Cross-appeals. In the event of a cross-appeal, appellee (cross-appellant) shall serve its brief within 20 days after service of the brief of appellant. Appellant (cross-appellee) shall serve its responsive

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reply brief within 20 days after service of the brief of appellee. Appellee (cross-appellant) may serve a reply brief within 10 days after service of appellant's reply brief. ~~When both parties appeal, the first to serve notice of appeal shall be appellant unless both serve their notice on the same date, in which case the claimant shall be appellant.~~ When more than one party appeals, the party filing the first notice of appeal will be designated the appellant and the party filing a subsequent notice of appeal will be designated the cross-appellant.

4.28(6) Extensions. One extension of up to 30 days ~~will~~ may be granted if a motion showing good cause to extend the time is served on or before the date service of the brief is required by this rule. A subsequent extension requires a motion showing that good cause remains for granting an extension of time. The commissioner may grant a party the right to serve and file a brief after the time to do so has expired if the appeal or cross-appeal has not been dismissed or decided, the party moves for relief within 60 days from the date service of the brief was due, and the motion shows that the failure to timely serve the brief was due to a good cause that could not have been avoided through the exercise of reasonable diligence.

ITEM 18. Amend rule 876—4.29(86,17A), introductory paragraph, as follows:

876—4.29(86,17A) Review upon motion. Except as provided in 876—4.25(17A,86), the commissioner may review the decision, order or ruling of a deputy commissioner in any contested case upon the commissioner's own motion. Except as provided in 876—4.25(17A,86), the motion to review a decision, order or ruling in all contested cases must be filed within 20 days of the filing of the decision, order or ruling. The commissioner shall specify in a notice ~~mailed to the parties by certified mail, return receipt requested, on the date of filing of the motion~~ the issues to be reviewed and the additional evidence, if any, to be obtained by the parties. The hearing under this rule shall be heard in Polk County or in any locality designated by the workers' compensation commissioner.

ITEM 19. Rescind and reserve rule **876—4.39(17A,86)**.

ITEM 20. Amend rule 876—4.48(17A,85,86) as follows:

876—4.48(17A,85,86) Application for alternate care.

4.48(1) to 4.48(4) No change.

4.48(5) Application. The application shall: be filed on the online form provided by the workers' compensation commissioner; concern only the issue of alternate care; state the reasons for the employee's dissatisfaction with the care chosen by the employer; be served on the employer; contain proof of service on the employer; and specify whether a telephone or in-person hearing is requested. The hearing shall be by telephone or other digital means unless a motion is granted upon a party's showing of good cause for an in-person hearing.

4.48(6) and 4.48(7) No change.

4.48(8) Notice of hearing. The workers' compensation commissioner will notify the parties by ~~ordinary mail or by facsimile transmission (fax)~~ order of the time, place and nature of hearing. No notice will be made until a proper application is received by the workers' compensation commissioner. The notice will specify whether the hearing will be by telephone or other digital means or in person.

4.48(9) to 4.48(11) No change.

4.48(12) Hearing. The hearing will be held either by telephone, by digital voice or video technology or in person in Des Moines, Iowa. The employer shall have the right to request an in-person hearing if the employee has requested a telephone hearing in the application, and such request for an in-person hearing may be granted for good cause shown. The employer shall on the record respond to the allegations contained in the application. The hearing will be electronically recorded, and the workers' compensation commissioner or a deputy workers' compensation commissioner may order that a certified shorthand reporter be present or may order other mechanical means of recording the proceedings. If there is an appeal of a proposed decision or judicial review of final agency action, the appealing party is responsible for filing a transcript of the hearing.

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If the hearing was electronically recorded, copies of the tape will be provided to the parties. A transcript shall be provided by the appealing party pursuant to Iowa Code subsection 86.24(4) and a copy thereof shall be served on the opposing party at the time the transcript is filed with the workers' compensation commissioner unless the parties submit an agreed transcript. If a party disputes the accuracy of any transcript prepared by the opposing party, that party shall submit its contentions to the workers' compensation commissioner for resolution. Any transcription charges incurred by the workers' compensation commissioner in resolving the dispute shall be initially paid pursuant to Iowa Code subsection 86.19(1) by the party who disputes the accuracy of the transcript prepared by the appellant.

4.48(13) and **4.48(14)** No change.

This rule is intended to implement Iowa Code sections 17A.12, 85.27, 86.8 and 86.17.

ITEM 21. Adopt the following new rules 876—4.50(86) and 876—4.51(86):

876—4.50(86) Agency notice of judicial review matters. A party who petitions for judicial review is responsible for electronically filing with the division of workers' compensation's PERFECT System a copy of the petition for judicial review within 10 days of filing the petition with a district court. A party shall also file a copy of each appellate court decision within 10 days of the date the appellate court decision was issued and filed. Within 45 days of the filing of the final appellate court decision, the same party shall notify the division of workers' compensation that the record is closed.

This rule is intended to implement Iowa Code section 86.8.

876—4.51(86) Conversion of paper files into the PERFECT System. By July 1, 2011, the defendants, including employers, insurance carriers and the second injury fund of Iowa, named in every file of a contested case proceeding initiated before the effective date of the implementation of the PERFECT System shall convert and transfer all the contents of each file into the PERFECT System. Documents that are converted and transferred into the PERFECT System are presumed to be an accurate reproduction of the original. The defendants shall give notice of the conversion and transfer of files into the PERFECT System to all other parties no later than August 1, 2011. Any objection to the transferred file not being an accurate reproduction of the original or that the entire contents of the file was not transferred must be filed with the workers' compensation commissioner by August 30, 2011. All filings subsequent to the transfer shall be by use of the PERFECT System.

This rule is intended to implement Iowa Code section 86.8.

ITEM 22. Amend rule 876—5.1(17A), introductory paragraph, as follows:

876—5.1(17A) Petition for declaratory order. Any person may file a petition with the workers' compensation commissioner for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the workers' compensation commissioner, at the office of the workers' compensation commissioner. ~~A petition is deemed filed when it is received by that office. The workers' compensation commissioner shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose.~~ The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 23. Amend rule 876—5.6(17A) as follows:

876—5.6(17A) Service and filing of petitions and other papers.

5.6(1) Service. Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons. All documents filed shall indicate all parties or other persons served and the date and method of service if service is not completed using the PERFECT System.

WORKERS' COMPENSATION DIVISION[876](cont'd)

5.6(2) Filing. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Workers' Compensation Commissioner, ~~1000 E. Grand, Des Moines, Iowa 50319-0209~~ using the PERFECT System.

5.6(3) Method of service, time of filing, and proof of service. Method of service and proof of service shall be as provided by rules 876—4.13(86) and 876—4.15(86). ~~All documents are considered filed when received by the agency.~~

ITEM 24. Amend rule 876—5.11(17A) as follows:

876—5.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be ~~mailed promptly~~ delivered as provided by rule 876—4.7(86,17A) to the original petitioner and all intervenors.

ITEM 25. Rescind and reserve rule **876—8.7(86)**.

ITEM 26. Amend rule 876—11.2(85,86) as follows:

876—11.2(85,86) Definitions. The following definitions apply to 876—Chapter 3 and this chapter.

“EDI” (electronic data interchange) means electronic transmission or reception, or both, of data through a telecommunications process utilizing a value-added network or the Internet as set forth in the EDI partnering agreement.

“EDI partnering agreement” means the written agreement between an entity and the division of workers' compensation specifying the terms and manner of reporting by EDI.

“Filed” means receipt and acceptance of a report by the division of workers' compensation. A report is considered to be “filed” on the date it is accepted (TA) by the division of workers' compensation. A report that is submitted but rejected (TR) is not considered “filed.” A FROI report that is accepted with errors (TE) must be corrected within five 5 days after the ~~acknowledgement~~ acknowledgment is sent. A SROI report that is accepted with errors (TE) must be corrected within 15 days after the acknowledgment is sent.

“Implementation plan” means ~~the written document prepared by a reporter specifying a timetable for reporting by EDI.~~

“Report” means a first report of injury (FROI) or a subsequent report of injury (SROI), or both.

“Reporter” means the person who is responsible for reporting to the division of workers' compensation pursuant to the Iowa workers' compensation laws and includes an employer, an employer who has been relieved from insurance pursuant to Iowa Code section 87.11, and an insurance carrier which provides an employer workers' compensation insurance.

“Reporting” means submission of claims data and data fields of information of a report.

ITEM 27. Amend rule 876—11.3(85,86) as follows:

876—11.3(85,86) Form of reporting. The format of EDI reporting must be the current version of the International Association of Industrial Accident Boards and Commissions (IAIABC) Release 2 3 FROI/SROI.

ITEM 28. Rescind and reserve rule **876—11.5(85,86)**.

ITEM 29. Amend rule 876—11.6(85,86) as follows:

876—11.6(85,86) Mandatory reporting deadline. All reporters must sign a partnering agreement and begin reporting by EDI Release 3 no later than ~~July 1, 2001~~ March 1, 2011. Reporting by any means other than EDI Release 3 after ~~July 1, 2001~~ March 1, 2011, will not be acceptable. Reporters are responsible for reporting by EDI. A reporter may contract with another entity for reporting₂, but the reporter is ultimately responsible for reporting. Any entity reporting on behalf of a reporter must also sign an EDI partnering agreement.

WORKERS' COMPENSATION DIVISION[876](cont'd)

ITEM 30. Adopt the following **new** unnumbered paragraph at the end of rule **876—11.7(85,86)**:

A reporter shall file a change to FROI and SROI reports whenever a reporter is made aware that information previously submitted is incorrect. The reporter shall file a change within 45 days after being made aware that previously submitted information is incorrect. This information includes, but is not limited to, the injured employee's social security number, date of injury, employer's name, and injured employee's name. A reporter shall also correct information used in calculation of the compensation rate including, but not limited to, marital status and number of dependents, average weekly wage, and compensation rate at the time of the employee's injury. If a final decision by the division of workers' compensation or a court of law changes any of the previously submitted information, the attorney for the employer and insurance carrier shall notify the reporter. The reporter shall file a change within 45 days of the final decision.

ARC 9190B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 177A.6 and 177A.13, the Department of Agriculture and Land Stewardship hereby amends Chapter 46, "Crop Pests," Iowa Administrative Code.

The invasive pest that kills ash trees, the Emerald Ash Borer, has been found in the state; and a quarantine has been established for Allamakee County. Under the amendments, firewood offered for sale, sold or distributed will have to be identified by the county and state of origin. Wood may be moved under a compliance agreement or limited permit. Clarifying language is added to provide that certificates can be revoked for regulatory noncompliance.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8911B** on June 30, 2010. One comment was received from the public suggesting an earlier effective date. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 177A.8 and 177A.13.

These amendments will become effective January 1, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 21—46.13(177A) as follows:

21—46.13(177A) Certificates. Certificates issued to nursery growers, ~~or~~ nursery dealers or signees of compliance agreements pertaining to regulated articles are nontransferable and are for the exclusive use of the one to whom they are issued. Certificates may be revoked by the state entomologist for a failure to comply with regulatory requirements.

