

# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form 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”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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**CITATION of Administrative Rules**

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

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

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## Schedule for Rule Making 2005

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. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
***May 18***	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
***June 29***	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
***Aug. 24***	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
***Nov. 16***	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
***Dec. 14***	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 3, 2005	June 22, 2005
1	Friday, June 17, 2005	July 6, 2005
2	Wednesday, June 29, 2005	July 20, 2005

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\*\*\*

## PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 14, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Animal and livestock importation, ch 65, Filed **ARC 4196B** ..... 5/25/05

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Registered dental assistants—provision of intraoral suctioning, 1.1, 20.4(2), Filed **ARC 4166B** ..... 5/11/05

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Temporary permit for provision of volunteer services, 13.3, 15.1(16), 15.1(17), Filed **ARC 4167B** ..... 5/11/05

#### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

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**IOWA FINANCE AUTHORITY[265]**

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**PAROLE BOARD[205]**

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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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**PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)**

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Optometry examiners, 180.1, 180.3(3)“i,” 180.5(1), 180.5(3), 180.5(5), 180.5(7), 180.5(8), 180.6, 180.7, 180.10 to 180.12, 181.1, 181.2(3), 181.2(4), 181.3, 181.3(1), 181.3(1)“c,” 181.3(1)“e”(2) and (3), 181.4 to 181.11, 184.1(4) to 184.1(6), <u>Notice</u> <b>ARC 4141B</b> .....	5/11/05
Optometry examiners, 180.2(1)“c,” 180.3(3)“a,” 181.3(2)“a”(1), 181.3(2)“b”(1) and (7), 183.2(30), <u>Notice</u> <b>ARC 4140B</b> .....	5/11/05
Podiatry examiners, 220.1, 220.7(1)“5” and “6,” 220.9(1), 220.9(3), 220.9(5), 220.9(7), 220.9(8), 220.10, 220.11, 220.14 to 220.16, 222.1, 222.2(3), 222.3, 222.3(1), 222.3(1)“c,” 222.3(1)“e”(2) and (3), 222.4 to 222.7, 222.9, 222.10, 225.1(4) to 225.1(6), <u>Notice</u> <b>ARC 4145B</b> .....	5/11/05
Podiatry examiners, 220.2(3), 220.2(5), 220.2(8), 220.3(1), 220.3(3), 220.3(5), 220.6(2)“b” and “d,” 220.6(2)“f”(1) to (3), 220.6(4), 220.7(2), 220.7(4), 222.3(2)“c,” 222.3(2)“e,” 224.2(31), <u>Notice</u> <b>ARC 4146B</b> .....	5/11/05
Physician assistant examiners, 326.1, 326.4(5), 326.9(1), 326.9(3), 326.9(5), 326.9(7), 326.9(8), 326.10, 326.11, 326.14, 326.19, 326.20, 328.1, 328.2(3), 328.2(4), 328.3, 328.3(1), 328.3(1)“c,” 328.3(1)“e”(2) and (3), 328.4 to 328.10, 330.1(5) to 330.1(7), <u>Notice</u> <b>ARC 4149B</b> .....	5/11/05
Physician assistant examiners, 329.2(31), <u>Notice</u> <b>ARC 4148B</b> .....	5/11/05
Interpreter for the hearing impaired examiners, adopt ch 361, <u>Filed</u> <b>ARC 4179B</b> .....	5/25/05

**PUBLIC HEALTH DEPARTMENT[641]**

Center for congenital and inherited disorders, 4.3(2)“d,” 4.3(5), 4.3(6)“b,” 4.3(9)“b,” <u>Notice</u> <b>ARC 4192B</b> .....	5/25/05
Immunizations, ch 7 title, 7.1, 7.2, 7.3(1), 7.4 to 7.8, 7.8(1), 7.8(2), 7.8(4), 7.9 to 7.11, 7.11(1), 7.11(4)“a”(4) and (5), 7.12, <u>Notice</u> <b>ARC 4194B</b> .....	5/25/05
Lead hazard notification process, 69.10(1)“e” to “j,” 69.10(2), 69.10(3)“a” and “h,” 69.10(4)“a” to “k,” <u>Notice</u> <b>ARC 4193B</b> .....	5/25/05

**PUBLIC SAFETY DEPARTMENT[661]**

Licensure of bail enforcement, private investigation, and private security businesses, 2.4(5), 2.4(7) to 2.4(10), <u>Filed</u> <b>Emergency ARC 4180B</b> .....	5/25/05
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**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Occupational and vendor licensing; harness racing officials; thoroughbred racing, 6.16(5)“e,” 6.17(1), 6.19(1), 6.20(1), 6.23(1)“a,” 6.25“3,” 9.4(1)“i” and “j,” 10.4(5)“g”(4), <u>Filed</u> <b>ARC 4154B</b> .....	5/11/05
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]“umbrella”

Appraiser qualification board requirements, 3.2(5), 3.5(1), 3.5(10), 3.5(11), ch 4 note, 4.1(5) to 4.1(9), 4.2, 4.3, ch 5 note, 5.2(1), 5.3, ch 6 note, ch 9, 11.2(1)“c,” 11.2(9), 11.2(10), 11.6, 11.7(2), 12.1, chs 13 to 15, <u>Filed</u> <b>ARC 4155B</b> .....	5/11/05
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**REVENUE DEPARTMENT[701]**

Determination of value of railroad companies, 76.1(7), 76.1(10), 76.4(5), 76.4(6), 76.5, 76.7, 76.9(3), 76.9(4), <u>Notice</u> <b>ARC 4172B</b> .....	5/11/05
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**TRANSPORTATION DEPARTMENT[761]**

Temporary authority for registration, 500.9, <u>Notice</u> <b>ARC 4151B</b> .....	5/11/05
Motor carrier regulations—reference to CFR updated, 529.1, <u>Filed</u> <b>ARC 4131B</b> .....	5/11/05
Licensing—school bus endorsement, hazardous material endorsement, military extensions, 605.4(1), 605.10, 605.16, 607.3, 607.10(1)“c,” 607.16, 607.17, 607.20, 607.27, 607.28, 607.39(2), 607.49(6)“d,” <u>Notice</u> <b>ARC 4130B</b> .....	5/11/05

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Telecommunications providers, 22.1(1), 22.1(3), 22.1(4), 22.1(6), 22.2(3), 22.2(5)“a,” “b,” “f,” “m” and “t,” 22.2(6), 22.3(1) to 22.3(4), 22.3(8), 22.3(9), 22.3(13), 22.4(1), 22.4(2), 22.4(2)“a,” “b” and “h,” 22.4(3)“c”(4), 22.4(3)“d” and “l,” 22.4(6), 22.4(7)“b” and “i,” 22.5(13)“a,” 22.6(1)“c,” 22.6(2)“a,” “c” and “d,” 22.10, 22.11, 22.12(1), 22.13(1)“a” and “b,” 22.21, 22.23(2), 22.23(2)“a”(5), <u>Notice</u> <b>ARC 4157B</b> .....	5/11/05
Link-up and lifeline rate assistance, 39.3(4), 39.3(5), <u>Filed</u> <b>ARC 4156B</b> .....	5/11/05

**VOLUNTEER SERVICE, IOWA COMMISSION ON[555]**

Retired and senior volunteer program (RSVP), adopt ch 7, <u>Notice</u> <b>ARC 4150B</b> .....	5/11/05
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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, 2007.**

Senator Jeff Angelo  
808 West Jefferson  
Creston, Iowa 50801

Senator Michael Connolly  
3458 Daniels Street  
Dubuque, Iowa 52002

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

Senator Mary Lundby  
P.O. Box 648  
Marion, Iowa 52302-0648

Senator Paul McKinley  
21884 483rd Lane  
Chariton, Iowa 50049

Joseph A. Royce  
**Legal Counsel**  
Capitol, Room 116A  
Des Moines, Iowa 50319  
Telephone (515)281-3084  
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Representative Danny Carroll  
244 400th Avenue  
Grinnell, Iowa 50112

Representative George Eichhorn  
P.O. Box 140  
Stratford, Iowa 50249

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

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

Representative Geri Huser  
213 Seventh Street NW  
Altoona, Iowa 50009

Gary Dickey Jr.  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 11  
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Penalty for failure to have appropriate licensure, 14.121(7) IAB 5/25/05 <b>ARC 4197B</b>	Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 14, 2005 1 p.m.
Renewal of initial license, 17.8(1) IAB 5/11/05 <b>ARC 4147B</b>	Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 31, 2005 1 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Biodiesel and diesel fuels, number 1 and number 2 fuel oils, 20.2 IAB 5/11/05 <b>ARC 4159B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	June 14, 2005 1 p.m.
Controlling pollution, 22.1(2) IAB 5/11/05 <b>ARC 4160B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	June 13, 2005 1 p.m.
	Gritter Room, Iowa Hall Kirkwood Community College Cedar Rapids, Iowa	June 16, 2005 1 p.m.
Road maintenance activity considered ordinary travel, 23.3(2) IAB 5/11/05 <b>ARC 4158B</b>	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	June 15, 2005 1 p.m.
Technical standards and corrective action requirements for owners and operators of underground storage tanks, amendments to ch 135 IAB 5/11/05 <b>ARC 4164B</b>	Public Library 1401 Fifth St. Coralville, Iowa	May 31, 2005 1 p.m.
	Norelius Community Library 1403 First Ave. S. Denison, Iowa	June 1, 2005 1 p.m.
	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 2, 2005 1 p.m.
<b>HUMAN SERVICES DEPARTMENT[441]</b>		
Resolution of legal settlement disputes, ch 15; 29.4, 30.1(1), 30.3 IAB 5/11/05 <b>ARC 4169B</b>	First Floor Southeast Conference Rm. 1 Hoover State Office Bldg. Des Moines, Iowa	June 1, 2005 1 to 3 p.m.
Subsidized adoptions, 201.2, 201.3(1), 201.6(1) IAB 5/25/05 <b>ARC 4198B</b>	Conference Room 104 City View Plaza 1200 University Ave. Des Moines, Iowa	June 16, 2005 8:30 to 10:30 a.m.

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Amusement devices, 104.1, 104.2, 104.6, 105.1 to 105.3, 105.5 to 105.7, 105.9, 105.10 IAB 5/11/05 <b>ARC 4144B</b>	Conference Room 320 Lucas State Office Bldg. Des Moines, Iowa	June 1, 2005 10 a.m.
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**MEDICAL EXAMINERS BOARD[653]**

Licensure procedures, 9.1, 9.2, 9.5, 9.11 to 9.13, 9.15, 10.3 to 10.5 IAB 5/11/05 <b>ARC 4132B</b>	Suite C 400 SW Eighth St. Des Moines, Iowa	May 31, 2005 10 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

Game management areas, 51.3 IAB 5/11/05 <b>ARC 4163B</b>	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 1, 2005 10 a.m.
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**NURSING BOARD[655]**

Licensure, 3.1, 3.4, 3.5, 3.7, 4.6, 4.11 IAB 4/13/05 <b>ARC 4106B</b>	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	June 1, 2005 6:30 p.m.
License renewal fee, 3.1 IAB 4/13/05 <b>ARC 4105B</b>	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	June 1, 2005 6:30 p.m.

**PAROLE BOARD[205]**

Executive clemency applications, 14.3 IAB 5/25/05 <b>ARC 4186B</b>	Board Conference Room Holmes Murphy Bldg. 420 Watson Powell Jr. Way Des Moines, Iowa	June 14, 2005 10 a.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Barbers, amendments to chs 21, 24, 26 IAB 5/25/05 <b>ARC 4174B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 9 to 10 a.m.
Barbers—licensure and discipline, 21.2(1), 24.3(2), 25.2(33) IAB 5/25/05 <b>ARC 4173B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 9 to 10 a.m.
Chiropractic physicians, amendments to chs 41, 44, 46 IAB 5/25/05 <b>ARC 4176B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 10 to 11 a.m.
Chiropractic physicians— licensure and discipline, 41.2(1), 44.2(2), 44.3(2), 45.2 IAB 5/25/05 <b>ARC 4175B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 10 to 11 a.m.

**PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)**

Cosmetology, amendments to chs 60, 62, 64 IAB 5/25/05 <b>ARC 4190B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 1 to 2 p.m.
Cosmetology—continuing education and discipline, 64.2, 64.3(2), 65.2(35) IAB 5/25/05 <b>ARC 4191B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 1 to 2 p.m.
Hearing aid dispensers, amendments to chs 121, 122, 125 IAB 5/25/05 <b>ARC 4177B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 8 to 9 a.m.
Hearing aid dispensers—licensure and discipline, 121.2 to 121.4, 121.6(6), 122.3(2), 124.2(36) IAB 5/25/05 <b>ARC 4178B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 8 to 9 a.m.
Optometrists, amendments to chs 180, 181, 184 IAB 5/11/05 <b>ARC 4141B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 10 to 11 a.m.
Optometrists—licensure and discipline, 180.2, 180.3, 181.3, 183.2(30) IAB 5/11/05 <b>ARC 4140B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 10 to 11 a.m.
Podiatrists, amendments to chs 220, 222, 225 IAB 5/11/05 <b>ARC 4145B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 9 to 10 a.m.
Podiatrists—licensure and discipline, 220.2, 220.3, 220.6, 220.7, 222.3, 224.2(31) IAB 5/11/05 <b>ARC 4146B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 9 to 10 a.m.
Physician assistants, amendments to chs 326, 328, 330 IAB 5/11/05 <b>ARC 4149B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 1 to 2 p.m.
Physician assistants—discipline, 329.2(31) IAB 5/11/05 <b>ARC 4148B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 2, 2005 1 to 2 p.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Center for congenital and inherited disorders, 4.3 IAB 5/25/05 <b>ARC 4192B</b>	Telephone conference using telephone number posted on the Department's Web site <a href="http://www.idph.state.ia.us">www.idph.state.ia.us</a>	June 14, 2005 10 to 11 a.m.
Immunizations, amendments to ch 7 IAB 5/25/05 <b>ARC 4194B</b>	Rooms 517/518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	June 14, 2005 9 to 11 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Fleet additions and temporary authority, 500.9 IAB 5/11/05 <b>ARC 4151B</b>	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	June 2, 2005 10 a.m. (If requested)
School bus and hazardous material endorsements; commercial driver licensing, 605.4(1), 605.10, 605.16, amendments to ch 607 IAB 5/11/05 <b>ARC 4130B</b>	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	June 2, 2005 10 a.m. (If requested)

**UTILITIES DIVISION[199]**

Telecommunications providers, amendments to ch 22 IAB 5/11/05 <b>ARC 4157B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	June 24, 2005 9 a.m.
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**VOLUNTEER SERVICE, IOWA COMMISSION ON[555]**

Retired and senior volunteer program (RSVP), ch 7 IAB 5/11/05 <b>ARC 4150B</b>	Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	June 1, 2005 8:30 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Division[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
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   Arts Division[222]  
   Historical Division[223]  
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   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 HUMAN INVESTMENT COUNCIL[417]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
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    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
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PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

**ARC 4197B****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 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The purpose of the proposed amendment is to be consistent with subrule 14.121(6), Late fees. A late fee is assessed to any applicant as a penalty for not renewing the license in a timely manner. At the current time, the Board does not have a penalty for a licensed teacher who does not hold a valid endorsement in the area of service for which the person is employed. Therefore, the Board is proposing a new subrule to address this issue.

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 Tuesday, June 14, 2005, at 1 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 17, 2005. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [barbara.hendrickson@iowa.gov](mailto:barbara.hendrickson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt **new** subrule 14.121(7) as follows:

**14.121(7)** Penalty for failure to have appropriate licensure.

a. Effective September 1, 2005, an additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if the practitioner holds a valid Iowa license but does not hold

an endorsement for the type of service for which the practitioner is employed.

b. Effective September 1, 2005, an additional fee of \$100 per calendar month, not to exceed \$500, shall be imposed if the practitioner does not hold a valid Iowa license.

The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

**ARC 4183B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Termination**

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on October 27, 2004, as **ARC 3760B**, amending Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

The Notice proposed to allow people seeking Food Assistance to apply over the Internet using an electronic application form. Due to the many technical issues that have arisen with the state’s Information Technology Enterprise in the development of such a form, the Department is unable to predict when the form might be implemented.

Since the Department has been unable to complete rule making before the expiration of the Notice of Intended Action, the Department is terminating the rule making commenced in **ARC 3760B** and will renote the proposed amendments at a later date.

**ARC 4199B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration, and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments limit the dispensing of drugs covered under the Medicaid program to a 30-day supply. Dispensing in 90-day quantities has been allowed for certain drugs for prolonged maintenance therapy. Most Iowa Medicaid recipients currently get only a 30-day supply of maintenance drugs due to prevalent prescribing and dispensing practices. The Department wants to make dispensing uniform at 30 days before the implementation of the Medicare Part D drug program.



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

Effective January 1, 2006, all Medicaid recipients who are also eligible for Medicare (approximately 60,000 people) must receive drugs through the Medicare Part D drug benefit. The state will be assessed a monthly charge for each recipient based on drug usage in 2003. Therefore, if Iowa Medicaid were to pay for a 90-day supply of drugs issued in December 2005, it would effectively be billed again for those same drugs in January and February through the Medicare assessment.

These amendments do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by these rules may request a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 15, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, 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](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 234.6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **78.1(2)**, paragraph "**d**," as follows:

Amend the introductory paragraph as follows:

d. When it is not therapeutically contraindicated, the legally qualified practitioner shall prescribe a quantity of medication sufficient for a 30-day supply. ~~Maintenance drugs in the following therapeutic classifications for use in prolonged therapy may be prescribed in 90-day quantities:~~

Rescind subparagraphs (1) through (9).

ITEM 2. Amend subrule **78.1(2)**, paragraph "**f**," subparagraph (2), as follows:

(2) Oral solid forms of covered items shall be prescribed and dispensed in a minimum quantity of 100 units per prescription or the currently available consumer package size except when dispensed via a unit dose system. ~~When used for maintenance therapy, all of the covered items may be prescribed and dispensed in 90-day quantities.~~

## ARC 4198B

### 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 234.6(4) and 600.22, the Department of Human Services proposes to amend Chapter 201, "Subsidized Adoptions," Iowa Administrative Code.

These amendments change the rules on adoption subsidy to correct technical issues affecting the state's ability to claim federal reimbursement of subsidy expenses through the Title IV-E Foster Care and Adoption Assistance Program. In state fiscal year 2004, the Department adopted rules to refocus spending in the adoption subsidy program. Those amendments, published in the Iowa Administrative Bulletin on October 29, 2003, as **ARC 2900B**, eventually took effect on April 20, 2004, after two delays imposed by the Administrative Rules Review Committee. Provisions in **ARC 2900B** were further amended effective July 1, 2004, in response to legislation. Those amendments were published in the Iowa Administrative Bulletin on July 7, 2004, as **ARC 3457B**.

