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PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, Code of Iowa as amended by Sixty-seventh General Assembly, H.F. 2099, section 3, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

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

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6 of the Code as amended by 67GA, H.F. 2099 and S.F. 244. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

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Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly as follows:

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Third quarter	January 1, 1979, to June 30, 1979	21.00 plus 0.63 tax
Fourth quarter	April 1, 1979, to June 30, 1979	10.50 plus 0.32

Single copies may be purchased for \$2.00 plus \$0.06 tax. Back issues may be purchased if the issues are available.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets and subscription basis only. All subscriptions for the Supplement (replacement pages) must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplement are as follows:

Iowa Administrative Code - \$305.00 plus \$9.15 tax

(Price includes Volumes I through IX, four supplement binders and a one-year subscription to the Code Supplement.)

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AGENDUM

The Administrative Rules Review Committee will hold its regular meeting, Tuesday, November 14, 9:00 a.m., Senate Committee Room 24. The following rules will be reviewed.

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ARTS COUNCIL[100] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to authority of chapter 304A of the Code, in accordance with 17A.4 of the Code, the Iowa State Arts Council proposes to amend chapter 2 of its rules, as they appear in the Iowa Administrative Code.

Interested persons may submit written data, view, or arguments on the intended action by contacting Mr. Dwight Keller, Iowa Arts Council, State Capitol Building, Des Moines, Iowa 50319 by November 21, 1978. Chapter 2 is amended as follows:

ITEM 1. Strike all of subrule 2.1(5), paragraph "a", subparagraph (2) and insert in lieu thereof the following:

(2) The following programs are not funded by the council: Deficit spending, profit-making organizations, and entertainment expenses. Usually the following programs are not funded by the council: Capital improvements, permanent equipment over \$200 and lasting longer than one year, operating expenses, travel or study out of Iowa, tuition assistance for colleges, recruitment for schools, courses offered for credit by academic institutions, student projects for academic credit, employment on a continuing basis of permanent personnel, projects in which grant funds replace local funds, conservation of art work, and exclusive audiences (students only, members only).

ITEM 2. Amend subrule 2.1(5), paragraph "a", subparagraph (3) to read as follows:

(3) The application procedure involves all of the following. Prospective applicants must submit a letter of intent containing: Name, address, and telephone number of the group, organization or individual requesting assistance, a brief description of the proposal, dates of the project or program, and the approximate amount of financial assistance requested. Upon review by the staff, the appropriate application form will be sent to the organization, group, or individual.

Deadlines for the letter of intent and application form are as follows: Projects occurring in the succeeding fiscal project year ~~September July 1 1976 August June 31 30 1977~~ must have the letter of intent postmarked by ~~12-1-75~~ *December 1 of the previous year* and the application form postmarked or hand delivered to the office by the ~~second Friday in January 1976 January 10 of the project year;~~ *project qualifying for special need status are accepted only by the first of each month that the council meets; mini-grant projects will be accepted at any time. Previous grant recipients who have not met an IAC report deadline will be ineligible to apply for any funding for a period of not less than one year after the delinquent report is submitted.*

ITEM 3. Strike all of subrule 2.1(5), paragraph "a", subparagraph (4) and insert in lieu thereof the following:

(4) The grant procedure involves two types of awards: Major grants (over \$500 awarded) and mini-grants (\$500 or less awarded). Major grant projects are those that will run the full project period July-June and are reviewed only at the February business meeting of the council. Mini-grant projects usually run less than the full project

year July-June and are reviewed throughout the year.

ITEM 4. Amend subrule 2.1(5), paragraph "a", subparagraph (5), to read as follows:

(5) The council reviews all fiscal year both major and mini-grant applications at the February business meeting and recommends action to the director, who awards the grants. Special need applications are reviewed at each business meeting and with a two-third vote of approval of those attending are recommended to the director who awards the grants. The council has recommended to the director that the director act on mini-grants unless the director feels the application should be reviewed by the council. Official grant notification will be made by the director within ninety days of the date the application is received.

ITEM 5. Amend subrule 2.1(5), paragraph "a", by adding the following new subparagraph (6):

(6) Special guidelines for making application include the following policies:

A maximum of \$1,500 will be awarded on applications for affiliate artists programs and maximum council support will be three years.

The council will not fund a total community subscription-only series but will consider support to total community series that are open to the public; however preference will be given to single-events applications.

Touring professionals should apply as individuals and cash match 50% of the fee with the community.

All applicants applying for performing assistance must arrange to be heard or seen in performance or audition by panel, council, and/or staff within a year prior to making application.

The three-year phase-out plan for salary support for arts agencies is: \$3,000 or 1/3 of the total salary (whichever is lower) the first year, 2/3 of the initial grant amount the second year, and 1/3 of the initial grant amount the third year, subject to yearly application and review. Salary support for part-time personnel would be allowed at \$1,500 or 1/3 the total salary (whichever is lower) the first year, 2/3 of the initial grant the second year, and 1/3 of the initial grant the third year, subject to yearly application and review. Secretarial support, if requested, must precede support for a director's position. Criteria for eligibility are:

1. Two years of productive service as an arts agency.
2. Three-year plan indicating:
 - Future funding sources.
 - Programs/services planned for this three-year period.
 - Job description and resume for the employee for whom salary support is requested.

Recommended maximum fees (council grant, travel, and community match) for musicians are: Soloists, \$550; soloist with accompanist, \$650; duo, \$650; trio, \$650; quartet, \$850; and quintet, \$650. No minimum fees are recommended.

Individuals and/or groups not associated with any university, college, museum or gallery may apply for a touring art exhibit grant to pay for the full cost of preparing the exhibit to tour.

Financial support for preparing an exhibit to tour may include materials and supplies such as canvas, metal, photographic paper, paint, brushes, etc., for the production of works of art if the artist provides some explicit reciprocal public service. Artist's time in creating the work of art and the performance of the public service are not allowable expenses.

COLLEGE AID COMMISSION[245] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of sections 261.6 and 261.15 of the Code, the Iowa College Aid Commission proposes that the rules which appear in 1977 IAC, Higher Education Facilities Commission[480] be editorially revised to reflect the commission's current name and agency number [245] and proposes that subrule 2.1(7), paragraph "d" be amended.

Consideration will be given to written views, or arguments thereto, received by the Executive Director, Iowa College Aid Commission, 201 Jewett Building, Ninth and Grand, Des Moines, Iowa 50309 on or before December 1, 1978.

Amend subrule 2.1(7), paragraph "d" to read as follows:

d. Institutions which, in the absence of one of the above accreditations, have fulfilled the requirements for Iowa tuition grant participation set forth in 261.9(b) and (c) of the Iowa Code are registered as nonprofit educational institutions with the corporations division of the secretary of state and are eligible for participation in the Federal Basic Grant Program.

This rule is intended to implement section 261.2(4) of the Code.

COLLEGE AID COMMISSION[245] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to sections 261.6 and 261.15 of the Code; Acts of the Sixty-seventh General Assembly, Senate File 2125, section 5, the Iowa College Aid Commission proposes to adopt new rules, chapter 9.

Consideration will be given to written views, or arguments thereto, received by the Executive Director, Iowa College Aid Commission, 201 Jewett Building, Ninth and Grand, Des Moines, Iowa 50309 on or before December 1, 1978.

CHAPTER 9 NATIONAL GUARD EDUCATIONAL BENEFITS PROGRAM

245—9.1(261) A state-supported program to provide educational benefits for Iowa residents who enlist in the Iowa National Guard.

9.1(1) Eligibility.

a. Applicant must be an Iowa resident, according to the residency criteria adopted by the state board of regents.

b. Applicant must be accepted for enlistment or re-enlistment during the fiscal year for which funds are appropriated.

c. Applicant must be accepted for admission at an Iowa postsecondary institution which is approved by the U.S. Office of Education for purposes of federal student aid programs.

d. Applicant must apply on a form approved by the commission and bearing certification by the Iowa National Guard.

9.1(2) Priority for awards. Grants will be awarded to eligible applicants in order of receipt of application by the commission to the extent of available funds.

9.1(3) Amount and payment of awards.

a. Amount of award will be based on anticipated period of enrollment.

b. Payment of total award will be made through the financial aid office at the recipient's college after certification of enrollment to be applied to any education-related expenses.

c. If recipient is dismissed or withdraws from college before completion of anticipated period of enrollment, the award or portion thereof shall be refunded to the state of Iowa in conformity with the institution's accepted policy on tuition refunds.

This chapter is intended to implement Acts of the Sixty-seventh General Assembly, Senate File 2125, section 5.

COMMERCE COMMISSION[250] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to section 17A.4(1) and chapter 476, of the Code, the Iowa State Commerce Commission hereby gives notice of its intention to consider for adoption a rule or rules concerning any problem with electric and gas utility disconnections during the winter due to nonpayment of bills or deposits. To this end, the commission has issued, on October 4th, 1978, an order commencing such a rulemaking proceeding, identified as Docket No. RMU-78-8.

Any interested party may file written comments with the commission not later than November 20, 1978. Persons and organizations authorized to request an opportunity for oral presentation, in accordance with Section 17A.4(1)(b), The Code 1977, must do so, if at all, by filing with the commission not later than November 30, 1978, a written request for such presentation.

All communications concerning this proceeding should clearly identify the author, the author's address, and the fact that the communication concerns Docket No. RMU-78-8. All communications should be addressed to the Executive Secretary, Iowa State Commerce Commission, State Capitol, Des Moines, Iowa 50319.

The rules which the commission intends to consider and for which it hereafter solicits data, views, and arguments, will include, but not be limited to, the following:

COMMERCE[250] (cont'd)

ITEM 1. The addition to subrules 19.4(15) and 20.4(17) of the following language:

Utility service to a residential customer shall not be disconnected for nonpayment of a bill or failure to provide a deposit during the period November 1 to April 1. During this period a utility shall continue its normal billing and collection procedures in accordance with commission rules. A utility may collect a reasonable interest rate, not to exceed 9% per year, on unpaid bills for service provided during the period November 1 to April 1.

ITEM 2. A requirement that gas and electric utilities offer customers a budget payment plan, which allows uniform payments for eleven months, with the twelfth month (June) being the month to balance the account, which may be enrolled in during any month without an initial "catch up" payment, and which provides for flexible due dates that may be changed for good cause upon written request by the customer.

ITEM 3. The amendment of 19.4(15)"h" and 20.4(17)"h" to provide for at least twelve days' notice before disconnection and for the inclusion with such notice of a summary of settlement or complaint procedures established by commission rule, by statute, and by the company's tariff.

This proceeding will be conducted pursuant to IAC Commerce Commission[250], Chapter 3, Rulemaking.

COMMERCE COMMISSION[250]

AMENDED NOTICE OF RULEMAKING AND NOTICE OF RULEMAKING ORAL PRESENTATION

The Iowa State Commerce Commission hereby amends its Notice of Intended Action issued by order of October 4, 1978, by adding thereto as Item 4:

ITEM 4. A requirement that no electric or gas service to a residential consumer who establishes his inability to pay for such service within a reasonable period of time may be terminated on account of nonpayment for electric or gas service if such termination of service would be especially dangerous to health as determined by the commission.

This amendment is made pursuant to commission order of October 13, 1978, in Docket No. RMU-78-8, In Re: 250—19.4(15), IAC, and 250—20.4(17), IAC, Utility Shutoff Moratorium.

The commission hereby gives notice also that a rulemaking and presentation in this docket has been set by commission order of October 13, 1978, to be commenced at 10:00 a.m. on December 5, 1978, in the Hotel Savery at the Grand Ball Room, Fourth and Locust Streets, Des Moines, Iowa. The oral presentation has been set in order to afford all interested persons an opportunity to orally comment on proposed rules concerning any problem with electric and gas utility disconnections during the winter due to nonpayment of bills or deposits.

The rules to be considered in this proceeding include, but are not limited to, the requirement set forth above, the

prohibition of electric and gas disconnections due to nonpayment of a bill or deposit from November 1 to April 1, a requirement that gas and electric utilities offer customers a budget payment plan, and the amendment of 250—19.4(15)"h" and 20.4(17)"h", IAC, to provide for at least twelve days notice before disconnection and for the inclusion with such notice of a summary of settlement or complaint procedures available to the customer.

COMMERCE COMMISSION[250] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to sections 17A.4(1) and 476.8 of the Code, the Iowa State Commerce Commission hereby gives notice of its intention to consider and promulgate a rule [amending chapters 19 and 20] with respect to late payment penalties, prompt payment discounts, and grace periods applicable to billing customers of gas and electric utilities subject to the commission's rate-regulatory authority. To this end, the commission has issued, on October 13, 1978, an order commencing such a rulemaking proceeding, identified as Docket No. RMU-78-10.

The rule which the commission intends to promulgate and for which it hereafter solicits data, views, and arguments would specify the minimum time period before a penalty may be imposed or a discount denied due to late payment of a bill and a maximum penalty of a single charge of five percent of the net amount of the bill for a single billing cycle, and require the forgiveness of at least one late payment per calendar year per customer.

This proceeding will be conducted pursuant to [250] chapter 3, Rulemaking, IAC.

Any interested party may file written comments with the commission not later than November 30, 1978. Persons and organizations authorized to request an opportunity for oral presentation, in accordance with section 17A.4(1)"b", of the Code, must do so, if at all, by filing with the commission not later than November 30, 1978, a written request for such presentation.

All communications concerning this proceeding should clearly identify the author, the author's address, and the fact that the communication concerns Docket No. RMU-78-10. All communications should be addressed to the Executive Secretary, Iowa State Commerce Commission, State Capitol, Des Moines, Iowa 50319.

COMMERCE COMMISSION[250] NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to sections 17A.4(1) and 476.25 of the Code, the Iowa State Commerce Commission hereby gives notice of its intention to establish, by rule, [new chapter] exclusive service areas for each electric utility in the State of Iowa. To this end, the commission has issued, on October 13, 1978, an order commencing such a rulemaking proceeding, identified as Docket No. RMU-78-11.

For purposes of comment and any subsequent oral presentation in this rulemaking, the state has been divided into four regions. These regions are defined in Appendices I through IV, and these definitions hereby are incorporated into this notice.

A map of all exclusive service areas in each region will be made available on application to the commerce commission, at its cost of reproduction. Such maps will be available on or near the following dates:

Region I - November 1, 1978.

Region II - January 1, 1979.

Region III - February 1, 1979.

Region IV - March 1, 1979.

A map of each utility's exclusive service area(s) will be mailed to it on or near the following dates:

For exclusive services areas, or parts thereof, in Region I - November 1, 1978.

For exclusive service areas, or parts thereof, in

Region II - January 1, 1979.

For exclusive service areas, or parts thereof, in Region III - February 1, 1979.

For exclusive service areas, or parts thereof, in Region IV - March 1, 1979.

This proceeding will be conducted pursuant to [250] Chapter 3, Rulemaking, IAC.

Any interested party may file written comments with the commission. In accordance with section 17A.4(1)"b.," The Code 1977, no later than:

For Region I - December 5, 1978.

For Region II - January 31, 1979.

For Region III - March 5, 1979.

For Region IV - April 2, 1979.

All comments concerning this proceeding should clearly identify the author's address, and the fact they concern Docket No. RMU-78-11, and should include a legal description of any suggested service area boundary. All communications should be addressed to the Executive Secretary, Iowa State Commerce Commission, State Capitol, Des Moines, Iowa, 50319.

Oral presentations for this rulemaking are scheduled for the following dates:

For Region I - Tuesday, December 19, 1978.

For Region II - Wednesday, February 14, 1979.

For Region III - Tuesday, March 20, 1979.

For Region IV - Wednesday, April 18, 1979.

In accordance with Commission [250] rule 3.7(17A,474), any interested person may participate in rulemaking oral presentations in person or by counsel, upon filing of a written appearance not less than five calendar days prior to the oral presentation. All presentations will be held at the Iowa State Commerce Commission offices, 300 Fourth Street, Des Moines, Iowa, in Hearing Room "A", and will commence at 10:00 a.m.

~~COMMERCE~~[250] (cont'd)

DOCKET RMU-78-11

APPENDIX I

Legal Description of Region I:

The area bordered on the West, South and North by the Iowa state line; and on the East by a line beginning at the Southwest (SW) corner of Township Sixty-seven North (T67N), Range Thirty-three West (R33W), thence North along the West boundary of Township Sixty-seven North (T67N), Range Thirty-three West (R33W); Township Sixty-eight North (T68N), Range Thirty-three West (R33W), to the Northwest (NW) corner of said township; thence West to the Southwest (SW) corner of Township Sixty-nine North, Range Thirty-three West (R33W); thence north along the West boundary of Township Sixty-nine North (T69N), Range Thirty-three West (R33W), and Township Seventy North (T70N), Range Thirty-three West (R33W); all in Taylor County; thence North along the West boundary of Township Seventy-one North (T71N), Range Thirty-three West (R33W); Township Seventy-two North (T72N), Range Thirty-three West (R33W) and Township Seventy-three North (T73N), Range Thirty-three West (R33W); all in Adams County; thence North along the West boundary of Adair County; thence North along the West boundary of Township Seventy-eight North (T78N), Range Thirty-three West (R33W) to the Northwest (NW) corner of said Township; thence West to the Southwest (SW) corner of Section 33, Township Seventy-nine North (T79N), Range Thirty-three West (R33W); thence North along the West boundary of Sections 33, 28, 21, 16, 9 and 4, all in Township Seventy-nine North (T79N), Range Thirty-three West (R33W); Sections 33, 28, 21, 16, 9 and 4, all in Township Eighty North (T80N), Range Thirty-three West (R33W); Sections 33, 28, 21, 16, 9 and 4, all in Township Eighty-one North (T81N), Range Thirty-three West (R33W) to the Northwest (NW) corner of said Section 4; all in Guthrie County; thence West to the Southwest (SW) corner of Section 36, Township Eighty-two North (T82N), Range Thirty-four West (R34W); thence North along the West boundary of Sections 36, 25, 24, 13, 12 and 1, all in Township Eighty-two North (T82N), Range Thirty-four West (R34W); Sections 36, 25, 24, 13, 12 and 1, all in Township Eighty-three North (T83N), Range Thirty-four West (R34W); Sections 36, 25, 24, 13, 12 and 1, all in Township Eighty-four North (T84N), Range Thirty-four West (R34W); Sections 36, 25, 24, 13, 12 and 1, all in Township

COMMERCE[250] (cont'd)

Eighty-five North (T85N), Range Thirty-four West (R34W) to the Northwest (NW) corner of said township; all in Carroll County; thence West to the Southwest (SW) Corner of Section 35, Township Eighty-six North (T86N), Range Thirty-four West (R34W); thence North along the West boundary of Sections 35, 26, 23, 14, 11 and 2, all in Township Eighty-six North (T86N), Range Thirty-four West (R34W); Sections 35, 26, 23, 14, 11 and 2, all in Township Eighty-seven North (T87N), Range Thirty-four West (R34W); Sections 35, 26, 23, 14, 11 and 2, all in Township Eighty-eight North (T88N), Range Thirty-four West (R34W) to the Northwest (NW) corner of said Section 2; thence West to the Southwest (SW) corner of Township Eighty-nine North, (T89N), Range Thirty-three West (R33W); thence North along the West boundary of Township Eighty-nine North (T89N), Range Thirty-three West (R33W); all in Calhoun County; thence North along the West boundary of Township Ninety North (T90N), Range Thirty-three West (R33W); Township Ninety-one North, (T91N), Range Thirty-three West (R33W); Township Ninety-two North (T92N), Range Thirty-three West (R33W); Township Ninety-three North (T93N), Range Thirty-three West (R33W); all in Pocahontas County; thence North along the West boundary of Township Ninety-four North (T94N), Range Thirty-three West (R33W); Township Ninety-five North (T95N), Range Thirty-three West (R33W); Township Ninety-six North (T96N), Range Thirty-three West (R33W); Township Ninety-seven North, (T97N), Range Thirty-three West (R33W) to the Northwest (NW) corner of said township; all in Palo Alto County; thence West to the Southwest (SW) corner of Emmet County; thence North along the West boundary of Emmet County to the Northwest (NW) corner of Emmet County.

COMMERCE[250] (cont'd)

DOCKET RMU-78-11

APPENDIX II

Legal Description of Region II:

The area bordered on the North and South by the Iowa state line; on the West by the East boundary line of Region I; and on the East by a line beginning at the Southeast (SE) corner of Section 20, Township Sixty-seven North (T67N), Range Twenty-two West (R22W); thence North along the East boundary of Sections 20, 17, 8 and 5, all in Township Sixty-seven North (T67N), Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Sixty-eight North (T68N), Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Sixty-nine North (T69N) Range Twenty-two West (R22W and Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy North, Range Twenty-two West (R22W); all in Wayne County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-one North (T71N) Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-two North (T72N), Range Twenty-two West (R22W) and Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-three North (T73N), Range Twenty-two West (R22W); all in Lucas County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-four North (T74N), Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-five North (T75N), Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-six North (T76N), Range Twenty-two West (R22W) and Sections 32, 29, 20, 17, 8 and that portion of Section 5 South of the Des Moines River, all in Township Seventy-seven North (T77N), Range Twenty-two West (R22W); all in Warren County; thence North along the East boundary of that portion of Section 5 North of the Des Moines River, Township Seventy-seven North (T77N), Range Twenty-two West (R22W); Sections 32, 29, 20, 17, 8 and 5, all in Township Seventy-seven North (T77N), Range Twenty-two West (R22W); Sections 33, 28, 21, 16, 9 and 4, all in Township Seventy-nine North (T79N), Range Twenty-two West (R22W); Sections 33, 28, 21, 16, 9 and 4, all in Township Eighty North (T80N), Range Twenty-two West (R22W) and Sections 33, 28, 21, 16, 9 and 4, all in Township Eighty-one

COMMERCE[250] (cont'd)

North (T81N), Range Twenty-two West (R22W); all in Polk County; thence North along the East boundary of Sections 33, 28, 21 and 16, all in Township Eighty-two North (T82N), Range Twenty-two West (R22W) to the Northeast (NE) corner of said Section 16; thence East along the South boundary of Sections 10, 11 and 12, all in Township Eighty-two North (T82N), Range Twenty-two West (R22W) to the Southeast (SE) corner of said Section 12; thence North along the East boundary of Sections 12 and 1, all in Township Eight-two North (T82N), Range Twenty-two West (R22W); thence North along the East boundary of Township Eighty-three North (T83N), Range Twenty-two West (R22W); Township Eighty-four North (T84N), Range Twenty-two West (R22W) and Township Eighty-five North (T85N), Range Twenty-two West (R22W); all in Story County; thence North along the East boundary of Township Eighty-six North (T86N), Range Twenty-two West (R22W); Township Eighty-seven North (T87N), Range Twenty-two West (R22W) and Township Eighty-eight North (T88N), Range Twenty-two West (R22W) to the Northeast (NE) corner of said township; thence East to the Southeast corner of Section 32 in Township Eighty-nine North (T89N), Range Twenty-one West (R21W); thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-nine North (T89N), Range Twenty-one West (R21W); all in Hardin County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety North (T90N), Range Twenty-one West (R21W); Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-one North (T91N), Range Twenty-one West (R21W); Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-two North (T92N), Range Twenty-one West (R21W); and Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-three North (T93N), Range Twenty-one West (R21W); all in Franklin County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-four North (T94N), Range Twenty-one West (R21W); Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-five North (T95N), Range Twenty-one West (R21W); Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-six North (T96N), Range Twenty-one West (R21W); and Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-seven North (T97N), Range Twenty-one West (R21W); all in Cerro Gordo County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Ninety-eight North (T98N), Range Twenty-one West (R21W); Sections 32, 29,

COMMERCE[250] (cont'd)

20, 17, 8 and 5, all in Township Ninety-nine North (T99N), Range Twenty-one West (R21W); and Sections 32, 29, 20, 17 and 8, all in Township One Hundred North (T100N), Range Twenty-one West (R21W); all in Worth County to the Iowa state line.

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APPENDIX III

Legal Description of Region III:

The area bordered on the North and South by the Iowa state line; on the West by the East boundary of Region II; and on the East by a line beginning at the Southeast (SE) corner of Section 12, Township Sixty-seven North (T67N), Range Nine West (R9W); thence North along the East boundary of said Section 12 and Section 1, said Township and Range; Township Sixty-eight North (T68N), Range Nine West (R9W) to the Northeast (NE) corner of said township; thence West along the South boundary of Section 36, Township Sixty-nine North (T69N), Range Nine West (R9W) to the Southwest (SW) corner of said Section; thence North along the East boundary of Sections 35, 26, 23, 14, 11 and 2, all in Township Sixty-nine North (T69N), Range Nine West (R9W); and Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy North (T70N), Range Nine West (R9W); all in Van Buren County; thence North along the East boundary of Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-one North (T71N), Range Nine West (R9W); Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-two North (T72N), Range Nine West (R9W); and Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-three North (T73N), Range Nine West (R9W); all in Jefferson County; thence North along the East boundary of Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-four North (T74N), Range Nine West (R9W); Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-five North (T75N), Range Nine West (R9W); Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-six North (T76N), Range Nine West (R9W); and Sections 35, 26, 23, 14, 11 and 2, all in Township Seventy-seven North (T77N), Range Nine West (R9W) to the Northeast (NE) corner of said Section 2; all in

COMMERCE[250] (cont'd)

Washington County; thence West along the South boundary of Sections 35, 34, 33, 32 and 31, all in Township Seventy-eight North (T78N), Range Nine West (R9W) to the Southeast (SE) corner of said Section 31; thence North along the East boundary of Township Seventy-eight North (T78N), Range Ten West (R10W) to the Northeast (NE) corner of said township; thence West to the Southeast corner of Section 36, Township Seventy-nine North (T79N), Range Ten West (R10W); thence North along the East boundary of Township Seventy-nine North (T79N), Range Ten West (R10W); Sections 36, 25, 24 and 13, all in Township Eighty North (T80N), Range Ten West (R10W) to the Northeast (NE) corner of said Section 13; thence East along the South boundary of Sections 7 and 8, Township Eighty North (T80N), Range Nine West (R9W) to the Southeast (SE) corner of said Section 8; thence North along the East boundary of said Section 8 and Section 5, said Township and Range; and Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-one North (T81N), Range Nine West (R9W); all in Iowa County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-two North (T82N), Range Nine West (R9W); Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-three North (T83N), Range Nine West (R9W); Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-four North (T84N), Range Nine West (R9W); Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-five North (T85N), Range Nine West (R9W); and Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-six North, (T86N), Range Nine West (R9W); all in Benton County; thence North along the East boundary of Sections 32, 29, 20, 17, 8 and 5, all in Township Eighty-seven North (T87N), Range Nine West (R9W) to the Northeast (NE) corner of said Section 5; thence East along the South boundary of Sections 33, 34, 35 and 36, Township Eighty-eight North (T88N), Range Nine West (R9W) to the Southeast (SE) corner of said Section 36; thence North along the East boundary of Township Eighty-eight North (T88N), Range Nine West (R9W) to the Northeast (NE) corner of said township; thence East along the South boundary of Sections 31, 32, 33 and 34, all in Township Eighty-nine North (T89N), Range Eight West (R8W) to the Southeast (SE) corner of said Section 34; thence North along the East boundary of said Section 34 and Sections 27, 22, 15, 10 and 3, all in said Township and Range and Sections 34, 27, 22, 15, 10 and 3, all in Township Ninety North

COMMERCE[250] (cont'd)

(T90N), Range Eight West (R8W); all in Buchanan County; thence North along the East boundary of Sections 34, 27, 22, 15, 10 and 3, all in Township Ninety-one North (T91N), Range Eight West (R8W); Sections 34, 27, 22, 15, 10 and 3, all in Township Ninety-two North (T92N), Range Eight West (R8W); Sections 34, 27, 22, 15, 10 and 3, all in Township Ninety-three North (T93N), Range Eight West (R8W); Sections 34, 27, 22, 15, 10 and 3, all in Township Ninety-four North (T94N), Range Eight West (R8W) to the Northeast (NE) corner of said Section 3; thence East along the South boundary of Section 35, Township Ninety-five North (T95N), Range Eight West (R8W) to the Southeast (SE) corner of said Section 35 and and thence North along the East boundary of said Section 35 and Sections 26, 23, 14, 11 and 2, all in said Township and Range; all in Fayette County; thence North along the East boundary of Sections 35, 26, 23, 14, 11 and 2 all in Township Ninety-six North (T96N), Range Eight West (R8W); Sections 35, 26, 23, 14, 11 and 2, all in Township Ninety-seven North (T97N), Range Eight West (R8W); Sections 35, 26, 23, 14, 11 and 2, all in Township Ninety-eight North (T98N), Range Eight West (R8W) to the Northeast (NE) corner of said Section 2; thence East to the Southeast corner of Township Ninety-nine North (T99N), Range Eight West (R8W); thence North along the East boundary of said Township Ninety-nine North (T99N), Range Eight West (R8W); and Township One Hundred North (T100N), Range Eight West (R8W) to the Northeast (NE) corner of said township; all in Winnishiek County.