ITEM 2. Adopt the following new rule 21—46.16(177A):

21—46.16(177A) Firewood labeling. Every package of firewood offered for sale, sold or distributed must include the harvest location of the wood by county and state. The harvest location of wood sold in bulk must be included on the delivery ticket. These provisions apply to any length of tree that has been cut. A limited permit may be issued by the state entomologist, or a compliance agreement may specify the regulations which would allow the movement of the wood. The limited permit or compliance agreement is not transferable and may be revoked by the state entomologist for noncompliance or failure to comply with regulatory requirements.

[Filed 10/14/10, effective 1/1/11]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9218B

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby adopts amendments to Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," Chapter 13, "Special Licenses," Chapter 25, "Continuing Education," and Chapter 27, "Standards of Practice and Principles of Professional Ethics," Iowa Administrative Code.

Item 1 of the amendments specifies that applications are considered active for 180 days after receipt. An applicant who does not provide all requested materials or who does not meet the requirements for a license, permit, registration, or reinstatement within 180 days must submit a new application and fee.

DENTAL BOARD[650](cont'd)

Items 2 through 6 of the amendments require applicants for licensure or for a faculty permit to submit the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

Item 7 of the amendments requires applicants for a faculty permit to successfully complete the jurisprudence examination administered by the Board.

Item 8 of the amendments eliminates the requirement that Board sponsors submit attendance records for continuing education courses. Continuing education providers must provide proof of attendance to course attendees and make records available at the request of the Board.

Item 9 of the amendments clarifies that an applicant for reinstatement of an inactive license must provide proof of current CPR certification to place the license on active status.

Item 10 of the amendments clarifies acceptable billing practices for a dentist.

Items 11 and 12 of the amendments clarify that it is considered unethical and unprofessional conduct to prohibit a patient from filing a complaint with the Board or cooperating with a Board investigation and to enter into an agreement in which a patient agrees not to file a complaint with the Board.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, rules in 650—Chapter 27 are not subject to waiver pursuant to 650—27.12(17A,147,153,272C).

Notice of Intended Action was published in the June 16, 2010, Iowa Administrative Bulletin as **ARC 8846B**. A public hearing was held on July 6, 2010. No comments were received at the public hearing.

Written comments were submitted by the Iowa Dental Association (IDA). IDA expressed concern about Item 10, new subrules 27.7(8) and 27.7(9), which clarify billing practices for a dentist. The proposed subrules prohibit a dentist from billing or collecting money for services not rendered. IDA was concerned that the proposed subrules could unintentionally prohibit a dentist's ability to ensure payment for services that the dentist had rendered to a patient. For example, IDA indicated that a dentist may incur expenses (e.g., lab procedures), whether or not the patient returns to complete the treatment; thus, the dentist should be permitted to obtain payment from the patient for those procedures before the dentist receives the results of the lab procedures and uses those results to treat the patient. In addition, some dentists allow a patient to make voluntary prepayments prior to obtaining services so that the patient will have sufficient money in the patient's account to pay for services at the time the services are provided. The proposed subrules would have prohibited that practice.

The following changes have been made to address the concerns raised by IDA:

- Subrule 27.7(8) was revised to delete the phrase "or collect money," and a sentence was added to clarify that a dentist is not prohibited from billing for services rendered, costs incurred or charges for missed appointments. The subrule now reads as follows:

"27.7(8) A dentist shall not bill for services not rendered. A dentist shall not be prohibited from billing for those services which have been rendered, for actual costs incurred in the treatment of the patient, or for charges for missed appointments."

- Subrule 27.7(9) was revised by the addition of a sentence stating that a dentist is allowed to draw on a patient's line of credit for services rendered or actual costs incurred. The subrule now reads as follows:

"27.7(9) A dentist shall not bill or draw on a patient's line of credit prior to services being rendered. A dentist may bill or draw on a patient's line of credit for those services which have been rendered or for actual costs incurred in the treatment of the patient."

- New subrule 27.7(10) was added to clarify that a dentist is not prohibited from accepting voluntary prepayments from patients for dental services not yet rendered. The added subrule reads as follows:

"27.7(10) A dentist shall not be prohibited from permitting patients to prepay for services, in whole or in part, on a voluntary basis."

The Iowa Dental Board adopted these amendments on October 14, 2010.

These amendments will become effective on December 8, 2010.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

The following amendments are adopted.

DENTAL BOARD[650](cont'd)

ITEM 1. Amend rule 650—11.1(147,153) as follows:

650—11.1(147,153) Applicant responsibilities. An applicant for dental or dental hygiene licensure bears full responsibility for each of the following:

1. and 2. No change.

3. Submitting complete application materials. An application for a license, permit, or registration or reinstatement of a license or registration will be considered active for 180 days from the date the application is received. If the applicant does not submit all materials, including a completed fingerprint packet, within this time period or if the applicant does not meet the requirements for the license, permit, registration or reinstatement, the application shall be considered incomplete. An applicant whose application is filed incomplete must submit a new application and application fee.

ITEM 2. Amend paragraph **11.2(2)“f”** as follows:

f. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 3. Amend paragraph **11.3(2)“g”** as follows:

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 4. Amend paragraph **11.5(2)“i”** as follows:

i. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 5. Amend paragraph **11.6(2)“g”** as follows:

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 6. Amend paragraph **13.2(2)“e”** as follows:

e. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 7. Adopt the following new paragraph **13.2(2)“j”**:

j. Evidence of successful completion of the jurisprudence examination administered by the Iowa dental board.

ITEM 8. Amend subrule 25.4(3) as follows:

25.4(3) The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees or registrants in attendance ~~and send a signed copy of such attendance record to the board office upon completion of the activity, but in no case later than July 1 of even-numbered years,~~ maintain the written record for a minimum of five years, and submit the record upon the request of the board. ~~The report shall be sent to the Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.~~ The sponsor of the continuing education activity shall also provide proof of attendance and the number of credit hours awarded to the licensee or registrant who participates in the continuing education activity.

DENTAL BOARD[650](cont'd)

ITEM 9. Adopt the following **new** paragraph **25.9(2)“e”**:

e. Evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation. The course must include a clinical component.

ITEM 10. Adopt the following **new** subrules 27.7(8) to 27.7(10):

27.7(8) A dentist shall not bill for services not rendered. A dentist shall not be prohibited from billing for those services which have been rendered, for actual costs incurred in the treatment of the patient, or for charges for missed appointments.

27.7(9) A dentist shall not bill or draw on a patient's line of credit prior to services being rendered. A dentist may bill or draw on a patient's line of credit for those services which have been rendered or for actual costs incurred in the treatment of the patient.

27.7(10) A dentist shall not be prohibited from permitting patients to prepay for services, in whole or in part, on a voluntary basis.

ITEM 11. Adopt the following **new** subrule 27.9(5):

27.9(5) Prohibiting a person from filing or interfering with a person's filing a complaint with the board is considered unethical and unprofessional conduct.

ITEM 12. Adopt the following **new** subrule 27.9(6):

27.9(6) A licensee shall not enter into any agreement with a patient that the patient will not file a complaint with the board.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9209B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

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

2010 Iowa Acts, House File 2286, amended Iowa Code section 272.2, subsection 14, paragraph "b," subparagraph (1), subparagraph division (b), subparagraph (iii), to remove the language regarding a detention in a brothel. This same language is in the Board's rules and therefore must be amended.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8971B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272 as amended by 2010 Iowa Acts, House File 2286.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subparagraph **11.35(2)“a”(2)** as follows:

(2) Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

1. First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
2. Lascivious acts with a child;
3. ~~Detention in a brothel;~~
4. 3. Assault with intent to commit sexual abuse;
5. 4. Indecent contact with a child;
6. 5. Sexual exploitation by a counselor; or

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~7.~~ 6. Lascivious conduct with a minor;

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9207B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

This amendment states that a Class B license cannot be issued for the driver's education endorsement. The decision was made not to allow a Class B license to be issued for driver's education. The endorsement is only nine hours in total.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8969B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subrule 13.11(1) as follows:

13.11(1) *Endorsement in progress.* The individual has a valid license and one or more endorsements, but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9205B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

This amendment is intended to bring the rule into compliance with previous changes. This amendment establishes that the applicant must have a degree before the applicant can apply for a substitute license. Previously, an applicant could apply for a substitute license upon completion of student teaching and before graduation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8961B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The following amendment is adopted.

Amend subrule 13.16(1) as follows:

13.16(1) *Substitute teacher requirements.* A substitute teacher's license may be issued to an individual who:

- a. No change.
- ~~b. Has successfully completed all requirements of an approved teacher education program and is eligible for the initial license, but has not applied for and been issued this license, or who meets all requirements for the initial license with the exception of the degree but whose degree will be granted at the next regular commencement; or~~
- e. b. Has successfully completed all requirements of an approved Iowa teacher education program, but did not apply for an Iowa teacher's license at the time of completion of the approved program.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9206B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

The decision was made to limit who may substitute in a driver's education classroom because of the liability issues. After consulting with a representative from the Department of Transportation, the Board decided that a person who holds a substitute license should not be allowed to substitute in a driver's education classroom.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8968B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subrule 13.16(3) as follows:

13.16(3) *Authorization.* The holder of a substitute license is authorized to teach in any school system in any position in which a regularly licensed teacher was employed to begin the school year except in the driver's education classroom. In addition to the authority inherent in the initial, standard, master educator, professional administrator, two-year exchange, and permanent professional licenses and the endorsement(s) held, the holder of one of these regular licenses may substitute on the same basis as the holder of a substitute license while the regular license is in effect.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9210B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today's school library services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8965B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and one written comment was received. This amendment was changed slightly from that published under Notice. An introductory statement was added after the catchwords of each of the subparagraphs in paragraph 13.28(21)"d." Numbered paragraph 13.28(21)"d"(3)"4" and subparagraph 13.28(21)"d"(4) were inadvertently omitted in the Notice and are adopted herein.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subrule 13.28(21) as follows:

13.28(21) Elementary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one through eight.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Knowledge of materials and literature in all formats for elementary children.

(2) Selection, utilization and evaluation of library resources and equipment.

(3) Design and production of instructional materials.

(4) Acquisition, cataloging and classification of library materials.

(5) Information literacy, reference services and networking.

(6) Planning, evaluation and administration of school library programs.

(7) Practicum in an elementary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in children.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among children, based on familiarity with selection tools and current trends in literature for children.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the elementary level.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9211B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today's school library services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8966B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and one written comment was received. This amendment has changed slightly from that published under Notice. An introductory statement was added after the catchwords of each of the subparagraphs in paragraph 13.28(22)"d." In addition, numbered paragraph 13.28(22)"d"(4)"4," which was inadvertently omitted from the Notice, is adopted herein.

This amendment is intended to implement Iowa Code chapter 272.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subrule 13.28(22) as follows:

13.28(22) Secondary school teacher librarian.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

b. Program requirements.

(1) Degree—baccalaureate.

(2) Completion of an approved human relations program.

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Knowledge of materials and literature in all formats for adolescents.

(2) Selection, utilization and evaluation of library resources and equipment.

(3) Design and production of instructional materials.

(4) Acquisition, cataloging and classification of library materials.

(5) Information literacy, reference services and networking.

(6) Planning, evaluation and administration of school library programs.

(7) Practicum in a secondary school media center/library.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

(1) Literacy and reading. This requirement includes the following competencies:

1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy in young adults.