Two issues have been discovered in relation to these amendments:

- In **ARC 2900B**, provisions defining a child at high risk of developing a qualifying medical or behavioral condition as a "child with special needs" were removed from subrule 201.3(1). Provisions in paragraph 201.5(1)"b"(2) allowing the Department to enter into an agreement for future adoption subsidy for a child at risk of being determined a "child with special needs" due to such a condition remained in place. However, since children whose agreements were developed after the rules changed did not meet the Department's definition of a "child with special needs" at the time of their adoption, assistance provided when the child later meets the definition is not eligible for federal matching funds according to federal regulations.

- Amendments in both **ARC 2900B** and **ARC 3457B** specifically limited the amount of special services subsidy that may be paid for attorney fees. The Department has received federal guidance that it is not allowable under Title IV-E of the Social Security Act to put a limit on a specific type of nonrecurring expenses. "Nonrecurring expenses" are defined in 441—201.2(600) to include attorney fees, court filing fees, and other court costs.

To address these issues, these amendments:

- Add a provision for risk of developing a qualifying condition to the list of factors constituting "special needs" for the purpose of eligibility for adoption subsidy, retroactive to the effective date of **ARC 2900B**, and
- Change the language adopted for payment of attorney fees to refer to "nonrecurring expenses."

As under the prior "special needs" definition, subsidy payments are negotiated only for payment of nonrecurring expenses for children who are determined to be "at risk" but have not yet been diagnosed with a qualifying condition. If a qualifying condition later develops, other types of subsidy are negotiated with the adoptive family at that time.

These amendments also make a technical change to update a cross reference for the definition of "mental health professional." The currently referenced rule has been rescinded.

These amendments do not provide for waivers in specified situations because they merely make technical changes in rule language. The Department has adopted a general rule on exceptions at 441—1.8(17A,217) that affected persons may use to request a waiver of these provisions.

Any interested person may make written comments on the proposed amendments on or before June 16, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, 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](mailto:policyanalysis@dhs.state.ia.us).

The Department will hold a public hearing for the purpose of receiving comments on these amendments on the June 16, 2005, from 8:30 to 10:30 a.m. in Conference Room 104, City

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

View Plaza, 1200 University Avenue, Des Moines, Iowa. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code sections 600.17 through 600.23.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **441—201.2(600)**, definition of "mental health professional," as follows:

"Mental health professional" means the same as defined in the department's rule ~~33.1(225C,230A)~~ **441—24.1(225C)**.

ITEM 2. Amend subrule **201.3(1)** by adopting **new** paragraph "**c**" as follows:

c. Effective April 20, 2004, or later, the child has been determined by a qualified professional to be at high risk of developing a qualifying medical, mental, or emotional condition as defined in this subrule. A child in this group is eligible for subsidy of nonrecurring expenses only.

ITEM 3. Amend subparagraph **201.6(1)"a"(7)** as follows:

(7) *Nonrecurring expenses.* ~~Attorney fees and court costs necessary to finalize the adoption. Payment for nonrecurring expenses is limited to \$500 per child. Attorney fees Nonrecurring expenses may be paid when the adoptive family has negotiated an Agreement to Future Adoption Subsidy, Form 470-0762.~~

**ARC 4189B****IOWA FINANCE AUTHORITY[265]****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(1)"b" and 16.5(17), the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 3, "Multifamily Housing," Iowa Administrative Code.

The proposed amendments revise the debt service coverage requirement, remove maximum loan amounts and add a minimum rehabilitation requirement for certain loans.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed amendments until 5 p.m. on June 14, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to [donna.davis@ifa.state.ia.us](mailto:donna.davis@ifa.state.ia.us). Persons who

wish to comment orally should contact Donna Davis at (515)242-4990.

These amendments are intended to implement Iowa Code sections 16.5(17) and 16.18(1).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.5(1)"d"** as follows:

d. ~~The maximum loan amount is \$3 million.~~ The maximum loan term is 24 months for construction financing and 30 years for permanent financing.

ITEM 2. Amend paragraph **3.5(1)"e"** as follows:

e. The required debt service is 1.25 to 1. Loan-to-value ratio will be considered. *The authority may, in limited cases, change the required debt service ratio. Such decision will be made in the sole discretion of the authority.*

ITEM 3. Amend paragraph **3.5(1)"i"** as follows:

i. Borrowers must covenant to observe certain compliance measures, including a recorded ~~land use restrictive agreement (LURA)~~ to ensure long-term affordability.

ITEM 4. Amend rule 265—3.6(16) as follows:

**265—3.6(16) Multifamily loan program for preservation of affordable housing.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects must have been developed using at least one of the following: low-income housing tax credits (LIHTC); state or local HOME funding; tax-exempt bonds; a HUD or USDA Rural Development program (i.e., Section 515); authority HAF funds; or funds of the former Iowa housing corporation (IHC).

2. Units must at a minimum be affordable to tenants with incomes at or below 80 percent of area median income (AMI), and, in most cases, must be affordable to tenants with incomes at or below 50 percent AMI. Mixed income projects will be considered.

3. ~~The maximum loan amount is \$2 million.~~

4 3. Projects must have at least five units.

ITEM 5. Rescind rule 265—3.7(16) and adopt the following **new** rule in lieu thereof:

**265—3.7(16) Multifamily loan program for low-income housing tax credits.** Projects allocated either 4 percent or 9 percent tax credits that have not yet started construction or have not obtained permanent financing are eligible for loans under this category.

ITEM 6. Amend rule 265—3.8(16) as follows:

**265—3.8(16) Multifamily loan program for substantial rehabilitation of nonrestricted projects.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

1. Projects that currently have no affordability restrictions (e.g., Section 8 project based, USDA 515, LIHTC) are eligible for assistance.

2. *Projects must need and sponsors must agree to complete rehabilitation of at least \$6,000 per unit in hard construction costs.*

IOWA FINANCE AUTHORITY[265](cont'd)

2 3. Sponsors must agree that at least 40 percent of the units shall have rents at or below the applicable area FMR (fair market rents as determined by HUD).

3 4. Projects must have at least five units.

## ARC 4186B

### PAROLE BOARD[205]

#### 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 904A.4(2), the Board of Parole hereby gives Notice of Intended Action to amend Chapter 14, “Executive Clemency,” Iowa Administrative Code.

Since the Board’s present rules became effective on July 28, 2004, changes in Board policy and procedure have necessitated a redrafting of rule 205—14.3(914) to amend the procedures relating to executive clemency applications and change time requirements for filing from discharge to conviction and sentence.

Any interested person may submit written comments by 5 p.m. on June 14, 2005, addressed to James C. Twedt, Board of Parole, 420 Watson Powell Jr. Way, Holmes Murphy Building, Des Moines, Iowa 50309. E-mail comments may be filed by the same date and time to [jim.twedt@ibop.state.ia.us](mailto:jim.twedt@ibop.state.ia.us).

A public hearing on this rule will be held on June 14, 2005, at 10 a.m. in the Parole Board Conference Room, 420 Watson Powell Jr. Way, Holmes Murphy Building, Des Moines, Iowa 50309.

This rule is intended to implement Iowa Code chapters 17A, 902, 904A, 906, 908, and 914.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind rule 205—14.3(914) and adopt in lieu thereof the following **new** rule:

#### 205—14.3(914) Executive clemency applications.

##### 14.3(1) Applications to the board.

a. A person convicted of a criminal offense may apply to the board for a recommendation to the governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of citizenship at any time following the conviction.

b. An application for a pardon or commutation of sentence shall be on the form provided by the board. The form may be obtained by contacting the board business office.

c. An application for a reprieve or remission of fines or forfeitures shall be in writing.

d. The applicant shall submit the executive clemency application to the board business office.

14.3(2) Applications to the governor. Upon the request of the governor, the board shall take charge of all correspondence in reference to an executive clemency application filed

with the governor and shall provide the governor with the board’s advice and recommendation.

##### 14.3(3) Restoration of citizenship.

a. A person convicted of a criminal offense may apply for a restoration of citizenship at any time after conviction and sentencing; all persons who are United States citizens may apply to the governor for restoration of citizenship, provided they are not currently incarcerated in a local, state, or federal correctional facility.

b. A person applying for restoration of citizenship shall submit the executive clemency application form to the governor. This form may be obtained from the governor’s office or from the board. The governor shall obtain a recommendation regarding restoration of citizenship from the board.

## ARC 4187B

### PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

#### 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 455G.4(3) and 455G.23, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 14, “Aboveground Petroleum Storage Tank Fund,” Iowa Administrative Code.

Chapter 14 as amended will provide an extended deadline for the reimbursement of claims for the removal or upgrade of aboveground storage tank sites, pursuant to Iowa Code section 455G.23.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on June 14, 2005. Interested persons may submit written or oral comments to the Administrator of the UST Fund at 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; E-mail: [Scott.Scheidel@aon.com](mailto:Scott.Scheidel@aon.com); telephone (515)225-9263; or facsimile (515)225-9361.

These rules do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

These rules are intended to implement 2005 Iowa Acts, Senate File 141.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 591—14.8(455G) as follows:

**591—14.8(455G) Upgrade expenses.** Only upgrade expenses incurred after January 1, 2004, and not later than ~~February 18, 2005~~ *December 31, 2005*, are eligible for reimbursement. Only expenses reasonable and necessary to the installation or improvement of aboveground petroleum storage tank equipment or systems required to comply with 40

## PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

CFR Section 112 are eligible for reimbursement. Reasonable and necessary expenses include, but are not limited to, installation or upgrade of the following:

1. Secondary containment.
2. Corrosion protection.
3. Loss prevention.
4. Security.
5. Drainage.
6. Removal of noncompliant tanks.

ITEM 2. Amend rule 591—14.9(455G) as follows:

**591—14.9(455G) Permanent closure expenses.** Only expenses incurred for permanent closure activities occurring after January 1, 2004, and not later than ~~February 18~~ *December 31, 2005*, are eligible for reimbursement. Only expenses for activities reasonable and necessary to permanently close the aboveground petroleum storage tank site are eligible for reimbursement. Postclosure costs associated with activities to improve the aboveground petroleum storage tank site are not eligible for reimbursement. Reasonable and necessary activities eligible for reimbursement include, but are not limited to, the following:

1. Removal of the tank and tank piping system.
2. Removal of tank support and confinement systems.
3. Removal of security systems.
4. Disposal of waste petroleum and other waste material, including concrete.

**ARC 4182B****PHARMACY EXAMINERS  
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 124.301, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendments were approved at the April 20, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments establish requirements specifically related to the dispensing, without a prescription, of pseudoephedrine-containing drug products classified pursuant to 2005 Iowa Acts, Senate File 169, as Schedule V controlled substances under the Iowa Controlled Substances Act.

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 June 14, 2005. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4181B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 124.212 and 2005 Iowa Acts, Senate File 169, section 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

**ARC 4174B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 21, “Licensure of Barbers,” Chapter 24, “Continuing Education for Barbers,” and Chapter 26, “Fees,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—21.1(158)** as follows:

Rescind the definition of “lapsed license.”

Adopt the following **new** definitions in alphabetical order:

“Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be ac-

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

tive. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a barber to an applicant who is or has been licensed in another state.

“Reactivate” or “reactivation” means the process as outlined in rule 21.16(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Amend rule 645—21.5(158) by adopting the following **new** subrule:

**21.5(6)** Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 21.9(1) and adopt in lieu thereof the following **new** subrule:

**21.9(1)** The biennial license renewal period for a license to practice barbering shall begin on July 1 of each even-numbered year and end on June 30 of each even-numbered year. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 21.9(2) and adopt in lieu thereof the following **new** subrule:

**21.9(2)** A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—24.2(158). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.
- c. Persons licensed to practice as barbers shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

ITEM 5. Rescind subrule 21.9(3) and adopt in lieu thereof the following **new** subrule:

**21.9(3)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 26.1(11). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 6. Rescind subrule 21.9(4) and adopt in lieu thereof the following **new** subrule:

**21.9(4)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 7. Adopt **new** subrule 21.9(5) as follows:

**21.9(5)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a barber in Iowa until the license is reactivated. A licensee who practices as a barber in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 8. Rescind and reserve rules **645—21.10(272C)** and **645—21.11(272C)**.

ITEM 9. Rescind rule 645—21.15(272C) and adopt in lieu thereof the following **new** rule:

**645—21.15(272C) License denial.**

**21.15(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing, by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**21.15(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**21.15(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 10. Adopt the following **new** rules:

**645—21.16(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**21.16(1)** Submit a reactivation application on a form provided by the board.

**21.16(2)** Pay the reactivation fee that is due as specified in 645—subrule 26.1(12).

**21.16(3)** Provide verification of current competence to practice as a barber by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;

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

3. Current licensure status; and
  4. Any disciplinary action taken against the license; and
- (2) Verification of completion of eight hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of eight hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the state examination administered by the board.

**645—21.17(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 21.16(17A,147,272C) prior to practicing as a barber in this state.

ITEM 11. Amend rule **645—24.1(158)** as follows:

Rescind the definitions of "administrator," "approved sponsor," and "lapsed license."

Adopt the following **new** definition in alphabetical order:

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Active license" means ~~the a license of a person who is acting, practicing, functioning, and working in compliance with license requirements that is current and has not expired.~~

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules ~~which has received approval by the board pursuant to these rules.~~

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means ~~the license of a person who is not engaged in practice in the state of Iowa. a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

ITEM 12. Amend subrules 24.2(3) and 24.2(4) as follows:

**24.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be ~~approved by the board or~~

~~otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them in accordance with these rules.~~

**24.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 13. Amend rule 645—24.3(158), catchwords, as follows:

**645—24.3(158,272C) Standards for approval.**

ITEM 14. Amend subrule 24.3(1), introductory paragraph and paragraph "c," as follows:

**24.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is ~~determined by the board that~~ the continuing education activity:

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The~~ *At the time of audit, the board may request the qualifications of presenters;*

ITEM 15. Amend subrule **24.3(1)**, paragraph "e," subparagraphs (2) and (3), as follows:

(2) Number of program contact hours ~~(One contact hour usually equals one hour of continuing education credit.); and~~

(3) Official signature or verification by program sponsor *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 16. Rescind rule 645—24.4(158) and adopt the following **new** rule in lieu thereof:

**645—24.4(158,272C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**24.4(1)** The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

**24.4(2)** The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this rule;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

**24.4(3)** For auditing purposes, all licensees must retain the information identified in subrule 24.4(2) for two years after the biennium has ended.

**24.4(4)** Information identified in subrule 24.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

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

**24.4(5)** 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 if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

**24.4(6)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 17. Rescind rule 645—24.5(158) and adopt the following **new** rule in lieu thereof:

**645—24.5(158,272C) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 18. Rescind rules 645—24.6(158) and 645—24.7(158,272C) and adopt in lieu thereof the following **new** rules:

**645—24.6(158,272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**24.6(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**24.6(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**24.6(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—24.7(158,272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

- 24.7(1)** Failure to cooperate with a board audit.

**24.7(2)** Failure to meet the continuing education requirement for licensure.

**24.7(3)** Falsification of information on the license renewal form.

**24.7(4)** Falsification of continuing education information.

ITEM 19. Rescind and reserve rules **645—24.8(158,272C)**, **645—24.9(158,272C)** and **645—24.10(158,272C)**.

ITEM 20. Amend subrules 26.1(12) and 26.1(13) as follows:

**26.1(12)** Reinstatement fee for a lapsed or an inactive license is \$50 *Reactivation fee is \$100.*

**26.1(13)** Duplicate or reissued license certificate *or wallet card* fee is \$10.

ITEM 21. Rescind and reserve subrule **26.1(14)**.

**ARC 4173B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Barber Examiners hereby gives Notice of Intended Action to amend Chapter 21, “Licensure of Barbers,” Chapter 24, “Continuing Education for Barbers,” and Chapter 25, “Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools,” Iowa Administrative Code.

Proposed changes amend educational requirements to address refugees and immigrants who may have missing records, add an additional requirement for licensure, add additional specific continuing education criteria and add new subrule 25.2(33) that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 158 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

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

ITEM 1. Amend subrule **21.2(1)**, paragraph “**d**,” as follows:

d. The applicant shall present proof of completion of a tenth-grade education or the equivalent. *In the event the applicant is a refugee or immigrant from a country where high school records no longer exist, the applicant shall be considered to have met this requirement when the applicant submits an affidavit attesting to the fact that the applicant has met the tenth-grade requirement.*

ITEM 2. Amend subrule **21.2(1)** by relettering paragraphs “**f**” through “**i**” as “**g**” through “**j**” and adopting **new** paragraph “**f**” as follows:

f. The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a barber, sent directly from the state(s) to the Iowa Board of Barbers Examiners office.

ITEM 3. Rescind subrule 24.3(2) and insert the following **new** subrule in lieu thereof:

**24.3(2)** Specific criteria.

a. Continuing education may be obtained by attending programs that meet the criteria in 24.3(1) approved or offered by the following:

- (1) National, state or local barber associations.
- (2) Barber schools and institutes.
- (3) Universities, colleges or community colleges.

b. Continuing education credit offered for cosmetology continuing education credit will be accepted for barber continuing education credit.

ITEM 4. Adopt **new** subrule 25.2(33) as follows:

**25.2(33)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

## ARC 4176B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 41, “Licensure of Chiropractic Physicians,” Chapter 44, “Continuing Education for Chiropractic Physicians,” and Chapter 46, “Fees,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des

Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 151 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—41.1(151)** as follows:

Rescind the definition of “lapsed license.”

Adopt the following **new** definitions in alphabetical order: “Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Reactivate” or “reactivation” means the process as outlined in rule 41.14(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

Amend the following definition:

“Licensure by endorsement” means the issuance of an Iowa license to practice chiropractic to an applicant who is **currently or has been** licensed in another state and meets the criteria for licensure in this state.

ITEM 2. Rescind subrule **41.6(12)**, paragraph “**e**,” and adopt in lieu thereof the following **new** paragraph “**e**”:

e. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- (1) Licensee’s name;
- (2) Date of initial licensure;
- (3) Current licensure status; and
- (4) Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 41.8(1) and adopt in lieu thereof the following **new** subrule:

**41.8(1)** The biennial license renewal period for a license to practice as a chiropractic physician shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration.



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

Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 41.8(3) and adopt in lieu thereof the following **new** subrule:

**41.8(3)** A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—44.2(272C) and the mandatory reporting requirements of subrule 41.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application, continuing education report form and renewal fee before the license expiration date.

ITEM 5. Rescind subrule 41.8(5) and adopt in lieu thereof the following **new** subrule:

**41.8(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 6. Amend subrule 41.8(7) as follows:

**41.8(7)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 46.1(4). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within ~~30 days following the expiration date on the wallet card~~ *the grace period*.