DOCKET RMU-78-11

APPENDIX IV

Legal Description of Region IV:

The area bounded on the North, South, and East by the Iowa state line; and on the West by the East boundary of Region III.

DENTAL EXAMINERS, BOARD OF[320] AMENDMENT TO NOTICE OF INTENDED ACTION

Pursuant to the authority of section 147.76 of the Code, the Board of Dental Examiners intends to adopt rules relating to the implementation of chapter 153. Notice of Intended Action was published in the October 4, 1978, Iowa Administrative Bulletin, along with a copy of the proposed rules [6.4, chs 20, 21, 26-28, 30, 31]. That notice is amended by adding the following provision for a hearing:

Oral presentations on the proposed rules may be made on November 25, 1978, at 10:00 a.m., in the Auditorium, Wallace State Office Building, in Des Moines, Iowa. Oral presentation should be limited to ten minutes.

ENVIRONMENTAL QUALITY[400]

WATER QUALITY COMMISSION NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

The Water Quality Commission intends to take action on rules, proposed below, that would revise the water quality standards in accordance with the dictate of the U.S. Environmental Protection Agency (EPA).

Section 303(c) of the Federal Clean Water Act, 33 U.S.C. section 1313(c), requires each state to review its water quality standards every three years and to revise them if appropriate. The Water Quality Commission reviewed and revised Iowa's water quality standards in 1977. (Notice of intended action was published in the February 23, 1977, IAC Supplement; revised rules were published in the July 7, 1977, and August 24, 1977, IAC Supplements.) Under authority of section 303(c)(3), the Regional Administrator of EPA notified the commission of the failure of certain of the revised standards to meet the requirements of the Clean Water Act, and of the changes to the standards that would meet the requirements of the Act. The commission was able to satisfy the Regional Administrator that several of the challenged standards did meet the requirements of the Act. The rules proposed below, relating to cadmium, cyanide, mercury and phenol concentrations and to the classification of the lower 6 miles of the Upper Iowa River, involve challenged standards for which the

Commission was unable to demonstrate to the Regional Administrator that the standards met the requirements of the Act.

The proposed concentrations for cadmium, cyanide and mercury are the suggested concentrations in the EPA publication Quality Criteria for Water, often referred to as the Red Book. The proposed concentration of phenol would still be higher than the suggested concentration of .001 mg/l in Quality Criteria for Water, but there have been no demonstrated taste and odor problems associated with concentrations of .01 to 0.05 mg/l.

The proper reclassification of the lower 6 miles of the Upper Iowa represents a return to the classification prior to the 1977 revision. In the 1977 revision the Class A designation was removed because physical characteristics prevented the designated use of the segment. EPA challenged the removal of the Class A designation as being a downgrade regardless of whether the segment is used for its designated use.

Although not required by EPA, the commission is also proposing to make technical clarifications in 16.3(3)"b" and 16.3(4)"b". The changes would make clear that the chemical concentration limits are limits on the total mass of the constituent unless otherwise specified.

The commission will hold a public hearing on the rules proposed below at 10:00 a.m. on December 6, 1978, in the Auditorium of the Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa. Any interested person may make an oral presentation on the proposed rules at that time. Any interested person may also submit written comments on the proposed rules on or before December 18, 1978, to the Executive Director, Department of Environmental Quality, Henry A. Wallace Building, 900 E. Grand Avenue, Des Moines, Iowa 50319.

Pursuant to the authority of section 455B.32(2) of the Code, the rules of the Water Quality Commission relating to water quality standards, appearing in chapter 400-16 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend subrule 16.3(3), paragraph "b" to read as follows:

b. Chemical constituents. The following levels shall not be exceeded at any time the flow equals or exceeds the seven-day, ten-year low flow unless the material is from uncontrollable nonpoint sources:

Arsenic	0.1	mg/l
Barium (total)	1.0	mg/l
Cadmium (total)	0.01	mg/l
<i>in B(W) waters</i>		
Cadmium <i>in B(C) waters</i>	0.0012	mg/l
Chromium (total hexavalent)	0.05	mg/l
Copper (total)	0.02	mg/l
Cyanide	0.02 0.005	mg/l*
Lead (total)	0.1	mg/l
Mercury (total)	0.2 0.05	μg/l
Phenol*	0.1 0.05	mg/l
Selenium	0.1	mg/l
Zinc (total)	1.0	mg/l

* Lowest detectable concentration

* Includes all phenolic compounds.

	Water- B(W)	Uses B(C)
Ammonia Nitrogen (N)		
November 1 to March 31	5 mg/l	2.5 mg/l
April 1 to October 31	2 mg/l	1 mg/l

ENVIRONMENTAL QUALITY [400] (cont'd)

ITEM 2. Amend subrule 16.3(4), paragraph "b" to read as follows:

b. Chemical constituents. The following levels shall not be exceeded at the point of withdrawal:

Arsenic	0.05	mg/l
Barium (total)	1.0	mg/l
Cadmium (total)	0.01	mg/l
Chloride	250	mg/l
Chromium (total hexavalent)	0.05	mg/l
Copper (total)	1.0	mg/l
Cyanide	0.02	mg/l*
Fluoride	2.0	mg/l
Lead (total)	0.05	mg/l
Mercury (total)	0.002	mg/l
Nitrate (as NO ₃)	45	mg/l
Phenol*	0.1	mg/l
Selenium	0.01	mg/l
Silver (total)	0.05	mg/l
Zinc (total)	1.0	mg/l

*Lowest detectable concentration

*Includes all phenolic compounds

ITEM 3. Amend subrule 16.3(5), paragraph "e" on the page identified as "Ch. 16, p. 51", lines 11 through 13, to read as follows:

Mouth (Allamakee Co.) to Lane's Bridge (S81, T100N, R4W, Allamakee Co.) Winneshiek-Howard Co. Line	X X
Lane's Bridge to Winneshiek-Howard Co. Line	X X

MENTAL HEALTH AUTHORITY[567]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of sections 17A.4, 225B.1 and 230A.16-18 of the Code, the Iowa Mental Health Authority proposes a rescission of the existing rules relating to agency organization appearing in 567-1.1 of the Iowa Administrative Code and insertion in lieu thereof of the following new rules.

On November 27, 1978, at 7:00 p.m., in the Court Room of the Crawford County Courthouse, 12th and Broadway, Denison, Iowa, and on November 28, 1978, at 7:00 p.m., in rooms 175-179 of the Schemann Building, Iowa State Center, Iowa State University, Ames, Iowa, and on November 29, 1978, at 7:00 p.m., in the Iowa Room, Iowa Hall, Kirkwood Community College, 6301 Kirkwood Blvd. S.W., Cedar Rapids, Iowa, the Iowa Mental Health Authority shall hold public hearings to consider adoption of the following new rules relating to agency organization. Any person, governmental agency or

association may submit written comments or statements concerning the proposed rules to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319 no later than 4:30 p.m., December 1, 1978. Persons interested in making an oral presentation concerning these new rules at the above specified agency meeting, should make a written request to the director of the agency which may be accepted if received on or before 4:30 p.m., November 22, 1978. All comments and requests shall state:

(1) The name, address, and phone number of each person or agency authorizing the comment or request.

(2) The number and title of the proposed rule as given in this notice which is the subject of the comments or requests.

(3) With regard to requests to make oral presentations, the general content of the presentation shall be indicated.

The proposed new rules for consideration are included in full.

ITEM 1. Strike all of the existing chapter 1 and insert in lieu thereof the following:

CHAPTER 1 AGENCY ORGANIZATION

567-1.1(225B,230A) **Definitions.** Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

1.1(1) "Affiliate" means an organization which has an agreement with a center for the delivery of one or more of the center's service elements.

1.1(2) "Agency" means the Iowa mental health authority.

1.1(3) "Center" means a community mental health center which is established pursuant to section 230A.1 of the Code, which receives continued partial county funding and offers at least diagnostic and treatment services on an outpatient basis and offers consultation and education services.

1.1(4) "Committee" means the committee on mental hygiene within the Iowa mental health authority.

1.1(5) "Director" means the director of the Iowa mental health authority.

1.1(6) "Standards" means the Principles for Accreditation of Community Mental Health Centers in Iowa, Iowa mental health authority, March, 1978.

567-1.2(225B,230A) **Organization.** The agency was created to direct the benefits of Public Law 487, 79th Congress of the United States and amendments thereto.

1.2(1) **Responsibilities.** Responsibilities of the agency include at least:

a. Preparation of the 314(d) State of Iowa Plan for Mental Health Services.

b. Preparation of the 314(d) annual report.

c. Program consultant for Comprehensive Community Mental Health Construction Grants (PL 88-164).

d. Consultant for Comprehensive Community Mental Health Center Staffing Grants (PL 89-105; PL 91-211).

e. Consultant for Comprehensive Specialized Services Staffing Grants including alcohol, drugs, children (PL 91-211).

f. Preparation of statistical reports for National Institute of Mental Health.

g. Iowa liaison with Department of Health,

MENTAL HEALTH[567] (cont'd)

Education, and Welfare, Region VII office.

h. Iowa liaison with Central Office, National Institute of Mental Health.

i. Liaison with other statewide public and private agencies and organizations relating to community mental health programs and services (Promotion of co-ordination).

j. Administration of federal and state funds.

k. Administrative and professional consultation to centers.

l. Development and implementation of standards for centers.

m. Development and administration of a statistical reporting system for centers.

n. Administrative and professional consultation of research and educational activities of centers including a central repository for information regarding community mental health services.

o. Administrative and professional consultation to Community Mental Health Centers Association of Iowa, Inc. and its standing and ad hoc committees.

p. Administrative and professional consultation to Iowa communities in the development of or affiliation with an Iowa center.

q. Administrative and professional consultation with local communities regarding supporting human services for community mental health services and programs.

1.2(2) Program areas. Program areas within the agency which have been created to assist in carrying out agency responsibilities include:

a. Community services. This program area approves the establishment of such services; provides technical assistance to these organizations in seeking county, state and federal funds for program expansion and facilities construction; and provides consultation to public bodies (i.e., boards of supervisors) in expanding existing services, and developing new services.

b. Accreditation and standards. This program area establishes statewide standards for center governance, administration, and services; provides review and evaluation of centers; and makes recommendations to the committee regarding accreditation of centers.

c. Information systems and program evaluation. This program area establishes a statewide data system for such services; establishes internal information systems for such services; designs data systems components to be used in administrative, planning and clinical settings; determines the research designs to be used for program evaluation of community mental health services; measures characteristics related to explicitly established sets of values regarding service delivery; and undertakes appropriate systems changes based on program evaluation.

d. Continuing education. This program area designs continuing education programs for administrative, clinical and clerical staff; designs continuing education programs for members of boards of directors; implements a special federal grant to provide interpersonal skills training to professional and nonprofessional service providers.

e. Health planning. This program area develops and administers the State of Iowa Plan for Mental Health Services; designs effective working relationships to implement the plan's components on a statewide basis; and undertakes research and demographic studies to provide information to establish alternative forms of service delivery.

1.2(3) Request for or submission of information. Information concerning the agency which is not described in these rules may be obtained by writing the Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319. Concerned parties wishing to submit or request other types of information may write to the above mentioned address.

1.2(4) Director-named. The director of the agency is named by the state board of regents with the advice of the dean of the college of medicine, University of Iowa, and the committee.

1.2(5) Director-duties. The duties of the director include at least:

a. Employ, supervise, evaluate and discharge agency personnel.

b. Supervise, co-ordinate, monitor and evaluate activities of the agency and the utilization of resources.

c. Plan agency activities and allocate personnel and financial resources to accomplish agency functions.

d. Prepare an annual operating budget showing the expected receipts and expenditures and expend monies from time to time as needed within the approved budget.

e. Submit to the committee periodic reports showing professional service and financial activities of the agency, and prepare and submit special reports as may be required by the committee.

f. Make an annual report to the board of regents, the governor, and the legislature, to be submitted on September 1 or as soon thereafter as practicable, covering the annual period ending on the preceding June 30.

g. Attend all meetings of the committee.

h. Serve as liaison officer and channel of communications for all official communications between the agency and all other agencies and organizations related to mental health.

i. Carry out all functions and duties assigned by law and delegated by the committee.

567—1.3(225B,230A) Committee. There is a fifteen member committee on mental hygiene established within the agency. The members include the director of the psychiatric hospital at Iowa City, the commissioner of the state department of health, the dean of the college of medicine at the University of Iowa, a member of the state board of regents appointed by the board, the commissioner of the state department of social services, the director of mental health of the state department of social services, a member of the state board of public instruction appointed by the board, and eight members appointed by the governor. The appointive members by the governor are one from the membership of the subcommittee on nervous and mental disease of the Iowa medical society, one from the membership of the Iowa psychiatric society, two from the membership of the boards of directors of the Iowa centers, one from the membership of the Iowa association for mental health, one from the membership of the Iowa society of osteopathic physicians and surgeons, and one from the membership of the Iowa association for retarded citizens.

1.3(1) Terms. The appointive members of the committee serve for terms of three years beginning July 4 of the year of appointment. Vacancies are filled for the unexpired term in the same manner as original appointment.

1.3(2) Meetings. The committee holds an organizational meeting on the first Monday in July each

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year in Iowa City. Other meetings are determined by the committee and are held at least once in each four month period. The committee keeps minutes of its meetings. Two-thirds of the membership shall constitute a quorum. A majority vote shall be required for committee action. Both the meetings and the minutes are open to the public.

1.3(3) Organization. A chairperson and other officers are chosen at the annual organizational meeting of the committee. Special subcommittees from time to time may be appointed by the chairperson of the committee for special tasks that are needed or desirable for the conduct of the affairs of the committee.

1.3(4) Responsibilities. The committee is responsible for:

a. Developing and maintaining policies and procedures pertaining to the organizational structure, governance and operation of the agency.

b. Recommending the naming and the removal of the director to the dean of the college of medicine at the University of Iowa.

c. Conducting a performance appraisal of the director on an annual basis.

d. Providing administrative and logistical services necessary to support the performance of the director and agency functions.

e. Authorizing and approving grants and contracts to which the agency is party.

f. Reviewing and approving the agency annual budget, State of Iowa Plan for Mental Health Services, standards and other programs.

g. Reviewing the annual report.

h. Reviewing policies and programs of governmental agencies relating to mental health, when requested to do so by legally responsible persons.

i. Approving agency recommendations regarding accreditation of centers.

These rules are intended to implement the following sections of the Code: 17A.3, 17A.4; 225B.1-225B.4, 225B.7; 230A.16, 230A.17, 230A.18.

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NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 225B.1 of the Code, the Iowa Mental Health Authority proposes the following amendments to the existing rules relating to guidelines for grants-in-aid appearing in 567-2.1-2.8 of the Iowa Administrative Code.

On November 27, 1978, at 7:00 p.m., in the Court Room of the Crawford County Courthouse, 12th and Broadway, Denison, Iowa, and on November 28, 1978, at 7:00 p.m., in rooms 175-179 of the Schemann Building, Iowa State Center, Iowa State University, Ames, Iowa, and on November 29, 1978, at 7:00 p.m., in the Iowa Room, Iowa Hall, Kirkwood Community College, 6301 Kirkwood

Blvd. S.W., Cedar Rapids, Iowa, the Iowa Mental Health Authority shall hold public hearings to consider adoption of the following amendments relating to guidelines for grants-in-aid. Any person, governmental agency or association may submit written comments or statements concerning the proposed amendments to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319 no later than 4:30 p.m., December 1, 1978. Persons interested in making an oral presentation concerning these rules at the above specified agency meeting, should make a written request to the director of the agency which may be accepted if received on or before 4:30 p.m., November 22, 1978. All comments and requests shall state:

(1) The name, address, and phone number of each person or agency authorizing the comment or request.

(2) The number and title of the proposed rule as given in this notice which is the subject of the comments or requests.

(3) With regard to requests to make oral presentations, the general content of the presentation shall be indicated.

The proposed amendments for consideration are included in full.

ITEM 1. Amend chapter 2 heading to read as follows:

CHAPTER 2 GUIDELINES FOR GRANT-IN-AID GRANTS-IN-AID

ITEM 2. Strike all references to chapter 230A as a chapter of the Code being implemented.

ITEM 3. Amend rule 567-2.1(225B) to read as follows: **567-2.1(225B) Purpose.** The IMHA agency grants-in-aid program was established as a mechanism to assist the community mental health centers of in Iowa and their affiliates to achieve several community services objectives. Those objectives include: The expansion of mental health services to all ninety-nine counties; the evaluation of the effectiveness and efficiency of mental health programs; the further development of existing services consistent with the design of health planning agencies; the refinement of the managerial policies and procedures of the CMHC's; centers; and the production of quality research in the CMHC's centers.

ITEM 4. Amend subrule 2.1(1) to read as follows:

2.1(1) Eligibility. IMHA Agency grants are available to three categories of applicants. Any accredited community mental health center of Iowa, as defined in chapter 230A of the Code of Iowa, is eligible to receive funds through the IMHA agency grant program. Any formal affiliate of a CMHC, center as defined above, is eligible for IMHA agency grant funds. Such an affiliate agency is defined as an agency which has an agreement with a CMHC for the delivery of one or more of the CMHC's service elements. An affiliate must submit applications through the CMHC center. Other mental health agencies/associations organizations are, also, eligible for IMHA agency grant funds. First consideration, however, will be given to proposals submitted by the CMHC's centers and their affiliates.

ITEM 5. Amend subrule 2.1(2) to read as follows:

2.1(2) Award limit-financial administration. An award limit of \$10,000 shall be set for each applicant, agency, regardless of the number of proposals, to insure available funding for several relevant projects each fiscal

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year. Should a CMHC center and its affiliate submit proposals, the funding requests shall be subject to the \$10,000 limit. Funds may be awarded to cover costs of new staff salaries and fringe benefits, travel, training, materials, other costs; and existing staff salaries and fringe benefits that are directly related to the project. Funds will not be awarded for the construction, improvement, or purchase of buildings or the purchase of equipment or real estate. Income derived from the grant projects will not be used to reduce the IMHA agency grant award. Awards are made for the fiscal year, however, the funds are distributed in total prior to the beginning of the fiscal year. Grant funds not expended at the end of the fiscal year shall be returned to the IMHA agency. Applicants receiving awards are subject to the audit policies of the state of Iowa and/or and the federal government.

ITEM 6. Amend rule 567—2.2(225B) to read as follows: **567—2.2(225B) Funding priorities.** For review purposes, grant proposals are separated into seven categories, according to the type of project. The categories are: Uncovered counties, program evaluation, prevention, education, consultation, management services, and clinical services. This listing also represents the funding priorities of the committee on mental hygiene and the IMHA agency. It is possible that a project would fall into more than one category. For example, education activities could be conducted in an uncovered county. In this case, the project would be considered in the highest priority category. Funding decisions, however, are not based on priorities alone. The unique programs needs of the individual CMHC's centers are also seriously considered, as is the quality of the proposal. The committee on mental hygiene and the IMHA agency are particularly interested in funding projects which involve close co-ordination and collaboration with the authority agency and/or or involve two or more CMHC's centers in a joint project; and/or or offer the possibility of future utilization at other CMHC's centers in the state.

ITEM 7. Amend subrule 2.3(1) to read as follows:
2.3(1) Uncovered counties: Projects in this category would involve both educative and consultative activities in an uncovered county and direct clinical services begun with "start up" funds for such a county. Grants for "start up" funds in the amount of \$5,000 are available to CMHC's centers to begin service delivery in previously uncovered counties. These grants will continue to be awarded with the submission of a request from the board(s) of supervisors of the respective county(ies) at the time the request is made. These grants are subject to regular project review procedures.

ITEM 8. Amend subrule 2.3(2), paragraph "a" to read as follows:

a. The cost of CMHC's center operation by units or major types of direct and indirect services.

ITEM 9. Amend subrule 2.3(2), paragraph "b" to read as follows:

b. The numbers and rates of catchment area residents of using CMHC's center services, by service elements and client characteristics (e.g., age, sex, etc.)

ITEM 10. Amend subrule 2.3(2), paragraph "h" to read as follows:

h. The impact of CMHC center services on mental health and related problems.

ITEM 11. Amend subrule 2.3(4) to read as follows:

2.3(4) Education. A project in this category has at least two major functions. First, its goal is to increase the visibility, identifiability, and accessibility of the community mental health center for all residents of the catchment area. A mental health center cannot serve as an effective community resource if large segments of the population are unaware of its purposes, its functions, its location, or its relevance to community needs. A second major goal of an educational project is to promote mental health and to prevent emotional disturbance through the distribution and dissemination of relevant mental health knowledge.

ITEM 12. Amend subrule 2.3(6) to read as follows:

2.3(6) Management services. A project in this category places emphasis on the organization's ability to improve operating functions within the agency (MCHC) center and among affiliates. The utilization of management firms, university departments providing management engineering techniques and appropriate state or national associations are appropriate. Demonstration of the ability to apply the results of such work in other community mental health centers via the IMHA agency is strongly encouraged.

ITEM 13. Amend subrule 2.3(7) to read as follows:

2.3(7) Clinical services. A project in this category would expand the CMHC's center's existing services. The expansion could entail increased staff time, the addition of professional disciplines to the staff, the addition of treatment modalities and/or or the addition of service elements.

ITEM 14. Amend rule 567—2.4(255B) to read as follows:

567—2.4(255B)(225B) Application.

ITEM 15. Amend subrule 2.4(1) to read as follows:

2.4(1) Grant cycle. The IMHA agency will announce in written form to the executive directors of the CMHC's centers the opening of the application period three two months prior to the deadline date for letters of intent. Present grant guidelines will be included in the announcement. Eligible applicants interested in submitting a grant proposal should first submit a letter of intent through CMHC center executive director to the IMHA agency.

ITEM 16. Amend subrule 2.4(2) to read as follows:

2.4(2) Letter of intent. Letters of intent should be approximately two single-spaced typewritten pages outlining the objectives, activities, timetable of implementation, and project outcome and estimated budget of the project. Letters of intent postmarked after the deadline will be considered ineligible. As letters of intent are received the applicant will be contacted by the social work consultant, who co-ordinates the grant-in-aid program, to acknowledge receipt of the letter of intent, to clarify issues raised in the letter of intent, to make suggestions for the actual proposal, and to offer IMHA agency consultation services in developing the actual proposal.

ITEM 17. Amend subrule 2.4(3) to read as follows:

2.4(3) Out-of-cycle proposals. The CMHC's centers are encouraged to submit grant proposals within the grant cycle. Should a CMHC center wish to submit a proposal after the grant cycle is complete, it may do so.

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Based on the availability of funds and the type of project, the IMHA agency will notify the applicant as to whether the project can be funded outside the grant cycle or whether it should be included for consideration in the following year's grant cycle.

ITEM 18. Amend rule 567—2.5(225B) to read as follows:

567—2.5(225B) Grant proposal. Applicants wishing to submit a grant proposal, ~~should~~ shall submit the proposal through the CMHC center executive director to the ~~above address~~ agency. Those wishing to submit rough drafts of proposals prior to the deadline for submission of final proposals for review and comment, may do so. Final proposals postmarked after the deadline date will be considered ineligible. ~~Components of the final proposal should include: Final proposals should include the following components. Subrules 2.5(6)-2.5(8) can be incorporated in a work plan.~~

ITEM 19. Strike asterisk symbols from subrules 2.5(6)-2.5(8).

ITEM 20. Amend subrule 2.5(9) to read as follows:

2.5(9) The plans for evaluation of the effectiveness of the ~~project activities.~~

ITEM 21. Amend subrule 2.5(13) to read as follows and by adding the following new paragraphs "a" to "e".

2.5(13) The following signed assurances:

a. *The center does not discriminate in the admission of clients for services, employment of personnel, or in any other respect, on the basis of race, color, sex, religion, national origin, ancestry, age, creed or disability.*

b. *The center holds all information and records, including lists of client names and addresses, confidential. Such information and records will be limited to purposes directly related to the administration of the grant project. Such information may not be released without the consent of the individual to whom the information applies, or his/her legal representative.*

c. *Authority for the administration of center policies and programs has been delegated to a full-time executive director.*

d. *A physician has assumed medical and legal responsibility for all medical services.*

e. *The professional staff of the center meet state licensure requirements appropriate for their discipline.*

ITEM 22. Strike asterisk explanation "~~*6,7,8 may be incorporated in a work plan.~~" which follows rule 2.5(225B).