2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading among young adults, based on familiarity with selection tools and current trends in literature for young adults.

(2) Information and knowledge. This requirement includes the following competencies:

1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.

2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.

3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.

4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.

5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.

6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.

7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.

(3) Program administration and leadership. This requirement includes the following competencies:

1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.

2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users.

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the secondary level.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the secondary level.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the secondary level.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula at the secondary level.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9212B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

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

The field of librarianship has changed significantly since the librarian endorsements were last reviewed in 1985. These changes update the endorsement to better reflect the skills needed for today's school library services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8967B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and one written comment was received. This amendment has changed slightly from that published under Notice. An introductory statement was added after the catchwords of each of the subparagraphs in paragraph 13.28(23)"d." As a result of public comment, the numbered paragraphs in subparagraphs 13.28(23)"d"(2) and (3) were reordered; however, the content has not changed.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subrule 13.28(23) as follows:

13.28(23) School teacher librarian. ~~K~~ PK-12.

a. Authorization. The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

b. Program requirements. Degree—master's.

c. Content—prior to September 1, 2012. The following requirements apply for endorsements issued prior to September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

- (1) Planning, evaluation and administration of school library programs.
- (2) Curriculum development and teaching and learning strategies.
- (3) Instructional development and communication theory.
- (4) Selection, evaluation and utilization of library resources and equipment.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (5) Acquisition, cataloging and classification of library materials.
- (6) Design and production of instructional materials.
- (7) Methods for instruction and integration of information literacy skills into the school curriculum.
- (8) Information literacy, reference services and networking.
- (9) Knowledge of materials and literature in all formats for elementary children and adolescents.
- (10) Reading, listening and viewing guidance.
- (11) Utilization and application of computer technology.
- (12) Practicum at both the elementary and secondary levels.
- (13) Research in library and information science.

d. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

- (1) Literacy and reading. This requirement includes the following competencies:
 1. Practitioners collaborate with other teachers to integrate developmentally appropriate literature in multiple formats to support literacy for youth of all ages.
 2. Practitioners demonstrate knowledge of resources and strategies to foster leisure reading and model personal enjoyment of reading, based on familiarity with selection tools and current trends in literature for youth of all ages.
 3. Practitioners understand how to develop a collection of reading and informational materials in print and digital formats that supports the diverse developmental, cultural, social and linguistic needs of all learners and their communities.
 4. Practitioners model and teach reading comprehension strategies to create meaning from text for youth of all ages.
- (2) Information and knowledge. This requirement includes the following competencies:
 1. Practitioners teach multiple strategies to locate, analyze, evaluate, and ethically use information in the context of inquiry-based learning.
 2. Practitioners advocate for flexible and open access to library resources, both physical and virtual.
 3. Practitioners uphold and promote the legal and ethical codes of their profession, including privacy, confidentiality, freedom and equity of access to information.
 4. Practitioners use skills and knowledge to assess reference sources, services, and tools in order to mediate between information needs and resources to assist learners in determining what they need.
 5. Practitioners model and facilitate authentic learning with current and emerging digital tools for locating, analyzing, evaluating and ethically using information resources to support research, learning, creating, and communicating in a digital society.
 6. Practitioners demonstrate knowledge of creative and innovative uses of technologies to engage students and facilitate higher-level thinking.
 7. Practitioners develop an articulated information literacy curriculum grounded in research related to the information search process.
 8. Practitioners understand the process of collecting, interpreting, and using data to develop new knowledge to improve the school library program.
 9. Practitioners employ the methods of research in library and information science.
- (3) Program administration and leadership. This requirement includes the following competencies:
 1. Practitioners evaluate and select print, nonprint, and digital resources using professional selection tools and evaluation criteria to develop and manage a quality collection designed to meet the diverse curricular, personal, and professional needs of the educational community.
 2. Practitioners demonstrate knowledge necessary to organize the library collections according to current standard library cataloging and classification principles.
 3. Practitioners develop policies and procedures to support ethical use of information, intellectual freedom, selection and reconsideration of library materials, and the privacy of users of all ages.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

4. Practitioners develop strategies for working with regular classroom teachers, support services personnel, paraprofessionals, and other individuals involved in the educational program.

5. Practitioners demonstrate knowledge of best practices related to planning, budgeting (including alternative funding), organizing, and evaluating human and information resources and facilities to ensure equitable access.

6. Practitioners understand strategic planning to ensure that the school library program addresses the needs of diverse communities.

7. Practitioners advocate for school library and information programs, resources, and services among stakeholders.

8. Practitioners promote initiatives and partnerships to further the mission and goals of the school library program.

(4) Practicum. This requirement includes the following competencies:

1. Practitioners apply knowledge of learning styles, stages of human growth and development, and cultural influences of learning at the elementary and secondary levels.

2. Practitioners implement the principles of effective teaching and learning that contribute to an active, inquiry-based approach to learning in a digital environment at the elementary and secondary levels.

3. Practitioners understand the teacher librarian role in curriculum development and the school improvement process at the elementary and secondary levels.

4. Practitioners collaborate to integrate information literacy and emerging technologies into content area curricula.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9204B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 24, "Paraeducator Certificates," Iowa Administrative Code.

This amendment adds a possible area of concentration to the paraeducator certificate. The area of concentration will focus on paraeducators who work with students with vision impairments.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8960B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Adopt the following **new** subrule 24.4(7):

24.4(7) Vision impairments—prekindergarten through grade 12.

a. Demonstrate knowledge of the impact of vision loss on learning and concept development for students who are blind or visually impaired.

(1) Demonstrate introductory knowledge of expanded core curriculum (ECC) and the ability to support ECC skills as directed by the supervising professional.

(2) Demonstrate introductory knowledge of functional vision assessments (FVA) and learning media assessments (LMA) of students who have vision impairments.

b. Demonstrate knowledge of and skills in technology appropriate to the needs of students with vision impairments.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (1) Operate and use assistive technology that supports students who have vision impairments.
- (2) Support and strengthen each student's capability to access and utilize assistive technology.
- c. Demonstrate introductory knowledge of instructional strategies unique to students who have vision impairments.
 - (1) Demonstrate the ability to adapt educational materials by using varied learning media as determined by student needs.
 - (2) Demonstrate an introductory knowledge of Braille in relation to identified or expressed student needs or both.
 - (3) Demonstrate introductory skills in operating transcription software and equipment.
- d. Demonstrate introductory knowledge of motor skills, movement, orientation, and mobility for students with vision impairments.
- e. Demonstrate knowledge of the role of paraeducators in student plans including individualized education programs (IEPs) and individualized family service plans (IFSPs).
- f. Demonstrate knowledge about and skills in fostering independence, self-determination, social skills, self-advocacy, and appropriate behaviors for students with vision impairments.
- g. Demonstrate professionalism and ethical practices, including appropriate communication skills in relation to students with vision impairments and the students' service providers and families.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9208B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

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

2010 Iowa Acts, House File 2286, amended Iowa Code section 272.2, subsection 14, paragraph "b," subparagraph (1), subparagraph division (b), subparagraph (iii), to remove the language regarding a detention in a brothel. This same language is in the Board's rules and therefore must be amended.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8970B**. A public hearing on the amendment was held on Wednesday, August 18, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code section 272.2 as amended by 2010 Iowa Acts, House File 2286.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend subparagraph **25.3(1)"b"(1)** as follows:

(1) Disqualifying criminal convictions. The board shall deny an application for licensure and shall revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. No change.
2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:
 - First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
 - Lascivious acts with a child;
 - ~~Detention in a brothel;~~

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- Assault with intent to commit sexual abuse;
 - Indecent contact with a child;
 - Sexual exploitation by a counselor;
 - Lascivious conduct with a minor; or
 - Sexual exploitation by a school employee;
3. to 5. No change.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9216B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment rescinds the requirement that a candidate, candidate's committee, political party committee, or political committee (PAC) that advocates for or against state candidates provide a copy of a reconciled campaign bank statement each January. A reconciled bank statement will now be required to be filed only upon request by the Board or when the committee is dissolving.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 8, 2010, as **ARC 9041B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on October 14, 2010.

The amendment is intended to implement Iowa Code sections 68A.402A and 68B.32A(4).

The amendment will become effective on December 8, 2010.

The following amendment is adopted.

Rescind rule 351—4.21(68A) and adopt the following new rule in lieu thereof:

351—4.21(68A) Filing of reconciled bank statement. A candidate, a committee, an independent expenditure committee, or a sole individual filing Form Ind-Exp-I shall submit a copy of a campaign bank statement including a reconciliation to justify outstanding checks and other discrepancies between the ending balance on the bank statement and the ending balance on a campaign statement or report when requested to do so by the board. A committee that files a final campaign statement or report for purposes of dissolving shall comply with the requirements of subrule 4.55(5) concerning the filing of a final bank statement. The board may impose sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B) against a person for failing to file a requested reconciled bank statement.

This rule is intended to implement Iowa Code sections 68A.402A and 68B.32A(4).

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9172B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services amends Chapter 47, "Diversion Initiatives," Iowa Administrative Code.

These amendments implement a new program, Promoting Healthy Marriage. This program will use federal funds from the Temporary Assistance to Needy Families (TANF) block grant to provide information to certain households about the benefits of a healthy and stable marriage. The Department is implementing this program as a means of expanding categorical eligibility for Food Assistance, as directed by the Iowa General Assembly in 2010 Iowa Acts, House File 2526, section 7(4)(d)(2).

There will be no separate application for the Promoting Healthy Marriage Program. Eligibility for the program will automatically be determined when a household applies for Food Assistance. There will be no asset test for eligibility. The income limit will be 160 percent of the federal poverty level for the household size. Eligibility for this program will also establish categorical eligibility for the Iowa Food Assistance Program.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 25, 2010, as **ARC 9019B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

Related amendments to Food Assistance rules are published herein as **ARC 9173B**.

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

The Council on Human Services adopted these amendments on October 13, 2010.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on January 1, 2011.

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 [amendments to Ch 47] is being omitted. These amendments are identical to those published under Notice as **ARC 9019B**, IAB 8/25/10.

[Filed 10/13/10, effective 1/1/11]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9174B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services rescinds Chapter 57, "Interim Assistance Reimbursement," Iowa Administrative Code, and adopts a new Chapter 57 with the same title.

Interim Assistance Reimbursement is a federal program that allows county assistance agencies to recover funds expended for basic needs of food, clothing and shelter for a county resident who has applied for Supplemental Security Income (SSI). The Department has an agreement with the Social Security Administration to allow the state of Iowa to participate in the program. The Department then enters into agreements with the county assistance agencies for their participation. These rules:

- Add county commissions of veteran affairs to the definition of "county agency."
- Remove requirements that are more appropriately reserved for inclusion in the agreement between county agencies and the Department. New agreement language has been issued by the Social Security Administration. Taking the agreement provisions out of the rules allows agreements to be modified more easily when changes are needed to administer the program. The Department has terminated the

HUMAN SERVICES DEPARTMENT[441](cont'd)

previous agreements with county agencies and has mailed out new agreements that will take effect when the county agency signs and returns them.

- Remove a provision for automatic renewal of the agreement between the Department and the county agency. The Department had considered requiring periodic review of the agreement, but has determined that these agreements are not “service contracts” within the meaning of Iowa Code chapter 8F.
- Provide that county agencies shall submit Form 470-1947, Certificate of Authority, directly to the Social Security Administration, with a copy to the Department.