ITEM 7. Adopt **new** subrule 41.8(8) as follows:

**41.8(8)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a chiropractor in Iowa until the license is reactivated. A licensee who practices as a chiropractor in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 8. Rescind and reserve rules **645—41.9(272C)** and **645—41.10(272C)**.

ITEM 9. Rescind rule 645—41.13(17A,151,272C) and adopt in lieu thereof the following **new** rule:

**645—41.13(17A,151,272C) License denial.**

**41.13(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**41.13(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**41.13(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 10. Adopt the following **new** rules:

**645—41.14(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**41.14(1)** Submit a reactivation application on a form provided by the board.

**41.14(2)** Pay the reactivation fee that is due as specified in 645—Chapter 46.

**41.14(3)** Provide verification of current competence to practice as a chiropractic physician by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation; and

(3) Verification of passing the Special Purpose Examination for Chiropractic (SPEC) if the applicant does not have a current license and has not been in active practice in the United States during the past five years.

**645—41.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 41.14(17A,147,272C) prior to practicing as a chiropractic physician in this state.

ITEM 11. Amend rule **645—44.1(151)** as follows:

Rescind the definitions of "administrator," "approved sponsor," and "lapsed license."

Adopt the following **new** definitions:

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for

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

approval criteria in the rules and includes a posttest or certificate of completion.

“PACE” means Providers of Approved Continuing Education of the Federation of Chiropractic Licensing Boards.

Amend the following definitions:

“Active license” means ~~the~~ *a license of a person who is acting, practicing, functioning, and working in compliance with license requirements that is current and has not expired.*

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.~~

“Hour of continuing education” means ~~a clock hour~~ *at least 50 minutes* spent by a licensee in actual attendance at and completion of *an* approved continuing education activity.

“Inactive license” means ~~the license of a person who is not engaged in practice in the state of Iowa~~ *a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.*

ITEM 12. Amend subrules 44.2(3), 44.2(4) and 44.2(5) as follows:

**44.2(3)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses *with the exception of two hours in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151.* Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 60 hours of continuing education per biennium for each subsequent license renewal.

**44.2(4)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be ~~approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them in accordance with these rules.~~

**44.2(5)** No hours of continuing education shall be carried over into the next biennium except as stated in subrules 44.2(2), 44.2(3), and 44.3(2)“a”(3). *A licensee whose license is reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 13. Amend rule 645—44.3(151), catchwords, as follows:

**645—44.3(151,272C) Standards for approval.**

ITEM 14. Amend subrule 44.3(1), introductory paragraph and paragraph “c,” as follows:

**44.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit ~~if it is determined by the board that the continuing education activity:~~

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the

subject matter of the program. ~~The~~ *At the time of audit, the board may request the qualifications of presenters;*

ITEM 15. Amend subrule **44.3(1)**, paragraph “e,” subparagraphs (2) and (3), as follows:

(2) Number of program clock hours (~~One clock hour equals one hour of continuing education credit.~~); and

(3) Official signature or verification by program sponsor *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 16. Amend subrule **44.3(2)**, paragraph “a,” subparagraph (1), as follows:

(1) At least 36 hours of continuing education credit obtained from a ~~board approved program that relates to the clinical practice of chiropractic~~ *directly relates to clinical case management of chiropractic patients. These hours shall be earned by completing a program in which an instructor conducts the class.*

ITEM 17. Amend subrule **44.3(2)**, paragraph “a,” by adopting **new** subparagraph (5) as follows:

(5) Two hours of continuing education credit at the time of the first biennial renewal period and one hour every biennial renewal period after that in the content areas of Iowa Administrative Code, 645—Chapters 40 through 46 and Iowa Code chapter 151.

ITEM 18. Amend subrule **44.3(2)**, paragraph “b,” as follows:

b. Continuing education hours of credit may be obtained by:

(1) Teaching at a Council on Chiropractic Education (CCE)-*approved program* or board of chiropractic examiners-approved institution. Hours may be used only for the initial session ~~and shall have prior board approval.~~

(2) Completing electronically transmitted programs/activities or ~~home independent study~~ programs/activities that have a certificate of completion.

(3) *A licensee who is a presenter of an approved continuing education program may receive credit on a one-time basis for the initial presentation of the program.*

(4) *Completing continuing education provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association, International Chiropractic Association, or any sponsor approved by Providers of Approved Continuing Education (PACE).*

ITEM 19. Amend subrule **44.3(2)** by adopting **new** paragraphs “c” and “d” as follows:

c. A maximum of 24 hours per biennium will be allowed for independent study.

d. Continuing education may not be obtained by completing or teaching classes in basic anatomy and physiology or undergraduate level coursework.

ITEM 20. Amend subrule 44.3(3) as follows:

**44.3(3)** Specific criteria for presenters and sponsors.

a. ~~All continuing education program sponsors must disclose in writing to participants the names of all instructors/presenters that are affiliated or employed by any entity selling or promoting products.~~

b. All instructors/presenters of a continuing education activity must include, as part of the continuing education activity, verbal and written statements to the participants regarding any affiliations or employment relationships with

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

any entity promoting, developing or marketing products, services, procedures or treatment methods.

ITEM 21. Rescind rule 645—44.4(151) and adopt the following **new** rule in lieu thereof:

**645—44.4(151,272C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**44.4(1)** The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

**44.4(2)** The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

**44.4(3)** For auditing purposes, all licensees must retain the information identified in 44.4(2) for two years after the biennium has ended.

**44.4(4)** Information identified in subrule 44.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

**44.4(5)** 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 if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

**44.4(6)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 22. Rescind rule 645—44.5(272C) and adopt the following **new** rule in lieu thereof:

**645—44.5(151,272C) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 23. Rescind rules 645—44.6(272C) and 645—44.7(272C) and adopt the following **new** rules in lieu thereof:

**645—44.6(272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an exten-

sion of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**44.6(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**44.6(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**44.6(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—44.7(151,272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

**44.7(1)** Failure to cooperate with a board audit.

**44.7(2)** Failure to meet the continuing education requirement for licensure.

**44.7(3)** Falsification of information on the license renewal form.

**44.7(4)** Falsification of continuing education information.

ITEM 24. Rescind rules 645—44.8(272C) to 645—44.11(272C).

ITEM 25. Amend subrules 46.1(5) and 46.1(6) as follows:

**46.1(5)** Reinstatement fee for a lapsed license or an inactive license is \$50. *Reactivation fee is \$150.*

**46.1(6)** Duplicate or reissued license certificate or wallet card fee is \$10.

ITEM 26. Rescind and reserve subrule 46.1(7).

**ARC 4175B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 41, "Licensure of Chiro-

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

practic Physicians,” Chapter 44, “Continuing Education for Chiropractic Physicians,” and Chapter 45, “Discipline for Chiropractic Physicians,” Iowa Administrative Code.

Proposed changes remove reference to the form in which payment is to be made, remove language in subrule 44.2(2) that is no longer applicable, add a new subrule that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee, and modify the cause for discipline statement regarding advertisements.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 151 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **41.2(1)**, paragraph “**c**,” as follows:

c. An applicant shall submit the appropriate fee payable by check or money order to the Iowa Board of Chiropractic Examiners. The fee is nonrefundable.

ITEM 2. Rescind and reserve subrule **44.2(2)**.

ITEM 3. Amend subparagraph **44.3(2)“a”(4)** as follows:

(4) Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 44.3(1). ~~These classes are approved by the board and do not require prior approval or postapproval.~~

ITEM 4. Amend subrule 45.2(5) as follows:

**45.2(5)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation *or representations that are likely to cause the average person to misunderstand.*

ITEM 5. Adopt **new** subrule 45.2(30) as follows:

**45.2(30)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**ARC 4190B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, “Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors for Cosmetology Arts and Sciences,” Chapter 62, “Fees,” and Chapter 64, “Continuing Education for Cosmetology Arts and Sciences,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 157 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—60.1(157)** as follows:

Rescind the definitions of “lapsed license” and “self-study course.”

Adopt the following **new** definitions in alphabetical order: “Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Reactivate” or “reactivation” means the process as outlined in rule 60.17(17A,147,272C) by which an inactive license is restored to active status.

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

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

Amend the following definition:

“Licensure by endorsement” means the issuance of an Iowa license to practice cosmetology to an applicant who ~~has held a license~~ *is or has been licensed* in another state.

ITEM 2. Amend rule **645—60.7(157)** by rescinding numbered paragraph “2” and adopting in lieu thereof the following **new** numbered paragraph “2”:

2. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Verifications of current licensure in the practice discipline in another state for at least 12 months in the 24-month period preceding the submission of the application must be sent from each state, territory, province or foreign country or the District of Columbia. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- Licensee’s name;
- Date of initial licensure;
- Current licensure status; and
- Any disciplinary action taken against the license.

ITEM 3. Rescind rule 645—60.8(157) and adopt the following **new** rule in lieu thereof:

**645—60.8(157) License renewal.**

**60.8(1)** The biennial license renewal period for a license to practice cosmetology arts and sciences shall begin on April 1 of one year and end on March 31 two years later. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**60.8(2)** An individual who was issued an initial license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

**60.8(3)** A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—60.2(157). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

c. Licensees currently licensed in Iowa but practicing exclusively in another state may comply with Iowa continuing education requirements for license renewal by meeting the continuing education requirements of the state where the licensee practices. Those licensees living and practicing exclusively in a state which has no continuing education requirement for renewal of a license shall not be required to meet Iowa’s continuing education requirement but shall pay all renewal fees when due.

**60.8(4)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse

information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**60.8(5)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 62.1(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**60.8(6)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice cosmetology arts and sciences in Iowa until the license is reactivated. A licensee who practices cosmetology arts and sciences in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 4. Rescind and reserve rules **645—60.13(272C)** and **645—60.14(272C)**.

ITEM 5. Rescind rule **645—60.16(272C)** and adopt the following **new** rules:

**645—60.16(272C) License denial.**

**60.16(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing, by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**60.16(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**60.16(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

**645—60.17(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**60.17(1)** Submit a reactivation application on a form provided by the board.

**60.17(2)** Pay the reactivation fee that is due as specified in rule 645—62.1(147,157).

**60.17(3)** Provide verification of current competence to practice cosmetology arts and sciences by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;

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

3. Current licensure status; and
  4. Any disciplinary action taken against the license; and
- (2) Verification of completion of 12 hours of continuing education within two years of application for reactivation.
- b. If the license has been on inactive status for more than five years, an applicant must provide the following:
- (1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:
    1. Licensee's name;
    2. Date of initial licensure;
    3. Current licensure status; and
    4. Any disciplinary action taken against the license; and
  - (2) Verification of completion of 24 hours of continuing education within two years of application for reactivation.

**645—60.18(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 60.17(17A,147,272C) prior to practicing cosmetology arts and sciences in this state.

ITEM 6. Amend subrule 62.1(4) as follows:

**62.1(4) Reinstatement fee for a lapsed license or an inactive license shall be \$50. Reactivation fee is \$100.**

ITEM 7. Amend rule **645—64.1(157)** as follows:

Rescind the definitions of "administrator," "approved sponsor," and "lapsed license."

Adopt the following **new** definition in alphabetical order: "Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Active license" means ~~the a license of a person who is acting, functioning, and working in compliance with license requirements that is current and has not expired.~~

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, ~~which has received advance approval by the board pursuant to these rules.~~

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means ~~the license of a person who is not engaged in practice in the state of Iowa a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

ITEM 8. Amend subrules 64.2(3) and 64.2(4) as follows:

**64.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. ~~These hours must be approved by the board or otherwise meet the requirements herein and be approved by~~

~~the board pursuant to statutory provisions and the rules that implement them in accordance with these rules.~~

**64.2(4)** No hours of continuing education shall be carried over into the next biennium. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 9. Amend rule 645—64.3(157), catchwords, as follows:

**645—64.3(157,272C) Standards for approval.**

ITEM 10. Amend subrule 64.3(1), introductory paragraph and paragraph "c," as follows:

**64.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit ~~if it is determined by the board that the continuing education activity:~~

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The~~ *At the time of audit, the board may request the qualifications of presenters;*

ITEM 11. Amend subrule **64.3(1)**, paragraph "e," subparagraphs (2) and (3), as follows:

(2) Number of program contact hours ~~(One contact hour equals one hour of continuing education credit); and~~

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 12. Rescind rule 645—64.4(157) and adopt the following **new** rule in lieu thereof:

**645—64.4(157,272C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**64.4(1)** The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

**64.4(2)** The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

**64.4(3)** For auditing purposes, all licensees must retain the information identified in subrule 64.4(2) for two years after the biennium has ended.

**64.4(4)** Information identified in subrule 64.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

**64.4(5)** 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 if the board determines that the deficiency was the result of

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

good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

**64.4(6)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 13. Rescind rule 645—64.5(157) and adopt the following **new** rule in lieu thereof:

**645—64.5(157,272C) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 14. Rescind rule 645—64.6(157,272C) and adopt the following **new** rule in lieu thereof:

**645—64.6(157,272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

- 64.6(1)** Failure to cooperate with a board audit.
- 64.6(2)** Failure to meet the continuing education requirement for licensure.
- 64.6(3)** Falsification of information on the license renewal form.
- 64.6(4)** Falsification of continuing education information.

ITEM 15. Rescind and reserve rules **645—64.7(157,272C)** and **645—64.8(157,272C)**.

ITEM 16. Rescind rule 645—64.9(157,272C) and adopt the following **new** rule in lieu thereof:

**645—64.9(157,272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**64.9(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**64.9(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board,

the licensee must reapply for a continuance of the extension or exemption.

**64.9(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

ITEM 17. Rescind rules **645—64.10(157,272C)** and **645—64.11(272C)**.

**ARC 4191B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 64, “Continuing Education for Cosmetology Arts and Sciences,” and Chapter 65, “Discipline for Cosmetology Arts and Sciences Licensees, Instructors, Salons, and Schools,” Iowa Administrative Code.

These proposed amendments increase the number of continuing education hours required, identify groups that can offer accepted continuing education credits, define continuing education requirements for certification services, clarify continuing education hour requirements, limit self-study continuing education hours allowed, and add a new subrule 65.2(35) to provide the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 157 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 64.2(1), introductory paragraph, as follows:

**64.2(1)** The biennial continuing education compliance period shall extend for a period that begins on April 1 of one

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

year and ends on March 31 two years later. All licenses shall be renewed on a biennial basis.

Each Prior to April 30, 2006, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 8 hours of *board-approved* continuing education approved by the board for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 16 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.

Beginning April 30, 2006, each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 12 hours of *board-approved* continuing education for each license held, of which 4 hours shall be in the prescribed practice discipline. Licensees who are instructors of cosmetology arts and sciences shall obtain 20 hours of continuing education approved by the board, of which 8 hours shall be in teaching methodology.

ITEM 2. Amend subrule **64.3(2)**, paragraph “b,” as follows:

b. The licensee may attend programs on product knowledge, methods, and systems. *Continuing education shall be directly related to the technique and theory specific to the practice of cosmetology arts and sciences. Business classes specific to owning or managing a salon are acceptable.* No direct selling of products is allowed as part of a continuing education offering.

ITEM 3. Amend subrule **64.3(2)**, paragraph “d,” as follows:

d. The licensee may participate in *self-study courses independent study* as defined in 645—64.1(157). *A maximum of two hours of independent study per biennium will be allowed. Independent study must be related to either Iowa cosmetology law and administrative rules or sanitation.*

ITEM 4. Amend subrule **64.3(2)** by adopting **new** paragraph “g” as follows:

g. A licensee who has an attestation on file with the board as required in 645—subrule 60.4(6) and who continues to utilize the procedure or device specified in the attestation shall meet the requirements of 645—Chapter 64 at the time of license renewal. A minimum of 1 hour of continuing education in the area of each procedure or device for which the licensee has received board certification shall be required beginning with the renewal cycle of April 1, 2006, to March 31, 2008. Continuing education credit in the area of the procedure or device is in addition to the 12 hours of continuing education required for renewal of the license.

ITEM 5. Amend subrule **64.3(2)** by adopting **new** paragraphs “h” and “i” as follows:

h. Continuing education shall be obtained by attending programs that meet the criteria in 64.3(1) and are approved or offered by the following:

- (1) National, state or local associations of cosmetology arts and sciences;
- (2) Schools and institutes of cosmetology arts and sciences;
- (3) Universities, colleges or community colleges;
- (4) National, state or local associations of barbers;
- (5) Barber schools or institutes;
- (6) Manufacturers of laser or microdermabrasion products;
- (7) Institutes of laser technology.

i. Two hours of continuing education per biennium must be specific to Iowa cosmetology law and administrative rules.

ITEM 6. Adopt **new** subrule 65.2(35) as follows:

**65.2(35)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

## ARC 4177B

PROFESSIONAL LICENSURE  
DIVISION[645]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers hereby gives Notice of Intended Action to amend Chapter 121, “Licensure of Hearing Aid Dispensers,” Chapter 122, “Continuing Education for Hearing Aid Dispensers,” and Chapter 125, “Fees,” Iowa Administrative Code.

These proposed amendments define licensure status as active or inactive, define the process for license reactivation and reinstatement, change from pre- and post-continuing education audits prior to licensure to post-continuing education audits following licensure, add the grounds for disciplinary action, and establish the fee for reactivation.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 8 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **645—121.1(154A)** as follows:

Rescind the definition of “lapsed license.”

Adopt the following **new** definitions in alphabetical order: “Active license” means a license that is current and has not expired.

“Grace period” means the 30-day period following expiration of a license when the license is still considered to be ac-



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

tive. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“Inactive license” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“Licensure by endorsement” means the issuance of an Iowa license to practice as a hearing aid dispenser to an applicant who is or has been licensed in another state.

“Reactivate” or “reactivation” means the process as outlined in rule 121.14(17A,147,272C) by which an inactive license is restored to active status.

“Reinstatement” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 2. Rescind subrule 121.6(4) and adopt the following **new** subrule in lieu thereof:

**121.6(4)** Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

ITEM 3. Rescind subrule 121.9(1) and adopt in lieu thereof the following **new** subrule:

**121.9(1)** The biennial license renewal period for a license to dispense hearing aids shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis. The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 4. Rescind subrule 121.9(2) and adopt in lieu thereof the following **new** subrule:

**121.9(2)** A licensee seeking renewal shall:

- a. Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and
- b. Submit the completed renewal application and renewal fee before the license expiration date.