ITEM 23. Amend rule 567—2.6(225B) to read as follows:

567—2.6(225B) Proposal review. Grant proposals will be reviewed and evaluated by three members of the IMHA agency staff, including the ~~social work grant~~ consultant. The committee on ~~mental hygiene~~ may elect to form a subcommittee for review and evaluation of the proposals. If a formal subcommittee is not formed, two or three interested members of the committee will be asked to review and evaluate the proposals. The IMHA agency staff and the committee on ~~mental hygiene~~ representatives will compare individual proposal evaluations, with the goal of developing recommendations for funding. These recommendations will be presented to the committee on ~~mental hygiene~~ at the spring meeting. The committee will make the awards at the spring meeting, which will be announced to the

applicants shortly thereafter.

ITEM 24. Amend rule 567—2.7(225B) to read as follows:

567—2.7(225B) Project review. Funded grants will be reviewed midway through the projects, and at their termination by the IMHA agency staff. This review will consist of an on-site visit at the midway point and the completion of a review document by the CMHC center at the project's termination.

ITEM 25. Amend rule 567—2.8(225B) to read as follows:

567—2.8(225B) IMHA Agency assistance. The IMHA agency is interested in offering technical assistance and consultation to applicants at any of the various stages of the application or project implementation.

These rules are intended to implement 17A.3, 225B.1, 225B.4 of the Code.

MENTAL HEALTH AUTHORITY[567]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of sections 17A.3, 17A.4, 17A.9-17A.17, and 230A.16 of the Code, the Iowa Mental Health Authority proposes a rescission of the existing rules relating to assurances of the centers appearing in 567—3.1 of the Iowa Administrative Code and insertion in lieu thereof the following new rules relating to standards for the centers. These proposed rules are initial, and do not constitute an addition to existing rules or amendments to existing rules.

On November 27, 1978, at 7:00 p.m., in the Court Room of the Crawford County Courthouse, 12th and Broadway, Denison, Iowa, and on November 28, 1978, at 7:00 p.m., in rooms 175-179 of the Schemann Building, Iowa State Center, Iowa State University, Ames, Iowa, and on November 29, 1978, at 7:00 p.m., in the Iowa Room, Iowa Hall, Kirkwood Community College, 6301 Kirkwood Blvd. S.W., Cedar Rapids, Iowa, the Iowa Mental Health Authority shall hold public hearings to consider adoption of the following new rules relating to standards for the centers. Any person, governmental agency or association may submit written comments or statements concerning the proposed rules to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319 no later than 4:30 p.m., December 1, 1978. Persons interested in making an oral presentation concerning these new rules at the above specified agency meeting, should make a written request to the director of the agency which may be accepted if received on or before 4:30 p.m., November 22, 1978. All comments and requests shall state:

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(1) The name, address, and phone number of each person or agency authorizing the comment or request.

(2) The number and title of the proposed rule as given in this notice which is the subject of the comments or requests.

(3) With regard to requests to make oral presentations, the general content of the presentation shall be indicated.

The proposed new rules for consideration are included in full.

ITEM 1. Strike all of the existing chapter 3 and insert in lieu thereof the following:

**CHAPTER 3
STANDARDS**

567—3.1(230A) Purpose. The primary purpose for the standards shall be to provide a mechanism to assist in the delivery of quality mental health services within a framework of accountability to the community.

567—3.2(230A) Functions. The standards shall function as an enabling mechanism by providing the agency with a uniform, objective basis for reviewing and evaluating center operations and programs; by providing a tool for assessing center structure, processes and outcomes; by providing a means for validating center eligibility for reimbursement for services delivered; by providing assurances to the community about the quality of mental health services; by facilitating greater community involvement and participation in the community mental health delivery system; by encouraging community mental health practitioners to function within a framework of accountability to the community; by providing a guide for the establishment, maintenance and operation of center service programs; and, by providing statements of service and organizational requirements to center governing boards, administrators, and employees/consultants.

567—3.3(230A) Definitions. The following definitions shall apply to the specific terms used in this chapter:

3.3(1) "Affiliate" means an agency which has a written agreement with the center for the delivery of one of the center's service elements, i.e., inpatient, partial hospitalization or emergency services.

3.3(2) "Agency" means the Iowa mental health authority which is a legal entity established under the auspices of chapter 225B of the Code; mandated by the Special Health Revenue Sharing Act of 1975; and chapters 225B and 230A of the Code to perform the following functions:

a. Establish, implement and evaluate the state plan for the delivery of mental health services.

b. Assist in the establishment and growth of centers and provide them with support in the areas of public information, information systems, consultations, program evaluation, research, and continuing education.

c. Develop and enforce standards for the maintenance and operation of centers.

3.3(3) "Catchment area" means a defined geographic area for which there is designated responsibility for the delivery of community mental health services to persons residing within the area.

3.3(4) "Center" means a community mental health center which is established pursuant to section 230A.1 of the Code, which receives continued partial county funding and offers at least diagnostic and treatment services on an outpatient basis and offers consultation and education services.

3.3(5) "Chemotherapy" means treatment of emotional disabilities by chemical substance.

3.3(6) "Chief administrative officer" means the individual appointed by the governing body to act in its behalf in the overall administration of a center. Job titles may include administrator, chief executive officer, director, executive director.

3.3(7) "Clinical care" means those diagnostic and treatment services which are provided to center consumers by clinical mental health professionals.

3.3(8) "Clinical mental health professionals" means individuals who meet the following requirements:

a. A current Iowa license if practicing medicine, or nursing or psychology.

b. At least a master's degree in psychology, counseling and guidance, mental health/psychiatric nursing, social work, or is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

3.3(9) "Consultation" means the provision of mental health assistance, by qualified personnel, to a wide variety of community agents and care-givers, including, but not limited to schools, courts, police, clergy, and health care personnel. The two types of consultation referred to in the standards are:

a. Case-oriented consultation which are services designed to assist the consultee in providing services to a consumer(s).

b. Program-oriented consultation which are services provided to individuals or organizations to assist in the planning, development, implementation, and evaluation of programs.

3.3(10) "Consumers" means individuals who utilize the services of the mental health delivery system.

3.3(11) "Continuing education" means the process of updating, imparting, and acquiring new job-related knowledge, skills and attitudes through planned educational experiences beyond the individual's previous education and training.

3.3(12) "Crisis service" means the provision of immediate mental health care and evaluation of individuals in crisis situations on a twenty-four hour a day, seven day a week basis.

3.3(13) "Documentation" means the provision of written, dated and authenticated information i.e., minutes of meetings, memoranda, schedules, notices, announcements, service records.

3.3(14) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given to a consumer by an authorized person in accordance with rules established pursuant to Sixty-seventh GA 1978 Session HF2200. The complete act of administering entails removing an individual dose from a previously dispensed, properly labeled container, verifying it with the physician's order, giving the individual dose to the proper consumer and promptly recording the time and dose given.

3.3(15) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, the proper selection, measuring, labeling, packaging and issuance of the drug or biological for a consumer or for a service unit of the facility.

3.3(16) "Education service" means activities designed to promote mental health through the dissemination of relevant mental health information and designed to increase the visibility, identifiability and accessibility of center services to residents of the catchment area(s).

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3.3(17) "Employees/consultants" means persons hired by a center to perform activities defined in job descriptions. Consultants are persons hired on a contractual basis; employees are persons hired on a non-contractual basis.

3.3(18) "Facility" means the physical area (grounds, building or portions thereof) where center program functions take place.

3.3(19) "Goal" means an operationally defined program outcome or end point that gives direction to the organization's efforts.

3.3(20) "Governing body" means the policy-making group that has the authority and responsibility for the overall operation of the center and center programs. Refers to either a board of directors or board of trustees.

3.3(21) "Information system" means any system of people, equipment, documents, procedures, and communication which gathers, stores, processes and presents information for the purpose of assisting managers with a variety of managerial functions.

3.3(22) "Informed consent" means agreement by an individual or legal guardian in consultation with the individual to participate in an activity based upon the understanding of:

a. A full explanation of the procedures to be followed, including an identification of those that are experimental.

b. A description of the attendant discomforts and risks.

c. A description of the benefits to be expected.

d. A disclosure of appropriate alternative procedures that would be advantageous for the individual.

e. An offer to answer any inquiries concerning the procedures.

f. An instruction that the individual is free to withdraw consent and to discontinue participation in the project or activity at any time.

3.3(23) "Inpatient service" means the provision of a therapeutic program for consumers requiring full-time care.

3.3(24) "Intake/evaluation activities" means activities designed to define, delineate, assess or evaluate a consumer's problems or needs; determine most appropriate service for the consumer; admit the consumer to the service; establish a service record for the consumer.

3.3(25) "Medical care" means those diagnostic and treatment services which, by law, can be provided only directly by a licensed physician or under the direction and supervision of a licensed physician.

3.3(26) "Needs assessment" means the use of a variety of indicators and measurement and research techniques to enumerate and estimate the extent of mental health needs and to prioritize them in order of importance according to some rational process.

3.3(27) "Objective" means specification of a measured amount of progress toward a particular goal and the period of time needed or desired for this progress to be accomplished; a situation or condition of people or the environment which is considered to be desirable in achieving a particular goal and which is expressed in quantifiable terms. An objective specifies what the nature of the situation or condition or condition to be attained is; the extent or quantity of the situation or condition to be attained; who the particular groups of people are (target); where the attainment is desired (geographic area); and when the desired situation or condition is intended to exist.

3.3(28) "Outpatient services" means the provision of mental health care to consumers who need to spend relatively little time at a center.

3.3(29) "Partial hospitalization services" means the provision of a planned therapeutic program to consumers which may include a full day, semi day, evening, night or weekend program.

3.3(30) "Principle" means a fundamental concept derived from a basic assumption drawn from prevailing goal and values. Principles are used to evaluate the quality of the system.

3.3(31) "Program" means a set of related organizations, resources or services directed to the accomplishment of a defined set of objectives or missions for a special target population or specified geographic area(s).

3.3(32) "Program administration" means the process of planning, organizing and directing the overall operations, resources and activities of a center to facilitate the attainment of goals and objectives.

3.3(33) "Program evaluation" means the process of determining the degree to which a program of the center is meeting its mission, objective and goals. It involves continuous assessment of resources and program activities in order to attain the objectives. Examples include quality assurance programs, information system monitoring, community satisfaction studies.

3.3(34) "Program plan" means a written plan for ensuring effective and efficient service delivery to the community. It is based on a needs assessment of the community and contains the following elements:

a. Goals and objectives of the program.

b. Services to be provided.

c. How the program will be monitored and evaluated.

3.3(35) "Provider" means an individual whose primary current activity is the provision of health/mental health care to individuals or the administration of facilities or institutions in which such care is provided.

3.3(36) "Quality assurance" means the process which ensures that the health care system delivers services that are appropriate, effective, efficient and acceptable.

3.3(37) "Risk population" means any segment of the general population identified as having a high potential for emotional disabilities.

3.3(38) "Screening" means a preliminary activity which accomplishes the following purposes:

a. Delineation of consumer problems or needs.

b. Provision of information to consumers.

c. Determination of eligibility or suitability.

3.3(39) "Service record" means consumer identifying information; consumer assessment information; treatment plan; medication record; signed consent forms and release of information forms; progress notes and discharge plan.

3.3(40) "Shall" means a mandatory requirement.

3.3(41) "Target population" means the disability- and age-group specific segment of a risk population designated as the real or potential program recipients.

3.3(42) "Verbal therapies" means treatment activities which involve interaction between a trained mental health professional and an individual, family, couple, or group for the purpose of problem clarifications or counseling so as to increase awareness and modify behavior or mode of adaptation.

567—3.4(230A) Standards for center board of director's bylaws. The board of directors of a center established as a nonprofit corporation shall have written bylaws for its own guidance.

3.4(1) The bylaws state the number of directors.

3.4(2) The bylaws describe the qualifications of directors.

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- a. At least 51 percent of the directors are individuals who are not providers of health care.
- b. There is representation of interested professions.
- c. Directors are demographically representative of the catchment area population.
- 3.4(3)** The bylaws describe procedures for appointment or election and removal of directors and officers.
- 3.4(4)** The bylaws describe procedures for filling board vacancies.
- 3.4(5)** The bylaws state the terms of directors.
- a. Directors have staggered terms of office.
- b. Directors are periodically replaced and serve no more than six consecutive elected years.
- 3.4(6)** The bylaws designate required officers and terms of officers.
- 3.4(7)** The bylaws establish the authority of the board of directors to do, or cause to be done by delegation to the chief administrative officer or others, any and all lawful things for and in behalf of the corporation.
- 3.4(8)** The bylaws describe the powers of the board of directors.
- a. The board determines center policies in relation to community, professional, administrative and financial needs.
- b. The board appoints, evaluates and removes the chief administrative officer.
- c. The board directs the chief administrative officer in carrying out center policies.
- d. The board provides adequate financing and control of expenditures.
- e. The board authorizes and approves contracts and agreements to which the center is party.
- f. The board reviews and approves the center annual budget.
- 3.4(9)** The bylaws describe powers and duties of officers.
- 3.4(10)** The bylaws describe the executive committee.
- a. Size and composition of the executive committee.
- b. Powers and duties of the executive committee.
- c. Time and place of meetings of the executive committee.
- 3.4(11)** The bylaws describe standing and special committees.
- a. Procedure for establishing said committees.
- b. Size and composition of said committees.
- c. Powers and duties of said committees.
- 3.4(12)** The bylaws describe board meetings.
- a. Time, place and notice of regular board meetings.
- b. Time, place and notice of the annual board business meeting.
- c. Time, place and notice of an annual public meeting for the purpose of providing information on board policies, presenting the mental health program and obtaining input from the community.
- d. Procedures for conducting meetings
- (1) Definition of a quorum
 - (2) Rules and order of business
 - (3) Vote required for board action
 - (4) Documentation of the board's activities (minutes)
- 3.4(13)** The bylaws describe conflict of interest position
- a. Center employees/consultants do not serve on the board.
- b. No director owns real property utilized by the center.
- c. No director receives any compensation for his/her services in office, with the exception of reimbursement for actual necessary expenses incurred in the performance of his/her duties.
- d. Should the board wish to purchase service from one of its members, the purchase will be approved by the board and the individual receiving the remuneration must divest him/herself from voting on the issue.
- e. The board is empowered to define a nonfinancial conflict of interest situation involving its member(s); and to take action regarding the voting rights of the membership of the member(s) in question.
- 3.4(14)** The bylaws describe the procedure to amend bylaws.
- 3.4(15)** The bylaws describe the authorities and duties of the chief administrative officer.
- a. The chief administrative officer manages and operates the center.
- b. The chief administrative officer prepares an annual operating and capital budget showing the expected receipts and expenditures and expends monies from time to time as needed within the approved operating budget.
- c. The chief administrative officer maintains all physical properties in a good state of repair and operating condition.
- d. The chief administrative officer supervises the business affairs of the center to ensure that funds are collected and expended to the best possible advantage of the center.
- e. The chief administrative officer submits regularly to the board of directors, or its authorized committees, periodic reports showing the professional service and financial activities of the center and prepares and submits such special reports as may be required by the board of directors.
- f. The chief administrative officer attends all meetings of the board of directors.
- g. The chief administrative officer serves as the liaison officer and channel of communication for all official communications between the board of directors or any of its committees and the center employees/consultants.
- 567—3.5(230A) Standards for center board of trustees' bylaws.** The board of trustees of a center established as a form of county government shall have written bylaws for its own guidance.
- 3.5(1)** The bylaws incorporate the standards enumerated in 567—3.4, subrules 1 to 15, Iowa Administrative Code.
- 3.5(2)** The bylaws are consistent with chapter 230A of the Code.
- 567—3.6(230A) Standards for center employee/consultant input to the board.** The governing body ensures input from center employees/consultants.
- 3.6(1)** Discussions with center employees/consultants are held to exchange information and ideas about board policies and center programs. Such discussion should be incorporated as part of a regular or special board meeting.
- 3.6(2)** An annual discussion of center employees/consultants' satisfaction with the services of other human service providers and the co-ordination of services is held.
- 3.6(3)** Board minutes document how center employees/consultants' input was treated consistent with organizational goals.
- 567—3.7(230A) Standards for orientation and education of center board members.** The governing body orients and educates its members.
- 3.7(1)** Board members are provided appropriate educational opportunities.
- 3.7(2)** Board members are given a manual which includes current material.

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- a. Articles of incorporation.
- b. Bylaws.
- c. Brief history of the center.
- d. Center philosophy, goals and objectives.
- e. Auditor's report.
- f. Annual report.
- g. Center policies and procedures.
- h. Program plan.
- i. Board minutes.
- j. Brief description of the state mental health delivery system.
- k. A copy of the standards.

567—3.8(230A) Standards for center budget. The governing body submits the annual center budget to the proper authorities.

3.8(1) The board of directors submits the annual budget to auditor(s) and board(s) of supervisors of the county(ies) served by the center pursuant to section 230A.13 of the Code.

3.8(2) The board of trustees submits the budget report to the board(s) of supervisors of the county(ies) served by the center pursuant to section 230A.10 of the Code.

567—3.9(230A) Standards for center administrative plan. There shall be a written administrative plan to ensure effective and efficient management of the center.

3.9(1) There are tables of organization that denote structural relationships within the center and between the center and affiliates.

3.9(2) There are written policies governing qualifications of the chief administrative officer and supervisory employees/consultants.

a. Responsibility for the overall administration of the center is assumed by a chief administrative officer who meets the following requirements:

(1) He/she has a current Iowa license if practicing medicine, or nursing, or psychology.

(2) He/she either has at least a master's degree in one of the fields of health services administration, psychology, counseling and guidance, nursing, or social work; or else is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

(3) He/she has two years of post-degree experience in mental health.

b. Responsibility for the supervision of clinical care of consumers is assumed by employees/consultants who meet the following requirements:

(1) He/she has a current Iowa license if practicing medicine, or nursing or psychology.

(2) He/she either has at least a master's degree in one of the fields of psychology, counseling and guidance, mental health/psychiatric nursing, or social work; or else is an M.D. or D.O. eligible for certification by the American Board of Psychiatry and Neurology.

(3) He/she has two years of clinical experience in mental health post-master's degree or one year of clinical experience in mental health post-doctoral degree.

c. Responsibility for the supervision of medical care of center consumers is assumed by psychiatrists who meet the following requirements:

(1) He/she has a current license to practice medicine in the state of Iowa.

(2) He/she is eligible for certification by the American Board of Psychiatry and Neurology.

3.9(3) There are written personnel policies and procedures for center employees.

a. The center is an equal opportunity/affirmative action employer and has nondiscriminatory employing practices with regard to race, creed, age, gender, disabilities, color, religion, and national origin.

b. Notice of openings is provided to organizations of-
ficially engaged in securing employment opportunities.

c. Qualified current employees are given information about vacant positions and are given equal consideration with all other applicants.

d. Persons who are being considered for employment are aware of personnel policies/procedures prior to their acceptance of employment.

e. The extent and nature of probationary employment periods for newly hired, promoted or transferred employees are stated.

f. There is a grievance procedure which adequately allows employees to express their dissatisfaction over employment conditions and ensures a resolution of the expressed problems.

g. There are clear and orderly procedures for suspending or dismissing employees. Such procedures ensure employees receive prior warning and have opportunities for appeal.

h. Administrative and professional work performance evaluations are conducted annually.

i. There is a position statement on employees' access to their personnel files.

j. Benefits the center provides to full- and part-time employees are stated. Benefits should include health insurance, retirement plans, paid holidays, sick leave, paid vacations, educational leave, and unemployment insurance.

k. There are policies and procedures for reimbursement of work-related expenses incurred by employees.

l. Limitations on employee participation in activities which may cause a conflict of interest are stated.

m. Written job descriptions define each employee position including duties and responsibilities; education; experience; licensure or certification requirements; salary range; supervisory relationships.

n. Personnel policies/procedures are reviewed annually by the board, chief administrative officer and employees.

3.9(4) There are written policies and procedures for the continued education of center employees.

a. The continuing education needs of center employees are determined based on each employee's knowledge, experience and interests.

b. Consideration of program goals and objectives is given in relationship to individual employee educational needs for determining appropriate educational programs.

c. The required amount of continuing education for employees is stated, e.g., number of workshops, continuing education units (ceu), course hours.

d. The center's degree of responsibility for meeting employees' educational needs is delineated.

(1) The center disseminates information about continuing education opportunities to employees.

(2) The center arranges for leaves of absence to allow employees' participation in continuing education programs.

(3) The center reimburses employees for expenses incurred through participation in continuing education programs.

(4) The center sponsors or cosponsors continuing education programs in which employees participate.

e. There is an evaluation of the appropriateness and effectiveness of individual continuing education programs in relationship to the center's program plan.

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3.9(5) The center has written contracts with consultants retained on a contractual basis which describe consultants' responsibilities, privileges, benefits, if any, and limitations.

3.9(6) There are written policies and procedures for professional and paraprofessional trainees at the center.

a. There are descriptions of the types of available training experiences; objectives of the experiences; methods for evaluating trainees and training experiences.

b. Responsibilities of trainees and supervisors are described.

c. Privileges and limitations on trainees are described.

d. Responsibility of the center to insure trainees against liabilities is described.

e. Trainees' access to consumer records is delineated.

3.9(7) There are written policies and procedures for volunteers at the center.

a. Criteria and procedures for selecting, training and supervising volunteers are described.

b. Responsibilities, privileges and limitations of volunteers are delineated.

c. Responsibility of the center to insure volunteers against liabilities is delineated.

d. Volunteers access to consumer records is delineated.

567—3.10(230A) Standards for center safety and security plan. There shall be a written plan to ensure the safety and security of employees, consumers and the physical resources.

3.10(1) The center delineates and meets all applicable safety, health, fire and sanitation requirements (federal, state, local) and inspection timetables.

3.10(2) The center determines the existence of appropriate licenses for affiliates.

3.10(3) The center has a safety and security program which includes the following aspects:

a. A system for alerting employees/consultants is established and maintained.

b. Employees/consultants are assigned to specific tasks and responsibilities.

c. Employees/consultants are trained for emergency situations.

d. The program is reviewed at least annually with the board, chief administrative officer, employees/consultants.

e. The program is modified as the review warrants.

567—3.11(230A) Standards for center disaster plan. There shall be a written plan for the provision of mental health services to victims of a disaster.

3.11(1) The plan is developed in conjunction with other providers of disaster services in the catchment area.

3.11(2) The center determines and specifies what services the center will provide to disaster victims.

3.11(3) Center employees/consultants are knowledgeable of the disaster plan; have designated responsibilities and duties; are trained in detecting mental health needs of disaster victims and trained in crisis intervention; rehearse the plan at least annually.

3.11(4) The plan is reviewed at least annually by the board, chief administrative officer and employees/consultants and action is taken on the recommended changes.

567—3.12(230A) Standards for center financial plan. There shall be sound financial management of the center.

3.12(1) There are written policies and procedures regarding the budget.

a. The budget reflects adequate projected income to

meet the expenses of the center's operation.

(1) There is a line item budget.

(2) There is a program budget.

(3) There is a salary account.

(4) There is a general expense account.

(5) There is an equipment account.

(6) There is a separate account for restricted funds, including gifts.

b. There is a procedure for altering budget allocations once the budget has been approved by the board.

c. There are procedures for the handling of accounts receivable, accounts payable and petty cash.

d. There is a procedure for handling checks, including the identification of individuals who are authorized to sign checks for the center.

3.12(2) There are written policies and procedures governing center charges for services.

a. There are set rates for services.

b. The rates are structured so as to give consideration to anticipated increases in the expense of providing services.

c. The center has a fee schedule based on consumer's ability to pay.

d. There are procedures for the credit and collection of consumer accounts, including designation of the authority to write off uncollectable accounts.

e. There are procedures for billing third party payors.

3.12(3) Monthly reports are submitted to the board.

a. Income and expense from operations is shown.

b. There is a comparison of actual with budgeted figures.

c. There are explanations of significant variations.

d. There are cumulative figures for the year to date.

e. There are comparative figures for previous years.

f. There is statistical information of services rendered by the center.

3.12(4) There are written purchasing policies.

a. Needed approvals before capital items may be purchased are stated.

b. Persons who may contract in behalf of the center are identified.

c. The amount of center funds which can be committed by board officers and the chief administrative officer without board approval is defined.

3.12(5) There is a policy regarding the acceptance of gratuities and gifts by the center.

3.12(6) There is a current inventory of equipment.

3.12(7) An independent audit of the center is performed annually.

a. It is performed by the state auditor's office or an accredited firm and copies of the auditor's report are submitted to the board and the agency.

b. Mandated corrective actions are completed in one year.

3.12(8) The center has an insurance program.

a. The program provides protection against potential loss.

(1) There is malpractice insurance.

(2) There is workmen's compensation insurance for all employees.

(3) There is physical damage insurance of the structure and physical damage insurance of the contents.

(4) There is public liability insurance.

(5) There is consumer liability insurance.

b. The program provides protection to members of the board against personal liability claims arising out of their

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services to the center.

c. The program is reviewed at least biannually.

567—3.13(230A) Standards for center information system. There shall be an information system which provides data required for program planning and monitoring, research and program evaluation.

3.13(1) There are written policies and procedures governing the collection and distribution of organized data and for monitoring the manner in which such data is maintained and used.

a. There are designated persons responsible for reporting and assuring accuracy of information on reporting forms.

b. All users within the center who are authorized to request output from the data system are identified and the nature and extent of those requests is described.

c. There is an assigned person within the center with primary responsibility for the management of the information system.

d. There are measures to protect confidentiality of information.

e. Types of data needed for planning, program evaluation, monitoring and research are systematically appraised.

f. A uniform system for data collection is maintained.

(1) The system is adequate to meet the center's needs for reporting to local, state and federal agencies.

(2) The system is adequate to meet the program's needs in relation to accreditation requirements.

3.13(2) There are written policies governing research activities to be undertaken by the program.

a. An interdisciplinary committee is established to review and approve all research proposals involving any of the center's consumers, providers, records, or procedures.

(1) Criteria for evaluating proposals include but are not limited to: Quality of the project; protection of rights of individuals involved; consideration of potential hazards to the center and consumers; priority needs of the center; and potential for impact upon mental health knowledge and practices.

(2) Written records of all proposal reviews are maintained.

(3) An appropriate monitoring system for each project is established.

b. Informed written consent is obtained from all persons who will be subjects in research studies which involve assignment to alternate or no-treatment conditions.

c. Every individual participating in the research has the right to terminate his/her participation at any time.

d. A time frame for each research project is specified in writing.