These rules were Adopted and Filed Without Notice and were published in the Iowa Administrative Bulletin on August 11, 2010, as **ARC 8990B**. Notice of Intended Action on the rules was published as **ARC 8991B** on the same date. The Department received no comments on the Notice of Intended Action. These rules are identical to the rules published under Notice of Intended Action and Adopted and Filed Without Notice.

These rules do not provide for waivers in specified situations because participation in this program is limited to agencies that enter into an agreement with the Department. Conditions for participation are dictated by an agreement between the Social Security Administration and the state.

The Council on Human Services adopted these rules on October 13, 2010.

These rules are intended to implement Iowa Code chapter 249 and 1984 Iowa Acts, chapter 1310, section 9.

These rules shall become effective on December 8, 2010, at which time the Adopted and Filed Without Notice rules are hereby rescinded.

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 rules [Ch 57] is being omitted. These rules are identical to those published under Notice as **ARC 8991B** and Adopted and Filed Without Notice as **ARC 8990B**, IAB 8/11/10.

[Filed 10/13/10, effective 12/8/10]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9173B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services amends Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

This amendment implements an option in the federal Supplemental Nutrition Assistance Program regulations at 7 CFR 273.2(j) to expand categorical eligibility beyond households in which all members receive Family Investment Program or Supplemental Security Income benefits. Households that are categorically eligible for Food Assistance are not subject to Food Assistance income and asset limits.

The mechanism for this expansion is broad-based categorical eligibility, under which households that are determined eligible for Iowa’s new Promoting Healthy Marriage Program will be categorically eligible for Food Assistance. The gross income limit for that program is 160 percent of the federal poverty level, which compares to the standard Food Assistance gross income limit of 130 percent of the federal poverty level.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on August 25, 2010, as **ARC 9020B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

Rules implementing the Promoting Healthy Marriage Program are published herein as **ARC 9172B**.

This amendment does not provide for waivers in specified situations because the expansion of categorical eligibility is a benefit to the persons affected.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted this amendment on October 13, 2010.

This amendment is intended to implement Iowa Code section 234.12 and 2010 Iowa Acts, House File 2526, section 7(4)(d)(2).

This amendment shall become effective on January 1, 2011.

The following amendment is adopted.

Amend rule 441—65.39(234) as follows:

441—65.39(234) Categorical eligibility.

65.39(1) Notwithstanding anything to the contrary in these rules or in federal regulations, a household in which all members are recipients of a state or local general assistance (GA) program is subject to categorical eligibility provisions of the food assistance program provided that the state or local program:

1. a. Has income limits at least as stringent as the food assistance gross income test; and
2. b. Gives assistance other than one-time emergency payments that cannot be given for more than one continuous month.

65.39(2) Notwithstanding anything to the contrary in these rules or in federal regulations, a household is subject to categorical eligibility provisions of the food assistance program for any month in which the household is determined eligible for the Iowa promoting healthy marriage program pursuant to rule 441—47.2(234).

[Filed 10/13/10, effective 1/1/11]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9175B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4 and 2010 Iowa Acts, Senate File 2088, sections 348 and 349, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The amendment affects Medicaid coverage of mental health prescription drugs that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class. The following policies will apply:

- If the manufacturer or labeler of the drug does not enter into a supplemental rebate contract, prior authorization may be required.
- Iowa Medicaid members established on one of these drugs before January 1, 2011, are exempt from prior authorization requirements for that specific drug.
- Medicaid reimbursement will be made for up to a seven-day supply while prior authorization is being requested.
- If the prescriber does not receive a prior authorization decision within 48 hours of a request for prior approval, the prior authorization is deemed approved, contingent on the prescriber's having current contact information, including a current fax number, and a signed fax confidentiality form on file with the Department.

These changes are required by 2010 Iowa Acts, Senate File 2088, sections 347 to 349. Before this legislation, Iowa Code section 249A.20A included the following language on the Medicaid Preferred Drug List (PDL):

"With the exception of drugs prescribed for the treatment of human immunodeficiency virus or acquired immune deficiency syndrome, transplantation, or cancer and drugs prescribed for mental illness with the exception of drugs and drug compounds that do not have a significant variation in

HUMAN SERVICES DEPARTMENT[441](cont'd)

a therapeutic profile or side effect profile within a therapeutic class, prescribing and dispensing of prescription drugs not included on the preferred drug list shall be subject to prior authorization.”

Based on that language, mental health drugs were subject to prior authorization pursuant to the Preferred Drug List only if they did not have “a significant variation in a therapeutic profile or side effect profile within a therapeutic class.” The Department has referred to the mental health drugs exempt from prior authorization based on the Preferred Drug List as “chemically unique mental health drugs” because they do have a significant variation in therapeutic or side effect profile as compared to other drugs in the same therapeutic class.

2010 Iowa Acts, Senate File 2088, now allows for Preferred Drug List prior authorization requirements for “a chemically unique mental health prescription drug,” subject to certain protections for patients. Based on this history, the Department understands “a chemically unique mental health prescription drug” to refer to the mental health drugs that have been exempt from Preferred Drug List prior authorization requirements because they have a significant variation in therapeutic or side effect profile as compared to other drugs in the same therapeutic class. Therefore, the amendment refers to the chemically unique mental health drugs referenced in 2010 Iowa Acts, Senate File 2088, as mental health drugs that have “a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class.”

As a protection for patients needing a “chemically unique” mental health prescription drug, 2010 Iowa Acts, Senate File 2088, requires the Department to adopt rules providing that if an approval or disapproval is not “received by the physician or other prescriber within 48 hours” of a request for prior approval, the request is deemed approved. The amendment requires that the prescriber have a current fax number and a signed fax confidentiality form on file with the Department in order for a request to be deemed approved when a decision is not received within 48 hours. Decisions are transmitted to the prescriber and the pharmacy by mail if the Department does not have current fax information. Requiring that a response be received within 48 hours is unreasonable if the response must be mailed.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8975B**. The Department received eight written comments on the Notice of Intended Action, and seven people attended the public hearing on the proposed amendment. Comments addressed the following concerns:

- This amendment would limit the availability of treatment options for persons with mental illness. The Iowa Medicaid program does not have a “formulary” that restricts coverage to only certain drugs. Iowa has a Preferred Drug List and requires that medications listed as “nonpreferred” be approved before service delivery. A seven-day supply is allowed pending prior approval of the nonpreferred medication.
- Coverage would be “heavily weighted” toward generic drugs. Iowa’s Preferred Drug List includes both brand-name and generic drugs as preferred.
- Patients who are stabilized on “nonformulary” drugs will be forced to change medication. All established patients will be “grandfathered” to allow continued use of the same drugs.
- Providers will be overtaxed by the additional work required to obtain prior authorization. Most prior approval requests and decisions are transmitted by fax, which allows 95 percent of requests to be handled in less than two hours.
- The changes will not be cost-effective due to adverse effects on patients. All publicly funded programs must be conscious of costs, or the programs will be unsustainable. This category of medications currently represents 46 percent of all drug expenditures for Iowa Medicaid. A savings of \$2.5 million per year is projected, mostly due to supplemental rebates from manufacturers of drugs that are no longer guaranteed preferred status.

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

The Council on Human Services adopted this amendment on October 13, 2010. The amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, Senate File 2088, sections 347 to 349.

This amendment shall become effective on January 1, 2011.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The following amendment is adopted.

Amend paragraph **78.2(4)“a”** as follows:

a. Prior authorization is required as specified in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A as amended by 2010 Iowa Acts, Senate File 2088, section 347.

(1) For ~~drugs~~ any drug requiring prior authorization, reimbursement will be made for a 72-hour or three-day supply dispensed in an emergency when a prior authorization request cannot be submitted.

(2) Unless the manufacturer or labeler of a mental health prescription drug that has a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class enters into a contract to provide the state with a supplemental rebate, the drug may be placed on the preferred drug list as nonpreferred, with prior authorization required. However, prior authorization shall not be required for such a drug for a member whose regimen on the drug was established before January 1, 2011, as verified by documented pharmacy claims.

(3) For mental health prescription drugs requiring prior authorization that have a significant variation in therapeutic or side effect profile from other drugs in the same therapeutic class, reimbursement will be made for up to a seven-day supply pending prior authorization. A request for prior authorization shall be deemed approved if the prescriber:

1. Has on file with the department current contact information, including a current fax number, and a signed Form 470-4914, Fax Confidentiality Certificate, and

2. Does not receive a notice of approval or disapproval within 48 hours of a request for prior authorization.

[Filed 10/13/10, effective 1/1/11]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9176B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 85, “Services in Psychiatric Institutions,” Iowa Administrative Code.

These amendments continue, for most providers, the rate reductions instituted in December 2009 pursuant to Executive Order 19 for state fiscal year 2011. Rule 441—79.16(249A), which implemented the temporary reimbursement decreases, is rescinded. The reimbursement rules for particular providers are amended to make the same reductions. Reimbursement rules for psychiatric medical institutions for children (PMICs) are revised to continue the interim payment system for another year.

Hospital reimbursement rules are revised to:

- Correct dates and status indicators related to the diagnosis-related group (DRG) and ambulatory payment classification (APC) reimbursement methodologies for inpatient services and outpatient services, respectively.

- Eliminate enhanced disproportionate share hospital (DSH) payments and enhanced graduate medical education (GME) payments.

- Replace the enhanced payments with the Iowa non-state-government-owned acute care teaching hospital DSH payments.

- Establish an Iowa state-owned teaching hospital disproportionate share fund from which payments shall be made monthly to qualifying hospitals.

The requirement that payments to public hospitals and nursing facilities not exceed their actual costs is eliminated as unnecessary in light of the repeal of the state statutory provision limiting payments to public hospitals and nursing facilities to their costs (2010 Iowa Acts, Senate File 2156, section 16).

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8899B**. Notice of Intended Action on these amendments was published as **ARC 8900B** on the same date. The Department received written comments on the Notice of Intended Action from 35 persons.

All of the comments addressed proposed Item 13, which amends provisions for retrospectively limited prospective rates. This item affects providers of supported community living, supported employment, family and community support, or respite services under a home- and community-based services waiver. In order to achieve the savings required under Executive Order 19, the Department removed a provision allowing those providers to retain revenues up to 2.5 percent over the provider's actual costs after the annual reconciliation of the prospective rates. The General Assembly directed the Department to continue this reduction for SFY 2012. Providers argued that the ability to retain this revenue is essential to the financial viability of the agencies because of the lag time between incurring costs and having the costs reflected in the prospective rate.

The Department has made the following changes to the rules as Adopted and Filed Emergency and published under Notice of Intended Action:

- Revised the amendment to subparagraph 79.1(15)"f"(2) to read as follows:

"(2) For services rendered July 1, 2010, through June 30, 2011, revenues exceeding 100 percent of adjusted actual costs shall be remitted to the department. Payment will be due upon notice of the new rates and retrospective adjustment."

- Revised the amendment to subrule 79.1(2), provider category "HCBS waiver service providers," numbered paragraph "15," to reflect the amendment that was Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9134B**.