ITEM 5. Rescind subrule 121.9(4) and adopt in lieu thereof the following **new** subrule:

**121.9(4)** Mandatory reporter training requirements.

- a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.” Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

- (1) Is engaged in active duty in the military service of this state or the United States.
- (2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 122.

f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”

ITEM 6. Rescind subrule 121.9(5) and adopt the following **new** subrule in lieu thereof:

**121.9(5)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 125.1(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 7. Adopt **new** subrule 121.9(6) as follows:

**121.9(6)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

ITEM 8. Adopt **new** subrule 121.9(7) as follows:

**121.9(7)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a hearing aid dispenser in Iowa until the license is reactivated. A licensee who practices as a hearing aid dispenser in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to

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

Iowa Code section 147.86, and other available legal remedies.

ITEM 9. Rescind and reserve rules **645—121.10(272C)** and **645—121.11(272C)**.

ITEM 10. Rescind rule 645—121.13(272C) and adopt in lieu thereof the following **new** rule:

**645—121.13(272C) License denial.**

**121.13(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**121.13(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**121.13(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

ITEM 11. Adopt the following **new** rules:

**645—121.14(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**121.14(1)** Submit a reactivation application on a form provided by the board.

**121.14(2)** Pay the reactivation fee that is due as specified in 645—subrule 125.1(6).

**121.14(3)** Provide verification of current competence to practice as a hearing aid dispenser by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and

4. Any disciplinary action taken against the license; and  
(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

**645—121.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 121.14(17A,147,272C) prior to practicing as a hearing aid dispenser in this state.

ITEM 12. Amend rule **645—122.1(154A)** as follows:

Rescind the definitions of "administrator," "approved sponsor," and "lapsed license."

Adopt the following **new** definition in alphabetical order:

"Independent study" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.

Amend the following definitions:

"Active license" means ~~the a license of a person who is acting, practicing, functioning, and working in compliance with license requirements that is current and has not expired.~~

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, ~~which has received approval by the board pursuant to these rules.~~

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period ~~or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.~~

"Hour of continuing education" means ~~a clock hour at least 50 minutes~~ spent by a licensee in actual attendance at and completion of *an* approved continuing education activity.

"Inactive license" means ~~the license of a person who is not engaged in practice in the state of Iowa a license that has expired because it was not renewed by the end of the grace period. The category of "inactive license" may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.~~

ITEM 13. Amend subrules 122.2(3) and 122.2(4) as follows:

**122.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be ~~approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them in accordance with these rules.~~

**122.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. *A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.*

ITEM 14. Amend rule 645—122.3(154A), catchwords, as follows:

**645—122.3(154A,272C) Standards for approval.**

ITEM 15. Amend subrule 122.3(1), introductory paragraph and paragraph "c," as follows:

**122.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit ~~if it is determined by the board that the continuing education activity:~~

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

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~An application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The~~ *At the time of audit, the board may request the qualifications of the presenters;*

ITEM 16. Amend subrule **122.3(1)**, paragraph “e,” subparagraphs (2) and (3), as follows:

(2) Number of program contact hours ~~(One contact hour equals one hour of continuing education credit.);~~ and

(3) ~~Official signature or verification by program sponsor~~ *Certificate of completion or evidence of successful completion of the course provided by the course sponsor.*

ITEM 17. Rescind rule 645—122.4(154A) and adopt the following **new** rule in lieu thereof:

**645—122.4(154A,272C) Audit of continuing education report.** After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

**122.4(1)** The board may audit a percentage of its licensees and may, at its discretion, determine to audit a licensee. A licensee whose license renewal application is submitted during the grace period may be subject to a continuing education audit.

**122.4(2)** The licensee shall provide the following information to the board for auditing purposes:

a. Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

**122.4(3)** For auditing purposes, all licensees must retain the information identified in subrule 122.4(2) for two years after the biennium has ended.

**122.4(4)** Information identified in subrule 122.4(2) must be submitted within one month after the date of notification of the audit. Extension of time may be granted on an individual basis.

**122.4(5)** 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 if the board determines that the deficiency was the result of good-faith conduct on the part of the licensee. The deadline for receipt of the documentation for this make-up credit is 120 days from the date of mailing to the address of record at the board office.

**122.4(6)** Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before license renewal.

ITEM 18. Rescind rule 645—122.5(154A) and adopt the following **new** rule in lieu thereof:

**645—122.5(154A,272C) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or

2. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

3. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

4. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

ITEM 19. Rescind rules 645—122.6(154A,272C) and 645—122.7(154A,272C), and adopt the following **new** rules in lieu thereof:

**645—122.6(154A,272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**122.6(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**122.6(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**122.6(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—122.7(154A,272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

**122.7(1)** Failure to cooperate with a board audit.

**122.7(2)** Failure to meet the continuing education requirement for licensure.

**122.7(3)** Falsification of information on the license renewal form.

**122.7(4)** Falsification of continuing education information.

ITEM 20. Rescind rules **645—122.8(154A,272C)**, **645—122.9(154A,272C)**, **645—122.10(154A,272C)** and **645—122.11(272C)**.

ITEM 21. Amend subrules 125.1(6) and 125.1(7) as follows:

**125.1(6)** ~~Reinstatement fee for a lapsed license or an inactive license is \$50~~ *Reactivation fee is \$100.*

**125.1(7)** ~~Duplicate or reissued license certificate or wallet card fee is \$10.~~

**ARC 4178B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers hereby gives Notice of Intended Action to amend Chapter 121, “Licensure of Hearing Aid Dispensers,” Chapter 122, “Continuing Education for Hearing Aid Dispensers,” and Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

Proposed changes require submission of a supervisor report regarding completion of training for holders of a temporary permit, amend initial licensure language to not require that the examination needs to be taken within 12 months prior to application, clarify the requirements for licensure by endorsement, and adopt a new subrule 124.2(36) that provides the Board the ability to discipline a licensee for breach of an agreement or contract with the Impaired Practitioner Review Committee.

Any interested person may make written comments on the proposed amendments no later than June 14, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 14, 2005, from 8 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** paragraph **121.2(4)“d”** as follows:

d. Submitting a report on a board-approved form verifying completion of the supervision and training requirements in accordance with 121.2(1).

ITEM 2. Amend rule 645—121.3(154A), introductory paragraph, as follows:

**645—121.3(154A) Supervision requirements.** *The supervisor’s report must provide assurance of completion of training pursuant to 121.2(1).*

ITEM 3. Adopt **new** paragraph **121.3(1)“g”** as follows:

g. Submit, on a board-approved form, a final, completed supervision report for trainees prior to taking the board-approved examination.

ITEM 4. Amend subrule 121.4(5) as follows:

**121.4(5)** Each applicant must successfully pass the national examination within the 12 months immediately prior to submission of the application.

ITEM 5. Renumber subrules **121.4(6)** to **121.4(8)** as **121.4(7)** to **121.4(9)** and adopt the following **new** subrule 121.4(6):

**121.4(6)** Examination candidates who hold a temporary permit are required to have a completed supervisory report in accordance with paragraph 121.3(1)“g.”

ITEM 6. Rescind subrule 121.6(6) and adopt the following **new** subrule in lieu thereof:

**121.6(6)** Provides evidence of:

a. Completing a minimum of 32 continuing education hours within the 24 months prior to application; or

b. Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences.

ITEM 7. Rescind subrule 122.3(2) and adopt the following **new** subrule in lieu thereof:

**122.3(2)** Specific criteria. Continuing education hours of credit may be obtained by completing the following:

a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

1 academic semester hour = 15 continuing education hours; and

1 academic quarter hour = 10 continuing education hours.

b. A maximum of 4 hours of credit for telnet courses. Independent study telnet courses are acceptable only when an on-site monitor is present.

c. Attending programs, conferences, business, technical, or professional seminars which enhance a licensee’s ability to provide quality hearing health care services.

ITEM 8. Adopt **new** subrule 124.2(36) as follows:

**124.2(36)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

**ARC 4192B****PUBLIC HEALTH  
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 135.11 and 136A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, “Center for Congenital and Inherited Disorders,” Iowa Administrative Code.

These proposed amendments provide an increase in the newborn screening fee and also make changes to the Iowa

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

Registry for Congenital and Inherited Disorders parental notification project.

Item 1 adds a courier service as a means for submitting specimens to the University Hygienic Laboratory.

Item 2 provides clarification for the central laboratory's responsibility with the courier service and removes the requirement that the laboratory submit a fiscal expenditure report prior to the end of the fiscal year.

Item 3 removes the requirement that a fiscal expenditure report be submitted by follow-up consultants prior to the end of the fiscal year.

Item 4 changes the neonatal metabolic screening fee.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 14, 2005. Such written comments should be directed to Dawn Mouw, Program Planner, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [dawn.mouw@idph.state.ia.us](mailto:dawn.mouw@idph.state.ia.us).

Also, there will be a public hearing on Tuesday, June 14, 2005, from 10 to 11 a.m. via telephone conference using the telephone number posted on the Department of Public Health's Web site. Any changes to the conference call arrangements shall also be posted on the Department's Web site ([www.idph.state.ia.us](http://www.idph.state.ia.us)). Persons may present their views at the public hearing. Persons desiring to make oral presentations at the hearing should contact Dawn Mouw at least one day prior to the public hearing. Any written comments must be received by the day of the hearing. Written comments may be faxed to (515)242-6384.

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 rules. Any person who plans to participate in the public hearing and who may require special accommodations, such as those for hearing impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 136A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 4.3(2), paragraph "d," as follows:

d. Submission of specimens. All specimens shall be delivered via courier service or forwarded by first-class mail or other appropriate means within 24 hours after collection to the University Hygienic Laboratory, the center's designated central laboratory.

ITEM 2. Amend subrule 4.3(5) as follows:

4.3(5) Central laboratory responsibility. The central laboratory shall:

a. Contract with a courier service to provide transportation and delivery of neonatal metabolic screening specimens.

b. Contact all birthing hospitals and birth centers to inform them of the courier schedule.

a c. Process specimens within 24 hours of receipt.

b d. Notify the submitting health care provider, birthing hospital, birth center, or drawing laboratory of an unacceptable specimen and the need for another specimen.

e e. Report a presumptive positive test result within 24 hours to the consulting physician or the physician's designee.

d.f. Distribute specimen collection forms, specimen collection procedures, screening waivers, and other materials to drawing laboratories, birthing hospitals, birth centers, and health care providers.

e g. Report normal and abnormal screening results to birthing hospitals, birth centers, or drawing laboratories.

f h. Submit a written annual report to the center on or before March 30 31 of each year. This report shall include:

(1) Number of infants screened,

(2) Number of repeat screens,

(3) Number of presumptive positive results by disorder,

(4) Number of confirmed positive results by disorder,

(5) Number of rejected specimens,

(6) Number of waivers,

(7) Results of quality assurance testing including any updates to the INMSP quality assurance policies,

(8) Screening and educational activity details, and

~~(9) A fiscal expenditures report, and~~

~~(10) (9) A proposed budget and narrative for the upcoming fiscal year.~~

g i. Act as fiscal agent for program expenditures encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

ITEM 3. Amend subrule 4.3(6), paragraph "b," as follows:

b. The follow-up programs shall submit metabolic screening data to the center by March 30 31 of each year. The information shall include:

(1) The number of presumptive positive results and confirmed positive results by disorder,

(2) Each individual's age at confirmation of disorder,

(3) Each individual's age when treatment began,

(4) Type of treatment for each disorder,

(5) A written summary of educational and follow-up activities, and

~~(6) A fiscal expenditure report for the fiscal year, and~~

~~(7) (6) An INMSP proposed budget and narrative for the next fiscal year.~~

ITEM 4. Amend subrule 4.3(9), paragraph "b," as follows:

b. The department shall annually review and determine the fee to be charged for all activities associated with the INMSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The neonatal metabolic screening fee shall be \$56 beginning August 1, 2003 \$77.

**ARC 4194B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 139A.8 and 139A.26, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 7, "Immuniza-

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

tion of Persons Attending Elementary or Secondary Schools or Licensed Child Care Centers,” Iowa Administrative Code.

The rules in Chapter 7 describe immunization requirements for attendance at elementary or secondary schools or licensed child care centers.

These amendments add definitions for “competent private instruction,” “electronic signature,” “institution of higher education,” “nurse,” “on-campus residence hall or dormitory,” “postsecondary school,” “postsecondary student,” and “signature”; change the definition of “licensed child care center”; and delete the definition of “public health nurse.” The amendments delete the use of medical waiver and specify how the medical exemption can be used. The immunization requirements are updated to more accurately reflect the recommendations of the Advisory Committee on Immunization Practices (ACIP). Guidelines are provided to institutions of higher education about informing their postsecondary students of the risk of meningococcal disease and about reporting data to the Department. The amendments also allow a faxed copy or photocopy of the immunization certificate, delete the source of immunizations as a requirement on the certificate, increase from 30 days to 60 days the amount of time a local board of health has to report the audit data, delete the language on a transfer student, update the provisional language and update the language on registry usage.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 14, 2005. Such written materials should be directed to Marnell Kretschmer, Bureau of Disease Prevention and Immunization, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (800)831-6292. Persons who wish to convey their views orally should contact the Bureau of Disease Prevention and Immunization at (515)281-4917.

Also, there will be a public hearing on June 14, 2005, from 9 to 11 a.m. in Rooms 517/518, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 139A.8 and 139A.26.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 7**, title, as follows:

CHAPTER 7  
IMMUNIZATION AND IMMUNIZATION  
EDUCATION: OF PERSONS ATTENDING  
ELEMENTARY OR SECONDARY SCHOOLS OR,  
LICENSED CHILD CARE CENTERS OR  
INSTITUTIONS OF HIGHER EDUCATION

ITEM 2. Amend rule **641—7.1(139A)** as follows:

Amend the following definitions:

“Licensed child care center” means a facility or program licensed by the Iowa department of human services to pro-

vide child day care for seven or more children or a prekindergarten or preschool, ~~learning center~~ *regardless of the source of funding*, operated by a local school ~~districts~~ *district*, an ~~accredited nonpublic school~~, an ~~area educational agencies education agency~~, or ~~colleges a college~~ or ~~universities~~ *university*.

“Provisional enrollment” means enrollment for a period of time not to exceed the limit specified in subrule ~~7.6(2)~~ *7.7(2)* to allow the applicant to meet the requirements of these rules. A provisionally enrolled applicant is entitled to access to all the benefits, activities, and opportunities of the school or *licensed* child care center. Provisional enrollment shall not deny the school funding for the applicant.

Rescind the definition of “public health nurse.”

Adopt the following new definitions in alphabetical sequence:

“Competent private instruction” means private instruction as defined by the department of education pursuant to Iowa Code section 299A.1.

“Electronic signature” means a confidential personalized digital key, code, or number that is used for secure electronic data transmission and that identifies and authenticates the signatory.

“Institution of higher education” means a postsecondary school.

“Nurse” means a person licensed to practice as a nurse pursuant to Iowa Code chapter 152.

“On-campus residence hall or dormitory” means campus housing for students that is owned or leased by the institution of higher education and located on a recognized campus site.

“Postsecondary school” means a postsecondary institution under the control of the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9, subsection 1.

“Postsecondary student” means a person who has officially registered with a postsecondary school, as determined by the school, and who physically attends class on the school’s campus. For purposes of these rules, “postsecondary student” does not include a person who is exclusively registered in a correspondence course or continuing education class or who attends class exclusively by means of the Internet or the Iowa communications network or through other means which do not require the person’s physical presence on the school’s campus.

“Signature” means an original signature, or authorized use of stamped signature, or electronic signature of a physician, physician assistant, or nurse.

ITEM 3. Amend rule 641—7.2(139A) as follows:

**641—7.2(139A) Persons included.** The immunization requirements specified elsewhere in these rules apply to all persons enrolled or attempting to enroll in a licensed child care center or a public or nonpublic elementary or secondary school in Iowa *including those who are provided competent private instruction*.

ITEM 4. Amend subrule 7.3(1) as follows:

**7.3(1)** A medical exemption may be granted to an applicant when, in the opinion of a physician, nurse practitioner, or physician assistant, the required immunizations would be injurious to the health and well-being of the applicant or any member of the applicant’s family or household. A medical exemption may apply to a *specified vaccine(s)* or all the required immunizations. ~~A waiver to a specific vaccine due to an age restriction or medical contraindication shall be indicated on the certificate of immunization.~~ A certificate of im-

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

munization exemption for medical reasons is valid only when signed by a physician, nurse practitioner, or physician assistant. If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the

exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption.

ITEM 5. Rescind rule 641—7.4(139A,75GA,ch1068) and adopt the following **new** rule in lieu thereof:

**641—7.4(139A) Required immunizations.**

## IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below:

Institution	Age	Vaccine	Total Doses Required
Licensed child care center	< 2 months	None	
	2 through 5 months	Diphtheria/Tetanus/Pertussis <sup>1</sup> Polio Haemophilus influenzae type B	1 dose 1 dose 1 dose
	6 through 14 months	Diphtheria/Tetanus/Pertussis <sup>1</sup> Polio Haemophilus influenzae type B	2 doses 2 doses 2 doses
	15 through 18 months	Diphtheria/Tetanus/Pertussis <sup>1</sup> Polio Haemophilus influenzae type B  Measles/Rubella <sup>2</sup>	3 doses 3 doses 3 doses, with the final dose in the series received when the applicant is ≥ 12 months of age; or 1 dose received when the applicant is ≥ 15 months of age. 1 dose of measles/rubella-containing vaccine received after the applicant was at least 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella.
	19 months and older	Diphtheria/Tetanus/Pertussis <sup>1</sup> Polio Haemophilus influenzae type B  Measles/Rubella <sup>2</sup>  Varicella	3 doses 3 doses 3 doses, with the final dose in the series received when the applicant is ≥ 12 months of age; or 1 dose received when the applicant is ≥ 15 months of age. 1 dose of measles/rubella-containing vaccine received after the applicant was at least 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella. 1 dose if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease. This dose shall have been received after the applicant was at least 12 months of age.
Elementary school/ Secondary school	4 years of age and older	Diphtheria/Tetanus/Pertussis <sup>1,3</sup>  Polio  Measles/Rubella <sup>2</sup>  Hepatitis B Varicella	4 doses, with at least 1 dose of combined vaccine received after the applicant's fourth birthday. Applicants ≥ 7 years of age are exempt from receiving further doses of pertussis vaccine; therefore, adult tetanus and diphtheria vaccine should be used. 3 doses, with at least 1 dose on or after the applicant's fourth birthday. 2 doses of measles/rubella-containing vaccine; or the applicant demonstrates a positive antibody test for measles and rubella. The first dose shall have been received on or after the applicant's first birthday; the second dose shall have been received no less than 28 days after the first dose. 3 doses if the applicant was born on or after July 1, 1994. 1 dose if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease. This dose shall have been received after the applicant was at least 12 months of age.

<sup>1</sup> Pediatric diphtheria and tetanus vaccine may be substituted for the pertussis-containing vaccine, without a medical exemption, when pertussis vaccine is contraindicated for the child < 7 years of age.