3.13(3) There are written policies and procedures governing the center's self-evaluation for accreditation.

a. There is an annual assessment of the extent to which the standards are being met.

b. Outcomes of the assessment are documented.

c. The center has a written plan for meeting its deficiencies which establishes priorities; defines measures to be implemented; delineates time frame for correcting deficiencies; and identifies any problems related to implementation.

567—3.14(230A) Standards for center contract and agreements There shall be contracts and agreements for the provision of mental health services.

3.14(1) There is a contract with the county board(s) of supervisors for the delivery of mental health services to

residents/nonresidents.

a. The names of the parties participating in the agreement are stated and the agreement is dated.

b. Types of direct or indirect services to be delivered by the center are specified.

c. There is an assurance that legal and human rights of consumers will be protected.

d. There is a statement indicating that the center's fee charges are based on the client's ability to pay.

e. There is a description of the type of arrangements the contracting county(ies) will make for payment of fees for services and a time schedule for payment.

f. There is a provision indicating the center will provide a budget estimate to the contracting county(ies) at the end of the fiscal year for continued service.

g. Procedures are described whereby the board will furnish the contracting county(ies) with an accounting of fee revenue including that received from consumers or persons/companies paying on behalf of consumers.

h. There is a statement indicating the board will furnish the county(ies) with an accounting of expenditures.

i. There is a statement describing the availability of emergency and elective services to residents of counties that have not contracted with the center for services and a description of the fees for said services.

j. There are provisions for monitoring, modifying and terminating the contract by either party.

3.14(2) There is a written agreement between the center and its related mental health institute(s)

a. Names of parties participating in the agreement are stated and the agreement is dated.

b. Auspices for creation of the agreement are stated.

c. The center's and the mental health institute's responsibilities for prescreening, referral and aftercare are delineated.

d. The center's and the mental health institute's responsibilities for communication and information exchange are described.

e. There is a provision for amending the agreement.

3.14(3) There are affiliation agreements with other human service agencies for the delivery of mental health services to center consumers.

a. Names of parties participating in the agreement are stated and the agreement is dated.

b. The nature and extent of direct/indirect services provided by the affiliate agency to center consumers is specified.

c. There is an assurance that legal and human rights of consumers will be protected.

d. The center's and affiliate agency's responsibilities for ensuring continuity of care are delineated.

e. There are provisions for monitoring, modifying and terminating the agreement by either party in the relationship.

f. If the center purchases service from the affiliate agency, the following additional components are incorporated into the agreement:

(1) There are statements about the cost of the service, the arrangements for payment to the affiliate by the board and time schedule for payment.

(2) There is a provision for an estimate to the board by the affiliate at the end of each fiscal year for continued service.

(3) There are procedures whereby the affiliate will furnish the board with an accounting of fee revenue, including that received from consumers or persons/companies paying on the behalf of consumers.

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567—3.15(230A) Standards for center quality assurance program. There shall be a quality assurance program to ensure that services provided by the center are appropriate, effective and efficient.

3.15(1) There are policies and procedures for the quality assurance committee.

a. The center has a quality assurance committee who assumes overall responsibility for all review activities, including those which may have been delegated to others; review programs established by any of the center's service elements; review of findings and recommendations; submissions of a report to the chief administrative officer.

b. There are written descriptions of the committee including organization, composition, frequency of meetings, types of records to be maintained, and specific member responsibilities and activities.

3.15(2) There are policies for quality assurance review mechanisms.

a. Admission certification review is conducted with admission criteria being used for screening and justifying admission to outpatient, partial hospitalization and inpatient services.

b. Continued care review is conducted with discharge criteria and length of care norms being used to assess consumers' need for continuation of outpatient, partial hospitalization and inpatient services.

c. Clinical care evaluation studies are conducted to review the quality and nature of the utilization of outpatient, partial hospitalization and inpatient services.

(1) The studies focus on identified real or potential problem areas.

(2) There is an examination of the date on care provided by a number of employees/consultants, to a number of consumers.

(3) Results of the studies are used to monitor the effectiveness of continuing education efforts, admission certification review, continued care review; and used to identify needed changes in the organization and administration of service delivery.

d. Review of consumer/family satisfaction with center services is conducted semi-annually.

(1) Questionnaires, surveys, public hearings or meetings are used as review methods.

(2) Results are used as one measure of service outcomes.

3.15(3) There are written procedures for maintaining consumer confidentiality which meet the confidentiality requirements stated herein.

3.15(4) There are policies for promoting staff morale, vitality and productivity to ensure quality therapeutic services.

567—3.16(230A) Standards for center medication management and control. There shall be proper management and control of medications.

3.16(1) The center meets the following conditions for storage and handling if medications are stored at the center:

a. All drugs are kept in a locked cabinet.

b. Schedule II drugs, as defined by chapter 204 of the Code, are kept under double lock.

c. The key to a medication cabinet which contains controlled substances, as defined by chapter 204 of the Code, is in the possession of a physician.

d. A bathroom is not to be used for drug storage.

e. Drugs for external use are kept separate from drugs for internal use.

f. Samples of medication are kept in their original containers and dispensed or administered in the same manner as any other medication.

g. Medications are stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

h. There is proper space, light and security for storing and handling medications.

3.16(2) The center has written policies and procedures for management and control if medications are prescribed, dispensed or administered at the center.

a. Physicians prescribing, dispensing or administering controlled substances, as defined by chapter 204 of the Code, are registered at the center address by the state board of pharmacy examiners.

b. All prescribed medications are clearly labeled indicating the consumer's full name, physician's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of the physician issuing the drug.

c. Medications are dispensed or administered only upon the order of a physician and based on a current evaluation of the consumer's condition.

d. The physician prescribing the medication is responsible for being informed of the effect of the medication on the consumer.

e. Medications are administered or dispensed only by a physician or by authorized employees under his/her personal supervision. Injectable medications are not administered by anyone other than a licensed nurse or physician.

f. Controlled drugs, as defined by chapter 204 of the Code, are administered only by a licensed physician or nurse or other qualified individual as defined in the board of pharmacy rules and regulations.

g. Records of dispensing or administering controlled substances are maintained and readily retrievable in accordance with chapter 204 of the Code.

h. Records of dispensing or administering schedule II drugs are kept separate from all other records in accordance with chapter 204 of the Code.

i. Each dose of medication administered or dispensed is recorded in the consumer's service record.

j. Medication errors, toxic reactions, and untoward side effects are reported immediately to the physician prescribing the medication and are recorded in the consumer's service record.

k. Teaching is provided to the consumer and family or significant others regarding the purpose of medication; side effects and complications; route; frequency and dosage of medication. Teaching is documented in the consumer's service record.

1. Discontinued and outdated medications are disposed of in accordance with the board of pharmacy rules and regulations.

3.16(3) The center has current pharmacy reference material including at least the American Hospital Formulary Service and Physicians Desk Reference.

567—3.17(230A) Standards for center program plan. Center services shall be designed to meet the needs of the residents of the catchment area.

3.17(1) Citizens, provider agencies, center employees/consultants and the board are involved in program planning and evaluation.

3.17(2) There is a mental health needs assessment of the residents of the catchment area.

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a. Risk and target populations are identified.
b. Types and extent of mental health problems are described.

c. All mental health services being offered to risk and target populations are identified.

d. The utilization pattern of mental health services by members of risk and target populations is described.

3.17(3) There is a written program plan for center services.

a. There is a summary of the outcome of the needs assessment.

b. Stated goals, objectives and priorities of the program are based on the outcome of the needs assessment.

c. There are descriptions of resources needed to meet the goals and objectives.

d. Activities and services the center will provide to meet the goals and objectives are stated.

3.17(4) The program plan is reviewed at least annually by citizens, center employees/consultants and board.

a. There is an evaluation of the changing needs of the residents of the catchment area.

b. The relevancy and significance of the goals, objectives and priorities are examined.

c. The sufficiency (quality and quantity) of current resources is evaluated.

d. The sufficiency (quality and quantity) of center services is evaluated.

3.17(5) The program is revised as the review of the program plan warrants to meet the current mental health needs of the catchment area residents.

567—3.18(230A) Standards for minimizing barriers to center services. Services shall be delivered in a manner which minimizes barriers to the receipt of services.

3.18(1) There are mechanisms to ensure the visibility of the center to consumers.

a. Clearly visible signs are placed outside the center.

b. If the center or satellite(s) is housed in a multipurpose facility, the center can be identified by direction-giving information posted within the facility.

c. The name, address and telephone number of the center is on all center stationery.

d. Written informational material about the center and its services is developed and disseminated to residents of the catchment area.

e. The center is cross-listed in all telephone directories in the catchment area.

3.18(2) There are mechanisms to ensure the accessibility of services to consumers.

a. Services are provided regardless of age, race, national origin, sex, social status, diagnostic category and income.

b. There is adequate parking for consumers.

c. When it is not possible for a consumer to commute to the center, services are provided at some other accessible location.

d. Services are available during hours and times of the day to meet consumer needs.

e. There is adequate space in the center to accommodate the needs of consumers, particularly the special needs of children and the elderly.

f. Services are procedurally accessible.

(1) Standardized application and referral forms are used.

(2) Written procedures for screening, intake/evaluation and referral are developed and followed.

(3) Consumers have contact with a clinical mental health professional within seven working days after their initial contact.

(4) Consumers wait no longer than fifteen minutes to receive scheduled services.

3.18(3) There are mechanisms to ensure the acceptability of the services to consumers.

a. The center is a clean and well-maintained facility with comfortable furnishings and reading material.

b. The waiting area, reception area and offices allow for privacy of conversation.

567—3.19(230A) Standards for center maximizes continuity of care. Services shall be provided in a manner which maximizes continuity of care.

3.19(1) There are mechanisms to ensure consumers move freely from one service element to another with as little interruption as possible.

a. A treatment plan is formulated upon the consumer's admission and modified at each transfer point or change of status.

b. Each consumer is assigned to a clinical mental health professional to ensure assessment, planning, linking and monitoring.

c. Case management and planning-linking conferences are held to ensure continuity of care, liaison and coordination of services.

d. Recommendations and decisions resulting from case management and planning-linking conferences are documented in the consumer's service record.

e. The return of consumers to services from which they have been recently transferred is justified and jointly concurred.

f. The consumer's service record or pertinent portions of the records are readily transferrable between center service elements.

3.19(2) There are mechanisms to ensure co-ordination between center services and other relevant human service agencies in the community in order to minimize fragmentation and duplication of services.

a. When the center makes a referral, there is follow through to determine outcome of referral; all necessary material is completed and forwarded promptly; the action taken is documented in the consumer's record.

b. When the center receives a referral, the center informs the referrant of the outcome of the referral, except in cases of nonconsent, and documents the contact with the referrant in the consumer's record.

c. Transmittal of consumer information between the center and other agencies is safeguarded in accordance with requirements dealing with confidentiality in the disclosure of information.

d. The center has contractual agreements with the mental health institute and county board(s) of supervisors and written affiliation agreements with other human service agencies as needed.

567—3.20(230A) Standards for protecting consumer rights. The center shall ensure the protection of consumer's rights.

3.20(1) The center has a policy protecting fundamental legal and human rights of consumers.

a. The right to treatment on the basis of need for treatment.

b. The right to be received and treated with dignity.

c. The right to communicate with friends, family, legal representatives and significant others.

d. The right to treatment in the least restrictive

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manner.

- e. The right to be protected from invasion of privacy.
- f. The right to have information about him/her treated confidentially.
- g. The right to be fully informed about any risks entailed in treatment and research studies.
- h. The right to make choices about his/her participation in treatment or research.
- i. The right to express his/her opinion about services received.
- j. The rights delineated in 770—28.4, subrules 1 to 24 of the Iowa Administrative Code, as applicable.

3.20(2) The center posts a written statement which states the center will protect fundamental legal and human rights of consumers.

3.20(3) The center obtains written, informed consent from consumers or legal guardians for participation in any experimental treatment or procedure; all procedures that carry an intrinsic risk such as convulsive therapy, psychosurgery or aversive reinforcement conditioning; education demonstration programs involving audio-visual equipment and one-way mirrors.

567—(230A) Standards for governing confidentiality. The center shall ensure confidentiality in the collection, use and dissemination of personal information about consumers.

3.21(1) There are policies governing confidentiality of information in consumer's service records.

a. All information collected which may in any way lead to the identification of consumers is considered confidential.

b. All employees, students, volunteers as well as other authorized individuals having access to records and consumer names are aware of the need for and maintenance of confidentiality of records and consumer information.

3.21(2) There are written policies governing confidentiality in the disclosure of information.

a. All consumers are informed verbally and in writing that they have the option to refuse disclosure of information and they will not be denied service if they choose to refuse disclosure.

b. Prior to giving their written consent, consumers understand the nature and extent of the information that will be given, the person or agency to whom it will be given, and why the information is being requested.

c. Written consent of consumers or legal guardians is required on all disclosures of information from consumer service records and on disclosures of all other consumer identifying information.

d. The written consent form used by the center includes: Name of center; name of person or agency to whom the disclosure is made; name of consumer; purpose for disclosing information; extent and nature of information to be disclosed; specific date, event or condition upon which the consent will expire; date the consent is signed; signature of consumer or legal guardian.

e. The consent form is countersigned by at least one witness.

f. The original consent form remains in the consumer's record; a copy accompanies the disclosed information.

567—3.22(230A) Standards for center service records. The center shall ensure adequate service records for all consumers.

3.22(1) There are written policies and procedures governing the adequacy of records.

- a. Clinical information is current and complete.
- b. There are safeguards against tampering, damage,

loss and unauthorized use.

- c. Record forms are standardized and organized.
 - d. All entries in the service records are legible and consistently signed.
 - e. Records are properly stored and disposed.
- 3.22(2)** Center consumer records contain basic identifying information: Full name, address (including zip code and county), telephone number, marital status, sex, ethnicity, date of birth, educational and employment status, date of admission, referral source and insurance coverage.

3.22(3) Center records contain assessment information.

- a. There is a description of the presenting problem.
- b. There is a history of the present situation.
- c. Relevant past history is noted.
- d. A drug use profile is developed and indicates prescription and nonprescription drugs which have been taken for the previous six months.
- e. Findings of examinations, tests and procedures are stated.
- f. There is a summary of input from family, friends, or significant others when appropriate.
- g. An impression or diagnosis is given.

3.22(4) There are written treatment plans for all consumers.

- a. Consumer's problems or needs, strengths and weaknesses are stated.
- b. The rationale for the plan is given.
- c. Treatment goals and objectives are stated and a time table for achievement of goals is noted.
- d. Specific treatment modalities are identified.
- e. Consumer's agreement to the treatment plan is documented.

3.22(5) Records of medications prescribed following admission are included in the consumer's service record.

- a. The medication is identified by name.
- b. Dosage, frequency and route of administration is given.
- c. The date medications are prescribed and the name of the physician prescribing is noted.
- d. Name and title of person administering the medication is noted.
- e. Any drug allergies, idiosyncratic or adverse reactions are stated.
- f. The date medications are discontinued or changed is noted as well as the name of the physician.
- g. There is evidence of physician's review of medication at least every three months.

3.22(6) Signed consent forms and release of information forms are included in the records.

3.22(7) There are progress notes on all consumers.

- a. The date of each contact is recorded.
- b. The duration of the contact is recorded.
- c. There is a brief descriptive summary of nature of contact.
- d. There is a brief descriptive statement of significant consumer progress toward treatment goals.
- e. All entries are dated and signed.

3.22(8) Discharge plans are developed for all consumers, indicating evidence of collaboration with consumer, family or significant others, appropriate human service providers; identified follow-up services.

567—3.23(230A) Standards for center outpatient services. Outpatient services are provided to consumers consistent with the center's program plan.

3.23(1) Services are available at times which are appropriate to meeting consumer's needs.

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a. The center offers services on a regularly scheduled basis, at least eight hours a day, five days a week.

b. The center makes arrangements to see consumers during times of increased stress or crisis.

3.23(2) Preliminary screening activities are performed.

a. There are designated employees/consultants who are responsible for the activities.

(1) Employees/consultants are trained and experienced in making contacts with consumers and provider agencies; detecting mental health problems or needs; gathering and providing information; managing crisis situations; providing consultation.

(2) A designated clinical mental health professional is responsible for the training and supervision of employees doing the screening.

(3) Back-up consultation is immediately available for crisis situations.

b. Outcomes of screening are documented.

3.23(3) Intake/evaluation activities are performed.

a. The activities are performed by clinical mental health professionals with accessibility to other mental health professionals for consultation and supervision.

b. Intake/evaluation procedures take into account the unique needs of the consumer; the consumer's abilities and disabilities; interacting environmental factors.

(1) There is collaboration with family or significant others, as appropriate.

(2) The evaluation gives consideration to psychological, biological/medical, familial, social, economic, educational, cultural and religious factors.

c. The outcomes of the intake/evaluation are shared with the consumer or legal guardian and are documented in the consumer's service record.

d. If the center cannot provide the services needed by the consumer, the clinical mental health professional performing the evaluation will discuss the alternative resources and services with the consumer, make a referral if agreed upon by the consumer, and follow through until the referral is completed.

e. If the center can provide the services needed and desired by the consumer, a service record is established and necessary forms and administrative procedures are completed.

3.23(4) The center provides treatment intervention based on the assessed problems or needs of consumers.

a. An individualized treatment plan is developed for all consumers.

(1) The plan is developed in conjunction with the consumer, his/her family or legal guardian and the providers who have had direct involvement with the consumer.

(2) The plan includes a clear statement of the consumer's problems and needs, strengths and weaknesses; rationale for the plan; treatment goals and objectives with time table; specific criteria for determining achievement of objectives; specific treatment modalities; indication of the consumer's agreement of the plan.

(3) The plan is periodically reviewed by the consumer and clinical mental health professional for an evaluation of progress toward goals and for an evaluation of the changing needs of the consumer.

b. Treatment is provided by or directly supervised by clinical mental health professionals.

c. Treatment modalities include at least verbal therapies and chemotherapy as appropriate.

d. Whenever possible, family or significant others and appropriate community resources are utilized to encourage and enable the consumer's return to adequate social

functioning.

3.23(5) Treatment intervention is documented in the consumer's service record.

567—3.24(230A) Standards for center consultation and educational services. Consultation and education services shall be offered to community agencies, other providers of care and the general public consistent with the center program plan.

3.24(1) Consultation is offered to a wide range of community representatives and providers of care, e.g., schools, courts, police, clergy, welfare and health care personnel.

a. Consultation activities include program-oriented consultation and case-oriented consultation.

b. Consultation activities are documented and state the name of the recipient; name of consultant; and duration of consultation contact; and purpose for the consultation.

3.24(2) Education is offered to a wide range of community representatives, providers of care and the community in general.

a. A wide variety of educational methods are utilized including mass media, printed material, audio-visual material and talks.

b. Education activities are documented and state name of recipient; name of staff member; number of persons present; purposes for the service; time expenditure, including preparation and presentation; response to the service provided.

3.24(3) The services are provided directly or supervised by clinical mental health professionals.

567—3.25(230A) Standards for center crisis services. Crisis services are provided to consumers consistent with the center program plan.

3.25(1) Crisis services are available twenty-four hours a day, seven days a week.

3.25(2) There are procedures for providing crisis services during office hours.

a. All employees are trained in making initial contacts with individuals in crisis situations.

b. There is at least one employee in the office at all times who is trained and experienced in crisis assessment techniques; first aid; and crisis intervention techniques, including control and management techniques.

c. A designated clinical mental health professional is responsible for training and supervising the employees.

d. A clinical mental health professional in the center is immediately available for telephone and face to face intervention.

3.25(3) There are procedures for providing crisis services when the office is not open.

a. The center has a telephone service which directly links the consumer to an individual trained and experienced in crisis assessment and intervention techniques.

b. A designated clinical mental health professional is responsible for training individuals, if not provided by another source.

c. A clinical mental health professional is immediately available for telephone and face-to-face intervention.

d. There is a written schedule of clinical mental health professionals who are on call.

3.25(4) Logs and records of the crisis services are maintained.

a. There is a log of incoming calls which indicates time of call, nature of consumer's needs and the action taken.

b. Records are made for each face-to-face contact including descriptions of the action taken.

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567—3.26(230A) Standards for center partial hospitalization services. Partial hospitalization services shall be provided to consumers consistent with the center program plan.

3.26(1) The services are offered at least four hours a day, five days a week.

3.26(2) If the services are provided in a hospital, the hospital is licensed by the state department of health.

3.26(3) Preliminary screening activities are performed.

a. There are designated employees/consultants who are responsible for the activities.

(1) Employees/consultants are trained and experienced in making contacts with consumers and provider agencies; detecting mental health problems/needs; gathering and providing information; managing crisis situations; providing consultation.

(2) A designated clinical mental health professional is responsible for the training and supervision of employees doing the screening.

(3) Back-up consultation is immediately available for crisis situations.

b. Outcomes of screening are documented.

3.26(4) Intake/evaluation activities are performed.

a. The activities are performed by clinical mental health professionals with accessibility to other mental health professionals for consultation and supervision.

b. Intake/evaluation procedures take into account the unique needs of the consumer; the consumer's abilities and disabilities; interacting environmental factors.

(1) There is collaboration with family or significant others as appropriate.

(2) The evaluation gives consideration to psychological, biological/medical, familial, social, economic, educational, cultural and religious factors.

c. The outcomes of the intake/evaluation are shared with the consumer or legal guardian and are documented in the consumer's service record.

d. If the center cannot provide the services needed by the consumer, the clinical mental health professional performing the evaluation will discuss alternative resources and services with the consumer, make a referral if agreed upon by the consumer, and follow through until the referral is completed.

e. If the center can provide the services needed and desired by the consumer, a service record is established and necessary forms and administrative procedures are completed.

3.26(5) The center provides treatment intervention based on the assessed problems or needs of the consumers.

a. An individualized treatment plan is developed for all consumers.

(1) The plan is developed in conjunction with the consumer, his/her family or legal guardian and the providers who have had direct involvement with the consumer.

(2) The plan includes a clear statement of the consumer's problems and needs, strengths and weaknesses; rationale for the plan; treatment goals and objectives with time table; specific criteria for determining achievement of objectives; specific treatment modalities; indication of the consumer's agreement of the plan.

(3) The plan is periodically reviewed by the consumer and clinical mental health professional for an evaluation of progress toward goals and for an evaluation of the changing needs of the consumer.

b. Treatment is provided by or directly supervised by clinical mental health professionals.

c. Consumers are provided opportunities for maximizing independent living skills including social interaction, personal hygiene, housekeeping/cooking, prevocational skills and the use of community agencies and resources.

d. Whenever possible, family or significant others and appropriate community resources are utilized to encourage and enable the consumer's return to adequate social functioning.

3.26(6) Treatment intervention is documented in the consumer's service record.

567—3.27(230A) Standards for center inpatient services. Inpatient services shall be provided to consumers consistent with the center program plan.

3.27(1) The services are available twenty-four hours a day, seven days a week.

3.27(2) Inpatient services are provided in hospitals which are licensed by the state department of health.

3.27(3) Inpatient services are aimed at rapid evaluation and effective treatment to facilitate consumer's return to the community.

a. Inpatient services are used when, and for as long as alternative services are considered inadequate or inappropriate to meeting consumer's needs.

(1) Admission criteria are used to ensure the consumer's admission is appropriate to meeting his/her needs.

(2) Discharge criteria and length of care norms are used to determine the consumer's need for continuation of inpatient services.

b. The services provided are based on the assessed needs or problems of the consumer and his/her individualized treatment plan.

c. Center clinical mental health professionals assigned to center consumers participate in planning, implementing and evaluating the services the consumer receives; and perform follow-up activities to ensure the consumer receives needed post-hospitalization services.

d. Family or significant others are allowed and encouraged to participate in the consumer's treatment program.

e. The services provided are documented in the consumer's service record.

3.27(4) Inpatient services offer at least: Crisis care, including evaluation and treatment; verbal therapies; general health services; dietary services; pharmacy services.

3.27(5) The center ensures the safety, protection and dignity of consumers.

a. Consumer rights are protected according to the requirements stated herein.

b. Confidentiality of consumer information is protected according to the requirements stated herein.

c. Seclusion is used only when a consumer is seriously harming self or others after verbal efforts and medication have not had a calming effect and only with written authorization from a physician.

d. Physical restraints are used only after seclusion has failed to prevent a consumer from seriously harming self or others and only with written authorization from a physician.

e. Personal belongings of all consumers are safeguarded so as to prevent items from being lost, stolen, damaged or destroyed.

f. Consumers receive visitors according to hospital policy.

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g. Consumers have access to religious services and counseling.

h. Consumers receive adequate reimbursement for work performed in conjunction with the provision of services.

These rules are intended to implement the following sections of the Code: 17A.3; 230A.16.

MENTAL HEALTH AUTHORITY[567]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 230A.17 of the Code, the Iowa Mental Health Authority proposes to adopt the following new rules relating to the review and evaluation of the centers.

On November 27, 1978, at 7:00 p.m., in the Court Room of the Crawford County Courthouse, 12th and Broadway, Denison, Iowa, and on November 28, 1978, at 7:00 p.m., in rooms 175-179 of the Schemann Building, Iowa State Center, Iowa State University, Ames, Iowa, and on November 29, 1978, at 7:00 p.m., in the Iowa Room, Iowa Hall, Kirkwood Community College, 6301 Kirkwood Blvd. S.W., Cedar Rapids, Iowa, the Iowa Mental Health Authority shall hold public hearings to consider adoption of the following new rules relating to the review and evaluation of the centers. Any person, governmental agency or association may submit written comments or statements concerning the proposed rules to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319 no later than 4:30 p.m., December 1, 1978. Persons interested in making an oral presentation concerning these new rules at the above specified agency meeting, should make a written request to the director of the agency which may be accepted if received on or before 4:30 p.m., November 22, 1978. All comments and requests shall state:

(1) The name, address, and phone number of each person or agency authorizing the comment or request.

(2) The number and title of the proposed rule as given in this notice which is the subject of the comments or requests.

(3) With regard to requests to make oral presentations, the general content of the presentation shall be indicated.

The proposed new rules for consideration are included in full.

ITEM 1. Add the following new chapter:

CHAPTER 4 REVIEW AND EVALUATION

567—4.1(230A) Schedule. The agency shall review and evaluate centers at least every two years. Scheduling of federally funded centers shall be co-ordinated with a representative of Region VII of the Department of Health, Education, and Welfare and the medical facilities consultant for the state department of health. The date chosen for review and evaluation of a center shall be mutually acceptable to the center and the survey team and shall be determined within a reasonable amount of time prior to the review.