- Changed references to the "intellectual disabilities waiver" to read "intellectual disability waiver."

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

The Council on Human Services adopted these amendments October 13, 2010.

These amendments are intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, House File 2526, section 33, and 2010 Iowa Acts, Senate File 2156, section 16.

These amendments shall become effective December 8, 2010.

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 [79.1, 79.16, 85.25(1)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8900B** and Adopted and Filed Emergency as **ARC 8899B**, IAB 6/30/10.

[Filed 10/13/10, effective 12/8/10]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9177B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6, 217.34, and 252B.5, the Department of Human Services amends Chapter 95, "Collections," and Chapter 98, "Support Enforcement Services," Iowa Administrative Code.

These amendments adjust rules on services provided by the Child Support Recovery Unit for collection of court-ordered support through state and federal offsets to do the following:

- Align to existing provisions in the Iowa Code by removing the criterion of failure to pay current support and delinquent support for 12 consecutive months. This change will broaden the pool of obligors subject to offset and should result in additional collections for families and the state of Iowa.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Improve customer service by streamlining the return of excess offset funds and offset funds belonging to an unobligated joint owner or unobligated spouse. Verbal requests for the release of the portion of the refund belonging to an unobligated spouse will be allowed. The obligor will not be required to sign a form before excess funds are released.
- Improve customer service by streamlining the notice process and allowing for communication by means other than U.S. mail.
- Align the rules to the streamlined electronic process to notify the Department of Administrative Services when the Department of Human Services issues a preoffset notice.

These amendments do not provide for waivers in specified situations because state statutes, federal statutes, and federal regulations require the Department to offset many government payments owed to individuals for the payment of past-due support. The Department has no authority to waive statutory provisions.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 25, 2010, as **ARC 9026B**. The Department received no comments on the Notice of Intended Action. The Department also scheduled four public hearings to receive comments on the Notice of Intended Action. No one attended the hearings. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 13, 2010.

These amendments are intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).

These amendments shall become effective on January 1, 2011.

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 [95.6, 95.7(8)"b," 98.81] is being omitted. These amendments are identical to those published under Notice as **ARC 9026B**, IAB 8/25/10.

[Filed 10/13/10, effective 1/1/11]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9184B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby amends Chapter 5, "Regulation of Insurers—General Provisions," Iowa Administrative Code.

The rules in Chapter 5 prescribe requirements for statements of actuarial opinion that are to be submitted in accordance with Iowa Code section 508.36 and for memoranda in support thereof; rules applicable to the appointment of an appointed actuary; and guidance as to the meaning of "adequacy or reserves." These amendments provide an example in the regulatory asset adequacy issues summary, renumber the Asset Adequacy Tested Amounts Table, and amend the regulatory asset adequacy issues summary submission requirement to require that foreign companies submit only upon request by the Commissioner. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendments beginning December 8, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 8, 2010, as **ARC 9069B**. Comments regarding the amendment were to be received during the comment period and at the public hearing on September 28, 2010.

Following the public hearing, two changes were recommended that are in character with the Noticed rule making and a logical outgrowth of the amendment and comments received by the Division. These changes are represented herein as Items 1 and 2. This rule making is substantially similar to the original Notice of Intended Action with the addition of the following amendments:

INSURANCE DIVISION[191](cont'd)

A request was made to update the Exhibit numbers in subparagraph 5.34(6)“b”(2) because of formatting changes to the Exhibits. That change has been made in Item 1.

A request was made to eliminate the requirement that companies must annually submit the regulatory asset adequacy issues summary as set forth in subparagraph 5.34(7)“a”(5). Although companies domiciled in Iowa will still be required to annually submit the regulatory asset adequacy issues summary, Iowa foreign companies will not be required to annually submit the regulatory asset adequacy issues summary; however, the regulatory asset adequacy issues summary shall be made available for examination by the Commissioner upon request. That change has been made in Item 2.

These amendments are intended to implement Iowa Code chapter 508.

These amendments will become effective December 8, 2010.

The following amendments are adopted.

ITEM 1. Amend subparagraph **5.34(6)“b”(2)** as follows:

(2) The scope paragraph should include a statement such as:

“I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20____. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.”

Asset Adequacy Tested Amounts – Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b) (3)	Other Amount (4)	Total Amount (1)+(2)+(3) (4)
Exhibit 8 <u>Exhibit 5</u>					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability—Active					
F Disability—Disabled					
G Miscellaneous					
Total (Exhibit 8 <u>Exhibit 5</u> Item 1, Page 3)					
Exhibit 9 <u>Exhibit 6</u>					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 <u>Exhibit 6</u> Item 2, Page 3)					
Exhibit 10 <u>Exhibit 7</u>					
Premiums and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 10 <u>Exhibit 7</u> (Column 1, Line 14)					

INSURANCE DIVISION[191](cont'd)

Asset Adequacy Tested Amounts – Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b) (3)	Other Amount (4)	Total Amount (1)+(2)+(3) (4)
Exhibit 11 Exhibit 8, Part 1					
1 Life (Page 3, Line 4.2 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11 Exhibit 8, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					
IMR (General Account, Page ____ Line ____)					
(Separate Accounts, Page ____ Line ____)					
AVR (Page ____ Line ____)		(c)			
Net Deferred and Uncollected Premium					

Notes:

- (a) The additional actuarial reserves are the reserves established under subparagraph (2) of 5.34(5) "e."
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in paragraph 5.34(5) "d," by means of symbols that should be defined in footnotes to the table.
- (c) Allocated amount of asset valuation reserve (AVR).

ITEM 2. Amend subparagraph 5.34(7) "a" (5) as follows:

(5) In accordance with Iowa Code section 508.36, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in 5.34(7) "c." ~~The Companies submitting the regulatory asset adequacy issues summary shall be submitted~~ submit the summary no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. Iowa foreign companies are not required to submit the regulatory asset adequacy issues summary annually; however, the summary shall be made available for examination by the commissioner upon request. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

ITEM 3. Amend subparagraph 5.34(7) "c" (1) as follows:

- (1) The regulatory asset adequacy issues summary shall include:
1. to 3. No change.
 4. Comments on any interim results that may be of significant concern to the appointed actuary, for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;
 5. and 6. No change.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9181B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby amends Chapter 47, "Valuation of Life Insurance Policies," Iowa Administrative Code.

Chapter 47 provides tables of select mortality factors and rules for their use, rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits, and rules concerning a minimum standard for the valuation of plans with secondary guarantees. This chapter is issued under the authority of Iowa Code section 508.36(3)"a"(3)(c) and is intended to implement Iowa Code section 508.36(6)"c." This amendment removes restrictions on the mortality adjustment factors (X factors) in the deficiency reserve calculation required by the Valuation of Life Insurance Policies Model Regulation. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning December 8, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 8, 2010, as **ARC 9059B**. Comments regarding this amendment were to be received during the comment period and at the public hearing on September 28, 2010. No public comment was received, and this amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 508.36(6)"c."

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend paragraph **47.4(2)"c"** as follows:

c. For durations in the first segment, X percent of the select mortality factors in the appendix, subject to the following:

(1) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

~~(2) X shall not be less than 20 percent;~~

~~(3) X shall not decrease in any successive policy years;~~

(4) ~~(2)~~ X is such that, when using the valuation interest rate used for basic reserves, "1" below is greater than or equal to "2";

1. The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

2. The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

~~(5) (3)~~ X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

~~(6) (4)~~ The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of paragraph 47.4(2)"c";

~~(7) (5)~~ The appointed actuary may decrease X at any valuation date as long as X ~~does not decrease in any successive policy years and as long as it~~ continues to meet all the requirements of paragraph 47.4(2)"c"; and

~~(8) (6)~~ The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

~~(9) (7)~~ If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

1. The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 191—subrule 5.34(3); ~~and~~

2. The appointed actuary shall disclose, in the regulatory asset adequacy issues summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

INSURANCE DIVISION[191](cont'd)

~~2.~~ 3. The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of paragraph 47.4(2)“c.” This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9182B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby amends Chapter 94, “Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities,” Iowa Administrative Code.

The purpose of the rules in Chapter 94 is to recognize, permit and prescribe the use of mortality tables that reflect the differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with Iowa Code section 508.36 and Iowa Administrative Code 191—Chapter 47. This amendment allows use of the 2001 CSO Mortality Table as a substitute on policies issued on or after January 1, 2004, and prior to January 1, 2007, with the consent of the Commissioner and subject to the conditions set forth in 191—94.4(508). The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning December 8, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 8, 2010, as **ARC 9065B**. Comments regarding this amendment were to be received during the comment period and at the public hearing on September 28, 2010. No public comment was received, and this amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 508.

This amendment will become effective December 8, 2010.

The following amendment is adopted.

Amend rule 191—94.3(508) as follows:

191—94.3(508) 2001 CSO Preferred Class Structure Mortality Table. At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to the conditions stated in this chapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2004, and prior to January 1, 2007, these tables may be substituted with the consent of the commissioner and subject to the conditions of rule 191—94.4(508). In determining such consent, the commissioner may rely on the consent of the commissioner of the company’s state of domicile. No such election shall be made until the company demonstrates that at least 20 percent of the business to be valued using this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table for purposes of reserve valuation only, pursuant to the requirements of the National Association of Insurance Commissioners’ model

INSURANCE DIVISION[191](cont'd)

regulation, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation."

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9186B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

These amendments:

1. Remove the Pine Lake multifamily cabin from the cabin rental fee list because the cabin will not be constructed; establish a new cabin rental fee for a new cabin being constructed at Union Grove State Park; and remove the extra cot fee as the Department does not provide cots anymore.

2. Remove the reference to the Pine Lake multifamily cabin regarding minimum stay requirements as the cabin will not be constructed.

3. Update the after-hours fishing area at Green Valley State Park.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8819B** on June 2, 2010. A public hearing was held on June 22, 2010. No written or oral comments were received.

The Department has determined that it will not adopt proposed new subrule 61.7(16), special events permits, that established procedures to obtain a permit, permit requirements, and a nonrefundable administrative fee of \$25 to process a special event application. The Department will complete a more comprehensive review for all types of special events within the Conservation and Recreation Division and, at that time, will commence rule making for all the rules relating to special events. Therefore Item 5, as published under Notice of Intended Action, has been removed from this filing.

These amendments are intended to implement Iowa Code sections 461A.3, 461A.4, 461A.35, 461A.47, and 461A.57.

These amendments will become effective December 8, 2010.

The following amendments are adopted.

ITEM 1. Amend the entry for Pine Lake State Park in paragraph **61.5(1)"a"** as follows:

	Per Night*	Per Week
Pine Lake State Park, Hardin County		
Multifamily cabin	200	1200
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450

ITEM 2. Adopt the following new entry for Union Grove State Park in paragraph **61.5(1)"a"**:

	Per Night*	Per Week
Union Grove State Park, Tama County	75	450

ITEM 3. Strike the following entry in paragraph **61.5(1)"a"**:

	Per Night*	Per Week
Extra cots, where available	+	

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Amend subparagraph **61.5(3)“b”(3)** as follows:

(3) The multifamily ~~eabins~~ cabin at ~~Pine Lake~~ and Springbrook State ~~Parks~~ Park may be reserved for a minimum of two nights throughout the entire rental season with the following exceptions:

1. to 4. No change.