<sup>2</sup> Mumps vaccine may be included in measles/rubella-containing vaccine.

<sup>3</sup> If a child received the first dose of tetanus/diphtheria-containing product when the child was < 12 months of age, 4 doses are required, with 1 dose on or after the child's fourth birthday. If a child received the first dose of tetanus/diphtheria-containing product when the child was ≥ 12 months of age, 3 doses are required, with 1 dose on or after the child's fourth birthday.

Vaccine doses administered ≤ 4 days before the minimum interval or age shall be counted as valid. Doses administered ≥ 5 days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as age-appropriate.

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

ITEM 6. Adopt **new** rule 641—7.5(139A) as follows and renumber current rules **641—7.5(139A)** through **641—7.11(22)** as **641—7.6(139A)** through **641—7.12(22)**:

**641—7.5(139A) Required education.** Each institution of higher education that has an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to each postsecondary student enrolled in the institution of higher education. Meningococcal disease information shall be contained on student health forms. For purposes of this rule, student health form(s) means a document(s) prepared by an institution of higher education that contains, at a minimum, information on meningococcal disease, vaccination information and any recommendations issued by the national Centers for Disease Control and Prevention regarding meningococcal disease. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received vaccination against meningococcal disease, including, at a minimum, the date of vaccination. The student health form(s) shall also include space for the postsecondary student to indicate whether or not the postsecondary student has received information on meningococcal disease and benefits of vaccine. If a traditional student health form is not utilized by the institution of higher education, any document(s) containing the above information is acceptable.

ITEM 7. Amend renumbered rule 641—7.6(139A) as follows:

**641—7.6(139A) Proof of immunization.**

**7.6(1)** Applicants, or their parents or guardians, shall submit a valid Iowa department of public health certificate of immunization to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued and provided by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department and shall be signed by a physician, a physician assistant, *or a nurse in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department.* *A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable.* The judgment of the adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall provide the ~~types of immunizations received, vaccine(s) administered and the dates, given and the sources of the immunizations.~~ Persons validating the certificates of immunization are not held responsible for the accuracy of the information used to validate the certificates of immunization if the information is from sources other than their own records or personal knowledge.

**7.6(2)** Persons wishing to enroll who do not have a valid Iowa department of public health certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, *or a nurse in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department* to obtain a valid certificate.

ITEM 8. Amend renumbered rule 641—7.7(139A) as follows:

**641—7.7(139A) Provisional enrollment.**

**7.7(1)** Applicants who have begun but not completed the required immunizations may be granted provisional enrollment. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines ~~or be a transfer student from another school system.~~ Applicants shall submit a valid Iowa department of public health provisional certificate of immunization to the admitting official of the school or licensed child care center in which the applicant wishes to be provisionally enrolled. To be valid, the *provisional* certificate shall be signed by a physician, a physician assistant, *or a nurse in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department.* Persons validating the provisional certificates *certificate* of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge.

a. Any person wishing to be provisionally enrolled who does not have a valid Iowa department of public health provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, *or a nurse in an attending physician's office, a nurse practitioner, a county public health nurse, a school nurse, or an official of a local health department* to obtain a valid certificate.

b. Reserved.

**7.7(2)** The amount of time allowed for provisional enrollment shall *be as soon as medically feasible but shall not exceed 40 45 calendar days or the remainder of the semester in which the applicant is currently provisionally enrolled, whichever is greater.* The period of provisional enrollment shall begin on the date the *provisional* certificate is signed. The person signing the *provisional* certificate shall assign an expiration date to the certificate and shall indicate the remaining immunizations, ~~if any,~~ required to qualify for a certificate of immunization.

**7.7(3)** No change.

**7.7(4)** If the applicant has not submitted a certificate of immunization by ~~30 10~~ calendar days prior to the expiration of the provisional enrollment, the admitting official shall notify the applicant, or *if the applicant is a minor, the minor's parents or guardian, in writing of the impending expiration of provisional enrollment and invite the applicant and parents or guardian for a conference to discuss the rules regarding provisional enrollment.*

**7.7(5)** If at the end of the provisional enrollment period the applicant or parent or guardian has not submitted a certificate of immunization, the admitting official shall immediately exclude the applicant from the ~~total~~ *benefits, activities, and opportunities of the school or program licensed child care center* until the applicant or parent or guardian submits a validated certificate of immunization.

**7.7(6)** If at the end of the provisional enrollment period the applicant has not completed the required immunizations *due to minimum interval requirements,* the provisional enrollment may be extended if the applicant or parent or guardian submits another Iowa department of public health provisional certificate of immunization ~~accompanied by a statement from a doctor that the necessary immunization(s) could not be given due to the applicant's medical status during the provisional enrollment period.~~

ITEM 9. Amend renumbered subrule 7.8(1) as follows:

**7.8(1)** It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid Iowa department



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

of public health certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file for each child enrolled. The admitting official shall ensure that the certificate be properly completed and include ~~dates of immunization, sources of immunization,~~ *at a minimum, last name, first name, date of birth, vaccine(s) administered, dates given* and validation by the appropriate party.

a. and b. No change.

ITEM 10. Amend renumbered subrule **7.8(2)** by striking “30 days” and inserting in lieu thereof “60 days”.

ITEM 11. Amend renumbered rule 641—7.8(139A) by adopting the following **new** subrule:

**7.8(4)** The admitting official of an institution of higher education shall provide to the department by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

- a. Enrolled in the institution of higher education; and
- b. Have been provided information on meningococcal disease; and
- c. Have been immunized with meningococcal vaccine.

ITEM 12. Amend renumbered subrule 7.11(1) as follows:

**7.11(1)** ~~Iowa’s immunization registry.~~ The department shall maintain a statewide immunization registry. Enrolled users are responsible for purchasing and maintaining all computer hardware related to use of the registry and for providing an Internet connection to transfer information between the user’s computer and the registry.

ITEM 13. Amend renumbered subrule **7.11(4)**, paragraph “a,” by adopting **new** subparagraphs **(4)** and **(5)** as follows:

(4) Agencies that complete an agreement with the department which specifies conditions for access to registry data and how that data will be used. Agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

(5) A representative of a state or federal agency, or entity bound by that state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. State or federal agencies shall not use information obtained from the registry to market services to patients or nonpatients, to assist in bill collection services, or to locate or identify patients or nonpatients for any purposes other than those expressly provided in this rule.

ITEM 14. Amend renumbered rule 641—7.12(22) as follows:

**641—7.12(22) Release of immunization information.**

**7.12(1)** Between a physician, a physician assistant, *or* a nurse ~~in an attending physician’s office, a nurse practitioner, or a county public health nurse~~ and the elementary or secondary school or licensed child care center that the child attends. A physician, a physician assistant, *or* a nurse ~~in an attending physician’s office, a nurse practitioner, or a county public health nurse~~ shall disclose a student’s immunization information, including the student’s name, date of birth, and

demographic information, the ~~day,~~ month, *day,* year and ~~name of vaccine~~ *vaccine(s)* administered, and clinic source and location, to an elementary or secondary school or a licensed child care center upon written or verbal request from the elementary or secondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary or secondary school or licensed child care center.

**7.12(2)** Among physicians, physician assistants, *or* nurses ~~in an attending physician’s office, nurse practitioners, and county public health nurses.~~ Immunization information, including the student’s name, date of birth, and demographic information, the ~~day,~~ month, *day,* year and ~~name of vaccine~~ *vaccine(s)* administered, and clinic source and location, shall be provided by one physician, physician assistant, *or* nurse ~~in an attending physician’s office, nurse practitioner, or county public health nurse~~ to another health care provider without written or verbal permission from the student or the parent.

## ARC 4193B

### PUBLIC HEALTH DEPARTMENT[641]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135.105C, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 69, “Renovation, Remodeling, and Repainting—Lead Hazard Notification Process,” Iowa Administrative Code.

This chapter implements a program to require individuals who perform renovation, remodeling, and repainting of target housing for compensation to provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the work. Iowa’s law stipulates that the rules could take effect only after the Department of Public Health obtained authorization from the U.S. Environmental Protection Agency (EPA) for the Department’s program to require lead hazard notification prior to renovation, remodeling, and repainting. Iowa’s program was authorized by EPA on July 13, 1999.

The proposed amendments correct errors in subrules 69.10(1) through 69.10(4).

The Department has determined that these rules are not subject to waiver or variance because Iowa’s program must be as protective as EPA regulations, which do not allow variances or waivers.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before June 14, 2005. Such written materials should be sent to Lead Poisoning Prevention Program, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319; E-mail to [rgergely@idph.state.ia.us](mailto:rgergely@idph.state.ia.us); fax (515)281-4529.

These amendments are intended to implement Iowa Code section 135.105C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

PUBLIC HEALTH DEPARTMENT[641](cont'd)

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **69.10(1)** by rescinding paragraph "e" and relettering paragraphs "f" through "j" as "e" through "i."

ITEM 2. Amend subrule 69.10(2) as follows:

**69.10(2)** Complaints and other requests for action under this rule. Complaints regarding a ~~certified lead professional, a certified elevated blood lead (EBL) inspection agency, a certified firm, or an approved course person who performs renovation, remodeling, or repainting for compensation in target housing~~ shall be submitted in writing to the Iowa Department of Public Health, Lead Poisoning Prevention Program, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complainant shall provide:

a. ~~The name of the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm person who performs renovation, remodeling, or repainting for compensation in target housing and the specific details of the person's action(s) by the certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm that did not comply with the rules; or~~

b. ~~The name of the lead professional or firm that conducted lead professional activities without the appropriate certification or approval as required by the rules; or~~

c. ~~The name of the sponsoring person or organization of an approved course and the specific way(s) that an approved course did not comply with the rules; or~~

d. ~~The name of the sponsoring person or organization that provided a course without the approval required by these rules.~~

ITEM 3. Amend subrule **69.10(3)**, paragraphs "a" and "h," by striking "135.105A" wherever it appears in these paragraphs and inserting "135.105C" in lieu thereof.

ITEM 4. Amend subrule **69.10(4)** by rescinding paragraphs "a" through "h" and relettering paragraphs "i" through "k" as "a" through "c."

3095	Greenfield Municipal Utilities	0.00114995
3282	Manilla Municipal Elec. Utilities	0.00010356
3112	Manning Municipal Electric	0.00026539
3285	Maquoketa Municipal Electric	0.00004891
3291	Milford Municipal Utilities	0.00016326
3297	New Hampton Municipal Light Plant	0.00009962
3309	Panora Municipal Electric Utility	0.00010592
3321	Sioux Center Municipal Utilities	0.00000099
3337	Villisca Municipal Power Plant	0.00023515
3346	West Liberty Municipal Electric Util.	0.00000671
3351	Winterset Municipal Utilities	0.00163323

CO. #	IOU's – ELECTRIC	DELIVERY TAX RATE
7248	Eldridge Electric & Water Utilities	0.00062936
7272	Interstate Power	0.00104577
7305	Omaha Public Power District	0.00133008

CO. #	REC's	DELIVERY TAX RATE
4319	Access Energy Coop	0.00080407
4208	Atchison-Holt Electric Coop	0.00106203
4219	Calhoun County Electric Coop	0.00141547
4287	Consumers Energy	0.00223198
4246	East-Central Iowa REC	0.00212168
4247	Eastern Iowa Light & Power	0.00071315
4251	Federated Rural Electric Association	0.00046380
4253	Franklin Rural Electric Coop	0.00075560
4255	Glidden Rural Electric Coop	0.00065359
4259	Grundy County REC	0.00061523
4261	Guthrie County REC	0.00210418
4262	Hancock Co. REC	0.00126431
4265	Harrison County REC	0.00131010
4223	Heartland Power Coop	0.00053811
4273	Iowa Lakes Electric Coop	0.00088390
4279	Linn County REC	0.00170794
4280	Lyon Rural Electric Coop	0.00073776
4299	Nishnabotna Valley REC	0.00083218
4300	North West Rural Electric Coop	0.00055792
4308	Osceola Electric Coop	0.00045318
4329	T.I.P. Rural Electric Coop	0.00217955
4333	Tri County Electric Coop	0.00122443
4353	Wright Co. REC	0.00049077

**2004 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA RATE CHANGES ONLY**

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5215	Brighton Gas	0.07379652
5241	Corning Municipal Gas	0.00000112
5283	Manning Municipal Gas	0.00021722
5349	Winfield Municipal Gas	0.00051657

CO. #	IOU's – GAS	DELIVERY TAX RATE
5272	Interstate Power	0.01133349

**REVENUE DEPARTMENT**

**Notice of Electric and Natural Gas Delivery Tax Rate Changes**

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and the natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2004 by each taxpayer, for replacement taxes payable in the 2005-2006 fiscal year.

**2004 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA RATE CHANGES ONLY**

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00006461
3227	Anthon Municipal Electric Utility	0.00014399
3258	Grand Junction Municipal Utilities	0.00000456

### NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 6.50%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institu-

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

New official state interest rates, effective May 10, 2005, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

- 7-31 days . . . . . Minimum 1.15%
- 32-89 days . . . . . Minimum 1.65%
- 90-179 days . . . . . Minimum 1.80%
- 180-364 days . . . . . Minimum 2.20%
- One year to 397 days . . . . . Minimum 2.60%
- More than 397 days . . . . . Minimum 3.65%

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

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

**ARC 4181B**  
**PHARMACY EXAMINERS**  
**BOARD[657]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy Examiners hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendments establish requirements specifically related to the dispensing, without a prescription, of pseudoephedrine-containing drug products classified pursuant to 2005 Iowa Acts, Senate File 169, as Schedule V controlled substances under the Iowa Controlled Substances Act. Provisions of Senate File 169 related to the scheduling of these products were effective May 21, 2005.

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

The amendments were approved during the April 20, 2005, meeting of the Board of Pharmacy Examiners.

The Board finds, pursuant to Iowa Code section 17A.4(2), that notice and public participation are unnecessary and impracticable due to the immediate need for these amendments in order to ensure that the public has access to needed medications as intended by the Legislature in enacting 2005 Iowa Acts, Senate File 169.

The Board finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of these rules, 35 days after publication, should be waived and the amendments should be made effective upon the effective date of 2005 Iowa Acts, Senate File 169, May 21, 2005. These amendments confer a benefit to the regulated community and to the public by ensuring the availability of needed medications and establishing the requirements for distribution of those products.

These amendments are also published herein under Notice of Intended Action as **ARC 4182B** to allow for public comment.

These amendments became effective May 21, 2005.

These amendments are intended to implement Iowa Code section 124.212 and 2005 Iowa Acts, Senate File 169, section 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule 10.31(2) as follows:

**10.31(2)** Frequency and quantity. Dispensing at retail to the same purchaser in any 48-hour period shall be limited to no more than one of the following quantities of a Schedule V substance:

- a. 240 cc (8 ounces) of any controlled substance containing opium;
- b. 120 cc (4 ounces) of any other controlled substance, *except as provided in subrule 10.31(7)*;
- c. 48 dosage units of any controlled substance containing opium;
- d. 24 dosage units of any other controlled substance, *except as provided in subrule 10.31(7)*.

ITEM 2. Amend subrule 10.31(4) as follows:

**10.31(4)** Identification. The pharmacist shall require every purchaser under this rule not known by the pharmacist to ~~furnish suitable~~ *present a government-issued photo* identification, including proof of age when appropriate.

ITEM 3. Amend subrule 10.31(5) as follows:

**10.31(5)** Record. *A Except as provided in subrule 10.31(7), a bound record book for dispensing of Schedule V controlled substances pursuant to this rule shall be maintained by the pharmacist. The book shall contain the name and address of each purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or unique identification of the pharmacist who dispensed the substance to the purchaser.*

ITEM 4. Adopt the following **new** subrule 10.31(7):

**10.31(7)** Dispensing pseudoephedrine-containing products. Dispensing at retail to the same purchaser within any 30-day period shall be limited to products collectively containing no more than 7,500 mg of pseudoephedrine.

a. A dispensing record shall be created and maintained for the dispensing of pseudoephedrine products pursuant to this subrule. The record shall contain the name and address of each purchaser, the name and quantity of the product purchased, the date of each purchase, and the name or unique identification of the pharmacist who dispensed the product to the purchaser. The record may be maintained using one of the following options:

(1) A hard-copy record.

(2) A record in the pharmacy's electronic prescription dispensing record-keeping system.

(3) A record in an electronic data collection system that captures each of the data elements required by this subrule. The electronic data collection system shall be capable of producing a hard-copy printout of the records upon request.

b. Dispensing of precursor substances pursuant to this subrule shall comply with other provisions of this rule for the dispensing of Schedule V substances including who may dispense a substance and the age and identification of the purchaser.

[Filed Emergency 5/3/05, effective 5/21/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

**ARC 4180B**

**PUBLIC SAFETY**  
**DEPARTMENT[661]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 80A.15, the Department of Public Safety hereby amends Chapter 2, "Bail Enforcement, Private Investigation and Private Security Businesses," Iowa Administrative Code.

In April 2005, the Department conducted a process improvement event to examine the business practices of the private investigative, private security and bail enforcement licensing function. Two members of the industry representing licensed private investigative and private security agencies participated in the event, along with staff of the Department who administer the licensing function. During the event, the existing requirement for passing a written examination in order to obtain initial licensure was identified as an ineffective

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

and unnecessary barrier to the efficient operation of the licensing program. Consequently, the Department has determined that the written examination requirement, which is not a statutory requirement, should be rescinded. Since this determination has been made, it is unreasonable to continue to subject new licensees to the requirement, so rule making to remove it is being undertaken through emergency procedures so that the change can become effective immediately.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable that the requirement for a written examination as a condition for initial licensure be eliminated as soon as possible.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective May 1, 2005, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by immediately removing an unnecessary barrier to licensure and thereby reducing the amount of time required to obtain an initial license while fully maintaining the integrity of the licensing process.

Notice of Intended Action, including the amendments adopted herein and which may include additional changes to Chapter 2, will be submitted within the next month. The Notice of Intended Action will provide for a period of public comment and participation, including a public hearing. This process will culminate in these amendments being adopted through the normal rule-making process with any public in-

put received during the comment period having been taken into account.

These amendments are intended to implement Iowa Code section 80A.4(1)(k).

These amendments became effective May 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule 2.4(5) as follows:

**2.4(5)** Abandonment of applications. If an applicant for an agency license fails to complete the application within one year after it has been filed, ~~or fails to take and pass the examination within a six-month period after becoming eligible,~~ the application shall be deemed abandoned. Any application submitted subsequent to the abandonment of a former application shall be treated as a new application, and must be filed in accordance with subrule 2.4(4).

ITEM 2. Rescind subrules **2.4(7)**, **2.4(8)**, **2.4(9)** and **2.4(10)**.