567—4.2(230A) Survey. The agency shall review and evaluate centers through on-site visits. The survey team making on-site visits of nonfederally funded centers shall consist of agency staff. The survey team making on-site visits of federally funded centers shall consist of agency staff plus a representative of Region VII of the Department of Health, Education, and Welfare and the medical facilities consultant for the state department of health.

4.2(1) Prior to the on-site visit, the agency shall notify the center in writing of the on-site visit. The letter shall state:

- a. Purpose and objectives of the visit.
- b. Date, time and place of the visit.
- c. Names of the survey team members.
- d. Names of board and center representatives requested to be available.
- e. Agenda for the on-site visit.
- f. Request of the center to return the following written material to the agency no later than thirty days prior to the visit:

- (1) Articles of incorporation
- (2) Board bylaws
- (3) Name, address, occupation, and county of residence of each board member
- (4) Organizational chart
- (5) Most recent annual audit
- (6) Contracts and agreements
- (7) Fee schedule
- (8) Program plan
- (9) Chart forms
- (10) Brochure
- (11) Policy/procedure manual
- (12) Referral forms and release of information forms
- (13) Staff credential forms

4.2(2) All members of the survey team shall independently review and evaluate the written material for completeness and for determination of the center's compliance with the standards.

4.2(3) The on-site visit by the survey team shall include, but not be limited to review and evaluation of center governance and administration as well as those services outlined in the program plan. The survey team shall examine center records and documents; hold discussions with the center executive director, board and staff; hold discussions with affiliate agency personnel; receive input from the general public and consumers of center services; and examine the physical facility.

4.2(4) The survey team shall evaluate the center's compliance with the standards. Where deficiencies are found in a center program, the survey team shall discuss with the center executive director, board and staff a plan for corrective action and a time frame for completion of

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corrective action. The compliance schedule may be found in the agency's survey report form.

567—4.3(230A) Report. Within a reasonable amount of time following the completion of the on-site visit, the agency shall send copies of the written report of the survey findings to the center board president and executive director. The original report shall be maintained at the office of the agency for at least five years and shall be available for inspection pursuant to chapter 68A of the Code. Copies shall be made upon request and at the expense of the person requesting them. The report shall include the survey team's observations re: Strengths and deficiencies, and a recommendation to the committee for an accreditation decision. Within ten days from receipt of the report, a center may send a written request to the director of the agency asking for an interview with one or more members of the survey team to discuss, clarify, or correct any information presented in the report.

567—4.4(230A) Decision.

4.4(1) If the agency finds a center is in satisfactory compliance with the standards, the agency will recommend to the committee that the center be accredited. If the committee decides to accredit the center, the center shall receive a two year certificate of accreditation effective the date of the on-site visit. Upon committee request, the agency shall communicate the accreditation decision in writing to the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare.

4.4(2) If the agency finds the center is not in satisfactory compliance with the standards, the center shall be requested to develop a plan for corrective action with time table and submit the plan to the director of the agency within forty-five days of the report. Upon request of the center, the survey team shall assist the center in developing and implementing a plan for corrective action. When the center has corrected the deficiencies outlined in the report and is prepared for re-evaluation, they shall submit a letter requesting re-evaluation to the director of the agency. A second on-site visit of the center may be made by the survey team to ensure the center's compliance with the standards. After re-evaluation of the center the agency shall prepare a written status report on the center and submit it to the committee. The committee shall review the report and make an accreditation or non-accreditation decision.

a. If the committee decides to accredit the center, the center shall receive a two-year certificate of accreditation effective the date of re-evaluation. Upon committee request, the agency shall communicate the accreditation decision in writing to the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare.

b. If the committee decides not to accredit a center, the agency shall communicate the decision in writing to

the center board president and executive director; Community Mental Health Centers Association of Iowa, Inc.; all appropriate public and private third party payors; and the county board(s) of supervisors. If the center is receiving federal funds, then the agency shall also communicate the accreditation decision in writing to the Region VII office of the Department of Health, Education and Welfare. The written communication shall indicate the reasons for the nonaccreditation decision.

These rules are intended to implement sections 17A.3, 230A.16, 230A.17, and 230A.18 of the Code.

MENTAL HEALTH AUTHORITY[567]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 17A.22 of the Code, the Iowa Mental Health Authority proposes to adopt the following new rules relating to agency administrative procedures.

On November 22, 1978, at 7:00 p.m., in the Court Room of the Crawford County Courthouse, 12th and Broadway, Denison, Iowa, and on November 28, 1978, at 7:00 p.m., in rooms 175-179 of the Schemann Building, Iowa State Center, Iowa State University, Ames, Iowa, and on November 29, 1978, at 7:00 p.m., in the Iowa Room, Iowa Hall, Kirkwood Community College, 6301 Kirkwood Blvd. S.W., Cedar Rapids, Iowa, the Iowa Mental Health Authority shall hold public hearings to consider adoption of the following new rules relating to agency administrative procedures. Any person, governmental agency or association may submit written comments or statements concerning the proposed rules to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319 no later than 4:30 p.m., December 1, 1978. Persons interested in making an oral presentation concerning these new rules at the above specified agency meeting, should make a written request to the director of the agency which may be accepted if received on or before 4:30 p.m., November 22, 1978. All comments and requests shall state:

(1) The name, address, and phone number of each person or agency authorizing the comment or request.

(2) The number and title of the proposed rule as given in this notice which is the subject of the comments or requests.

(3) With regard to requests to make oral presentations, the general content of the presentation shall be indicated.

The proposed new rules for consideration are included in full.

ITEM 1. Add the following new chapter:

MENTAL HEALTH[567] (cont'd)

CHAPTER 5
ADMINISTRATIVE PROCEDURES

567—5.1(17A) Petition for adoption of rules.

5.1(1) Request. Any person requesting the promulgation, amendment or repeal of a rule shall submit such request in writing to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319.

5.1(2) Form. Although the request need not follow any prescribed form, it shall clearly state:

- a. The current rule, if one exists.
- b. The proposed rule, amendment to such existing rule, or the action desired by the petitioner.
- c. The pertinent facts and reasons in support of the petitioners position.

5.1(3) Disposition. The director or his/her designee shall refer such request to the appropriate agency unit for consideration within ten days. The unit shall within fifty days following the receipt of the petition either deny the petition in writing on the merits or initiate rule-making procedures.

567—5.2(17A) Petition for declaratory rulings.

5.2(1) Request. If there is a disagreement regarding the interpretation or applicability of a statutory provision, rule or other written statement of law or policy, decision or order of the agency, any person so affected may petition the agency for a declaratory ruling. The petition shall be submitted in writing to the Director, Iowa Mental Health Authority, University of Iowa, Oakdale Campus, Oakdale, Iowa 52319.

5.2(2) Form. Although the request need not follow any prescribed form, it shall clearly state:

- a. The statutory provision, rule or other written statement of law or policy, decision or order of the agency in question.
- b. A full statement of the facts being presented for the agency's consideration.

5.2(3) Disposition. The director or his/her designee shall refer such request to the appropriate agency unit for consideration within ten days. The director shall notify the petitioner in writing of the agency's disposition of the petition within fifty days following receipt of the petition.

567—5.3(17A) Rule adoption—opportunity for oral presentation. When a timely request for making an oral presentation in regard to a rule is presented to the agency as provided in section 17A.4 of the Code, the director shall set a time and place for the presentation. The time shall not be less than twenty days after the notice is published in the Iowa Administrative Bulletin. The notice shall state who the director has designated to conduct the presentation, the subject matter, and location.

567—5.4(17A) Contested cases—informal settlement. Parties are encouraged to request informal settlement of a controversy which could culminate in a contested case as defined in section 17A.13 of the Code. The request should be made by letter to the director, setting forth a concise statement of the circumstances giving rise to the controversy, the text of or citation to any applicable law, rule, or decision and a statement of the settlement proposed. A request for informal settlement should be received by the director not less than fifteen days before the agency meeting at which it is to be considered. The director shall schedule consideration of the request at the next regular agency meeting occurring not more than fifteen days after the petition is received.

Not more than ten days after the agency meeting at which the request is scheduled for consideration, the director shall notify the petitioner in writing of the agency's disposition of the request. If the agency determines that a conference is appropriate, the party will be notified when, where and with whom such a conference is to be held. The terms of any informal settlement agreed to by the parties shall be embodied in a written stipulation.

567—5.5(17A) Contested cases—fair hearing. The agency shall grant to an applicant or any affected party, an opportunity for a fair hearing with respect to the findings and recommendation on any grant or accreditation survey.

5.5(1) Guidelines for requesting fair hearings are as follows:

a. The request for a hearing shall be made in writing to the agency within thirty days after the applicant or any affected party receives notice of the recommendation by the agency.

b. The applicant or any affected party shall show good cause why the findings and recommendation of the agency should not stand, establishing the following, but not be limited to:

(1) The findings and recommendation of the agency were incorrect in that they were not based on substantial evidence.

(2) The findings and recommendation of the agency were not consistent with the grants-in-aid guidelines or standards or the findings and recommendation were not given in accordance with published procedures.

c. The applicant or any affected party shall have the right to present testimony and oral arguments, the right to be represented by counsel at its own expense, and the right to have other agencies and private individuals give testimony in its behalf.

d. The applicant or any affected party shall not challenge the correctness, adequacy, or appropriateness of the grants-in-aid guidelines or standards.

5.5(2) Hearing officers. The chairperson of the committee shall determine whether the hearing shall be held before the committee or a panel of committee members. The committee or a panel of committee members shall determine if the agency has made a fair and reasonable determination of the facts, if the findings are supported by substantial evidence, and if its recommendation is consistent with the grants-in-aid guidelines or standards.

a. The committee or a panel of committee members shall be furnished with the following in advance of the hearing:

(1) The proposed grant application or accreditation survey report on file with the agency.

(2) The findings of any other agencies and groups.

(3) Any written staff products made available to the committee.

(4) Any briefs or written materials submitted by any party.

(5) Any other written material the committee or a panel of committee members shall request.

b. Within ninety days after the agency receives a request for a hearing, the committee or a panel of committee members shall hold the meeting.

c. The agency shall give adequate notice to all parties of the hearing date. Adequate written notice shall be at least ten days but no more than twenty days.

d. The committee or a panel of committee members

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shall determine a time, date and place for a hearing.

e. The hearing shall be held in a public place and shall be open to the public. Oral proceedings shall be recorded mechanically. The hearing shall be conducted so as to give all parties a fair opportunity to be heard.

f. The committee or a panel of committee members shall listen to testimony and arguments from all those concerned, take the matter under advisement, and make a decision setting out the findings of fact and conclusions of law on which such decisions are based.

5.5(3) Ex parte communication. Should the committee or a panel of committee members or any party to a contested case or the representative of any party wish to communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, they shall give required notice pursuant to section 17A.17 of the Code and opportunity to be heard to all parties. The notice shall be in writing and shall include the names of the committee members, the name of the party to whom the communication will occur, the nature of the communication, and the place and time of the communication. Persons who violate this rule will be subject to the penalties specified in section 17A.17 of the Code.

5.5(4) Conduct of the fair hearing. A record of the fair hearing shall be kept for at least five years from the date of the decision by the committee or a panel of committee members and shall include time, date, and place of the hearing; parties present; any action taken pursuant to the requirements of chapter 28A and section 17A.12(6) of the Code.

a. The committee or a panel of committee members shall open the fair hearing by addressing those present as to the proper procedures to be followed during the hearing.

b. If a party fails to appear in a contested case proceeding after proper service of notice, the committee or a panel of committee members shall, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the party.

c. The fair hearing shall consist of a presentation of relevant facts by representatives from the agency and the applicant, or affected persons each being given an equal opportunity. Time limits may be established by the committee or a panel of committee members.

d. During the course of the hearing, the committee or a panel of committee members shall be free to ask questions of anyone at any point. The committee or a panel of committee members shall conduct the hearing in an orderly fashion. The fundamental requirements of due process shall not be ignored and the exercise of power by the committee or a panel of committee members shall not be arbitrary or capricious.

5.5(5) Rules of evidence. The technical rules of evidence shall not be strictly applied to the hearing, but evidence must be material, competent, sufficient, and have rational probative force. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. The agency shall give effect to the rules of privilege recognized by constitution or statute. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, any part of the evidence may be required to be submitted in verified written form.

a. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

b. Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination on any part as is necessary for a full and true disclosure of the facts.

c. Parties shall be notified at the earliest practicable time, either before or during the hearing or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the agency determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

d. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

5.5(6) Burden of proof. The burden of proof shall be on the applicant requesting the hearing. The applicant has the affirmative duty to show that the agency has not acted in accordance with the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code. To refute these arguments, the agency shall show:

a. The findings of the agency were correct and were supported by substantial evidence.

b. The recommendations of the agency were consistent with the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code.

5.5(7) Committee determinations. All decisions by the committee or a panel of committee members shall formally state whether the grant application or accreditation survey is or is not in conformance with the grants-in-aid guidelines or standards. As part of this process, the committee or a panel of committee members shall determine:

a. Whether the agency did or did not make a reasonable and fair determination of facts supported by substantial evidence.

b. Whether the agency did or did not appropriately apply those facts to the grants-in-aid guidelines or standards referenced or developed pursuant to sections 225B.1 and 230A.16 of the Code. The official report from the committee shall include a statement or rationale and supporting evidence to show the basis for the preceding determinations.

5.5(8) Committee alternatives. The committee or a panel of committee members shall have the following alternatives:

a. Uphold the agency findings and recommendation.

b. Overturn the agency findings and recommendation.

c. Remand the grant application or accreditation survey back to the agency for further consideration on the basis of new evidence or additional information which has developed since completion of the original review.

d. Make such order as would be just and equitable given the facts and circumstances of a particular case.

5.5(9) Post hearing duties. Within a reasonable amount of time after the end of the hearing, the

committee shall notify the applicant or affected party, the agency and other interested individuals of their decision. The committee shall also make available on request copies of the record of the hearing and copies of any evidence introduced. These copies shall be made at the expense of the person requesting them. The original record shall be available for inspection and shall include the time, date, and place of the hearing, the parties present, the action taken, and the evidence introduced.

5.5(10) Committee's decision. If the hearing is held before the committee, then the decision of the committee shall be final. If the hearing is held before a panel of committee members constituting less than a quorum of the committee, then the panel shall render a proposed decision which shall become the final decision of the committee fifteen days after mailing the proposed decision, unless prior to that time a party submits an appeal from, or a committee member requests a review of a proposed decision. Notice of an appeal from or a committee member's request for review of a proposed decision shall be mailed to all parties by the director of the agency or his/her designee. Within fifteen days after mailing of a notice of appeal or of a request for review, any party may submit to the committee (in an original and fifteen copies) exceptions to and a brief in support or opposition to the proposed decision, copies of which exceptions or brief shall be mailed by the submitting party to all other parties to the proceeding. The director of the agency or his/her designee shall notify the parties if the committee deems oral arguments by the parties to be appropriate. The director of the agency or his/her designee will schedule review of the proposed decision at the next committee meeting occurring not less than thirty days after mailing of the notice of appeal or request for review.

These rules are intended to implement sections 17A.3, 17A.4, 17A.7, 17A.9-17A.12, 17A.14-17A.17, 225B.4, 225B.7 and 230A.17 of the Code.

PAROLE BOARD[615]

AMENDMENT TO NOTICE OF INTENDED ACTION

The notice of intended action appearing in the Iowa Administrative Bulletin on October 4, 1978, proposing rules regarding the granting and administration of paroles [chapters 1 to 9] pursuant to the authority of section 906.3, Supplement to the Code of Iowa 1977, is amended by adding the following paragraph:

Oral presentations on the proposed rules may be made on November 21, 1978, at 1:00 p.m., at the Iowa Board of Parole Office, 6th Floor, Lucas State Office Building, Des Moines, Iowa.

PLANNING AND PROGRAMMING[630]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 103A.7 of the code, the Building Code Commission, with the approval of the Building Code Advisory Council, proposes to amend and add additional rules to chapter 5 of the Iowa Administrative Code[630].

These amendments and additions pertain to Division 2, Electrical rules and regulations and Division 7, Handicapped rules and regulations of the Iowa State Building Code. The amendments to Division 2 will be the adoption of the 1978 edition of the National Electrical Code. The amendments to Division 7 will incorporate the changes required or permitted by Acts of the Sixty-seventh General Assembly, Senate File 384, which amended Chapter 104A of the Code.

The public or any interested party may make suggestions and comments orally or in writing to the Building Code Commissioner until thirty-five days after this publication or at the public hearings to be held by the Advisory Council.

Public hearings will be held on December 13 and December 15, 1978, pursuant to section 103A.11 of the Code and after published notice. The public hearings are to be held in the conference room of the Office for Planning and Programming, 523 East 12th Street, Des Moines.

ITEM 1. Amend Division 2 of the State Building Code which begins at 630-5.200(103A) by deleting the division and replace to read as follows:

DIVISION 2

630-5.200(103A) Electrical rules and regulations.

5.200(1) Adoption. The National Electrical Code NFPA No. 70, 1978 Edition, as published by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210 is hereby adopted by reference as the Electrical Rules and Regulations with the following amendments:

a. Article 90. Delete the text of the Article and insert in place thereof:

90.1 Purpose

The purpose of this code is the practical safeguarding of persons and property from hazards arising from the use of electricity.

90.2 Scope

(a) Covered. This code covers:

(1) Electrical conductors and equipment installed within or on public and private buildings or other structures, and other premises such as yards, carnival, parking and other lots, and industrial substations.

(2) Conductors that connect the installations to a supply of electricity.

(3) Other outside conductors on the premises.

(b) Not Covered. This code does not cover:

(1) Installation in ships, watercraft, railway rolling stock, aircraft, or automotive vehicles and mobile homes

PLANNING AND PROGRAMMING[630] (cont'd)

constructed to HUD standards.

(2) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.

(3) Installation underground in mines.

(4) Installations of communications equipment under the exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installations.

(5) Installations under the exclusive control of electric utilities for the purpose of communication, or metering; or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, etc., or outdoors by established rights on private property.

This rule is intended to implement section 103A.7 of the Code.

5.201 - 5.299 Reserved.

ITEM 2. Amend Division 7 of the State Building Code which begins at 630—5.700(103A) of the IAC by adding the following exception to subrule 5.705(6)"b".

EXCEPTION: Accessory floors, where seating and/or standing areas are furnished within a room or main floor on a story for specific facilities or functions, e.g. restaurants, lounges, or retail sales areas, such accessory floors need not be accessible provided the same services, facilities, and functions are supplied within that room or main floor level located on that story. (NOTE: For purposes of this subrule, accessory floors are those small area/areas of a main floor level which are less than four feet above or below the main floor.)

ITEM 3. Further amend Division 7 by revising the first paragraph of subrule 5.706(1) as follows:

Apartments within multiple-dwelling units. The requirements of this section shall apply to the individual dwelling units which are accessible to the physically handicapped in multiple-dwelling unit buildings containing five twelve or more individual dwelling units. In addition to the requirements in other sections of this chapter division, for site, building entrance accessibility, and public areas, ten percent or a minimum of one individual living unit on each level which is accessible to the physically handicapped shall meet the requirements of this section. Any fraction five-tenths or below shall be rounded to the next lower whole unit.

ITEM 4. Further amend Division 7 by revising footnote 2 of Table 705A [IAC, ch5, p49] to read as follows:

2. When more than three stories in height. (Apartments shall also conform to the requirements of section rule 630—5.706(103A), all hotels (or motels) shall have at least one level of guest rooms which is accessible for the physically handicapped and ten percent of the guest rooms with a minimum of one guest room on each accessible level shall be functional for the physically handicapped.)

This rule is intended to implement Acts of the Sixty-seventh General Assembly, Senate File 384, and section 103A.7(5) of the Code.

SUBSTANCE ABUSE, DEPARTMENT OF[805]

NOTICE OF INTENDED ACTION

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

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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of section 125.7 of the Code of Iowa as amended by the Sixty-seventh General Assembly, chapter 74, 1977 regular session, the rules appearing in chapter 3, licensure standards for substance abuse treatment programs, of the Iowa Administrative Code, dated June 28, 1978, are hereby amended.

Interested persons may submit written data, views, suggestions, comments or arguments to the Iowa Department of Substance Abuse, Suite 230, Liberty Building, 418 Sixth Avenue, Des Moines, Ia. 50319, no later than 4:30 p.m., November 21, 1978.

ITEM 1. Rule 805—3.1(67GA, ch74) is amended as follows:

Subrule 3.1(9) is amended to read as follows:

3.1(9) "Clinical Professional" Treatment supervisor means an individual who by virtue of education, training, or experience, is capable of assessing the psychological sociological background psychosocial history of a substance abuser to determine the treatment plan most appropriate for the client. This person shall be designated by the applicant.

Subrule 3.1(12) is amended to read as follows:

3.1(12) "Counselor" means an individual who by virtue of education, training and or experience provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore his or her problems related directly or indirectly to substance abuse or dependence.

Rule 3.1(67GA, ch74) is amended by adding the following new subrule:

3.1(15) "Emergency admission" means an admission that does not meet the intake process.

Renumber existing rules accordingly.

Subrule 3.1(17) is amended to read as follows:

3.1(17) "Intake" means the process of collecting and assessing information to determine the appropriateness of admitting or retaining an individual into a substance abuse treatment program.

Rule 3.1(67GA, ch74) is amended by adding the following new subrule:

3.1(25) "Program" means any individual, partnership, corporation, association, governmental subdivision or public or private organization.

Renumber existing rules accordingly.

Subrule 3.1(26) is amended to read as follows:

3.1(26) "Rehabilitation" means the restoration of a client to the fullest physical, mental, social, vocational, and economic usefulness of which he or she is capable. Rehabilitation may include, but is not limited to, medical treatment, psychological therapy, occupational, job counseling, social and domestic rehabilitation and education.

ITEM 2. 3.3(67GA, ch74) is amended to read as follows: 805—3.3(67GA, ch74) Type of licenses. Two types of

SUBSTANCE ABUSE[805] (cont'd)

licenses may be issued by the department. A standard renewal license may be issued for one year when the commission has determined the applicant is in compliance with these rules. Provisional licenses may be issued for ninety, one hundred eighty, or two hundred seventy days at the discretion of the commission to an applicant who is determined by the commission to be temporarily unable to comply with these rules. A provisional license shall not be renewed or extended.

All standard licenses shall expire one calendar year from the date of issue and a renewal of such license shall be issued only on application, as required herein. The renewal of a license shall be contingent upon demonstration of substantial continuation of the program operation for which the initial license was granted for the previous licensed year. *continued compliance with licensure standards.* Failure to apply for and receive renewal of such license prior to the expiration date shall result in immediate termination of license and require reapplication.

ITEM 3. Rule 805—3.4(67GA,ch74) is amended to read as follows:

805—3.4(67GA,ch74) Nonassignability. When a program is discontinued, its current license is void immediately and shall be returned to the department. A discontinued program is one which has terminated its services for which it has been licensed. A license is not transferable. A license issued by the department for the operation of a substance abuse program applies both to the applicant and the premises upon which the program is to be operated. Any person or other legal entity acquiring a licensed facility for the purpose of operating a substance abuse program shall make an application as provided herein for a new license. Similarly, any person or legal entity having acquired a license and desiring to expand *fundamentally alter the treatment philosophy* or transfer to different premises must notify the commission thirty days prior to said action in order for the department to review the site change and to determine appropriate action.

A licensee shall, if possible, notify the department of impending closure of the licensed program at least thirty days prior to such closure. The licensee shall be responsible for the removal and placement of patients or clients and for the preservation and delivery of all records to the department upon request by the commission. Upon closing all facilities and terminating all service delivery activities, the license shall be immediately returned to the department.

ITEM 4. Rule 805—3.5(67GA,ch74) is amended to read as follows:

805—3.5(67GA,ch74) Application procedures. Applying for a license constitutes the first phase of the licensure process; *and the applicant may continue to operate until final determination of its licensure status is made by the commission.* The licensing and accreditation manager will mail an application form to applicants for licensure.

Subrule 3.5(1) is amended to read as follows:

3.5(1) Application information. An applicant for licensure shall submit at least the following information on forms provided by and available at the Iowa Department of Substance Abuse, 418 Sixth Avenue, Des Moines, Ia. 50319, ~~the department~~ with a return receipt requested.

ITEM 5. Rule 805—3.7(67GA,ch74) is amended as follows:

Amend subrule 3.7(1), paragraph "a" to read as follows:

a. A prelicensure site inspection report will, subsequently, be submitted to the prospective program director and may be sent to the commission within ~~ten~~ *fifteen* working days after completion of the site visit. Said report shall include, but not necessarily be limited to the program's compliance and/or noncompliance to the laws, rules, and regulations governing the operation of substance abuse treatment programs.

Amend subrule 3.7(1), paragraph "b" to read as follows:

b. The treatment program may request technical assistance from the IDSA ~~training and~~ technical assistance manager so as to bring into conformity areas reported to be in noncompliance to said regulations. *Such technical assistance shall be provided within thirty days of the applicant's request and prior to the final inspection.*

Subrule 3.7(2) is amended by adding a paragraph "c" to read as follows:

c. *The inspection team shall send a written report, return receipt requested, of their findings to the applicant within fifteen working days after the completion of the inspection.*

ITEM 6. Rule 805—3.9(67GA,ch74) is amended as follows:

Subrule 3.9(1) is amended to read as follows:

3.9(1) Disclosure for benefits. If the patient gives his/her specific written consent, the content of the record may be disclosed to legal counsel upon written endorsement by the attorney to nongovernmental personnel for the purpose of collecting health insurance claims or other benefits or *to a present or potential employer* when such employment is conditioned upon his/her status or progress in a treatment program.

ITEM 7. Rule 805—3.12(67GA,ch74) is amended to read as follows:

805—3.12(67GA,ch74) Hearing before commission. If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation or refusal to renew a license, a hearing before the commission shall be ~~expeditiously~~ *arranged: within sixty days of receipt of the request.* If the role of a commission member is inconsistent with the member's job role or function, or if any commission member feels unable for any reason to disinterestedly weigh the merits of the case before the commission, the member shall not participate in the hearing and shall not be entitled to vote on the case. The commission shall issue a written statement of its findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation or refusal to renew a license. No action involving suspension, revocation or refusal to renew a license shall be taken by the commission unless a quorum of five of the nine members are present at the meeting. A copy of the decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the commission in accordance with the terms of the Iowa Administrative Procedures Act.