ITEM 5. Rescind subrule 61.11(6) and adopt the following **new** subrule in lieu thereof:

61.11(6) *Green Valley State Park, Union County.* The shoreline adjacent to Green Valley Road commencing at the intersection of Green Valley Road and 130th Street and continuing south along the shoreline to the parking lot on the east side of the dam, and then west along the dam embankment to the shoreline adjacent to the parking lot on the west side of the spillway.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9189B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 101, "Falconry Regulations," Iowa Administrative Code.

These amendments were requested by Department staff and the Iowa Falconers Association (IFA) to update the existing rules and align them with recent changes made to the Code of Federal Regulations by the U.S. Department of the Interior, Fish and Wildlife Service's Migratory Bird Office.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 11, 2010, as **ARC 9008B**. A public hearing was held on August 31, 2010. No written or oral comments were received at the hearing or during the comment period. No changes were made from the Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 481A.

These amendments will become effective December 8, 2010.

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 [101.1 to 101.5] is being omitted. These amendments are identical to those published under Notice as **ARC 9008B**, IAB 8/11/10.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9188B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 102, "Falconry Regulations for Hunting Game," Iowa Administrative Code.

These amendments were requested by Department staff and the Iowa Falconers Association (IFA) to update the existing rules and align them with recent changes made to the Code of Federal Regulations by the U.S. Department of the Interior, Fish and Wildlife Service's Migratory Bird Office.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 11, 2010, as **ARC 9007B**. A public hearing was held at the Wallace State Office Building on August 31, 2010. No written or oral comments were received at the public hearing or during the comment period. No changes were made from the Notice of Intended Action.

NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments are intended to implement Iowa Code chapter 481A.
These amendments shall become effective December 8, 2010.

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 [102.1, 102.2, 102.4] is being omitted. These amendments are identical to those published under Notice as **ARC 9007B**, IAB 8/11/10.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

[For replacement pages for IAC, see IAC Supplement 11/3/10.]

ARC 9180B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

The amendments clarify the definition of "beyond-use date" for a sterile compounded product to mean the date following compounding after which a product may not be stored, administered, or transported. The amendments also clarify the approved storage periods for high-risk compounded preparations based on the temperature of the preparation during storage.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the June 30, 2010, Iowa Administrative Bulletin as **ARC 8913B**. The Board received written comments regarding the proposed amendments from one pharmacist. The adopted amendments differ from those published under Notice. Item 1 is changed to clarify that administration of a sterile compound shall not begin after the beyond-use date.

The amendments were approved during the September 28, 2010, meeting of the Board of Pharmacy.

These amendments will become effective on December 8, 2010.

These amendments are intended to implement Iowa Code sections 126.10, 155A.2, 155A.13, and 155A.28.

The following amendments are adopted.

ITEM 1. Amend rule **657—13.2(124,126,155A)**, definition of "Beyond-use date," as follows:

"*Beyond-use date*" means the date or time following compounding after which the preparation shall not be stored or transported and after which administration of the preparation shall not begin. The beyond-use date is determined from the date or time compounding of the preparation is completed.

ITEM 2. Amend paragraph **13.13(1)"e"** as follows:

e. For a sterilized high-risk preparation, in the absence of the preparation's passing a sterility test, the storage ~~periods~~ period beyond-use date shall not exceed the following:

- (1) At controlled room temperature, ~~for~~ 24 hours;
- (2) At a cold temperature, ~~for~~ 3 days; or
- (3) In a solid-frozen state between minus 25 and minus 10 degrees Celsius, ~~for~~ 45 days.

[Filed 10/14/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9171B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.53, the Professional Licensure Division hereby amends Chapter 4, "Board Administrative Processes," Iowa Administrative Code.

The amendment revises the audit rule in Chapter 4. The current audit rule process is cumbersome and confusing to licensees. The changes streamline the current audit process while providing reasonable time frames for completion of continuing education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8784B**. A public hearing was held on June 22, 2010, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. Public comments were received regarding the requirement that physician assistant licensees have a certificate of course completion for physician assistants category II continuing education, which is not required by the physician assistant rules. Since the Board of Physician Assistants does not require receipt of a certificate of completion for category II continuing education, such certificate is not required during an audit. This is consistent with other boards for which a board's rules are used to determine what is required during the audit process in cases where there may be minor differences. The Board of Physician Assistants approved the noticed rule following discussion of the comments.

The amendment was adopted by the 19 professional boards during the months of July through September 2010. This amendment is identical to that published under Notice.

This amendment will become effective December 8, 2010.

This amendment is intended to implement Iowa Code chapters 147, 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 155, 157, 156, 154A, 154, 154B, 154C, 154D, 154E, 154F, 158, and 272C.

The following amendment is adopted.

Rescind rule 645—4.11(272C) and adopt the following new rule in lieu thereof:

645—4.11(272C) Audit of continuing education. The board may select licensees for audit following license renewal.

4.11(1) Licensees shall provide information to the board for auditing purposes as follows:

a. The licensee shall provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor and licensee's name.

b. Information identified in paragraph 4.11(1) "a" must be submitted within 30 days after the date on the letter of notification of the audit. Extension of time may be granted on an individual basis.

4.11(2) For auditing purposes, all licensees must retain the information identified in paragraph 4.11(1) "a" for two years after the biennium has ended.

4.11(3) If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The license shall be re-audited following the next renewal period when make-up credit has been accepted.

4.11(4) Failure to notify the board of a current mailing address will not absolve the licensee from meeting the audit requirement.

[Filed 10/12/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9217B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants hereby amends Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code.

This amendment allows electronic prescriptions to include the name of both the physician assistant and the supervising physician as required by the Iowa Code. Currently, some electronic systems have limited space in a field or define a field in a way that does not allow both names, which results in the inability of providers to file electronic prescriptions that comply with the law. These changes were requested by hospitals and providers who want to or are required to file electronic prescriptions that comply with the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8775B**. A public hearing was held on June 22, 2010, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice.

The amendment was adopted by the Board of Physician Assistants on July 21, 2010.

This amendment will become effective December 8, 2010.

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is adopted.

Amend subrule 327.6(1) as follows:

327.6(1) Each written ~~prescription~~ outpatient prescription drug order issued by a physician assistant shall contain the following:

a. to c. No change.

d. A supervising physician's name, ~~the physician assistant's name and the practice address~~ which shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing.

e. The physician assistant's name and the practice address.

e. f. The signature of the physician assistant followed by the initials "PA."

f. g. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

All other prescriptions shall comply with paragraph "d."

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.

ARC 9214B

TREASURER OF STATE[781]

Adopted and Filed

Pursuant to the authority of Iowa Code section 12.43, the Treasurer of State hereby amends Chapter 4, "Linked Investments for Tomorrow (LIFT)," Iowa Administrative Code.

The rules in Chapter 4 provide guidelines for the Linked Investments for Tomorrow (LIFT) Small Business Loan Program. This amendment reflects changes pertaining to an eligibility requirement in the program.

Notice of Intended Action was published in September 8, 2010, Iowa Administrative Bulletin as **ARC 9039B**. No public comment was received on the amendment. The adopted amendment is identical to the amendment published under Notice of Intended Action.

TREASURER OF STATE[781](cont'd)

This amendment is intended to implement Iowa Code section 12.43(5) as amended by 2010 Iowa Acts, Senate File 2389, section 35.

This amendment will become effective on December 8, 2010.

The following amendment is adopted.

Amend subrule 4.6(3) as follows:

4.6(3) All owners of the business or borrowers must not have a combined net worth exceeding ~~\$750,000~~ \$975,000. Combined net worth, as defined by this program, shall equal assets less liabilities for each owner of the business and persons borrowing for the business combined. Married individuals may divide their total net worth and assign one half of the total to each individual. If both individuals are owners of the business or borrowers, then their combined net worth must be used to determine net worth requirements.

[Filed 10/15/10, effective 12/8/10]

[Published 11/3/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/3/10.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 23

WHEREAS, providing high-quality health care is a proud achievement of Iowa's health care professionals and the American health care system and has resulted in many important discoveries and innovations for the treatment and cure of many diseases and the improved standard of living and quality of life for people in our state, in our nation and all over the world; and

WHEREAS, the health and well being of every Iowa citizen is a matter of public concern and the object of multiple programs and policies of the Culver-Judge Administration; and

WHEREAS, the State of Iowa expends considerable tax dollars assuring the health and well being of the children, the elderly and the disadvantaged in our State; and

WHEREAS, the State of Iowa is a purchaser of health care insurance for its employees, and has an interest in providing these employees and their families with access to quality health care at reasonable costs; and

WHEREAS, costs of health care insurance, borne by government agencies, employers and individuals have risen dramatically over the last several years, a challenging economic time during which salaries and bonuses paid to many health insurance executives have skyrocketed; and

WHEREAS, the structure of the health insurance industry has changed in recent years to the extent that, in the State of Iowa, competition amongst insurers has been reduced and the marketplace concentration controlled by fewer insurers has increased, lessening the power of traditional market forces to control health care and health insurance costs; and

WHEREAS, it is the policy of the Culver-Judge Administration that health insurance premium rates shall not be excessive, inadequate or unfairly discriminatory, and that regulatory processes related to the costs of health insurance should be transparent and subject to meaningful consumer and stakeholder review; and

WHEREAS, access to quality health care at affordable prices is a continuing issue for the State of Iowa, in its capacity as a provider of health insurance, and for many of our State's citizens; and

WHEREAS, public policy reforms are necessary to control health care and health insurance premium costs and to improve access to care services, while assuring the continuation of the high quality of care we have come to expect in this State; and

WHEREAS, President Barack Obama and the United States Congress have enacted substantial federal health care and health insurance reforms that are aimed to address issues of both access to quality health care and cost issues; and

WHEREAS, the Iowa General Assembly, in SF2201, has enacted legislation that is intended to provide increased transparency, disclosure and accountability in the regulation of Iowa's health insurance industry; and

WHEREAS, the Iowa General Assembly, in SF2356, has enacted legislation that is intended to provide consumers with information needed by them to make informed choices regarding health care and health insurance coverage options; and

WHEREAS, there is a need to prepare policy responses specifically tailored to these federal and state health care reforms to develop a corresponding range of health care policy changes that reduce or mitigate health care costs, that improve access to health care services, that assure quality health care for all residents of this State and that provide greater transparency in health insurance regulatory processes; and

WHEREAS, the ultimate success and effectiveness of these Federal and State health reform efforts depend upon having all stakeholders—advocates, providers, labor leaders, businesses, the insurance industries and government leaders—“at the table” in developing and achieving policy support for the federal and state changes and reforms that have been established in this recent legislation.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by virtue of the authority vested in me by the Constitution and statutes of the State of Iowa, do hereby ORDER and DIRECT:

1. The commissioner of insurance (“commissioner”) shall immediately commence the process of implementing the consumer protection functions described in SF2201 as passed by the Legislature.
2. This process shall include the immediate formation of a Work Group as described in SF2201, to include the consumer advocate, health insurance carriers, health care providers, small employers that purchase health insurance under chapter 513B, and individual consumers in the state and signed by me into law.
3. The purpose of the Work Group shall be to consider ways to reduce the cost of providing health insurance coverage and health care services, including but not limited to: the utilization of uniform billing codes; improvements to provider credentialing procedures; the reduction of out-of-state care expenses; an annual assessment of the impact of federal health care reform legislation on health care costs in the state; a determination as to whether such federal legislation has reduced the cost of health insurance in the state; and the electronic delivery of explanation of benefits statements.
4. The commissioner shall provide to the Work Group a draft of a proposed Annual Report to the Legislature and the Governor. The Annual Report shall include, but shall not necessarily be limited, to the following information:
 - a. Data concerning trends, and the reasonableness of, health insurance company overhead expenses, including, but not limited to, those related to executive salaries and bonuses;
 - b. Aggregate health insurance data on loss ratios of health insurers;
 - c. Rate increase data;
 - d. Health care expenditures in Iowa and the effect they have on health insurance premiums;
 - e. A ranking and quantification of factors that result in higher costs for each health insurance plan;
 - f. The status of each capitol and surplus and other reserve account of each health insurer including the purpose of each account;
 - g. A listing of any apparent medical trends affecting health insurance costs in Iowa;
 - h. Any additional data or analysis of the health insurance market or health care costs for the previous year deemed appropriate by the Commissioner.
5. The commissioner shall review and carefully consider comments or recommendations offered by members of the Work Group before submitting to the Governor and the Legislature, no later than November 15th of each year, an Annual Report,

- 6. In addition to the Annual Report, the commissioner shall provide the Governor with monthly updates on the process of completing the work described in SF2201 and also updates concerning the insurance commissioner's duties in conjunction with the Legislative Health Care Commission in SF2356 related to the passage of Public Law 111-148: THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.
- 7. The commissioner shall cooperate with federal agencies in the implementation of the provisions of Public Law 111-148: THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, as it applies in the State of Iowa.
- 8. The Work Group shall endeavor to assure that its recommendations are cost-effective. To that end, and, to the extent reasonably possible, the Work Group shall fully analyze the cost of its recommendations, including through actuarial analysis and other analytical means, and specifically identify all funding sources to be used to finance and administer its recommendations.
- 9. In performing this review, the Work Group shall consider the effect of any policy change on the State's economy and the number and quality of jobs in this state.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 9th day of April, in the year of our Lord two thousand ten.

Chester J. Culver

 CHESTER J. CULVER
 GOVERNOR

ATTEST:

Michael A. Mauro

 MICHAEL A. MAURO
 SECRETARY OF STATE



EXECUTIVE ORDER NUMBER TWENTY-FOUR

WHEREAS, the Federal Older Americans Act requires each state to establish an Office of the State Long-Term Care Ombudsman with a level of independence and autonomy; and

WHEREAS, the Commission on Aging has the statutory responsibility to adopt and administer all policies related to the Older Americans Act; and

WHEREAS, the Federal Older Americans Act requires the State Long-Term Care Ombudsman and the Office of the State Long-Term Care Ombudsman to provide independent analysis and input on Federal, State, and local laws, regulations, and other governmental policies related to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State; and

WHEREAS, the State of Iowa receives over seventeen million dollars of Federal funds annually to assist Iowans through the Federal Older Americans Act programs; and

WHEREAS, the Department on Aging was advised on April 26, 2010 by the United States Administration on Aging that the Office of the State Long-Term Care Ombudsman shall be allowed to independently advocate on public policy to meet Federal requirements; and

WHEREAS, given the reasonableness of the public's expectations, Federal requirements, and substantial benefit to older Iowans of an independent Office of the State Long-Term Care Ombudsman:

NOW, THEREFORE, I, Chester J Culver, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby **ORDER** and **DIRECT**:

1. The Director of the Department of Administrative Services shall assist the Office of the State Long-Term Care Ombudsman in the following:
 - A. Obtain office space separate from the Department on Aging and relocate the Office of the State Long-Term Care Ombudsman to such space; and
 - B. Coordinate a search and appointment process, under the leadership of the Commission on Aging, for a new State Long-Term Care Ombudsman, which process shall allow for the input of stakeholders, shall establish a selection committee whose membership shall include the Chairperson of the Commission on Aging and experts outside of the Iowa Department on Aging, shall develop an accurate job description and determine an applicable classification for salary purposes, shall provide notice to and search for potential candidates for the position, shall create interviewing processes for qualifying applicants, and shall make a hiring recommendation.
2. The Director of the Department of Management shall immediately assist the Department on Aging and the Office of the State Long-Term Care Ombudsman in the following:

- A. Separate the Office of the State Long-Term Care Ombudsman's budgets and funds from those of the Department on Aging to the extent possible and allow for maximum independence of the two entities beginning on July 1, 2010; and
- B. Make any intradepartmental or interdepartmental transfers, pursuant to statute, as may be necessary to implement this Order.
3. The Director of the Department on Aging and the Commission on Aging shall negotiate and execute an agreement, pursuant to Iowa Code Chapter 28E, effective no later than July 1, 2010, to provide for the independence of the Office of the State Long-Term Care Ombudsman in such a manner that fully complies with the Federal Older Americans Act and that ensures its autonomy.
 4. The Office of the State Long-Term Care Ombudsman shall develop, in coordination with the Commission on Aging, a legislative proposal to ensure the independence of the Office, as required under the Older Americans Act; the Department on Aging shall pre-file the proposal for the 2011 Session of the Iowa General Assembly.
 5. The Department on Aging shall provide necessary support services, including, but not limited to, human resources and fiscal services, to the Office of the State Long-Term Care Ombudsman.
 6. The Director of the Department on Aging shall immediately designate the State Long-Term Care Ombudsman as a lobbyist before both the Executive and Legislative Branches of Iowa government.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 28th day of May, in the year of our Lord two thousand ten.

CHESTER J. CULVER
GOVERNOR

ATTEST:

(PKC)
MICHAEL A. MAURO
SECRETARY OF STATE



EXECUTIVE ORDER NUMBER TWENTY-FIVE

WHEREAS, on July 24, 2010, the breach of the Lake Delhi dam caused flash floods and massive damage to persons and businesses and public infrastructure in Delaware and Jones counties and surrounding areas, including Jackson County, resulting in gubernatorial declarations of emergency and applications for federal disaster assistance for these areas; and

WHEREAS, the State of Iowa is committed to assisting persons, businesses, associations and governmental jurisdictions that are adversely affected by natural disasters to recover and to rebuild; and

WHEREAS, the use of public funds to reconstruct the Lake Delhi dam poses unique challenges to persons living both upstream and downstream from its location insofar as it has been crossed by a farm-to-market road, and it has been formerly used for hydro-electricity generation; and

WHEREAS, given these unique characteristics, responding appropriately to the Lake Delhi dam breach, including planning for the possible reconstruction of the dam structure, must take into account the various and unique interests of stakeholders whose interests reside both above and below the dam and must coordinate governmental operations at the local, county, regional, state and federal levels; and

WHEREAS, planning for the possible reconstruction of the Lake Delhi dam and the future of the Lake Delhi area must also take into consideration new weather patterns in the State of Iowa under which heavy rain falls and snow accumulations resulting in flooding may well occur on an increasingly frequent basis; and

WHEREAS, it is appropriate that the State of Iowa should marshal its resources to coordinate the recovery and rebuilding efforts in the Lake Delhi area and to assure that the investment of public resources results in an appropriate level of public benefit.

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby ORDER and DIRECT:

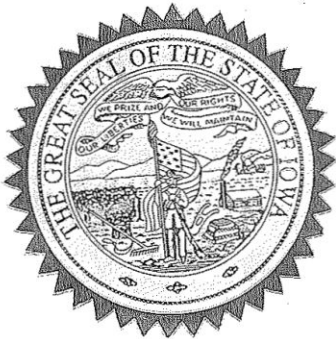
1. The Lake Delhi Recover and Rebuild Task Force is hereby created to assist in the collaboration of citizens and businesses with local, county, state and federal agencies, to develop strategies for both the recovery and rebuilding of the Lake Delhi area, including, most specifically, whether and under what conditions the Lake Delhi dam should be rebuilt.

2. The Lake Delhi Recover and Rebuild Task Force is charged with:
 - a. Identifying funding resources needed for recovery and rebuilding efforts;
 - b. Establishing principles and policies for public investment that result in improved local and regional economic development and public benefit;
 - c. Leading long-term regional and community planning efforts and identifying best practices with respect to managing the Maquoketa River watershed, reducing the likelihood of future damage by flooding and maintaining or improving water quality;
 - d. Identifying federal and state legal issues that need to be addressed in connection with any reconstruction of the Lake Delhi dam or its possible use for hydro-electric generation; and
 - e. Ensuring transparency and accountability in the investment of public recovery and rebuilding efforts.

3. The Lake Delhi Recover and Rebuild Task Force shall be comprised of the following members:
 - a. the Chair of the Delaware County Board of Supervisors, or designee;
 - b. the Chair of the Jones County Board of Supervisors, or designee;
 - c. the Chair of the Jackson County Board of Supervisors, or designee;
 - d. the Mayor of Monticello, or designee;
 - e. the Mayor of Hopkinton, or designee;
 - f. the Mayor of Manchester, or designee;
 - g. the President of the Lake Delhi Recreation Association, or designee;
 - h. a Trustee or designee of the Trustees of the Combined Lake Delhi Recreational and Water Quality District;
 - i. the Director of the Department of Natural Resources, or designee;
 - j. the Administrator of Iowa Homeland Security and Emergency Management Division, or designee;
 - k. the Director of the Department of Transportation, or designee;
 - l. the Chair of the Iowa Utilities Board, or designee;
 - m. the Director of the Department of Management, or designee;
 - n. the Executive Director of the Iowa Finance Authority, or designee;
 - o. the Director of the Office of Energy Independence, or designee;
 - p. a staff member from the Office of Governor, as designated by the Governor; and
 - q. the Director of the Iowa Department of Economic Development.

4. The following shall serve as *ex-officio* non-voting members of the Lake Delhi Recover and Rebuild Task Force:
 - a. One member shall be appointed by the President of the Iowa Senate, after consultation with the Majority Leader of the Iowa Senate;
 - b. One member shall be appointed by the Minority Leader of the Iowa Senate;
 - c. One member shall be appointed by the Speaker of the Iowa House of Representatives;
 - d. One member shall be appointed by the Minority leader of the Iowa House of Representatives; and

5. The Director of the Iowa Department of Economic Development shall serve as Chair of the Lake Delhi Recover and Rebuild Task Force and shall provide the administrative support necessary to facilitate the work of this body. Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties subject to the availability of funds.
6. All State departments and agencies are hereby directed, to the extent not inconsistent with law, to cooperate with the Lake Delhi Recover and Rebuild Task Force to furnish it with such information, personnel and assistance as are necessary to accomplish the purposes of this Order.
7. The Lake Delhi Recover and Rebuild Lake Delhi Recover and Rebuild Task Force shall meet, from time to time, as may be required to accomplish the tasks prescribed for it and shall present an Initial Report to the Governor no later than December 1, 2010.
8. This ORDER shall take effect immediately.