[Filed Emergency 4/29/05, effective 5/1/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

## ARC 4196B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 163.1, the Department of Agriculture and Land Stewardship hereby rescinds Chapter 65, "Livestock Importation," and adopts a new Chapter 65, "Animal and Livestock Importation," Iowa Administrative Code.

The purpose of this rule making is to update the importation requirements for animals imported into Iowa. The rules regarding animal importation are reorganized and consolidated in new Chapter 65.

These rules were published under Notice of Intended Action in the Iowa Administrative Bulletin on March 30, 2005, as **ARC 4075B**.

The Department received one written comment about the proposed rules. As a result of the comment, an additional definition for "transitional swine" was included and utilized in the swine disease import requirements.

The new definition in 21—65.1(163) reads as follows:

"'Transitional swine' means swine that have been, or have had the potential to be, exposed to feral swine."

New paragraph 65.5(1)"e" reads as follows:

"e. Transitional swine must meet the requirements of 65.5(4) in addition to the general requirements. Transitional swine are swine that have been, or have had the potential to be, exposed to feral swine."

Subrule 65.5(4) was changed and now reads as follows:

**65.5(4)** Captive wild-type and transitional swine. Captive wild-type and transitional swine imported into the state must:

"a. Originate from herds not known to be infected with, or exposed to, brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation; and

"b. Originate from herds not known to be infected with, or exposed to, pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; and

"c. Have a pre-entry permit from the state veterinarian."

These rules are intended to implement Iowa Code chapter 163.

These rules will become effective June 29, 2005.

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 65] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 4075B**, IAB 3/30/05.

[Filed 5/6/05, effective 6/29/05]

[Published 5/25/05]

[For replacement pages for IAC, see IAC Supplement 5/25/05.]

## ARC 4185B

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 9, "Public Records and Fair Information Practices," Chapter 15, "Disputed County Billings," Chapter 54, "Facility Participation," Chapter 75, "Conditions of Eligibility," Chapter 76, "Application and Investigation," Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 80, "Procedure and Method of Payment," Chapter 81, "Nursing Facilities," Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," Chapter 83, "Medicaid Waiver Services," Chapter 85, "Services in Psychiatric Institutions," Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Chapter 87, "Medicaid Provider Audits," Chapter 88, "Managed Health Care Providers," and Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

These amendments are technical changes to reflect the implementation of the Iowa Medicaid Enterprise (IME), an integrated performance-based model for administering the Iowa Medicaid Program.

Currently in Iowa and in most other states, one "fiscal agent" provides most Medicaid administrative services. Iowa's fiscal agent contract with ACS Incorporated expires June 30, 2005. Beginning July 1, 2005, the Department is contracting with eight companies with expertise in specific areas to perform various administrative duties for the Medicaid program. Contract personnel from these eight vendors in combination with state Medicaid coverage and data management staff are collectively known as the "Iowa Medicaid Enterprise." (Staff responsible for Medicaid eligibility policy remain in the Division of Financial, Health, and Work Supports.)

The key strategies used in the Iowa Medicaid Enterprise are that:

- All vendors will be colocated with the state staff of the Department's Division of Medical Services and the Bureau of Medical Systems and Data Warehousing in the Department's Division of Data Management. The Iowa Medicaid Enterprise is located at 100 Army Post Road in Des Moines.
- All vendors will use the same sets of tools, the Medicaid Management Information System and the Department's data warehouse.

- There will be a workflow management process in place for the state to assume a greater responsibility for the operation, direction, and delivery of health care.

These amendments replace references to the Medicaid fiscal agent with new organizational terminology and update addresses, forms, and other information related to operation under the new configuration.

The amendments also:

- Bring policy on notifying recipients of denials of drug prior authorization requests into conformity with current practice, as required by federal regulations.
- Specify the manner of delivering notice of drug prior authorization decisions to the prescriber and the pharmacy, consistent with current practice.

These amendments do not provide for waivers in specified situations because the amendments are technical changes

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

that merely update the rules to conform to current terminology and practice. The Department has adopted a general rule on waivers at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on April 13, 2005.

The Department finds that notice and public participation are unnecessary and impracticable because the amendments are technical in nature and do not reflect policy changes and because timely adoption for implementation on July 1, 2005, does not allow for a public comment period. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

These amendments are intended to implement Iowa Code chapter 249A.

These amendments shall become effective July 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 441—9.1(17A,22) as follows:

Amend the definition of “designated record set,” numbered paragraph “2,” as follows:

2. The enrollment, payment, ~~claims adjudication,~~ and eligibility record systems maintained for Medicaid; or

Amend the definition of “health care operations,” numbered paragraph “1,” twelfth, fourteenth, and fifteenth bulleted paragraphs, as follows:

- Cooperating in audits and fraud detection by Iowa and federal auditors, the ~~fiscal agent Iowa Medicaid enterprise,~~ or the department of inspections and appeals.

- Managing activities, which include claiming of federal financial participation by the ~~department's fiscal staff,~~ recovering unknown third-party liability, recovering nursing care funds and other expenditures through estate recovery, Grouper programming for hospitals, lock-in activities, and federal reporting of paid claims by the ~~fiscal agent.~~

- Providing customer service, which includes income maintenance workers answering questions about lock-in providers, copayment for pregnant women, and claims payment problems; and the ~~fiscal agent providing customer service for Iowa Medicaid enterprise provider services unit answering questions on claims payment.~~

ITEM 2. Amend paragraph 9.10(4)“a” as follows:

a. The department may enter into contracts or agreements with public or private agencies, such as the department of inspections and appeals, and business associates, such as, but not limited to, the *Iowa Medicaid fiscal agent enterprise units*, in order to carry out the department's official duties. Information necessary to carry out these duties may be shared with these agencies. The department may disclose protected health information to a business associate and may allow a business associate to create or receive protected health information on its behalf, if the department obtains satisfactory assurance that the business associate will appropriately safeguard the information.

ITEM 3. Amend the listing for “Medicaid Management Information Systems” in subparagraph 9.12(1)“a”(3) as follows:

System	Function
Medicaid Management Information Systems	
Medicaid-Fiscal-Agent-System	Processes <i>Process</i> clients' Medicaid claims
Medicaid-Eligibility-System	Assigns <i>and assign</i> Medicaid coverage to clients

ITEM 4. Strike the phrases “fiscal agent,” “Medicaid fiscal agent,” “Iowa Medicaid fiscal agent,” and “department's fiscal agent” and:

- Insert in lieu thereof “Iowa Medicaid enterprise” wherever the phrases appear in subparagraph 15.2(1)“d”(1), paragraphs 75.1(35)“f,” 78.4(8)“a,” 78.8(3)“c,” 78.10(1)“f,” 79.1(5)“n,” and 79.1(5)“o,” subparagraphs 79.1(5)“r”(3) and 79.1(5)“ab”(6), paragraphs 79.1(16)“m,” 79.2(3)“j,” and 79.8(1)“b,” subrule 79.8(10), rules 441—80.2(249A) and 441—80.4(249A), paragraph 81.6(16)“g,” subrule 81.11(1), and rule 441—88.61(249A);

- Insert in lieu thereof “Iowa Medicaid enterprise provider services unit” wherever the phrases appear in paragraph 77.9(4)“b,” rule 441—77.16(249A), paragraph 78.3(10)“f,” subrules 78.4(13), 78.5(3), 79.14(2), 79.14(3), 79.14(5), 79.14(9) and 81.13(1);

- Insert in lieu thereof “Iowa Medicaid enterprise medical services unit” wherever the phrases appear in paragraphs 78.4(2)“k” and 78.10(1)“b,” subparagraph 78.10(3)“c”(1) and subrule 78.11(2); and

- Insert in lieu thereof “Iowa Medicaid enterprise provider audits and rate-setting unit” wherever the phrases appear in paragraph 79.1(1)“g,” subparagraphs 79.1(5)“k”(2) and 79.1(5)“y”(10), paragraph 79.1(5)“aa,” subparagraph 79.1(16)“j”(2), paragraph 85.7(1)“e,” and rule 441—88.14(249A).

ITEM 5. Strike the form number “AA-4166-0” and insert in lieu thereof “470-0042” wherever the number appears in rule 441—54.6(249), subrule 82.10(2), and paragraphs 85.24(2)“a” and 85.45(2)“a.”

ITEM 6. Amend rule 441—54.7(249) as follows:

**441—54.7(249) Billing procedures.** In order to determine the amount of payment to the recipient, the facility shall submit a billing form to the ~~fiscal agent Iowa Medicaid enterprise~~ following the month in which service was provided.

**54.7(1) Billing.** When payment is made, the facility will receive a copy of Form AA-4163-0 470-0039, *Payment Register Iowa Medicaid Long-Term Care Claim*. The original shall be returned to the ~~department~~ as a claim for the next month. Alternatively, the facility may use electronic billing software provided by the ~~fiscal agent Iowa Medicaid enterprise.~~

**54.7(2) Changes.** When there has been a new admission, a discharge, or a claim for a reserved bed, the facility shall also submit Form AA-4164-0, *Change Notice, 470-0039* with the ~~claim changes noted.~~ Electronic submissions of changes may also be made as provided for by the ~~fiscal agent Iowa Medicaid enterprise.~~

This rule is intended to implement Iowa Code section 249.12.

ITEM 7. Amend rule 441—75.4(249A) as follows:

Amend subrule 75.4(1) as follows:

**75.4(1)** When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department shall have a

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

lien, to the extent of those payments, to all monetary claims which the recipient may have against third parties.

a. A lien is not effective unless the department files a notice of lien with the clerk of the district court in the county where the recipient resides and with the recipient's attorney when the recipient's eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the recipient, the recipient's attorney, or other representative.

b. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final.

(1) A compromise, including, but not limited to, notification, settlement, waiver or release, of a claim, does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee under which the department would receive less than full reimbursement of the amounts it expended.

(2) A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a recipient or on behalf of a recipient which fails to state a claim for recovery of medical expenses does not defeat the department's lien if there is any recovery on the recipient's claim.

c. All notifications to the department required by law shall be directed to the Iowa Medicaid Fiscal Agent Enterprise, Third Party Liability Revenue Collection Unit, P.O. Box 14422 36475, Des Moines, Iowa 50306-3422 50315. Notification shall be considered made as of the time the notification is deposited so addressed, postage prepaid, in the United States Postal Service system.

Amend paragraph 75.4(4)"a" as follows:

a. The health care services provider shall inform the department by appropriate notation on the Inpatient Hospital Claim, Form XIX HOSP-1, the Outpatient Hospital Claim, Form XIX HOSP-2, or on the Health Insurance Claim, Form HCFA CMS-1500, that other coverage exists but did not cover the service being billed or that payment was denied.

ITEM 8. Amend subrule 76.13(2) as follows:

Amend the Data Use Agreement heading as follows:

#### DATA USE AGREEMENT

(For use by Iowa Department of Human Services and its fiscal agent receiving insurance data matching files)

Agreement for Use of Insurance Carrier Data Containing Individual-Specific Information

Amend numbered paragraph "15," introductory paragraph, as follows:

15. The Custodian, as named in Paragraph 4, hereby acknowledges appointment as Custodian of the aforesaid files on behalf of the User, and agrees as an employee of the User (or Fiscal Agent, as applicable) to comply with all of the provisions of this Agreement on behalf of the User.

ITEM 9. Strike the phrase "Health Care Financing Administration" and insert in lieu thereof "Centers for Medicare and Medicaid Services" wherever the phrase appears in rule 441—77.35(249A), subrules 79.1(6) and 79.1(16), paragraphs 79.2(3)"c" and 81.6(16)"d," subparagraphs 81.13(9)"b"(7), 81.13(18)"a"(2) and (3), 81.32(7)"a"(2), and 82.2(7)"j"(2), paragraph 83.82(1)"l," subparagraph 86.15(9)"a"(5), paragraph 88.2(1)"c," subrule 88.3(3), paragraph 88.9(3)"b," and subrules 88.22(1), 88.43(1) and 88.46(1).

ITEM 10. Amend subparagraph 78.10(2)"a"(1), introductory paragraph, as follows:

(1) A physician's, physician assistant's, or advanced registered nurse practitioner's prescription documents that a resident of a nursing facility requires oxygen for 12 hours or more per day and the provider and physician, physician assistant, or advanced registered nurse practitioner jointly submit ~~Attending Physician's Certification~~ Certificate of Medical Necessity for Home Oxygen Therapy, Form HCFA CMS-484, from Medicare or a reasonable facsimile to the Iowa Medicaid fiscal agent enterprise with the monthly billing. The documentation submitted must contain the following:

ITEM 11. Amend paragraph 78.13(10)"a" as follows:

a. Payment may be made to the agency which provided transportation if the agency is certified by the department of transportation and requests direct payment by submitting Form 07-350 GAX, Purchase Order/Payment Voucher General Accounting Expenditure, within 90 days after the trip. Reimbursement for transportation shall be based on a fee schedule by mile or by trip.

ITEM 12. Amend subrule 78.16(3) as follows:

78.16(3) The peer review process and related activities, as described under subparagraph 78.16(1)"b"(1), are not payable as separate services under the Medicaid program. The center shall maintain the results of and information related to the peer review process, and these records shall be subject to audit by the department of human services, its Medicaid fiscal agent, or other department designees, as necessary and appropriate.

ITEM 13. Amend paragraph 78.28(2)"d" as follows:

d. Orthodontic services will be approved when it is determined that a patient has the most handicapping malocclusion. This determination is made in a manner consistent with the "Handicapping Malocclusion Assessment to Establish Treatment Priority," by J.A. Salzmann, D.D.S., American Journal of Orthodontics, October 1968.

(1) A handicapping malocclusion is a condition that constitutes a hazard to the maintenance of oral health and interferes with the well-being of the patient by causing impaired mastication, dysfunction of the temporomandibular articulation, susceptibility to periodontal disease, susceptibility to dental caries, and impaired speech due to malpositions of the teeth. Treatment of handicapping malocclusions will be approved only for the severe and the most handicapping. Assessment of the most handicapping malocclusion is determined by the magnitude of the following variables:

1. degree Degree of malalignment,;
2. missing Missing teeth,;
3. angle Angle classification,;
4. overjet Overjet and overbite,;
5. openbite Openbite,; and
6. crossbite Crossbite.

(2) A request to perform an orthodontic procedure must be accompanied by an interpreted cephalometric radiograph and study models trimmed so that the models simulate centric occlusion of the patient. A written plan of treatment must accompany the diagnostic aids. Posttreatment records must be furnished upon request of the fiscal agent Iowa Medicaid enterprise medical services unit.

(3) Approval may be made for eight units of a three-month active treatment period. Additional units may be approved by the fiscal agent's department's orthodontic consultant if the additional units are found to be medically necessary. (Cross-reference 78.4(8)"a")

ITEM 14. Amend subrule 78.31(3), introductory paragraph, as follows:



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

**78.31(3)** Application for certification. Hospital outpatient programs listed in subrule 78.31(1), paragraphs “g” to “m,” must submit an application to the department’s fiscal agent *Iowa Medicaid enterprise provider services unit* for certification before payment will be made. The fiscal agent *provider services unit* will review the application against the requirements for the specific type of outpatient service, and notify the provider whether certification has been approved.

ITEM 15. Strike the acronym “HCFA” and insert in lieu thereof “CMS” wherever the acronym appears in paragraph **79.1(1)“h,”** subrule **79.1(6),** paragraph **80.2(1)“c,”** subrules **80.2(2)** and **80.2(3),** subparagraphs **81.6(4)“a”(2)** and **81.6(16)“d”(2),** subrule **81.6(18),** paragraph **81.6(19)“a,”** subparagraph **81.13(9)“b”(7),** subrules **81.32(5), 81.32(7)** and **81.36(3),** paragraph **81.37(1)“b,”** rule **441—81.41(249A),** subparagraph **81.54(1)“a”(2),** rule **441—81.55(249A),** paragraphs **85.7(1)“e,” 86.15(9)“a,”** and **88.9(3)“b,”** and subrule **88.22(1).**

ITEM 16. Further amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(5),** paragraph “r,” subparagraph (1), as follows:

(1) Certification procedure. All hospital special units and physical rehabilitation hospitals must be certified by the *Iowa Medicaid fiscal agent enterprise* to qualify for Medicaid reimbursement as a special unit or physical rehabilitation hospital. Hospitals shall submit requests for certification to ~~ACS State Healthcare Iowa Medicaid Enterprise, Attention: Provider Enrollment Services Unit, P.O. Box 14422 36450, Des Moines, Iowa 50306-3422 50315,~~ with documentation that the certification requirements are met. The *Medicaid fiscal agent provider services unit* will notify the facility of any additional documentation needed after review of the submitted documentation.

Upon certification, reimbursement as a special unit or physical rehabilitation hospital shall be retroactive to the first day of the month during which the *Iowa Medicaid fiscal agent enterprise* received the request for certification. No additional retroactive payment adjustment shall be made when a hospital fails to make a timely request for certification.

Amend subrule **79.1(16),** paragraphs “i” and “u,” as follows:

i. Services covered by APG payments. Medicaid adopts the Medicare definition of outpatient hospital services at 42 CFR 414.32, as amended to May 12, 1999, which will be covered by the APG-based prospective payment system, except as indicated herein. As a result, combined billing for physician services is eliminated unless the hospital has approval from the Centers for Medicare and Medicaid Services (CMS) to combine bills.

(1) Teaching hospitals having CMS’s approval to receive reasonable cost reimbursement for physician services under 42 CFR 415.55, as amended to December 8, 1995, are eligible for combined billing status if they have filed the approval notice with the *Iowa Medicaid fiscal agent enterprise provider audits and rate-setting unit.* Reasonable cost settlement for teaching physicians for those costs not included in the APG cost-finding process will be made during the year-end settlement process.

(2) Services provided by certified registered nurse anesthetists (CRNAs) employed by a physician are covered by physician reimbursement. Payment for the services of CRNAs *certified registered nurse anesthetists* employed by the hospital are included in the hospital’s reimbursement.

(3) Ambulance transportation will not be reimbursed by APG payment. A hospital-based ambulance service must be an enrolled Medicaid ambulance provider and follow policy as specified at rule 441—78.11(249A) unless the recipient’s condition results in an inpatient admission to the hospital. In the case of an inpatient admission, the reimbursement for ambulance services is included in the hospital’s DRG reimbursement rate. Enrollment information and claim submission for ambulance services should be directed to the *Iowa Medicaid fiscal agent enterprise.*

(4) Claims for all noninpatient services (NIP), including outpatient mental health, substance abuse, eating disorders, cardiac rehabilitation, pulmonary rehabilitation, diabetic education, pain management, and nutritional counseling, should be billed to Iowa Medicaid and will be paid under the respective NIP program on a fixed fee schedule.