ITEM 8. Rule 805—3.15(67GA,ch74) is amended as follows:

Rescind all of subrule 3.15(6) and insert in lieu thereof the following:

SUBSTANCE ABUSE[805] (cont'd)

3.15(6) Ex parte communications. The notice required pursuant to section 17A.4 of the Code, concerning ex parte communications in contested cases, shall include the name of the hearing officer, the name of the party to whom the communication will occur, the nature of the communication, the place of the communication and the time of the communication. The notice shall be in writing and shall be delivered either by personal service as in civil actions or by certified mail return receipt requested. The time of the communication must be at least thirty days subsequent to the service of the notice.

a. **Hearing officer.** Any individual who is assigned to hear a contested case who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any party or the representative of any party to that contested case without giving the required notice to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

Any party to a contested case or the representative of any party who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any person assigned to hear that case without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

b. **Sanctions—parties.** Sanctions against the parties or their representatives who communicate with the hearing officer on any issue of fact or law in a contested case without giving notice and the opportunity to participate to all parties may include a decision against the party on the merits; censure, suspension, or revocation of the privilege to practice before the department; or whatever may be just and equitable.

c. **Sanctions—hearing officer.** Sanctions against the individual who was assigned to hear the case and participated in communications with any party or the representative of any party on any issue of fact or law in that contested case without giving notice and the opportunity to participate to all parties may include: Censure, suspension or dismissal from the department or whatever may be just and equitable.

ITEM 9. Rule 805—3.16(67GA, ch74) is amended to read as follows:

805—3.16(67GA, ch74) Noncompliance On any program refusing to cease operation after the aforementioned procedures have been followed the commission will hold a special hearing; again, a quorum of five must be present. At said meeting, the commission will decide to contact *may refer the matter to the attorney general's office specifying the findings of fact in all hearings for appropriate action.* At the discretion of the attorney general, legal action will *may* be initiated. Any program who refused to allow an onsite inspection as specified in Acts of the Sixty-seventh General Assembly, 1977 session, chapter 74, the commission will hold a special hearing with a quorum of at least five. At said meeting, the commission will *may* decide whether to refer this matter to the attorney general's office for appropriate legal action. *to be taken.*

ITEM 10. Rule 805—3.22(67GA, ch74) is amended as follows:

Rescind all of subrule 3.22(6) and insert in lieu thereof the following:

3.22(7) Medical services. The applicant shall have policies and procedures developed in conjunction with a physician to examine and evaluate substance abusers seeking treatment or rehabilitation. Individuals who are scheduled to enter a residential/intermediate facility, chemotherapy or emergency care facility shall undergo a medical history and physical examination. Laboratory examinations may be done as deemed necessary by the physician. A medical history, the physical and laboratory examinations required for these clients shall be performed as soon as possible, but no later than twenty-one days after entrance into the program.

The applicant shall have written policies and procedures defining the appropriate action to be taken when a medical emergency arises.

Subrule 3.22(9) is amended to read as follows:

3.22(9) Supportive and professional services. The following supportive professional services shall be available to all clients either at the primary service facility or through a contractual or referral agreement. These services shall include, but are not limited to the following: *The program shall have the following services available to all clients in need of these services either onsite or through a written agreement with an outside agency:*

a. Vocational rehabilitation services; ~~The program shall have vocational rehabilitation services available to all clients in need of this service either onsite or through a written agreement with an outside agency. The program, either on its own or by joining with other interested agencies shall become involved in an active program of job development;~~

b. Legal services;

c. Educational services;

d. Financial counseling;

e. Recreational activities;

f. ~~Clinical professional Treatment supervisor;~~

~~The program shall have available consultation from a clinical professional treatment supervisor. This professional individual will assist the program in developing policies and procedures relating to the assessment and treatment of psychopathology.~~

~~The clinical professional treatment supervisor will assist in the training of the staff, reviewing of case records, and providing assistance to the clinical staff in client treatment.~~

Amend subrule 3.22(10), paragraph "b" to read as follows:

b. The program shall establish onsite training programs ~~and/or~~ or enter into relationships with outside resources capable of meeting staff training needs.

Amend subrule 3.22(11), paragraph "c" to read as follows:

c. Each new admission, readmission or transfer admission shall be interviewed by a ~~clinical professional treatment supervisor~~ or by his/her designee, with a ~~clinical professional treatment supervisor~~ reviewing all intake information. When such a review is conducted, the ~~clinical professional treatment supervisor~~ shall document all clinical observations and recommendations in the applicant's case record. If in the judgment of the ~~clinical professional treatment supervisor~~, psychological, psychiatric or further medical examinations are indicated, such assistance shall be obtained and documented in the case record.

Amend subrule 3.22(11) by adding a new paragraph "g" which will read as follows:

SUBSTANCE ABUSE[805] (cont'd)

g. There shall be policies and procedures for emergency admissions.

Amend subrule 3.22(15) paragraph "c" to read as follows:

c. Aftercare plans shall be developed by the primary therapist in partnership with the client within thirty days after assignment to the aftercare component. This plan shall be documented in the client case record and minimally contain:

1. A reassessment of the client's current status, to include accomplishments and needs;
2. Updating of the aftercare goals, where appropriate;
3. The date of the review; and,
4. The individuals involved in the review.

ITEM 11. Rule 805—3.25(67GA, ch74) is amended to read as follows:

805—3.25(67GA, ch74) Specific standards for methadone treatment centers. *Except hospital-based programs*, all programs which use methadone in treatment of narcotic addicts must conform to licensure standards of the department and the Department of Health, Education, and Welfare, Food and Drug Administration Methadone Regulations as articulated in 21 CFR, part 5.1, 291.505.

ENVIRONMENTAL QUALITY[400] AIR QUALITY COMMISSION

Pursuant to the authority of section 455B.12(1), 455B.12(2) and 455B.12(4) of the Code 1977, the rules of the Air Quality Commission relating to permits for anaerobic lagoons, appearing in [400] chapter of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend subrule 3.1(1) to read as follows:

3.1(1) Permit required. Each person planning to construct, install, reconstruct or alter any equipment as defined in 1.2(21), or related control equipment, as defined in 1.2(17), shall obtain a permit for the proposed equipment or related control equipment from the department, prior to the initiation of construction, installation or alteration. Said permit will not be required if the alterations to the equipment will not change the emissions from that equipment. Commencing July 1, 1978 February 22, 1979, each person planning to construct, install, reconstruct, or alter an anaerobic lagoon shall obtain a permit for the proposed lagoon from the department prior to the initiation of construction, installation or alteration.

[Filed emergency 10/12/78, effective 10/12/78]

No notice of intended action was published because the commission finds, pursuant to section 17A.4(2), that notice and public participation would be unnecessary. The rule would delay the effective date of the requirement that a permit for a new or expanded anaerobic lagoon be obtained prior to construction or modification for the same period that the Administrative Rules Review Committee has delayed the effective date of the criteria for evaluating the permit applications.

This rule was adopted by the Air Quality Commission on September 21, 1978, and was approved by the Executive Committee on October 11, 1978.

This rule shall be effective upon filing October 12, 1978, because the commission finds, pursuant to section 17A.5(2)"b"(2), that the rule would remove the restriction of having to obtain a permit on persons planning to construct or expand a new anaerobic lagoon between October 12, 1978, and February 22, 1979.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

MERIT EMPLOYMENT DEPARTMENT[570]

Pursuant to the authority of section 19A.9 of the Code, chapter 4 of the merit rules appearing in Ch. 4, IAC, is amended as follows:

4.5(4) Pay increase upon promotion. A promotion means a change from a position in one class to a position in another class having a higher maximum rate of pay.

a. A classified employee who is promoted shall have his/her pay increased to the minimum step "A" of the pay grade for the higher class if her/his rate of pay before promotion falls below said that minimum "A" step. In the case of overlapping pay grades having the same pay step structure and where the employee's rate of pay is at or above the minimum "A" step of the pay grade for the class to which he/she is promoted, she/he shall receive a one-step promotional pay increase, except as otherwise provided in "b" and "c" below this rule.

b. For promotions between classes with a one or two pay step differential between the pay grades, the director may approve a two step promotional increase, provided the appointing authority certifies that require a change of residence and duty station beyond a normal commuting distance twenty-five miles is required of for the appointee to perform the duties of the new position, the director may approve a one-step pay increase in addition to any other promotional pay increase provided in these rules.

c. For promotions between classes with having a three or more pay step grade differential between the pay grades, the director may approve a two-step promotional pay increase upon written request of the appointing authority.

d. An appointing authority may, for promoted classified employees, who fall within the concept of section 4.5(1)"b"; of these rules, as with a new classified employee, request the commission approval for similar consideration.

e. A classified employee who is promoted from either a noncontractual pay grade to a contractual pay grade or the converse, shall have his/her rate of pay first adjusted to the nearest step in the pay grade of the new class to which promoted and then be further adjusted in accordance with subsections "a", "b" or "c" as applicable.

f. A permanent classified employee who is transferred from a non-supervisory class to a supervisory class having the same or corresponding pay grade number as the class from which transferred, shall be considered to be promoted and shall receive a one-step promotional pay increase, but not to exceed the maximum pay step of the pay grade for the class to which transferred.

g. The following type of personnel action change shall be deemed not to be a promotion, require competition, nor be subject to this promotional pay rule. Salary shall be adjusted to the new pay grade and review date established in accordance with 4.5(12).

(1) When existing classes or positions, having similar tasks, duties and responsibilities, are combined into a new or revised class or series with the same, lower or higher pay grade to bring about uniformity of treatment in the classification/pay plan.

(2) Incumbents so reallocated under subsection (1), whose pay rate is below the minimum step for the new class, shall be brought to the minimum step of the new class to which allocated and a new review date established.

[Filed emergency 10/9/78, effective 10/9/78]

MERIT EMPLOYMENT[570] (cont'd)

This revision is needed for implementation of Public Service Executive Series in December and also for purpose of budget impact.

Revision of 4.5(8) was also necessary for implementation of Public Service Executive Series; revision of 4.5(8) has been approved and did become effective on September 27, 1978. Other revisions of Chapter 4 have been mailed to state agencies for their comments and will be submitted at a later date.

The above revisions shall be effective immediately upon filing as provided in section 17A.5(2)"b" of the Code.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

See also subrule 4.5(4) filed emergency 10/16/78 following.

MERIT EMPLOYMENT DEPARTMENT[570]

Pursuant to the authority of section 19A.9 of the Code, the Iowa Merit Employment Department hereby rescinds the emergency filing of 4.5(4), a., b., c., d., e., and f. of the merit employment department rules filed on October 9, 1978. The rules which follow shall be effective immediately upon filing:

4.5(4) Pay increase upon promotion. A promotion means a change from a position in one class to a position in another class having a higher maximum rate of pay.

a. An employee who is promoted shall have his pay increased to the minimum step "A" of the pay grade for the higher class if his rate of pay before promotion falls below said minimum "A" step. In the case of overlapping pay grades and the employee's rate of pay is at or above the minimum "A" step of the pay grade for the class to which he is promoted, he shall receive a one-step promotional pay increase except as otherwise provided in "b" and "c" below.

b. For promotions between classes with a one- or two-pay step differential between the pay grades, the director may approve a two-step promotional increase, provided the appointing authority certifies that a change of residence beyond a normal commuting distance is required of the appointee.

c. For promotions between classes with a three- or more pay step differential between the pay grades, the director may approve a two-step promotional increase upon written request of the appointing authority.

d. An appointing authority may, for employees who fall within 4.5(1)"b", as with a new employee, request the commission approval for similar consideration.

[Filed emergency 10/16/78, effective 10/16/78]

Revisions of 4.5(4), a., b., c., d., and the new paragraphs e., and f. are not necessary for implementation of Public Service Executive series, only 4.5(4)g., (1), and (2) are necessary. The revisions of 4.5(4), a., b., c., d., and the new paragraphs e., and f. will be mailed to state agencies on

October 25, 1978, for their comments and will then be published under notice at a later date.

4.5(4)g., (1), and (2) shall remain in effect as filed emergency on October 9, 1978; 4.5(4), a., b., c., and d. as outlined above shall be effective immediately.

The rescission of 4.5(4), a., b., c., d., e., and f. as filed emergency on October 9, 1978, shall be effective immediately upon filing to afford public participation.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

REGENTS, BOARD OF[720]

Pursuant to the authority of section 262.9 of the Code, chapter 13 of the board of regents rules, appearing in the Iowa Administrative Code, are hereby amended by striking all of subrule 13.7(1) and inserting in lieu thereof the following:

13.7(1) All livestock and other domesticated animals, including but not limited to fowl, cats, dogs, cows, horses, mules, sheep, goats, swine or reptiles, when on university property, must be kept confined or otherwise physically constrained. Any such animal found running at large or found within university facilities and not part of a university-sponsored research program or project may be impounded. Consistent with the laws of the state of Iowa, such animals may be turned over to a city pound or other appropriate state or university agency. For sanitation and safety reasons, pets are not permitted in university buildings. Leader dogs and experimental subjects are excepted.

Pets are permitted on the campus in outdoor areas when properly controlled and confined and when their presence does not jeopardize the safety or sanitation of university facilities or the safety of individuals on the campus. In the case of pets such as dogs, proper confinement shall consist of a cage or a leash of sufficient strength to restrain the dog held by a person competent to govern the behavior of the dog. Any pets brought on the campus must be properly licensed and vaccinated under the laws of Iowa and tags indicating such license and vaccination shall at all times be attached to the collar of the pet. In those cases where impoundment is necessary, the owner of the animal or its claimant shall be personally responsible for all costs associated with reclaiming the animal.

[Filed emergency after notice 10/17/78, effective 10/17/78]

This rule is identical to that published on August 23, 1978, in the Iowa Administrative Bulletin under a Notice of Intended Action.

Pursuant to section 17A.5(2)"b"(2) the board of regents finds that this rule confers a benefit or removes a restriction on the public and said rule shall become effective immediately upon filing.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

SUBSTANCE ABUSE, DEPARTMENT OF [805]

Pursuant to the authority of section 125.7 of the Code, as amended by the Sixty-seventh General Assembly, chapter 74, 1977, regular session, the following rules are adopted.

CHAPTER 1 DEPARTMENTAL ORGANIZATION

805—1.1(67GA,ch74) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

1.1(1) "Chemical dependency" means an addiction or dependency either physical or psychological, on a chemical substance. Persons who take medically prescribed drugs shall not be considered chemically dependent if the drug is medically prescribed and the intake is proportionate to the medical need.

1.1(2) "Facility" means a hospital, institution, detoxification center, or installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13 as amended by Acts of the Sixty-seventh General Assembly, chapter 74.

1.1(3) "Chemical substance" means alcohol, wine, spirits and beer as defined in chapter 123 of the Code and drugs as defined in section 203A.2, subsection 3 of the Code which when used improperly could result in chemical dependency.

1.1(4) "Department" means the Iowa department of substance abuse.

1.1(5) "Substance abuser" means a person who habitually lacks self-control as to the use of chemical substances or used chemical substances to the extent that his or her health is substantially impaired or endangered or that his or her social or economic function is substantially disrupted.

1.1(6) "Director" means the director of the Iowa department of substance abuse.

1.1(7) "Commission" means the commission on substance abuse within the department.

1.1(8) "Incapacitated by a chemical substance" means that a person as a result of the use of a chemical substance, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to the need for treatment.

1.1(9) "Incompetent person" means a person who has been adjudged incompetent by a court of law.

1.1(10) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of a chemical substance.

1.1(11) "Residence" means the place where a person resides. For the purpose of determining the Iowa county, if any, is liable pursuant to chapter 125 of the Code of Iowa for payments of costs attributable to its residents, the following rules shall apply:

a. If a person claims an Iowa homestead, then the person's residence shall be in the county where that homestead is claimed, irrespective of any other factors.

b. If paragraph "a" does not apply, and the person continuously has been provided or has maintained living quarters within any county of this state for a period of not less than one year, whether or not at the same location within that county, then the person's residence shall be in that county irrespective of other factors. However, this

paragraph shall not apply to unemancipated persons under eighteen years of age who are wards of this state.

c. If paragraphs "a" and "b" do not apply, or, if the person is under eighteen years of age, is unemancipated, and is a ward of this state, then the person shall be unclassified with respect to county of residence, and payment of all costs shall be made by the department as provided in chapter 125.

d. An unemancipated person under eighteen years of age who is not a ward of the state shall be deemed to reside where the parent having legal custody, or the legal guardian, or legal custodian of that person has residence as determined according to this subsection.

e. The provisions of this subsection shall not be used in any case to which section 125.26 is applicable.

805—1.2(67GA,ch74) Organization. The Iowa department of substance abuse was created by the Sixty-seventh General Assembly during the 1977 regular session. The department is responsible for developing, implementing, and administering a comprehensive substance abuse program pursuant to sections 125.1 to 125.26 of the Code as amended by chapter 74.

Information concerning the department which is not described in these rules may be obtained by writing the Iowa Department of Substance Abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Ia. 50319. Concerned parties wishing to submit or request other types of information may write to the above-mentioned address.

1.2(1) Director - appointment. The director of the department is appointed by the governor for a four-year term with the approval of two-thirds of the members of the senate. Pursuant to Acts of the Sixty-seventh General Assembly, 1977 session, chapter 74, section 10, the powers of the director enable him/her to:

a. Plan, establish and maintain treatment, intervention and education and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

b. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts and public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers or intoxicated persons.

c. Solicit and accept for use any gift of money or property made by will or otherwise, and any grant or money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies and the commission in making an appropriation for any grant.

d. Co-ordinate the activities of the department and cooperate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers and intoxicated persons and for the common advancement of substance abuse programs.

e. Require that a written report, in reasonable detail, be submitted to the director at any time by any agency of this state or of any of its political subdivisions in respect to any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse, which is being conducted by the agency.

SUBSTANCE ABUSE[805] (cont'd)

f. Submit to the governor a written report of the pertinent facts at any time the director concludes that any agency of this state or of any of its political subdivisions is conducting any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse in a manner not consistent with or which impairs achievement of the objectives of the state plan to combat substance abuse, and has failed to effect appropriate changes in the function or program.

g. Keep records and engage in research and the gathering of relevant statistics.

h. Employ a deputy director who shall be exempt from the merit system and shall serve at the pleasure of the director. The director may employ other staff necessary to carry out the duties assigned to the director.

i. Do other acts and things necessary or convenient to execute the authority expressly granted to the director.

1.2(2) Director - Duties. Pursuant to the Acts of the Sixty-seventh General Assembly, chapter 74, section 12, the duties of the director are:

a. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of Title XLII, United States Code, section 4573. The state plan shall designate the department as the sole agency for supervision of the administration of the plan and shall provide for the appointment of a citizens advisory council on substance abuse.

b. Develop, encourage, and foster statewide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

c. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers and intoxicated persons.

d. Co-operate with the department of social services on establishing and conducting programs to provide treatment for substance abusers and intoxicated persons.

3. Co-operate with the department of public instruction, boards of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers and intoxicated persons, and in preparing curriculum materials thereon for use at all levels of school education.

f. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

g. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

h. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in the treatment of substance abusers and intoxicated persons.

i. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers and intoxicated persons, and serve as a clearinghouse for

information relating to substance abuse.

j. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

k. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers and intoxicated persons, said plan to be co-ordinated with health systems agencies.

l. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

m. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers, to encourage substance abusers to voluntarily undergo treatment.

n. Co-operate with the commission of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

o. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers and intoxicated persons and to provide them with adequate and appropriate treatment, and may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

p. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

q. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse and substance abusers and intoxicated persons.

805—1.3(67GA, ch74) Commission. There is a nine-member commission on substance abuse established within the department of substance abuse. The members are appointed by the governor based on their interest in and knowledge of substance abuse. Two of the members are individuals who have direct contact with substance abuse clients as part of their regular work.

1.3(1) Responsibilities of commission. Pursuant to the Acts of the Sixty-seventh General Assembly, 1977 session, chapter 74, section 4, the commission is responsible for establishing policies and governing the performances of the department in discharging the duties imposed on it.

1.3(2) Terms of commission. Commission members are appointed to terms of four years, except that initial appointments to the membership of the commission shall be staggered so that four members shall be appointed to terms of two years and five members shall be appointed to terms of four years.

a. Terms of office shall commence on the first day of July of the year of appointment.

b. Vacancies occurring during a term of office shall be filled for the balance of the unexpired term in the manner of original appointment.

c. No members shall be appointed to serve more than two consecutive four-year terms.

1.3(3) Meetings. The commission shall meet at regular intervals at least six times a year. Special

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meetings may be called by the chairperson or at the request of the majority of commission members. The sites of the meetings are determined by the commission.

a. The chairperson presides at each meeting or in the chairperson's absence the vice chairperson shall preside. All meetings are open to the public in accordance with the open meetings law, chapter 28A of the Code.

b. The chairperson may appoint committees of the commission as necessary to conduct the business of the commission. Committee meetings shall comply with chapter 28A of the Code.

c. The commission shall give no less than seven days advance public notice of the time and location of commission and committee meetings to the news media. In case of special meetings, at least three days advance public notice of the time and location of the special commission meeting shall be given to the news media.

d. Agenda items for commission meetings shall be submitted to the department office at the Iowa Department of Substance Abuse, Liberty Building, Suite 230, 418 Sixth Avenue, Des Moines, Ia. 50319 at least fifteen days prior to the commission meeting. With the consent of the majority of the commission present, special issues may be addressed.

1.3(4) Organization. The commission is organized annually and selects from its membership a chairperson and a vice chairperson.

1.3(5) Commission - additional duties. Pursuant to section 125.7 of the Code, the commission shall:

a. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension or revocation of a license.

b. Act as the sole agent to allocate state, federal and private funds which are appropriated or granted to, or solicited by the department.

c. Approve the comprehensive substance abuse program, and the funding therefor, developed by the department pursuant to sections 125.1 to 125.26

d. Establish policies governing the performance of the department in the discharge of any duties imposed on it by law.

e. Establish policies governing the performance of the director in the discharge of the director's duties.

f. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention and education and prevention programs in the state.

g. Promulgate rules necessary to carry out the provisions of chapter 125 of the Code as amended by Acts of the Sixty-seventh General Assembly, 1977 regular session, chapter 74, subject to review in accordance with provisions of chapter 17A.

h. Investigate the work of the department, and for this purpose it shall have access at any time to all books, papers, documents and records of the department.

i. Submit to the governor and the general assembly an annual report covering the activities of the department.

805—1.4(67GA,ch74) State Advisory Council. There is established within the department a state advisory council which shall be composed of nine members and which shall advise the director in administering chapter 125 of the Code as amended by the Sixty-seventh General Assembly, 1977 regular session. The governor shall appoint the members of the advisory council who shall serve at the pleasure of the governor.

1.4(1) Advisory capacity. The advisory council shall be entirely advisory in character and may not exercise administrative authority. The council shall assist the department in obtaining substate input regarding the department's substance abuse activities involving education, intervention, treatment, rehabilitation, training, research, planning, public information legislation, and program development.

1.4(2) Composition. Members of the substance abuse advisory council shall be drawn from different geographical areas of the state, and shall provide representation for:

a. Nongovernmental organizations concerned directly or indirectly with substance abuse such as local citizen groups, employee groups, national groups, labor and management, and other provider, consumer, and consumer advocate groups.

b. Public agencies concerned directly or indirectly with substance abuse, such as local elected officials or representatives of health and mental health agencies, welfare agencies, and law enforcement agencies.

c. The minority, poverty, and major population groups which are significantly affected by the problems of substance abuse.

d. At least one representative of the state health coordinating council.

1.4(3) Compensation. Members of the council shall serve without compensation, but shall receive reimbursement for travel and other expenses actually incurred in the performance of their duties.

1.4(4) Terms of office. Advisory council members shall serve at the pleasure of the governor.

1.4(5) Vacancies. The council chairperson shall notify the governor of vacancies. The governor shall appoint members to fill vacancies.

1.4(6) Officers. The governor shall appoint a chairperson to the council. The vice chairperson shall be elected by the council. The director or a designee shall serve as the council's secretary and shall be responsible for keeping minutes of all meetings and disseminating minutes and other relevant information from the department to the council.

1.4(7) Committees. The chairperson of the council shall determine those committees, within the council, necessary to conduct the duties and responsibilities of the council. The chairperson of the council shall appoint committee chairpersons as necessary and shall terminate appointments as appropriate.

1.4(8) Meetings. Advisory council meetings are to be conducted as often as necessary, but no less than four times a year. Council meetings and committee meetings shall be called by the director as appropriate. Council meetings may be conducted at a central location convenient to council members.

a. The chairperson presides at each council meeting or in the chairperson's absence, the vice chairperson shall preside.

b. All meetings are open to the public in accordance with chapter 28A of the Code.

1.4(9) Duties. The director may request the advisory council to address special project activities as necessary. Specific duties of the council shall include, but not be limited to the following:

a. The development and implementation of the annual substance abuse plans required by the National Institute on Drug Abuse (NIDA) and the National

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Institute on Alcohol Abuse and Alcoholism (NIAAA).

b. The development and implementation of a substate planning process allowing for community input into the annual plans.

1.4(10) Meetings. The director shall give advance public notice of the time and location of council meetings. Written notification of meetings shall be sent by the council secretary to members at least twenty-one days prior to each regular meeting of the council. The council shall give no less than seven days advance public notice of the time and location of council and committee meetings to the news media. In case of special meetings, at least three days advance public notice of the time and location of the special council meeting shall be given to the news media.

1.4(11) Reports. The chairperson of the council shall prepare an annual report to the director by July 30 of each year concerning council activities and accomplishments for the preceding fiscal year.

a. Committee chairpersons are responsible for reporting committee activities at each council meeting.

b. The director shall report the activities of the council to the commission.

805—1.5(67GA,ch74) Area. Pursuant to section 125.6 of the Code as amended by the Acts of the Sixty-seventh General Assembly, 1977 regular session, chapter 74, section 6, the state is divided into the following catchment regions.

Region I. Allamakee, Clayton, Fayette, Howard, and Winneshiek Counties.

Region II. Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth Counties.

Region III. Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, and Sioux Counties.

Region IV. Cherokee, Ida, Monona, Plymouth, and Woodbury Counties.

Region V. Calhoun, Hamilton, Humboldt, Pocahontas, Webster, and Wright Counties.

Region VI. Hardin, Marshall, Poweshiek, and Tama Counties.

Region VII. Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy Counties.

Region VIII. Delaware, Dubuque, and Jackson Counties.

Region IX. Clinton, Muscatine, and Scott Counties.

Region X. Benton, Cedar, Iowa, Johnson, Jones, Linn, and Washington Counties.

Region XI. Boone, Dallas, Jasper, Madison, Marion, Polk, Story, and Warren Counties.

Region XII. Audubon, Carroll, Crawford, Greene, Guthrie and Sac Counties.

Region XIII. Cass, Fremont, Harrison, Mills, Montgomery, Page, Pottawattamie, and Shelby Counties.