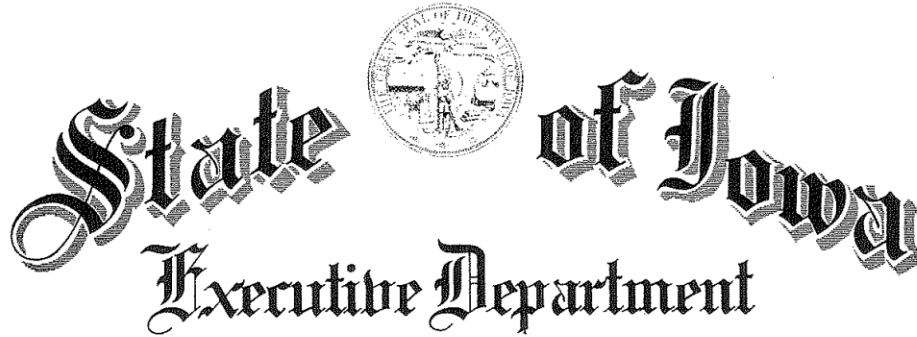


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 6th day of August, in the year of our Lord two thousand ten.

Chet Culver
 CHESTER J. CULVER
 GOVERNOR

ATTEST:

Michael A. Mauro (PKC)
 MICHAEL A. MAURO
 SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER TWENTY-SIX

WHEREAS, the December 2009 Iowa Efficiency Review Report identified 90 recommendations for improving the cost effectiveness and efficiency of delivering state government services; and

WHEREAS, Executive Order 20 incorporated the vast majority of these efficiency recommendations and created an implementation process to capture cost savings for taxpayers as soon as possible; and

WHEREAS, the Iowa Efficiency Report included a specific recommendation on the consolidation of Information Technology (IT) planning and operations; and

WHEREAS, the Legislature responded to the Iowa Efficiency Review Report by passing an early retirement bill and Senate File 2088 to accelerate the implementation of cost savings measures and government reorganization measures; and

WHEREAS, the Departments of Management and Administrative Services reported to the Governor on June 30, 2010 that the implementation of Executive Order 20, the early retirement bill and SF 2088 had already identified nearly \$298.8 million in cost savings that will benefit Iowa's taxpayers; and

WHEREAS, SF 2088, Division 1, Section 8 established the position of Chief Information Officer, appointed by and serving at the pleasure of the Governor and attached to the Department of Management; and

WHEREAS, the implementation of IT consolidation across state Departments will capture additional efficiencies and cost savings while improving the performance of the IT enterprise and improve the level of services provided to the public, and

WHEREAS, certain functions, duties and responsibilities currently assigned to other state departments can be more effectively carried out by a new Chief Information Officer; and

WHEREAS, reorganizing information technology management functions under the direction of the cabinet-level position of Chief Information Officer will promote a more unified approach to information technology management for executive branch agencies; and

WHEREAS, the creation of the Chief Information Officer position will strengthen the central policy making and decision making in all areas of information technology and will bring about improved information management and data standardization, will facilitate the use of improved project management practices and strategic technology infrastructure planning; and

WHEREAS, these improvements in the use of information technology will provide customers of the state of Iowa – be they citizens, businesses or employees – with improved delivery of state services and programs; and

WHEREAS, the Department of Administrative Services' Information Technology Enterprise has already been moving forward expeditiously with several Information Technology reforms and innovations, including the consolidation of email services for state agencies; and

WHEREAS, in order to achieve additional cost savings and in the interests of efficient administration and good government to effect these changes in the organization of the Executive Branch of state government;

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, pursuant to the powers vested in me by the Constitution and statutes of the State of Iowa, do hereby issue this Executive Order to become effective immediately.

I. CURRENT PROGRESS ON INFORMATION TECHNOLOGY CONSOLIDATION

- A. The Department of Administrative Services' Information Technology Enterprise (DAS/ITE) shall continue to move forward with the significant progress it has achieved with the information technology consolidation initiatives implemented under Executive Order 20 and SF 2088 by expanding into other technology infrastructure areas, data security and enterprise applications. DAS/ITE has been and shall continue to be the lead for the operational aspects of information technology consolidation.
- B. DAS/ITE shall continue to gather information from all Departments under Executive authority on their information technology assets and operations to support the strategic planning and implementation for further IT consolidation efforts for the state of Iowa.
- C. DAS/ITE shall continue to implement the consolidation of email services and build on the impressive results achieved to date. Already DAS/ITE has helped move more than 6,000 inboxes for 35 government organizations into a consolidated enterprise. DAS/ITE shall seek to achieve a goal of moving 15,000 inboxes into the consolidated email operations by December 31, 2010. With the remaining Executive Branch email systems by June 30, 2011.
- D. DAS/ITE shall continue its efforts on Desktop Virtualization and shall make a final recommendation to the Governor's Office on the best path forward by October 30, 2010.
- E. Agencies will work with DAS/ITE to continue with the consolidation of data centers and moving services into one of the two DAS/ITE data centers in support of SF2088 and EO 20.
- F. DAS/ITE shall continue to develop enterprise applications to support transparency into the state's processes and financial management programs, including the deployment of one-stop shop licensing portal for government services.

II. AUTHORITY OF THE POSITION OF CHIEF INFORMATION OFFICER

- A. The Chief Information Officer shall coordinate the development of a unified executive branch strategic information technology plan, identify best practices from executive branch agencies and other public and private sector entities, and develop and implement processes to replicate information technology best practices and standards throughout the executive branch. The CIO will take the lead on the development of all policy related to information technology consolidation.
- B. The Chief Information Officer in coordination with DAS/ITE shall oversee the development of service-level agreements with executive branch departments and agencies to ensure quality products are delivered on schedule and within budget.
- C. The Chief Information Officer in coordination with DAS/ITE shall develop standards for application development including, but not limited to, a standard methodology and cost-benefit analysis that all executive branch departments and agencies shall utilize for application development activities.
- D. The Chief Information Officer shall have the full cooperation of executive branch departments and agencies in developing and implementing the sharing of data and information throughout the executive branch. The Chief Information Officer shall determine and implement statewide efforts to standardize data elements and shall determine data ownership assignments among executive branch departments and agencies.
- E. The Chief Information Officer in coordination with DAS/ITE shall develop systems and methodologies to review, evaluate and prioritize existing information technology projects within the executive branch and shall report to the Governor the status of information technology projects on a semi-annual basis.
- F. The Chief Information Officer will assist the Department of Management with the development of information technology budgets for each agency within the executive

branch. All information technology budget requests from the executive branch will be submitted to the Department of Management and the Chief Information Officer. The Department of Management and the Chief Information Officer will jointly review and recommend for funding consideration only those proposals that fit into the overall strategic information technology management plan of the state and that provide a reasonable return on investment.

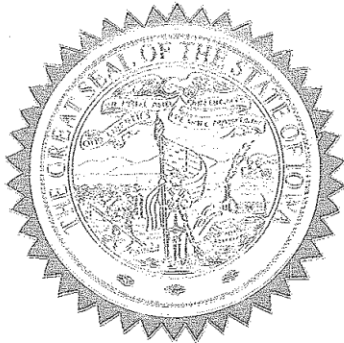
- G. The Chief Information Officer shall have the authority to negotiate software licensing agreements with vendors on behalf of Departments. This centralized authority shall enable the state to negotiate fewer software licensing agreements, improve services and save taxpayer money at the same time. Effective immediately, Departments shall be required to submit software licensing agreements and renewals to DAS/ITE and the Department of Management for review and approval.
- H. The Chief Information Officer shall develop no later than May 31, 2011, an executive branch Strategic Information Technology Plan to include consolidation of all remaining systems within the scope of SF2088 and EO20 and any other IT functions deemed appropriate. However, a high-level outline must be developed no later than March 15, 2011. The planning process shall include input from all affected agencies and consideration of best practices from within and outside of Iowa State government, and integration of those best practices as appropriate.
- I. The Chief Information Officer shall lead, whenever possible, a consensus driven effort to re-engineer the state's information technology infrastructure with the goal of achieving the use of common technology across the executive branch.

III. INFORMATION TECHNOLOGY FUNCTIONS AND PERSONNEL

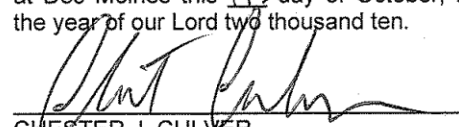
- A. The Chief Information Officer shall have the authority to direct the work of all Information technology staff assigned to Executive Branch departments, including those assigned to ITE in the Department of Administrative Services, in developing and implementing the executive branch's strategic information technology consolidation plan. The CIO will work closely with the Directors of the Departments of Administrative Services and Management to achieve the goal of supervising the implementation of IT consolidation.
- B. The CIO shall develop and submit a statewide Strategic Plan for IT Consolidation that addresses recommendations for staffing and organizational structure.
- C. The Chief Information Officer shall serve as the Governor's representative on the Iowa Technology Advisory Council and shall provide the Governor advice on information technology issues generally, and IT consolidation recommendations specifically.
- D. This Executive Order creates the Office of Information Technology to be housed at the Department of Management. This Office and the Chief Information Officer will coordinate with the State Chief Information Security Office to make certain that Iowa's information technology enterprise becomes more secure and resistant to security threats as the IT consolidation process moves forward.
- E. Executive Branch agency Directors shall appoint a Departmental Chief Information Officer contact within each of their agencies to work with the Chief Information Officer and the Office of Technology on the development of a Strategic Plan for implementing IT Consolidation.
- F. The Chief Information Officer shall coordinate with the Directors of all state departments affected by this Order to further develop an inventory of state IT assets, develop memoranda of records identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved related to ongoing process of IT consolidation. This inventory shall be completed by December 31, 2010 and shall be informed by the DAS/ITE initial inventory described in Section I (B) above.
- G. DAS/ITE shall work with the Department of Management and the CIO to develop methodologies to baseline the costs of information technologies in all Departments and Agencies. These cost calculations should include all costs related to staffing, benefits, overhead as well as the costs of software, servers and systems related to information technology and related services. The development of this baseline will help inform the a

Strategic Plan for further IT consolidation efforts for the state of Iowa as well as document the ongoing cost savings and efficiencies that are being created by IT consolidation. The methodology for the establishment of this cost baseline for information technologies shall be developed by December 31, 2010.

- H. The Chief Information Officer shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order. The Chief Information Officer in conjunction with DAS/ITE should take steps to develop a baseline of state IT spending to allow the Office of Technology to report on future cost savings produced by IT consolidation.
- I. The Chief Information Officer may hire or retain such contractors, sub-contractors, advisors, consultants and agents as the director may deem advisable and necessary, in accordance with the relevant Iowa procedures, statutes, rules and regulations and may make and enter into contracts necessary or incidental to the exercise of the powers and performance of the duties of the department and the director. Under this provision, the Chief Information Officer may specifically hire or retain such contractors, sub-contractors, advisors, consultants and agents as the director may deem advisable and necessary to provide legal advice or legal services, to provide for research and development activity, and/or to provide strategic planning services.
- J. All rules, orders, contracts, grants and agreements relating to the functions transferred to the Office of Information Technology by this Order lawfully adopted prior to the effective date of this Order by the responsible state agency shall continue to be effective until revised, amended or rescinded.
- K. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.
- L. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 14th day of October, in the year of our Lord two thousand ten.


CHESTER J. CULVER
GOVERNOR

ATTEST:


MICHAEL A. MAURO
SECRETARY OF STATE