(5) Upon implementation of the managed mental health care and substance abuse program (Iowa Plan), all *All* psychiatric services for recipients with a primary diagnosis of mental illness, except for reference lab *laboratory* services and radiology services, in those eligibility groups targeted under the Iowa Plan program will be the responsibility of the Iowa Plan contractor and will not be otherwise payable by Iowa Medicaid. Emergency psychiatric evaluations for recipients who are covered by the Iowa Plan program will be the responsibility of the contractor. For those recipients who are not covered by the Iowa Plan program, services will be payable under either the APG for emergency psychiatric evaluation or under the respective NIP program. Additionally, laboratory services to monitor Clozaril are payable under the APG system only if the recipient is not eligible under the Iowa Plan program.

(6) Substance abuse services for persons eligible under managed care will be the responsibility of the Iowa Plan contractor and not payable through the APG system. The only exceptions to this policy are reference laboratory and radiology services, which will be payable by fee schedule or APG.

(7) Claims for the following APGs, as defined in Version 4.1 of the Grouper software, will not be accepted by Iowa Medicaid for payment: APG 005—nail procedures, APG 171—artificial fertilization, APG 212—fitting of contact lenses, APG 386—biofeedback and hypnotherapy, and APG 382—provision of vision aids.

(8) Claims grouping into APG 702 (well child exam) shall meet all early and periodic screening, diagnosis and treatment requirements as set forth at rule 441—84.3(249A).

u. PRO review. ~~For outpatient claims with dates of service ending July 1, 1994, and after, the~~ *The* PRO will review a yearly random sample of hospital outpatient service cases performed for Medicaid recipients and identified on fiscal agent claims data from all Iowa and bordering state hospitals in accordance with the terms in the contract between the department and the PRO. The PRO contract is available for review at the Iowa Department of Human Services, *Medicaid Enterprise Office, Hoover State Office Building, 1305 E. Walnut Street 100 Army Post Road, Des Moines, Iowa 50315.*

ITEM 17. Further amend rule 441—79.2(249A) as follows:

Amend subrule **79.2(1)** as follows:

Rescind the definition of “fiscal agent.”

Adopt the following **new** definition in alphabetical order: “Iowa Medicaid enterprise” means the entity comprised of department staff and contractors responsible for the management and reimbursement of Medicaid services.

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

Amend subrule **79.2(5)**, paragraphs “b” and “c,” as follows:

b. Suspension or termination from participation shall preclude the provider from submitting claims for payment, whether personally or through claims submitted by any clinic, group, corporation, or other association, to the department or its fiscal agent for any services or supplies provided under the medical assistance program except for those services provided prior to before the suspension or termination.

c. No clinic, group, corporation, or other association which is the provider of services shall submit claims for payment to the department or its fiscal agent for any services or supplies provided by a person within the organization who has been suspended or terminated from participation in the medical assistance program except for those services provided prior to before the suspension or termination.

ITEM 18. Further amend rule 441—79.8(249A) as follows:

Amend the introductory paragraph as follows:  
**441—79.8(249A) Requests for prior authorization.** When the fiscal agent *Iowa Medicaid enterprise* has not reached a decision on a request for prior authorization after 60 days from the date of receipt by the fiscal agent, the request will be approved.

Amend subrule 79.8(3) as follows:

**79.8(3)** The provider shall receive a notice of approval or denial for all requests.

a. In the case of prescription drugs, the requesting provider shall be notified of approval or denial using the same manner of transmission as the request, if possible, or by mail notices of denial will be faxed to the prescriber and pharmacy. Notices of approval will be mailed to the prescriber and the pharmacy.

b. Decisions regarding approval or denial will be made within 24 hours from the receipt of the prior authorization request. In cases where the request is received during non-working hours, the time limitation limit will be construed to start with the first hour of the normal working day following the receipt of the request.

Amend subrule 79.8(9) as follows:

**79.8(9)** Unless the prior authorization request is made for prescription drugs, recipients *The Iowa Medicaid enterprise* shall receive issue a notice of decision to the recipient upon a denial of request for prior approval pursuant to 441—Chapter 7. The fiscal agent *Iowa Medicaid enterprise* shall mail the notice of decision to the recipient within five working days of the date the prior approval form is returned to the provider. In the case of prior authorization for drugs, the fiscal agent shall not issue a notice of denial to recipients.

ITEM 19. Amend subrule 79.14(1) as follows:

Amend the introductory paragraph as follows:

**79.14(1)** Application forms. All providers of medical services interested in enrolling as Medicaid providers shall begin the enrollment process by contacting the fiscal agent *Iowa Medicaid enterprise* at Provider Enrollment, ACS State Healthcare *Iowa Medicaid Enterprise, Provider Services Unit*, P.O. Box 14422 36450, Des Moines, Iowa 50306-3422 50315, to request an application, with the following exceptions: nursing

*Nursing* facility providers shall complete the process set forth in rule 441—81.13(249A); and intermediate

*Intermediate* care facilities for the mentally retarded shall complete the process set forth in rule 441—82.3(249A).

The fiscal agent *provider services unit* shall send the provider the appropriate application forms for completion as set forth below.

Amend paragraph “a,” subparagraph (9), as follows:

(9) Inpatient and outpatient general hospitals. ~~Inpatient and outpatient general hospitals shall also complete Form 2977, Supplemental Hospital Enrollment Form.~~

Amend paragraph “e” as follows:

e. All HCBS waiver providers shall submit Form 470-2917, Medicaid HCBS Provider Application, at least 90 days before the planned service implementation date. ~~The fiscal agent shall forward the application to the department for processing.~~

ITEM 20. Rescind and reserve rule **441—80.1(249A)**.

ITEM 21. Amend rule **441—81.1(249A)** as follows:

Rescind the definition of “department’s fiscal agent.”

Adopt the following **new** definition in alphabetical order: “Iowa Medicaid enterprise” means the entity comprised of department staff and contractors responsible for the management and reimbursement of Medicaid services.

ITEM 22. Amend rule **441—81.31(249A)** as follows:

Rescind the definition of “HCFA.”

Adopt the following **new** definition in alphabetical order: “CMS” means the Centers for Medicare and Medicaid Services of the federal Department of Health and Human Services.

ITEM 23. Amend subrule 82.15(1) as follows:

**82.15(1)** Claims. Claims for service must be sent to the fiscal agent *Iowa Medicaid enterprise* after the month of service and within 365 days of the date of service. Claims may be submitted electronically on software provided by the fiscal agent *Iowa Medicaid enterprise* or in writing on Form AA-4163-0 470-0039, *Iowa Medicaid Long-Term Care Claim*.

a. When payment is made, the facility will receive a copy of Form AA-4163-0 470-0039. The right-hand white copy of the original shall be returned to the department as a claim for the next month. If the claim is submitted electronically, the facility will receive a remittance statement of the claims paid.

b. When there has been a new admission, a discharge, a correction, or a claim for a reserved bed, the facility shall also submit Form AA-4164-0, *Change Notice, 470-0039* with Form AA-4163-0 *the changes noted*. Adjustments to electronically submitted claims may be made electronically as provided for by the fiscal agent *Iowa Medicaid enterprise*.

ITEM 24. Amend rule **441—87.1(249A)**, definitions of “authorized representative” and “claim,” as follows:

“Authorized representative” within the context of these rules means that person appointed to carry out audit procedures, including assigned auditors, fiscal agent consultants, or agents contracted for specific audits or audit procedures.

“Claim” means each record received by the department or its fiscal agent which the *Iowa Medicaid enterprise* that tells the amount of requested payment and the service rendered by a specific and particular Medicaid provider to an eligible recipient.

ITEM 25. Amend subrule 87.2(2) as follows:

**87.2(2)** Records generated and maintained by the department or its fiscal agent may be used by auditors and in all proceedings of the department.

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

ITEM 26. Amend rule **441—185.1(234)**, definitions of “authorized representative” and “claim,” as follows:

“Authorized representative” within the context of rule 441—185.13(234) means that person appointed to carry out audit procedures, including assigned auditors, fiscal agent consultants, or agents contracted for specific audits or audit procedures.

“Claim” means each record received by the department or its fiscal agent which ~~the Iowa Medicaid enterprise that~~ tells the amount of requested payment and the service rendered by a provider to a child and family.

[Filed Without Notice 5/4/05, effective 7/1/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

## ARC 4184B

### HUMAN SERVICES DEPARTMENT[441]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 225C.6(1)“b” and 331.438(4)“b”(9), the Department of Human Services amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

These amendments require the reporting of personally identifiable data on persons served under county management plans for mental health, mental retardation, and developmental disability services. Existing law and rules specify the duty of counties to collect a minimum data set on these services and submit the data to the Department. Although the data is required to be collected on each individual served, submission of aggregate data has been sufficient for past planning purposes. These amendments require submission of data regarding each individual served.

Submission of client-specific data is necessary to allow the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission to meet its responsibilities relating to redesign of the mental health and developmental disabilities services system. 2004 Iowa Acts, chapter 1090, section 34, subsection 2, directs the Commission to:

- Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide.
- Propose case rates for disability services.

Determining the unmet need for services and the impact of proposed changes requires the analysis of data for each individual served. Submission of client-specific data will allow the Commission to capture unduplicated information on all clients served within the public disability services system.

In addition, 2004 Iowa Acts, chapter 1090, section 35, directs the Department and the Commission to propose a new disability services information system. A Department information technology team is studying what a new management information system should be capable of doing and what data will need to be captured to allow those actions to happen. Client-specific information will be necessary to complete the federal reports required under a data infrastructure grant from the federal Substance Abuse and Mental Health Services Administration.

These amendments also apply the reporting requirements to other sources of data on persons receiving disability ser-

vices that are controlled by the Department. These sources include the State Payment Program, the State Supplementary Assistance Program, state mental health institutes, state resource centers, the Medicaid fiscal agent, and the Medicaid managed care contractors, to the extent that they serve people receiving disability services.

Some of the data required to be submitted constitutes “protected health information” under the federal Health Insurance Portability and Accountability Act (HIPAA). HIPAA privacy provisions prohibit health care providers and health care plans from releasing protected health information except under specified circumstances, which include when state or federal law, rules, or regulations require data transmission. These amendments establish these requirements and give assurances that the Department will use the information submitted only for research and analysis and will not release any personally identifiable data.

These amendments do not provide for waivers in specified situations. Individuals or agencies that believe themselves to be disadvantaged by these rules may request a waiver under the Department’s general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 19, 2005, as **ARC 3936B**.

The Department held a public hearing on the proposed amendments and received comments from ten persons. The comments were mainly about the necessity for reporting personally identifiable data, the use and security for the data, and additional burden on county governments. These amendments do not change any requirements for county data collection, but only for what data are transmitted to the Department. The Department will use the personally identifiable data only to match and unduplicate different records about the same person. Then all data will be deidentified, and only the deidentified data will be used for analysis and reporting. No personally identifiable data will be shared inside or outside the Department. The Department already has policies and procedures in place for the security of protected health information.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on April 21, 2005.

In response to public comments, the Department has added another paragraph to subrule 25.41(2), which reads as follows:

“e. Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis, or in outreach efforts to identify or engage people in needed mental health services.”

These amendments are intended to implement 2004 Iowa Acts, chapter 1090, section 34, and Iowa Code section 331.438 as amended by 2004 Iowa Acts, chapter 1175, section 174.

These amendments shall become effective on July 1, 2005.

The following amendments are adopted.

Amend rule 441—25.41(331), introductory paragraph, numbered paragraphs “1” through “4,” and first unnumbered paragraph, as follows:

**441—25.41(331) Minimum data set.** Each county shall maintain data on all clients served through the MH/DD services fund.

**25.41(1) Submission of data.** *Each county shall submit to DHS a copy of the data regarding each individual that the county serves through the central point of coordination process.*

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

a. *DHS state payment program, state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the counties.*

b. *DHS shall maintain the data in the data analysis unit for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.*

**25.41(2)** Data required. The type of information needed on each client is data to be submitted are as follows:

1 a. Basic client information including a unique identifier, name, address, county of residence and county of legal settlement.

2 b. The state I.D. number for state payment cases.

3 c. Demographic information including, but not limited to: date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, DSM IV diagnosis, ICD-9 diagnosis, disability group (i.e., mental retardation, developmental disability, chronic mental illness, mental illness), central point of coordination (county number preceded by A 1), and central point of coordination (CPC) name.

4 d. Service information such as: including the decision on services, date of decision, date client terminated from CPC services, and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, and unit rate for service.

e. *Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services.*

**25.41(3)** Method of data collection. A county may choose to collect this information using the county management information system (CoMIS) program that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS. Below is the structure or description for each data item contained in CoMIS.

[Filed 5/4/05, effective 7/1/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

**ARC 4188B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(17) and 16.183, the Iowa Finance Authority hereby amends Chapter 21, “Home and Community-Based Services Revolving Loan Program,” Iowa Administrative Code.

This amendment adopts a new provision concerning the home and community-based services revolving loan program operated by the Authority. The amendment provides that the Authority will refund one-half of the permanent loan commitment fee to borrowers whose loans are repaid within

five years of the closing of the loan. Through this amendment, the Authority seeks to encourage prepayment of loans under this program to allow for more efficient revolving of the loan fund.

The rules in Chapter 21 do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

Notice of Intended Action was published in the March 30, 2005, Iowa Administrative Bulletin as **ARC 4071B**. No public comment was received on this amendment. The adopted amendment is identical to that published under Notice of Intended Action.

The Authority adopted this amendment on May 5, 2005.

This amendment will become effective on June 29, 2005.

This amendment is intended to implement Iowa Code sections 16.5(17) and 16.183.

The following amendment is adopted.

Amend subrule **21.5(4)** by adding the following **new** paragraph “c”:

c. The authority will refund to the borrower one-half of the permanent loan commitment fee if the borrower's loan is paid off within five years of the closing of the loan.

[Filed 5/5/05, effective 6/29/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

**ARC 4195B****IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, “Employers,” Iowa Administrative Code.

The purpose of these amendments is to implement new contribution rates for sheriffs and deputy sheriffs beginning July 1, 2005, as recommended by IPERS' actuary. The recommended rates for the protection class beginning July 1, 2005, remain at the current levels.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 30, 2005, as **ARC 4074B**. A public hearing was held on April 19, 2005. No one attended the public hearing and no written comments were received. These amendments are identical to those published under Notice.

There are no waiver provisions included in the amendments because they are required by statute and provide a benefit to members.

These amendments are intended to implement Iowa Code sections 97B.49B and 97B.49C.

These amendments will become effective July 1, 2005.

The following amendments are adopted.

ITEM 1. Amend subrules 4.6(2) and 4.6(3) as follows:

**4.6(2)** Sheriffs and deputy sheriffs, effective July 1, 2004 July 1, 2005.

a. Member's rate—8.535% 8.2%.

b. Employer's rate—8.535% 8.2%.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

**4.6(3)** Members employed in a protection occupation, effective ~~July 1, 2004~~ *July 1, 2005*.

- a. Member's rate—6.16%.
- b. Employer's rate—9.23%.

ITEM 2. Amend subrule 4.6(6) as follows:

**4.6(6)** Prior special rates are as follows:

Effective ~~July 1, 2003~~ *July 1, 2004*, through ~~June 30, 2004~~ *June 30, 2005*:

a. Sheriffs, ~~and deputy sheriffs, and airport firefighters:~~

- (1) Member's rate—~~5.37%~~ *8.535%*.
- (2) Employer's rate—~~8.05%~~ *8.535%*.

b. Protection occupation:

- (1) Member's rate—~~6.04%~~ *6.16%*.
- (2) Employer's rate—~~9.07%~~ *9.23%*.

[Filed 5/6/05, effective 7/1/05]

[Published 5/25/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/25/05.

## ARC 4179B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Interpreters for the Hearing Impaired Examiners hereby adopts new Chapter 361, "Licensure of Interpreter for the Hearing Impaired Practitioners," Iowa Administrative Code.

This amendment adopts a new chapter pursuant to enabling legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 16, 2005, as **ARC 4040B**. A public hearing was held on April 5, 2005, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comments were received. The majority of comments received were related to the level of the EIPA examination score that was accepted for licensure. In response to public comment, the Board changed the EIPA examination required score level to 3.5. The Board noticed and corrected the EIPA name in the rule. Subparagraph 361.2(1)"d"(4) now reads as follows:

"(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999."

Several comments requested special tests not included in those listed. However, the Board discussed that the examinations required already tested for the interpreting/transliterating skills of other types of languages mentioned. In addition, some comments were received requesting testing flexibility to accommodate circumstances that were not a part of the scope of the enabling legislation.

These rules will become effective July 1, 2005.

These rules are intended to implement Iowa Code chapters 21, 147 and 272C and 2004 Iowa Acts, chapter 1175, sections 426 to 429.

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 361] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 4040B**, IAB 3/16/05.

[Filed 4/28/05, effective 7/1/05]

[Published 5/25/05]

[For replacement pages for IAC, see IAC Supplement 5/25/05.]



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER THIRTY - SEVEN**

**WHEREAS,** older Iowans should enjoy the freedom to choose from a variety of living and service options that guarantee their optimum health, dignity, autonomy and independence; and

**WHEREAS,** limited income and personal resources should not prevent access to a full array of quality services sufficient to provide a safe, healthy and satisfying environment in which to live; and

**WHEREAS,** Iowa should have a long term living system that ensures no Iowan is abused, experiences preventable deteriorating health, emotional or social isolation because of disability or the frailties of aging; and

**WHEREAS,** it is important to expand Iowa's ability to provide services to people in ways that delay and prevent institutional placement rather than merely serving those eligible for institutional care; and

**WHEREAS,** the State of Iowa currently provides a wide variety of services to older Iowans across the enterprise of state government; and

**WHEREAS,** the need exists to develop a seamless and comprehensive service delivery system, which can be designed to address the state's critical needs; and

**WHEREAS,** a comprehensive effort to develop strategies for improving and re-shaping the structure and nature of senior services in this state must include steps to coordinate the services that are delivered by all Departments within the State of Iowa.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct the creation of the AGING SERVICES CABINET.

- I. Purpose. The Aging Services Cabinet shall be convened to increase coordination and improve integration of health and social services for older Iowans across state government. The Aging Services Cabinet shall advise the Governor's office on workable strategies for developing a well-coordinated and seamless senior service delivery system, wherein the Departments of state government work together in a more cohesive manner to assess and deliver needed services to older Iowans.

The Aging Services Cabinet shall address pertinent issues that affect the lives of older Iowans. The Cabinet may consider issues which include, but shall not be limited to: expanded and targeted case management services in the elderly waiver; a community choice counseling process; use of technology to make determination of eligibility more efficient and effective in developing care plans (Iowa's Seamless project); improving access to the long term care system by citizens; the unique behavioral health problems facing older Iowans; the challenges of recruiting and retaining an adequate and qualified caregiver workforce; the challenges of providing services in rural Iowa; services that enhance the quality of life of older Iowans; and consumer education to promote healthy aging and assist older Iowans in making the service and care decisions that face them.