Region XIV. Adair, Adams, Taylor, Clarke, Decatur, Ringgold, and Union Counties.

Region XV. Appanoose, Davis, Jefferson, Keokuk, Lucas, Mahaska, Monroe, Van Buren, Wapello, and Wayne Counties.

Region XVI. Des Moines, Henry, Lee, and Louisa Counties.

[Filed emergency after notice 10/12/78,
effective 10/16/78]

Notice of intended action regarding these rules was published in the Iowa Administrative Bulletin on July 12, 1978. They were modified to the extent that 1.2(1)"i" had the word "... him." changed to "... director;" at the

recommendation of the Administrative Rules Review Committee 1.4(2) and 1.4(10)"c" were deleted; 1.4(12)"b" was changed to read "the director shall report the activities of the council to the commission."

Pursuant to section 17A.5(2)"b"(2), the department request that these rules become effective October 16, 1978, so as to allow the department to operate and carry out its legislative mandates; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs.

The rules shall supersede chapter 1 of the Substance Abuse Rules published under emergency provision of chapter 17A in the Iowa Administrative Code supplement April 5, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

SUBSTANCE ABUSE, DEPARTMENT OF[805]

Pursuant to the authority of section 125.7 of the Code, as amended by the Sixty-seventh General Assembly, chapter 74, 1977 regular session, the following rules are adopted.

CHAPTER 4 PROCEDURES

805—4.1(17A) Request for rule change. Any person may petition the department to adopt, amend, or repeal any rule. To be valid the petition shall:

1. Be addressed to the chairperson of the commission.
2. Be in writing.
3. State the name(s) of those requesting the change.
4. Set forth the new proposed rule, the rule as it would appear after the requested amendment, or the rule as it would appear subsequent to the requested deletions.
5. Describe specifically the reasons for the requested change.
6. Detail the statutory authority under which the new rule, if any, would exist.

4.1(1) Commission action. Within sixty days of the receipt by the commission of the proposed rules, the requested modification or the requested deletion, the commission shall either deny the request stating the reasons for the denial in writing or initiate rulemaking proceedings in accordance with chapter 17A of the Code.

805—4.2(17A) Declaratory decision. Any interested person may submit to the chairperson of the commission a petition regarding the application of a statute, rule, decision, order or other written statement of law or policy to a specific factual background of the question, the statute, rule, decision, order or other written statement of law or policy deemed applicable, and the reasons for the request. The commission shall render a written decision within thirty days unless the commission is unable to reach a decision on the facts as presented. Should the commission find the facts insufficient then no decision need be issued and the commission shall request that the factual situation be clarified by an amendment to the petition. Failure by a requesting party to amend the petition within fifteen days will cause the commission to dismiss the petition.

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805—4.3(17A) Informal procedures. Parties to any factual controversy that could result in a contested case may meet informally for the purpose of settling the dispute. The parties may reach any decision they desire, subject only to the substantive requirements of the department.

The commission or a designee may be asked to suggest any course of action the commission deems appropriate, but any suggestion by the commission is not binding unless the parties voluntarily adopt it as their agreement.

805—4.4(17A) Notice of hearings for contested cases. The chairperson of the commission shall send notice of the hearing to all interested parties by certified mail or by personal service as in civil actions, at least ten days prior to the date of the hearing unless a shorter period of time is agreed upon by all parties. The notice shall include the time, the place and nature of the hearing and a reference to the particular sections of the statutes and rules involved.

a. Hearings shall be conducted in a manner pursuant to chapter 17A of the Code of Iowa, presided over by a hearing officer or the commission as a whole or a designee.

b. The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings.
2. All evidence received or considered and all other submissions.
3. A statement of all matters officially noticed.
4. All questions and offers of proof, objections and rulings therein.
5. All proposed findings and exceptions.
6. Any decision, opinion or report by the officer presiding at the hearing.

805—4.5(17A.17) Ex parte communications. The notice required pursuant to section 17A.4 of the Code, concerning ex parte communications in contested cases, shall include the name of the hearing officer, the name of the party to whom the communication will occur, the nature of the communication, the place of the communication and the time of the communication. The notice shall be in writing and shall be delivered either by personal service as in civil actions or by certified mail return receipt requested. The time of the communication must be at least thirty days subsequent to the service of the notice.

4.5(1) Hearing Officer. Any individual who is assigned to hear a contested case who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any party or the representative of any party to that contested case, without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

Any party to a contested case or the representative of any party who communicates, directly or indirectly, in connection with any issue of fact or law in that contested case with any person assigned to hear that case without giving the required notice and opportunity to be heard to all parties shall be required to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceedings.

4.5(2) Sanctions - Parties. Sanctions against the parties or their representatives who communicate with the hearing officer on any issue of fact or law in a contested case without giving notice and the opportunity

to participate to all parties may include a decision against the party on the merits; censure, suspension, or revocation of the privilege to practice before the department; or whatever may be just and equitable.

4.5(3) Sanctions - Hearing officer. Sanctions against the individual who was assigned to hear the case and participated in communications with any party or the representative of any party on any issue of fact or law in that contested case without giving notice and the opportunity to participate to all parties may include: Censure, suspension or dismissal from the department or whatever may be just and equitable.

805—4.6(17A) Decisions and orders - rehearing. A proposed or final decision or order in a contested case shall be in writing or stated in the record. A proposed or final decision shall include findings of the fact and conclusions of law, separately stated. Findings of the fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If, in accordance with department rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties shall be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order in the manner provided by chapter 17A of the Code of Iowa.

4.6(1) Rehearing. Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within twenty days after the issuance of any final decision by the department in a contested case. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the agency grants the application within twenty days after its filing.

805—4.7(17A) Judicial review. Judicial review provisions shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action pursuant to the judicial review provisions of chapter 17A of the Code of Iowa.

[Filed emergency after notice 10/12/78,
effective 10/16/78]

Notice of intended action regarding these rules was published in the Iowa Administrative Bulletin on July 12, 1978. They were modified to the extent that 4.5(17A.17) "... three days subsequent to service of notice." was changed to "... thirty days subsequent to the service of the notice." as recommended by the Administrative Rules Review Committee.

Pursuant to section 17A.5(2)"b"(2), the department request that these rules become effective October 16, 1978, so as to allow the department to operate and carry out its legislative mandates; hence, these rules will benefit individuals who are involved in substance abuse treatment, intervention, education, and prevention programs.

The rules shall supersede chapter 4 of the Substance Abuse Rules published under emergency provisions of chapter 17A in the Iowa Administrative Code April 5, 1978.

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

AGRICULTURE DEPARTMENT[30]

Pursuant to the authority of sections 159.6(9), 189.2(2) and 198.10(1) of the Code, the department of agriculture hereby amends rules relating to commercial feeds appearing in chapter 6 of the Iowa Administrative Code as follows:

ITEM 1. Chapter 6 is amended by adding a separate division as follows:

PROCESSED ANIMAL WASTE PRODUCTS

30—6.15(198) Definitions and terms. As used in this section the following definitions apply:

6.15(1) "Animal waste" means a material composed of excreta, with or without bedding materials, and collected from poultry, ruminants, or other animals except humans.

6.15(2) "Processed" as applied to animal waste means artificially dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes which will enable the product to comply with the standards set forth in this regulation.

6.15(3) "Dried poultry waste — (DPW)" means a dried, processed, animal waste product composed primarily of feces from commercial poultry.

6.15(4) "Dried poultry waste — NPN extracted" means a dried, processed, animal waste product composed primarily of feces from commercial poultry which has been processed to remove part or all of the equivalent crude protein and includes nonprotein nitrogen (NPN) as urea or uric acid or both urea and uric acid.

6.15(5) "Dried poultry litter — (DPL)" means a dried, processed, animal waste product composed of a processed combination of feces from commercial poultry together with litter that occurs in the floor production of poultry.

6.15(6) "Dried ruminant waste — (DRW)" means a dried, processed, animal waste product composed primarily of processed ruminant excreta.

6.15(7) "Dried swine waste — (DSW)" means a dried, processed, animal waste product composed primarily of processed swine excreta.

6.15(8) "Undried processed animal waste product" means an undried, processed, animal waste product composed of excreta, with or without litter, from poultry, ruminants or any other animal except humans, which may or may not include other feed ingredients.

6.15(9) "Processed animal waste derivative" means a product resulting from the chemical, physical or microbiological alteration of animal waste. Examples of processed animal waste derivatives are composts, yeasts and algae, or wastes treated by ammonia, formaldehyde, or other chemical processes approved by the department. A specific and descriptive name, and efficacy and safety data must be submitted and approved by the secretary before the product is registered or offered for sale.

30—6.16(198) Registration requirements.

6.16(1) No person shall sell, offer or expose for sale, or distribute, in this state, any processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed as defined in section 198.3(4) of the Code prior to registering the same with the secretary.

6.16(2) A detailed description of the facilities,

equipment and method of manufacturing to be used in processing, manufacturing and testing of the processed animal waste product shall accompany the application for registration.

30—6.17(198) Quality standards.

6.17(1) Processed animal waste products shall not contain extraneous materials such as metal, glass, wire or nails or other harmful matter.

6.17(2) Dried, processed, animal waste products shall not have in excess of 15.0% moisture content. Undried, processed, animal waste products shall have in excess of 15.0%.

6.17(3) Dried poultry waste shall not contain:

- a. Less than 18.0% crude protein, or
- b. In excess of 15.0% crude fiber, or
- c. In excess of 35.0% ash, or
- d. In excess of 1.0% feathers.

6.17(4) Dried poultry waste — NPN extracted shall not contain:

- a. Less than 11.0% crude protein, or
- b. In excess of 15.0% crude fiber, or
- c. In excess of 30.0% ash, or
- d. In excess of 1.0% feathers.

6.17(5) Dried poultry litter shall not contain:

- a. Less than 18.0% crude protein, or
- b. In excess of 25.0% crude fiber, or
- c. In excess of 20.0% ash, or
- d. In excess of 5.0% feathers.

6.17(6) Dried ruminant waste shall not contain:

- a. Less than 9.0% crude protein, or
- b. In excess of 40.0% crude fiber, including straw, woodshavings, etc., or
- c. In excess of 30.0% ash.

6.17(7) Dried swine waste shall not contain:

- a. Less than 15.0% crude protein, or
- b. In excess of 35.0% crude fiber including straw, woodshavings, or other bedding materials acceptable to the secretary, or
- c. In excess of 20.0% ash.

6.17(8) Undried, processed, animal waste products shall not contain in excess of 30.0% combined wood, woodshavings, litter, dirt, sand, rocks, and similar extraneous materials.

6.17(9) Processed animal waste products shall not contain potential hazardous substances except at such levels which will enable safe and effective use for the intended purposes by users. Safe and effective levels for pesticide residues shall be the same as those established in the Code of Federal Regulations, Title 21, part 561, as revised, April 1, 1977. The department shall provide the acceptable level for any other potentially hazardous substance, upon request.

6.17(10) Any processed animal waste product that does not meet the quality standards for the product shall be further processed until standards are met, diverted to nonfeed uses or destroyed.

30—6.18(198) Labeling requirements.

6.18(1) The label or tag shall state the following information, in the list of guarantees, in the following order, in percentages:

- a. Maximum moisture, following the fiber guarantee;
- b. Maximum ash, following the moisture guarantee.

6.18(2) If the product contains drug residues, then the label shall contain the following statement in boldface type:

AGRICULTURE[30] (cont'd)

"WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 15 DAYS OF SLAUGHTER AND DO NOT USE 15 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS."

6.18(3) If the product contains high levels (25 ppm or greater) of copper, a maximum guarantee of copper and the following statement is required:

"WARNING: CONTAINS HIGH LEVELS OF COPPER. DO NOT FEED TO SHEEP."

6.18(4) If the product is undried, processed animal waste, the specific name of each component material of the product must be declared on the label.

30—6.19(198) Testing requirements.

6.19(1) Any person seeking or receiving registration of any processed animal waste shall test, by representative sampling and assaying of such samples, and keep accurate records thereof, of the processed animal waste product for which the registration is sought or received.

6.19(2) The sample shall be of sufficient size, commensurate with the characteristics of the product, so as to provide meaningful data statistically reliable in carrying out the purpose of such sampling and analysis.

6.19(3) The sampling and analysis shall be in accordance with the methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

6.19(4) Prior to registration, three sequential production runs shall be made to establish that the processed animal waste product is consistently within the quality standards specified in these rules.

6.19(5) After registration, periodic analysis shall be conducted quarterly and whenever the secretary deems it necessary, to show continued compliance with the quality standards.

6.19(6) The testing to determine compliance with the quality standards shall include potential hazardous substances such as the following:

- a. Drugs suspected or known to be used in the feed or as therapeutic treatment of the animals.
- b. Pesticides used on the animal, facilities, and wastes for pest control.
- c. Pathogenic organisms, at least to include Salmonella and E. Coli.
- d. Heavy metals: Arsenic, cadmium, copper, lead, mercury and selenium, at least.
- e. Parasitic larva or ova.
- f. Mycotoxins, such as aflatoxins.

30—6.20(198) Records requirement.

6.20(1) Any person seeking or receiving registration of any processed animal waste product shall keep for a period of two years, accurate records of:

- a. All sources of raw materials and date acquired, including information on drugs and pesticide usage.
- b. All production output and including a code or other method to identify the date of production.
- c. All sales and distribution, including name and address of the purchaser or to whom distributed, date, quantity and production code.
- d. Sampling and assay records of the testing required by these rules showing that the processed animal waste product meets the quality standards.

These rules are intended to implement sections 198.4, 198.5, 198.7, 198.9 and 198.10 of the Code of Iowa.

ITEM 2. Rule numbers 30—6.12 to 6.14 shall be reserved for future use.

[Filed 10/13/78, effective 12/21/78]

Notice of intended action regarding these rules was published in the Iowa Administrative Bulletin on July 26, 1978, and a public hearing was held on August 30, 1978. The rules have been modified pursuant to suggestions made by participants at the public hearing and in written views submitted to the Secretary of Agriculture by interested persons. These rules will become effective December 21, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

AGRICULTURE DEPARTMENT[30]

Pursuant to the authority of the Acts of the Sixty-seventh General Assembly, Senate File 365, section 3, the department of agriculture hereby adopts the following new rules relating to food service establishments, food establishments, food and beverage vending machines, and hotels:

ITEM 1. Strike chapter 37, Food Establishments - Hotels in its entirety and insert in lieu thereof the following:

CHAPTER 37**FOOD SERVICE ESTABLISHMENTS**

30—37.1(170A) Standards for food service sanitation. Food service establishments that are constructed or extensively remodeled after January 1, 1979, shall be constructed, equipped and maintained; and all food service establishments, no matter what the date of construction, shall be operated in accordance with the 1976 edition of the federal Food and Drug Administration Food Service Sanitation Ordinance (hereafter referred to as ordinance), insofar as the same may be applicable, and as said sections may be hereafter altered, amended or modified by the secretary, with the following exceptions: 1-102(h), (i) and (z), 1-104; 10-101, 10-201, and 10-601 are hereby deleted. A copy of the ordinance is on file and available at the food products control section of the department.

37.1(1) All silverware on preset tables in dining rooms shall be covered to prevent contamination.

37.1(2) All employees who contribute in any way to the assembling, dressing, cooking, manufacturing, compounding, or serving of food are required to effectively cover and restrain hair and beards to prevent contamination of foods. Caps, hairspray, bandanas, head scarves and hairnets are acceptable hair restraints provided they both cover and restrain the hair. Wigs must be covered with an acceptable hair restraint.

AGRICULTURE[30] (cont'd)

37.1(3) For manual washing, rinsing and sanitizing of bar utensils and glasses, a sink with not fewer than three compartments shall be provided and used in the bar area. Where food is served in a bar, a separate three compartment sink for the washing, rinsing and sanitizing of food-related glassware, utensils and equipment shall be provided and used in the kitchen area.

30—37.2(170A) License. No person shall operate a food service establishment who does not have a valid license issued by the department with the following exceptions:

1. Food service operations in schools.
2. Places used by churches, fraternal societies, and civic organizations which engage in the serving of food not more often than ten times per month.

37.2(1) Only a person who complies with the requirements of the ordinance shall be entitled to receive or retain such a license. Licenses are not transferable or refundable. A valid license shall be posted in all food service establishments no higher than eye level. Any change in ownership or location requires a new license.

37.2(2) A license issued by the department prior to January 1, 1979, shall be valid until its expiration date, unless revoked for just cause.

37.2(3) An inspection of a food service establishment shall be performed at least once every six months, except for food service operations in schools and summer camps which shall be inspected at least once every year. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of the ordinance.

37.2(4) Licensed food service establishments which sell a few grocery items as a part of that operation shall not be required to obtain a food establishment license. A licensed food service establishment that operates a grocery store as a separate unit or entity, shall obtain a food establishment license.

30—37.3(170A) Toilet and lavatory facilities. Food service establishments shall provide toilet rooms that are conveniently located and are accessible to employees at all times and to patrons upon request.

37.3(1) The floors of such rooms shall be of suitable, nonabsorbent, impermeable material. The walls and ceilings shall be of material that can be easily washed, cleaned and kept in a sanitary condition. Toilet fixtures shall be of sanitary design and readily cleanable. Doors shall be self-closing and have locks. Toilet tissue shall be provided. Sanitary receptacles shall be provided for waste materials, and such receptacles in the toilet rooms for women shall be covered.

37.3(2) Toilet rooms shall be well-lighted and effectively vented to the outside of the building through the use of electrically powered units.

37.3(3) The toilet rooms shall have lavatories equipped with hot and cold or tempered running water, hand cleansing soap or detergent, and approved hand drying devices or individual sanitary towels. Such facilities shall be kept clean and in good repair.

37.3(4) All food service establishments seating fifty people or more at one time, that are constructed or extensively remodeled after January 1, 1979, shall provide separately designed toilet rooms for men and women.

37.3(5) All places serving beer, cocktails, or alcoholic beverages shall provide separate toilet rooms for men and women.

30—37.4(170A) New construction. If extensive remodeling or the construction of a new facility is required by a food service establishment to comply with these rules, the department or contracting authority may, upon receiving a written request, grant an extension of time in which to comply. In no case shall the department grant an extension of time later than the first day of July, 1980.

30—37.5(170A) Posting inspection notice. Immediately after an inspection of a food service establishment, the licensee or person in charge shall post in a conspicuous place easily accessible to the public no higher than eye level, a notice stating the date of inspection and name of inspector.

37.5(1) The permit holder or operator of any food service establishment which receives two consecutive inspection ratings of under seventy-six, shall post the numerical rating along with the designation of "Poor" in the same manner as required for the inspection notice.

37.5(2) The license holder or operator of any food service establishment which receives two consecutive inspection ratings of under seventy-six may at any time make a written request for a reinspection of the establishment. A written request for reinspection shall be accompanied by a statement signed by the applicant that improvements necessary to raise the rating above seventy-five have been made. The regulatory authority shall make such a reinspection within seven days after receipt of such written request and statement.

30—37.6(170A) Boarding house A boarding house is not a food service establishment unless they cater to transient guests. A boarding house catering to transient guests is classified as a food service establishment and, therefore, must have a food service establishment license.

ITEM 2. Adopt a new chapter 38 as follows:

CHAPTER 38 FOOD ESTABLISHMENTS

30—38.1(170) License required. A license is not transferable or refundable. Any change in location or ownership requires a new license. A valid license shall be posted no higher than eye level in all establishments.

38.1(1) A food establishment license shall be required for the distribution for commercial purposes for an off premise consumption of pre-prepared and packaged foods with the following exceptions; ice packaged by a licensed establishment, canned and bottled soft drinks, gum and candy bars.

38.1(2) Food establishments which do not prepare food for individual service, but merely heat or serve prepackaged, individual portions of food prepared by another licensed establishment, or which serve coffee, snow cones or soft drinks, shall not be required to obtain a separate food service establishment license.

30—38.2(170) Toilet and lavatory facilities. Food establishments shall provide at least one conveniently located toilet room with toilet and lavatory fixtures, that is accessible to employees at all times and to patrons upon request. The floor of such room shall be of nonabsorbent, impermeable material. The walls and ceilings shall be of a material that can be easily kept in a sanitary condition.

38.2(1) Toilet rooms shall be well-lighted and effectively vented to the outside of the building through the use of electrically powered units where necessary.

38.2(2) The toilet rooms shall have lavatories equipped with hot and cold or tempered running water,

AGRICULTURE[30] (cont'd)

hand cleansing soap or detergent, and approved hand drying devices or individual sanitary towels. Toilet and lavatory fixtures shall be kept in a clean condition and in good repair.

38.2(3) Food establishments shall provide a lavatory or hand washing sink in meat processing or food preparation areas which is conveniently located for employees' use and is properly equipped with hot and cold running water, soap or detergent dispenser and individual towel cabinet.

ITEM 3. Adopt a new chapter 39 as follows:

**CHAPTER 39
HOTELS**

30—39.1(170B) License. A license is not transferable. Any change in location or ownership requires a new license. A valid license shall be posted no higher than eye level in a conspicuous place easily accessible to the public.

30—39.2(170B) Sanitary requirements. All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition free of accumulations of refuse. Clothing worn by personnel shall be clean.

39.2(1) Bedding. Every bed, bunk, cot, or other sleeping place in a hotel, motel, or motor inn shall be supplied with under sheets, top sheets, and pillow slips. The sheets shall be of sufficient width and length to completely cover the mattress. The pillow slips and sheets after being used by any guest shall be washed and sanitized, or disposed of, and a clean set furnished each succeeding guest. The other bedding shall be thoroughly aired and kept clean at all times. All mattresses, quilts, blankets, pillows, sheets, comforters, and other bedding which have become worn or unsanitary so as to be unfit for use as bedding shall be condemned by an inspector and shall not be used again.

39.2(2) Vermin. Every room or article in any hotel which has become infested with bedbugs or other vermin shall be renovated until the same are exterminated.

39.2(3) Towels. Individual towels shall be provided for the use of each guest in a hotel, so that two or more guests will not be required to use the same towel.

30—39.3(170B) Ventilation. Every hotel constructed or extensively remodeled after January 1, 1979, shall provide proper ventilation in each sleeping apartment either by installing at least one window large enough to insure good ventilation or an effective mechanical ventilation device.

30—39.4(170B) Toilet and lavatory facilities. All hotels shall have toilet facilities on the premises available to the public. Every hotel constructed after January 1, 1979, and every building thereafter remodeled for use as a hotel shall have toilet and lavatory facilities in every guest room equipped with hot and cold running water. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. Toilet rooms shall be well-lighted and effectively vented to the outside of the building through the use of electrically powered units.

ITEM 4. Amend rule 30—46.1(191A) by striking it and inserting in lieu thereof the following:

30—46.1(191A) License. A license is not transferable or refundable. Any change in ownership of a vending machine requires a new vending license. Any change in ownership or location of a commissary requires a new

food establishment or food service establishment license. A valid license shall be posted no higher than eye level in all commissaries.

ITEM 5. Amend rule 30—46.2(191A) by striking it and inserting in lieu thereof the following:

30—46.2(191A) Perishable and nonperishable food. The secretary prescribes and defines as "nonperishable snacks" gum, canned or bottled soft drinks and panned candies. (Panned candies are those which have a fine hard coating on the outside and a soft candy filling on the inside, and which are easily dispensed in a ball gum type machine.) Perishable foods include potato chips; other deep fat fried snacks; soups; juices; soft drinks dispensed in cups; peanuts; candy bars; cheese, peanut butter and creamed snacks; cookies and cakes.

[Filed 10/13/78, effective 12/7/78]

Notice of intended action regarding these rules was published in the Iowa Administrative Bulletin on August 23, 1978, and public hearings relative thereto, were held on September 5, 1978, and again on September 12, 1978. The rules have been modified pursuant to suggestions made by the Administrative Rules Review Committee and participants at the public hearings. These rules will become effective December 7, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

COMMERCE COMMISSION[250]

Pursuant to the authority of sections 476.1 and 476.2 of the Code, the following amendments to rules 250—19.3(490A) and 250—20.3(490A) are hereby adopted.

ITEM 1. Rescind all of subrule 19.3(1) and insert in lieu thereof the following:

19.3(1) Disposition of gas.

a. All gas sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of gas may be readily computed without metering; or

(2) For temporary service installations.

b. All gas delivered to multioccupancy premises at which units of such premises are separately rented, leased or owned shall be sold by a utility on the basis of individual meter measurement for each such occupancy unit except:

COMMERCE[250] (cont'd)

(1) For that gas used in centralized heating, cooling, water-heating or ventilation systems;

(2) Where individual metering is impractical, unreasonable or uneconomical;

(3) Where submetering or resale of service was permitted prior to July 12, 1966, by rule, order or other act of the commission; or

(4) Where gas service, initiated prior to January 1, 1979, is delivered to premises and resold as an undefined part of a fixed rental or lease payment.

c. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the commission.

d. All gas consumed within the utility itself shall be on the basis of meter measurement except:

(1) Where the consumption of gas may be readily computed without metering; or

(2) Where metering is impractical, unreasonable or uneconomical.

ITEM 2. Rescind all of subrule 20.3(1) and insert in lieu thereof the following:

20.3(1) Disposition of electricity.

a. All electricity sold by a utility shall be on the basis of meter measurement except:

(1) Where the consumption of electricity may be readily computed without metering; or

(2) For temporary service installations.

b. All electricity delivered to multioccupancy premises at which units of such premises are separately rented, leased or owned shall be sold by a utility on the basis of individual meter measurement for each such occupancy unit except:

(1) For that electricity used in centralized heating, cooling, water-heating or ventilation systems;

(2) Where individual metering is impractical, unreasonable or uneconomical;

(3) Where submetering or resale of service was permitted prior to July 12, 1966, by rule, order or other act of the commission; or

(4) Where electric service, initiated prior to January 1, 1979, is delivered to premises and resold as an undefined part of a fixed rental or lease payment.

c. This rule shall not be construed to prohibit any utility from requiring more extensive individual metering than otherwise required by this rule if pursuant to tariffs filed with and approved by the commission.

d. All electricity consumed within the utility itself shall be on the basis of meter measurement except:

(1) Where the consumption of electricity may be readily computed without metering; or

(2) Where metering is impractical, unreasonable or uneconomical.

[Filed 10/4/78, effective 12/6/78]

Notice of Intended Action was published in Iowa Administrative Bulletin, Vol. I, No. 6, p. 346, August 23, 1978. The substantive effect of these rules is identical to that of the proposed rules published in the Notice of Intended Action, although the specific language has been revised. These rules shall become effective thirty-five days after filing, indexing and publication pursuant to sections 17A.5 and 17A.6 of the Code [December 6, 1978].