- II. Organization. The Aging Services Cabinet shall be composed of the Directors of the Department of Elder Affairs, the Department of Human Services, the Department of Inspections and Appeals and the Department of Public Health. The Aging Services Cabinet shall consult with other State Departments, representatives from the Iowa General Assembly, the Governor's Office, aging services stakeholders and providers within the state, and state residents as is necessary to fulfill its purpose.

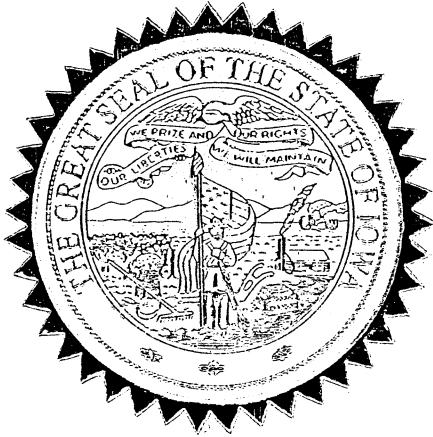
The Department of Human Services will be the lead Department for the Aging Services Cabinet and will provide administrative support for the Cabinet.

- III. Activities. The Aging Services Cabinet shall meet at the call of the Governor. In addition, the Cabinet shall convene no less than quarterly in order to coordinate activities and share information on tasks as assigned by the Governor.

The Aging Services Cabinet shall commence its activities by taking the following steps: (1) identify all of the current activities within state government that serve older Iowans; (2) identify a narrow set of priority issues to improve services to older Iowans (these issues shall consist of topics that have a significant impact on all older Iowans and compliment existing efforts); (3) generate recommendations for addressing priority issues including policy options and an implementation strategy and timeline; (4) prepare action plan for implementing recommendations approved by the Governor.

The Cabinet shall submit a written report to the Governor's Office no later than December 1<sup>st</sup>, 2004 with short term recommendations and a follow-up report June 1<sup>st</sup>, 2005 with long term recommendations and implementation plans.


The Aging Services Cabinet shall be disbanded on December 31<sup>st</sup>, 2006.




IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 1<sup>ST</sup> day of October, in the year of our Lord two thousand four.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE





State of Iowa  
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER THIRTY - EIGHT**

- WHEREAS,** this office announced the creation of the IOWA FOOD POLICY COUNCIL, on March 31, 2000, in EXECUTIVE ORDER NUMBER SIXTEEN, and continued its existence in EXECUTIVE ORDERS NUMBER NINETEEN and TWENTY-NINE; and
- WHEREAS,** the Council continues to serve a need by providing the people of Iowa with a vehicle to meet and discuss opportunities for using policy actions by state and local governments to promote a stronger and more diverse food system; and
- WHEREAS,** Drake University's Agricultural Law Center, with financial support from Congress and the United States Department of Agriculture, is examining how state and local food policy councils are a productive form of civic engagement, and is providing the staff and funding to support the work of the Iowa Food Policy Council, and
- WHEREAS** The Council continues to provide leadership to the State of Iowa by examining how food policy councils can be used to create more economic development opportunities for farmers, improve access to food for consumers and enhance the well-being of communities; and
- WHEREAS** The Council and its Food Security Task Force have been recognized by Congress for leadership and contributions to improving the operation of Iowa's food assistance programs; and
- WHEREAS,** Drake University and the Iowa Food Policy Council sponsor the annual Iowa Food Policy Conference, most recently held September 10, 2004, to convene stakeholders in Iowa's food system and provide a comprehensive public educational event to discuss opportunities in Iowa; and

**WHEREAS,** The Iowa Food Policy Council has provided a report to the Governor and the state including specific policy recommendations for how to improve the opportunities in Iowa's food system, and

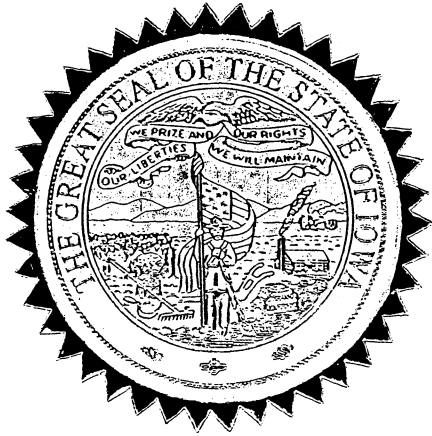
**WHEREAS,** The Council has determined further review is necessary in order to make additional recommendations for comprehensive food policy proposals for the State of Iowa; and

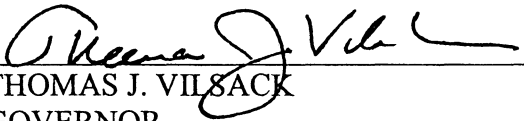
**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa do hereby order the continuation of the IOWA FOOD POLICY COUNCIL, as established and set forth in Executive Orders Sixteen, Nineteen and Twenty-Nine with the same powers and authority.

The provisions outlined in EXECUTIVE ORDER NUMBER TWENTY-NINE shall continue to govern the activities of the council, with the following amendments:

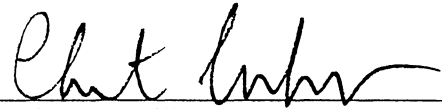
1. The Council will hold the Fourth Iowa Food Policy Conference in September 2005.
2. The Council will continue the work of three inter-agency task forces, focused on recommending improvements in state activities relating to food security, increasing institutional purchases of Iowa food products, and promoting use of locally grown food products.
3. The task force formerly know as the "Food Security Task Force" will broaden its work to include health and nutrition and will now operate as the Food Security and Health Task Force
4. The Council will work with interested communities to support the Buy Fresh Buy Local campaign administered through the Practical Farmers of Iowa, and will continue the effort to create a state-wide Buy Fresh Buy Local initiative using public- private partnerships.
5. The Council will continue to develop a blueprint for the food industry in Iowa to use community-based food processing in rural economic development, including an effort to identify the potential for a poultry-processing facility to serve producers and consumers in central Iowa.
6. The Council shall submit an annual report outlining its findings and recommendations to the Governor for review no later than September 30<sup>th</sup> of each year. The Council will continue in operation until such time as the Governor determines its activities are no longer necessary for the people of Iowa.


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 22<sup>nd</sup> day of October, in the year of our Lord two thousand four.



  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
CHESTER J. CULVER  
SECRETARY OF STATE



**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER THIRTY-NINE**

**WHEREAS,** Iowa must transform its economy in order to be prosperous; and

**WHEREAS,** in order to transform its economy Iowa needs Great Places to live, work and raise a family; and

**WHEREAS,** Great Places retain and attract young people, educated workers, business development, entrepreneurs, families and retirees; and

**WHEREAS,** Great Places are culturally vibrant, offer diverse housing options, and capitalize on their authentic constructed and natural environment; and

**WHEREAS,** local governments, community leaders, businesses, and non-profits must be part of the effort to develop Great Places; and

**WHEREAS,** Iowa must cultivate opportunities for bold thought, innovation and entrepreneurship at the local level; and

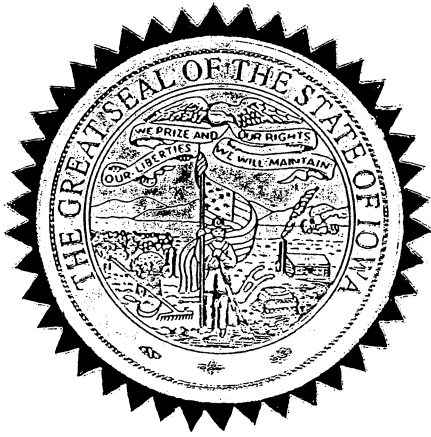
**WHEREAS,** by focusing financial and technical resources the state can build local capacity, capitalize on the unique strengths of place, and unleash Iowa's creativity;

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the Laws and the Constitution of the State of Iowa, do hereby order the creation and implementation of the IOWA GREAT PLACES.

Purpose: Iowa Great Places is designed to bring together the resources of state government to build capacity in communities, regions, neighborhoods or districts to cultivate the unique and authentic qualities that make these areas special places to live and work, and among the assets on which communities will capitalize are the arts and culture, historic fabric, built environment, natural environment, housing options, retail amenities, entrepreneurial incentives, business development, and diversity.

- I. State agencies shall participate in the Iowa Great Places, identifying ways to package together resources under their control into a competitive effort to be awarded to the most creative and innovative communities, regions, districts or neighborhoods aspiring to be Great Places.
- II. The Department of Cultural Affairs, Department of Economic Development and Iowa Finance Authority shall be responsible for the development of Iowa Great Places. Their directors, and the directors of other state agencies including but not limited to Department of Human Rights, Department of Natural Resources, Department of Transportation, and Iowa Workforce Development, offering resources to Iowa Great Places, will serve as a Council to determine awards to Great Places.
- III. Iowa Great Places will be housed and coordinated at the Department of Cultural Affairs.
- IV. A citizen advisory board of up to 12 members shall be established to advise in the design of the Iowa Great Places and assist in the selection of three pilot Great Places. The board shall include representatives from the following groups: community leaders, local government officials, cultural leaders, housing developers, business owners, and parks officials.
- V. Design of the Great Places initiative will be completed by June 30, 2005. A report shall be issued that includes the following:
  - An inventory of tools, resources, funding sources and technical assistance available
  - The completion of a kaizen of state programs to improve synchronicity, eliminate duplication, improve accessibility and increase collaboration
  - Definition of criteria for Request for Proposal
  - Definition of criteria for readiness to participate in the Great Places program
  - Strategies to prepare communities for the application process
  - Measurement tools to assess the success of the Great Places program
- VI. By June 30, 2006, three pilot Great Places shall be selected to receive a package of resources to be determined by the Great Places Council. These pilot Great Places will serve as a learning laboratory for the new program. Funding will be applied to program design, preparation of communities and investment through grants, loans, technical assistance and services to pilot Great Places.

Nothing in this Executive Order shall be construed to contravene any state or federal law.




**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 11<sup>th</sup> day of January, in the year of our Lord two thousand five.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE



**State of Iowa**  
**Executive Department**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER FORTY**

**WHEREAS,** natural and man-made emergencies can hinder the ability of State agencies to deliver essential services to the people of Iowa; and

**WHEREAS,** the purpose of Continuity of Operations and Continuity of Government planning is to ensure survival of a constitutional form of government and the continuity of essential State functions under all circumstances; and

**WHEREAS,** effective State agency planning is vital to the implementation and operation of coordinated and well-managed Continuity of Operations and Continuity of Government plans; and

**WHEREAS,** it is imperative that all State agencies have in place a viable Continuity of Operations capability which outlines the performance of their essential functions during any emergency or situation that may disrupt normal operations; and

**WHEREAS,** Homeland Security Presidential Directives 3, 5 and 7, as well as Federal Preparedness Circular 65 and National Response Plan, 9230, require the establishment and implementation of Continuity of Operations and Continuity of Government planning; and

**WHEREAS,** Iowa Code chapter 29C requires the Homeland Security and Emergency Management Division of the Iowa Department of Public Defense to administer emergency planning matters and prepare a comprehensive plan and emergency management program for homeland security, disaster preparedness, response, recovery, mitigation, emergency operation and emergency resource management for the state; and

**WHEREAS,** Iowa's citizens should expect to receive and State agencies must be prepared to deliver essential services to citizens and customers regardless of situation or circumstance;

**NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the Laws and the Constitution of the State of Iowa, do hereby order that all Iowa State executive branch agencies, in collaboration with the Homeland Security and Emergency Management Division of the Iowa Department of Public Defense, shall prepare a Continuity of Operations and a Continuity of Government plan to ensure the State's ability to deliver essential services under any circumstance.**

**I. Such plans shall address:**

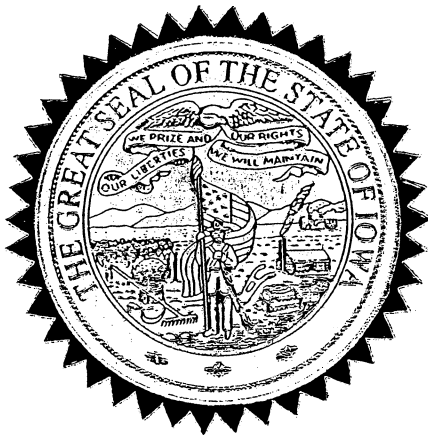
1. succession to office and emergency delegation of authority in accordance with applicable law;
2. safekeeping of essential resources, facilities, and records; and
3. establishment of emergency operating capabilities.

**II. Such plans shall outline each agency's strategies for:**

1. ensuring the continuous performance of the agency's essential functions/operations during an emergency;
2. reducing loss of life, minimizing damage and losses;
3. ensuring the continuous operations of the three major branches of Iowa state government;
4. executing, as required (citing accompanying authorities), successful succession of elected or appointed offices in the event a disruption renders incumbent leadership unable, unavailable, or incapable of assuming and performing the responsibilities and authorities of said office;
5. reducing or mitigating disruptions to operations;
6. achieving timely and orderly recovery from an emergency and resumption of full service to citizens and customers; and
7. ensuring and validating readiness through a dynamic, integrated test, training, and exercise program designed to support and maintain the implementation of Continuity of Operations and Continuity of Government plans.



III. All State executive branch agencies shall develop the above outlined Continuity of Operations and Continuity of Government plans, have said plans certified by the head of the agency, and present for review to the Homeland Security and Emergency Management Division of the Iowa Department of Public Defense, on or before July 1, 2005.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 3<sup>rd</sup> day of March, in the year of our Lord two thousand five.

*Thomas J. Vilsack*  
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THOMAS J. VILSACK  
GOVERNOR

ATTEST:

*Chet Culver*  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE  
*by G. Klaassen, Deputy*



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\*EXECUTIVE ORDER NUMBER FORTY-ONE**

**WHEREAS,** State government is a major consumer of energy and should be a leader in adopting cost-effective energy efficiency practices, thereby furthering environmental, fiscal, and economic stewardship goals; and

**WHEREAS,** State government should assume a leadership role in renewable energy use and development, thereby furthering critical national fuel diversity, energy security, environmental, and economic goals; and

**WHEREAS,** the State of Iowa is dedicated to the mutually compatible goals of environmental protection and economic development; and

**WHEREAS,** a reduction in the use of energy from fossil fuels will have significant benefits for the health of Iowa's citizens and our environment by reducing emissions of sulfur dioxide, greenhouse gases, particulate matter, and other pollutants; and

**WHEREAS,** State investment in cost-effective renewable energy sources and energy-efficient equipment will help provide stable, secure, long-term energy markets and the development of promising new technologies for the citizens of Iowa; and

**WHEREAS,** Iowa currently has 636 megawatts of wind energy capacity and has the potential to produce nine times its 2003 electrical consumption from wind power; and

**WHEREAS,** Iowa has the capacity to produce more than 900 million gallons of ethanol and more than 20 million gallons of biodiesel a year; and

**WHEREAS,** more than twenty fueling locations currently offer E85 and seven fuel dealers offer 5% biodiesel blends; and

**WHEREAS,** the Governor's Energy Policy Task Force made the following recommendations:

- Vehicles owned and operated by the State should have the highest fuel efficiency available and suitable for the particular use and be maintained to operate as efficiently as possible;
- Energy audits should be performed to identify state-owned/occupied buildings in which significant opportunities to implement cost-effective energy improvements are available;
- Reduce energy consumption in state-owned/occupied facilities through implementation of cost-effective energy efficiency measures as identified in energy audits;
- Biodiesel should be used in state-owned and operated diesel vehicles, generating facilities, and stationary diesel engines when feasible;
- State refueling facilities should be accessible to other public entities for purchasing biodiesel;
- The State should continue to support and use ethanol in all gas vehicles in its fleet;
- The State should purchase electricity from renewable resources to the maximum extent possible; and

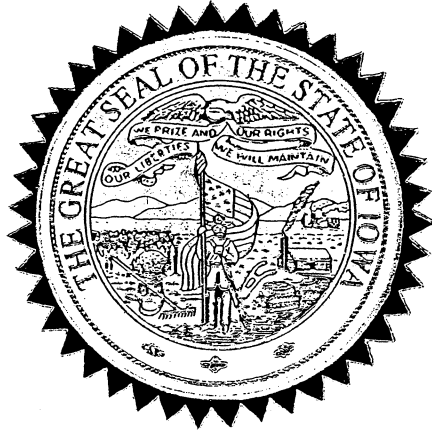
**WHEREAS,** assistance for energy efficiency and renewable energy issues is available through the Department of Natural Resources' Energy and Waste Management Bureau;

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct as follows:

- I. All agencies shall identify and implement energy efficiency measures as provided for in Iowa Code Section 473.13A. The State of Iowa shall reduce energy consumption per square foot per degree day in all conditioned facilities owned by the State by an average of 15% by 2010, relative to 2000 levels. The agencies shall retain the energy savings realized and shall apply the savings to re-invest in facility infrastructure needs.

- II. For all equipment for which life cycle cost calculations can be completed, all agencies shall purchase lowest life cycle cost equipment. All agencies shall comply with Iowa Code Sections 72.5 and 470.8, which require agencies responsible for the new construction or renovation of a public facility to implement the recommendations of a life cycle cost analysis.
- III. The State of Iowa shall ensure that on average at least 10% of the electric consumption for all buildings where the state directly pays for the electric consumption comes from an alternate energy production facility, as defined by Iowa Code Section 476.42, by 2010. Agencies may generate their own alternate energy or may participate in their utility's green power purchase programs, where available, to fulfill this requirement.
- IV. All agencies shall ensure that 100% of the non-law enforcement, light-duty vehicles procured by 2010 shall be alternative fuel vehicles (as defined by Iowa Code Section 8A.362(5)) or hybrid-electric vehicles when an equivalent alternative fuel or hybrid-electric model is available. Furthermore, agencies shall ensure that their flexible fuel vehicles operate on E85 whenever an E85 fueling facility is available.
- V. All agencies shall ensure that all bulk diesel fuel procured has at least 5% renewable content by 2007, 10% renewable content by 2008, and 20% renewable content by 2010, provided fuel that meets ASTM D 6751 is available. Further, agencies shall ensure that diesel vehicles operate on biodiesel blends whenever the blends are available.
- VI. All agencies shall report progress on meeting the directives set forth in this Executive Order quarterly to the Iowa Department of Natural Resources to compile and report to the Governor's Office.

VII. Nothing in this Executive Order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 22nd day of April, in the year of our Lord two thousand five.

*Thomas J. Vilsack*  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

*Chet Culver*  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE  
*bn J. Klaassen, Deputy*





**IOWA ADMINISTRATIVE BULLETIN**  
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