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

ENVIRONMENTAL QUALITY DEPARTMENT[400]

WATER QUALITY COMMISSION

Pursuant to the authority of sections 455B.32(3) and 455B.32(11) of the Code, 1977, the rules of the Water Quality Commission relating to definitions, appearing in [400] chapter 15 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend chapter 15 by renumbering subrules 15.1(8) through 15.1(12) as 15.1(9) through 15.1(13), by renumbering subrules 15.1(13) through 15.1(25) as 15.1(16) through 15.1(28), by renumbering subrules 15.1(26) through 15.1(28) as 15.1(30) through 15.1(32), and by adding four new subrules as follows:

15.1(8) "Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

15.1(14) "Local public works department" means a city or county public works department, a board of trustees of a city utility organized pursuant to chapter 388, Code of Iowa, or a sanitary sewer district organized pursuant to chapter 358, Code of Iowa.

15.1(15) "Low permeability" means a soil layer of well sorted, fine grain-sized sediments or of rock that under normal hydrostatic pressures would not be significantly permeable. Low permeability soils may include homogeneous clays below the zone of weathering, mudstone, claystone, shale, and some glacial till.

15.1(20) "Shallow well" means a well located and constructed in such a manner that there is not a continuous five foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.

[Filed 10/13/78, effective 12/6/78]

Notice of intended action on these rules was published in the May 3, 1978, IAC Supplement. Except for 15.1(14), the adopted rules are the same as the proposed rules. The board of trustees of a city utility, or a sanitary sewer district was omitted from the definition of "local public works department" in order to conform to section 455B.45 of the Code, which limits the definition to a city or county public works department.

The rules were adopted by the Water Quality Commission on September 6, 1978, and were approved by the Executive Committee on October 11, 1978.

The rules shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

ENVIRONMENTAL QUALITY[400] WATER QUALITY COMMISSION

Pursuant to the authority of sections 455B.32(3) and 455B.32(11) of the Code, 1977, the rules of the Water Quality Commission relating to wastewater construction and operation permits, appearing in [400] chapter 19 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend 19.1(455B) by adding two new subrules as follows:

19.1(5) "Iowa Standards for Sewer Systems"* means the design standards contained in chapter 12 of the Iowa Department of Environmental Quality, Chemicals and Water Quality Division Design Manual, as adopted by the commission on September 6, 1978.

19.1(6) "Ten States Standards" means the "Recommended Standards for Sewage Works", 1978 edition, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers.

ITEM 2. Amend 19.2(1), by adding the words "*or contrary to any condition of,*" after the word "without" in line 2, and by adding the following words before the period in line 3: "*or by a local public works department authorized to issue such permits under 24.9(455B); nor shall any connection to a sewer extension in violation of any special limitation specified in a construction permit pursuant to paragraph "a", "b" or "f" of 19.2(10) be allowed by any person subject to the conditions of the permit*".

*Available upon request to department, also filed with administrative rules coordinator.

ITEM 3. Amend 19.2(455B) by striking subrule 19.2(7), by renumbering subrules 19.2(2) through 19.2(6) as 19.2(4) through 19.2(8) and by adding five new subrules as follows:

19.2(2) The site for each new wastewater treatment plant or expansion or upgrading of existing facilities must be inspected and approved by the department prior to submission of plans and specifications. Applications must be submitted in accordance with 24.8(455B).

19.2(3) Site approval under 19.2(2) shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent that separation distances of this subrule conflict with the separation distances of 4.5(3) or 4.5(4), the greater distance shall prevail. The following separation distances from treatment or lagoon water surface shall apply:

a. 1000 feet from the nearest inhabitable residence, commercial building, or other inhabitable structure. If the inhabitable building is the property of the owner of the proposed treatment facility, the separation criteria shall not apply:

- b. 1000 feet from public shallow wells.
- c. 400 feet from public deep wells.
- d. 400 feet from private wells.
- e. 400 feet from lakes and public impoundments.
- f. 25 feet from property lines and rights-of-way.

When the above separation distances cannot be maintained for the expansion, upgrading or replacement of existing facilities, the separation distances shall be

maintained at no less than 90% of the existing separation distance on the site, providing no data is available indicating that a problem has existed or will be created.

19.2(9) Review of applications for construction permits for other than sewer extensions shall be based on the criteria contained in the Ten States Standards, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards.

19.2(10) Applications for sewer extension construction permits shall conform to the Iowa Standards for Sewer Systems, and approval shall be subject to the following:

a. A sanitary sewer extension construction permit for a public treatment system constructed with grants offered before 1973, or under a construction permit issued before 1973, will be denied if, at the time of application:

(1) The treatment works' effluent has exceeded 100 mg/1 BOD₅ at least once per month for four months within the last 12 months when discharge occurred; or

(2) The treatment works' efficiency is less than 50% at least once per month for four months within the last twelve months when discharge occurred;

If the system is operating under a compliance schedule which is being adhered to, or the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated, a permit may be granted to serve not more than a 10% increase in population equivalent over the load existing at the time a determination has been made that the above conditions existed.

b. A sanitary sewer extension construction permit for a treatment system constructed with grant funds offered after 1972 or a public nongrant treatment system constructed under a construction permit issued after 1972 will be denied if, at the time of application, either of the following operation permit violations exist:

(1) Flow limitations have been exceeded at least once per month for more than four months within the last twelve months; or

(2) BOD₅ limitations have been exceeded at least once per month for more than four months within the last twelve months when discharge occurred;

If the applicant can show that the influent dry weather flow and influent dry weather BOD₅ do not exceed the plant design capacity and the system is operating under a compliance schedule which is being adhered to or the applicant can demonstrate that the problem has been identified, the planning completed, and corrective measures initiated a construction permit may be granted to increase the total load to not more than the design organic and dry weather hydraulic capacity of the treatment works.

c. A sanitary sewer extension construction permit for any public treatment system will be denied if bypassing has occurred at the treatment plant, except when any of the following conditions are being met:

(1) The bypassing is due to a combined sewer system.

(2) The bypassing occurs as a result of a storm with an intensity or duration greater than that of a storm with a return period of five years. (See App.A)

(3) The department determines that timely actions are being taken to correct the bypassing.

In no case will construction permits be granted when the department determines that:

ENVIRONMENTAL QUALITY[400] (cont'd)

1. Frequent or persistent bypassing is occurring or has been known to occur;
2. The treatment works' effluent has exceeded 150 mg/l BOD at least once per month for four months within the last twelve months, when discharge occurred; or
3. The treatment works' efficiency is less than 25% at least once per month for four months within the last twelve months when discharge occurred.
- d. A sanitary sewer extension construction permit for any private treatment system will be denied if the effluent quality does not comply with chapter 17, unless the owner of the system agrees to a schedule which requires the treatment facility to be upgraded so that the effluent quality limitations will be met by the time the proposed sewer extension is connected.
- e. A sanitary sewer extension construction permit will be denied if an existing downstream sewer is or will be overloaded or surcharged, resulting in bypassing, flooded basements, or overflowing manholes, unless:
 - (1) The bypassing or flooding is the result of a precipitation event with an intensity or duration greater than that of a storm with a return period of two years. (See App. A); or
 - (2) The system is under full-scale facility planning (I/I and SSES) or the applicant provides an acceptable schedule for rehabilitating the system to the extent necessary to handle the additional loadings.
- f. Potential loads - Construction permits may be granted for sanitary sewer extensions that are sized to serve future loads that would exceed the capacity of the existing treatment works. However, initial connections shall be limited to the load that can be handled by the existing treatment works. The department will determine this load and advise the applicant of the limit. This limitation will be in effect until additional treatment capacity has been constructed.

19.2(11) Certification of completion. Within thirty days after completion of construction, installation or modification of any wastewater disposal system or part thereof or extension or addition thereto, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specifications.

ITEM 4. Amend 19.2(4) (as renumbered) by inserting the words "in accordance with 24.2(455B)" after the word "director".

ITEM 5. Amend 19.3(1) by striking the words "begin operation of any new waste water disposal system or part thereof without first obtaining from the executive director an operation permit for such system" and inserting in lieu thereof the following: "operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the executive director; nor shall the permittee of a system to which a sewer extension has been made under a construction permit limited pursuant to 19.2(10), paragraph "a", "b" or "f", allow a connection to such sewer extension in violation of any special limitation in such construction permit".

ITEM 6. Amend 19.3(5)"d" by adding at the end two new sentences as follows: "The owner of a wastewater disposal system shall notify the executive director by submitting a complete treatment agreement to be received at least ten days prior to making any commitment to accept

waste from a proposed new major contributing industry. However, the department may notify the owner that verification of the data in the treatment agreement may take longer than ten days and advise that the owner should not enter a commitment until the data is verified."

NOTE: See succeeding page for Appendix A.

[Filed 10/13/78, effective 12/6/78]

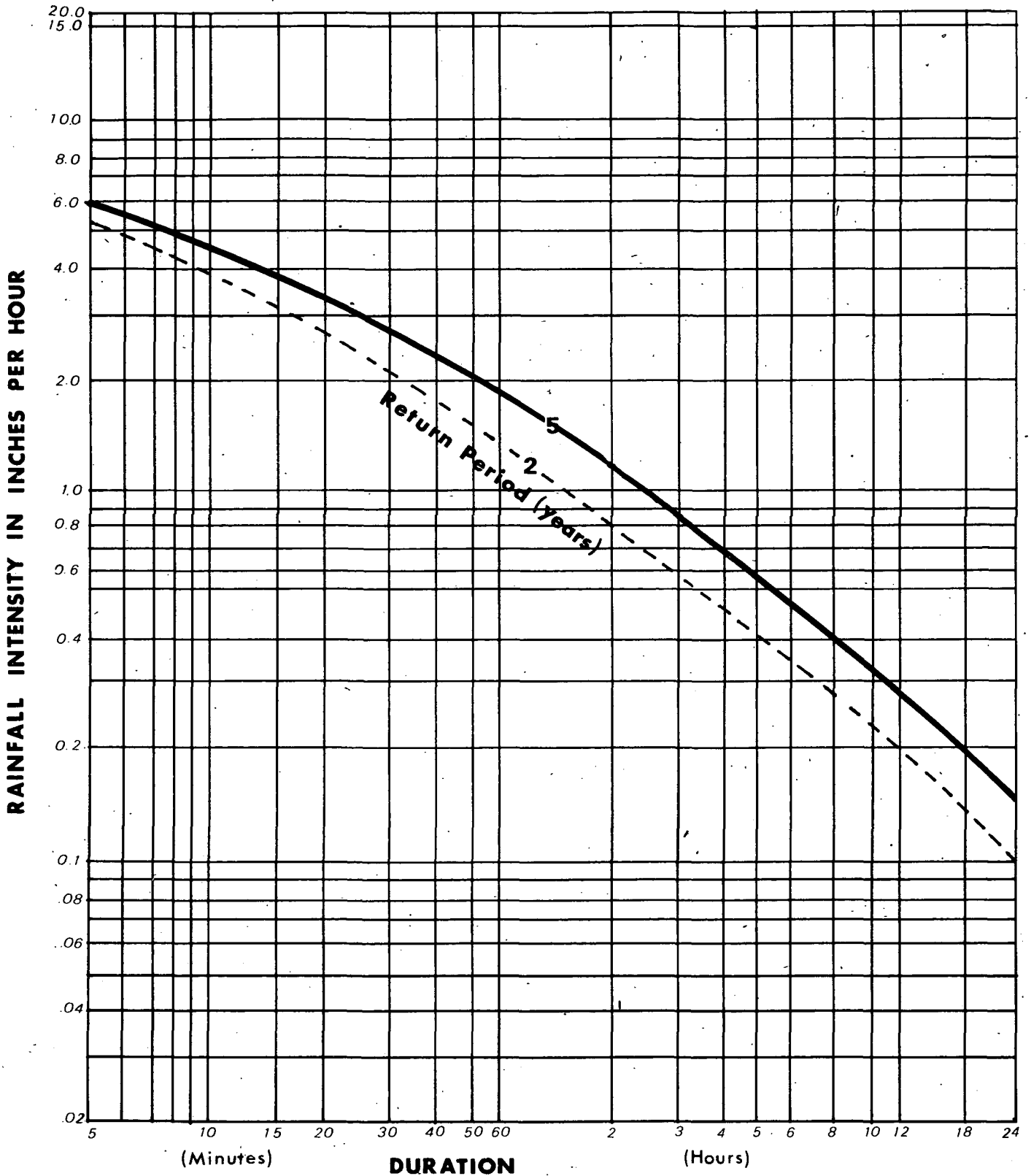
Notice of intended action on these rules was published in the May 3, 1978 IAC Supplement. The adopted rules are substantially the same as the proposed rules. However, the title of the rules on sewer extensions was modified to conform to the statutory title; 19.2(3) was rewritten; 19.2(11) was modified to require certification within thirty days of completion of construction; the notice requirement of item 6 was modified and reduced to ten days; and in 12.6.7 of the Iowa standards for sewer systems, adopted by reference in these rules, a provision on watertight construction of sewer manholes was added.

The rules were adopted by the Water Quality Commission on September 6, 1978, and were approved by the Executive Committee on October 11, 1978. The rules shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

RAINFALL INTENSITY - DURATION - FREQUENCY CURVES Appendix A



ENVIRONMENTAL QUALITY[400]

WATER QUALITY COMMISSION

Pursuant to the authority of sections 455B.62 of the Code, 1977, and Acts of the Sixty-seventh General Assembly, 1977 Session, Chapter 95, as amended by Acts of the Sixty-seventh General Assembly, 1978 session, House File 2433, the rules of the water quality commission relating to certification of operators of public water supply systems and waste water treatment plants, appearing in [400] chapter 21 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend rule 400—21.1(455B) by adding the following new subrule 21.1(19):

21.1(19) *Continuing education unit (CEU) means ten contact hours of participation in an organized education experience under responsible sponsorship, capable direction, and qualified instruction.*

ITEM 2. Amend 21.2(4) to read as follows:

21.2(4) An operator who provides active daily on-site charge of operation of a water supply treatment plant or water distribution system or waste water treatment plant or who provides active daily on-site technical direction and supervision of a facility treatment plant requiring shift operation or of a distribution system comprising extensive subsystems shall hold a certificate of the same classification of the plant facility and of equal or higher grade than the grade designated for that plant or system.

ITEM 3. Amend 21.2(5) to read as follows:

21.2(5) An operator who is in active daily on-site charge of a plant operating shift or a distribution subsystem and under supervision of a superintendent or other person certified at a level equal to or greater than the plant facility grade shall be certified in a grade no less than a grade II level.

ITEM 4. Amend subrule 21.6(3), paragraph "c", by adding the following new subparagraphs (8), (9) and (10):

(8) Any post high school formal education from an accredited institution will be recognized by the board in determining an applicant's eligibility for a certification examination.

An applicant with a four-year or a two-year degree in a field related indirectly to plant operation would be granted additional educational credit by a factor of 0.5 times the number of years.

An applicant with a four-year or a two-year degree related directly to plant operation would be granted additional educational credit by a factor of 1.0 times the number of years. This may be applied to either the water supply or wastewater treatment examination, but not to both examinations. The actual number of years of the degree would be applied to the education requirements for the other examination.

An applicant with some college education, but no degree, would be given credit for courses taken based on thirty semester hours or forty-five quarter hours equal to one year of education.

(9) Fifteen class hours of vocational-technical training from an accredited institution would be recognized as post high school formal education.

Any post high school full-time vocational-technical training program from an accredited institution would be recognized as post high school formal education.

An applicant having completed a full-time vocational-technical training program in an area related indirectly to water supply or wastewater system operation would be

granted additional educational credit by a factor of 0.5 times the number of class hours.

An applicant having completed a full-time vocational-technical training program in an area related directly to water supply or wastewater treatment system operation would be granted additional educational credit by a factor of 1.0 times the number of class hours. This may be applied to either the water supply or wastewater treatment examination, but not to both examinations. The actual number of class hours would be applied to the education requirement for the other examination.

(10) The substitution value of part-time vocational-technical training courses will be determined by using the Continuing Education Unit (CEU). One CEU is "ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction" as defined by the National University Extension Association. Forty-five CEU's are comparable to one year of post high school education or one year of general experience.

The CEU value of any specific part-time vocational-technical training course acceptable to the board would be recognized.

An applicant having completed a part-time training course indirectly related to water supply or wastewater treatment would receive additional CEU credit by a factor of 0.5 times the course CEU value.

An applicant having completed a part-time training course related directly to water supply would receive additional CEU credit by a factor of 1.0 times the course CEU value for the water supply examinations.

An applicant having completed a part-time training course related directly to wastewater treatment would receive additional CEU credit by a factor of 1.0 times the course's CEU's. Courses not awarded CEU's may be assigned an equivalent CEU value based on the number of class hours.

ITEM 5. Amend subrule 21.6(3), paragraph "d", by adding the following new subparagraph (3):

(3) Class hours involving close supervised hand-on on-the-job type training in a pilot or full scale facility where there are clearly defined educational objectives may be applied to the general on-the-job operating experience requirement. The substitution value of such training shall be applicable only toward obtaining a Grade I and Grade II Certification and shall not exceed one-half year of on-the-job operating experience. One hour of hand-on training is equivalent to three hours of general on-the-job operating experience and one hundred sixty hours of such training is equal to three months of experience. Class time applied to the on-the-job operating experience requirement may not also be applied to the education requirement.

On-the-job training where work experience is obtained in an actual water supply or wastewater treatment system would be applicable only to the examination for the type of system in which the experience was obtained.

ITEM 6. Amend 400—21.9(455B) by renumbering 21.9(1) through 21.9(6) as 21.9(2) through 21.9(7) and by adding the following new subrule 21.9(1):

21.9(1) All applicants not addressed in 21.9(4) or 21.9(5) for certification shall successfully complete and pass an oral or written examination prior to receiving certification.

ITEM 7. Amend rule 21.10(455B) by adding the following new subrules 21.10(7) through 21.10(12):

ENVIRONMENTAL QUALITY[400] (cont'd)

21.10(7) Continuing education must be earned during two-year periods beginning on April 1, 1979, and April 1 of odd-number years thereafter. A grade III or IV certified operator who is in active on-site charge must earn two units or twenty contact hours per certificate during each two-year period. All other certified operators must earn one unit or ten contact hours per certificate during each two-year period. Newly certified operators (previously uncertified) who become certified after April 1 of a two-year period will have the remainder of that two-year period plus the next two-year period to earn the required units.

21.10(8) Beginning July 1, 1981 and succeeding odd number years, only those operators fulfilling the continuing education requirements before the end of each two-year period (March 31) will be allowed to renew their certificate(s). The certificate(s) of operators not fulfilling the continuing education requirements shall expire on June 30 of the applicable biennium.

21.10(9) All activities for which continuing education credit will be granted must be approved by the board and must be related to the subject matter of the particular certificate to which the credit is being applied.

21.10(10) The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which to fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator which prevent attendance at the required activities.

21.10(11) Certified operators must notify the department of all continuing education credit earned during the period.

21.10(12) An operator shall be deemed to have complied with the continuing education requirements of this rule during periods that the operator serves honorably on active duty in the military services, or for periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there, or for periods that the person is a government employee working as an operator and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the board.

ITEM 8. Strike all of rule 400—21.13(455B) and insert in lieu thereof the following:

400—21.13(455B;67 GA,Ch.95) Discipline of certified operators.

21.13(1) Disciplinary action may be taken against a certified operator on any of the grounds specified in section 455B.59, Code of Iowa, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, Chapter 95, section 22, and Acts of the Sixty-seventh General Assembly, 1978 Session, House File 2433, section 11. The following grounds for disciplinary action are specifications of acts or omissions that amount to the statutory grounds of professional incompetency and knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public.

a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Examples of a wastewater operator's

duties are specified in the Water Pollution Control Federation Manual of Practice #11, 1976 edition and in the operation and maintenance manual for the plant. Examples of a water treatment or distribution operator's duties are specified in the American Water Works Association manuals of water supply practice (No's 1-22), the Texas Manual of Water Utilities Operations, and the New York Manual of Instruction for Water Treatment Plant Operators.

b. Failure to submit required records of operation or other reports required under applicable permits or rules of the department; including failure to submit complete records or reports.

c. Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

21.13(2) Disciplinary sanctions allowable are:

a. Revocation of a certificate.

b. Revocation or suspension of the practice of a particular aspect of the operation of a treatment plant or distribution system, including the restriction of operation to a particular plant or system, or a particular type of plant or system.

c. Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training, or re-examination may be required as a condition of probation.

21.13(3) Procedure.

a. The chief of the surveillance section of the chemicals and water quality division of the department shall be the person who initiates disciplinary action, in his or her discretion. The board may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under 21.13(1), and report the results of the investigation to the board.

b. A disciplinary action may be prosecuted by any compliance officer for the department, the chief of the surveillance section, or their designee.

c. Written notice by certified mail shall be given to an operator against whom disciplinary action is being considered, at least twenty days in advance, that an informal appearance before the board at a specified date, time and place has been scheduled for him or her, at which the board will determine whether a disciplinary hearing is warranted and whether informal resolution can be reached.

d. An operator who receives such notice should communicate verbally or in writing with the chief of the surveillance section and efforts should be made to clarify the respective positions of the operator and chief. If possible, disciplinary sanction should be agreed to prior to the scheduled board appearance.

e. An operator who receives such notice should attend the scheduled informal conference to present any relevant facts, and indicate his or her position in the matter. Failure to attend the informal conference or otherwise communicate facts and position relevant to the matter by the scheduled date will be considered by the board in its determination whether a disciplinary hearing is warranted.

f. If agreement as to appropriate disciplinary sanction, if any, can be reached between the operator and prosecutor prior to or as a result of the informal conference, and the board concurs, a written stipulation and settlement between the board and the operator shall

ENVIRONMENTAL QUALITY[400] (cont'd)

be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

g. If the board determines that no disciplinary action is warranted on the facts asserted, that decision shall be reflected in the board minutes and the operator shall be notified of the decision in writing.

h. If the board determines that a hearing is warranted to determine the appropriateness of any disciplinary sanction specified in 21.13(2), it shall direct the department to initiate formal hearing procedures. Notice and hearing shall be in accordance with chapter 55 of the rules of the department related to contested and certain other cases pertaining to operator discipline.

The rules are intended to implement section 455B.62 of the Code and Acts of the Sixty-seventh General Assembly, chapter 95, section 3 as amended.

[Filed 10/13/78, effective 12/6/78]

Notice of intended action on these rules was published in the May 31, 1978 IAC Supplement.

The rules are substantially the same as the proposed rules. However, proposed subrule 21.10(6) was omitted; subrule 21.10(12) was added; and proposed subrules 21.10(7), 21.10(8), 21.10(9), 21.10(10) and 21.10(11) were renumbered as 21.10(9), 21.10(7), 21.10(11), 21.10(8) and 21.10(10), respectively.

These rules were adopted by the Water Quality Commission on September 6, 1978 and were approved by the executive committee on October 11, 1978.

The rules shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

22.1(2) "Animal confinement" means a lot, yard, corral, or similar structure in which the concentration of livestock or poultry is such that a vegetative cover is not maintained.

22.1(3) "Animal pasturage" means a fenced area where vegetative cover is maintained and in which animals are enclosed.

22.1(4) "Animal waste" means animal wastes consisting of excreta, leachings, feed losses, litter, washwaters or other associated wastes.

22.1(5) "Animal waste stockpiles" means the stacking, composting or containment of animal wastes.

22.1(6) "Animal waste storage basin or lagoon" means a fully or partially excavated or diked earthen structure used for containing animal waste, including earthen side-slopes or floor.

22.1(7) "Animal waste storage tank" means a completely fabricated structure, with or without a cover, either formed in place or transported to the site, used for containing animal wastes.

22.1(8) "Cistern" means a tank in which rainwater from roof drains is stored.

22.1(14) "Impoundment" means a reservoir, pond, or lake in which surface water is retained for a period of time, ranging from several months upward, created by constructing a barrier across a watercourse and used for storage, regulation or control of water.

22.1(15) "Iowa Standards for Water Supply Distribution Systems"* means the design standards contained in chapter 8 of the Iowa Department of Environmental Quality, Chemicals and Water Quality Division, Design Manual, as adopted by the commission on September 6, 1978.

22.1(20) "Privy" means a structure used for the deposition of human body wastes.

22.1(24) "Sanitary sewer pipe" means a sewer complying with the department's standards for sewer construction.

22.1(25) "Septic tank" means a watertight tank which receives sewage.

22.1(31) "Ten States Standards" means the "Recommended Standards for Water Works", 1976 edition as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers.

22.1(32) "Water main pipe" means a water main complying with the Department's standards for water main construction.

ITEM 2. Amend 22.4(1)"a" by adding the following after the word "employed" in line 4: "and all samples shall be analyzed if received and set up within forty-eight hours of collection. If samples are received or set up more than thirty hours after collection, the laboratory must indicate that the data may be invalid because of excessive delay before sample processing."

ITEM 3. Amend 22.12(2)"a", by striking in lines 1 through 3 the words "are the 'Recommended Standards for Water Works', 1968 edition and 1972 addenda as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers;" and inserting in lieu thereof the following: "for other than water main installation are the Ten States Standards,"; by striking in line 4 the date "January 1, 1976" and inserting in lieu thereof the date "June 1, 1978"; by striking in lines 5 and 6 the words "Recommended Standards for Water Works" and inserting in lieu thereof the words "Ten States Standards"; and by striking "22.12(11)" in both places

ENVIRONMENTAL QUALITY[400]

WATER QUALITY COMMISSION

Pursuant to the authority of sections 455B.32(3) and 455B.32(11), the rules of the Water Quality Commission relating to water supplies, appearing in [400] chapter 22 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend 22.1(455B) by renumbering subrules 22.1(2) through 22.1(6) as 22.1(9) through 22.1(13), by renumbering subrules 22.1(7) through 22.1(10) as 22.1(16) through 22.1(19), by renumbering subrules 22.1(11) through 22.1(13) as 22.1(21) through 22.1(23), by renumbering subrules 22.1(14) through 22.1(18) as 22.1(26) through 22.1(30), and by adding thirteen new subrules as follows:

ENVIRONMENTAL QUALITY[400] (cont'd)

where it occurs in line 7, and inserting in lieu thereof "22.12(12)".

ITEM 4. Amend 22.12(2) by striking paragraph "c", by relettering paragraph "b" as paragraph "c" and by adding a new paragraph "b" as follows:

b. *The standards for water main installation are the Iowa Standards for Water Supply Distribution Systems.*

ITEM 5. Amend 22.12(4) by striking the subrule and inserting in lieu thereof the following:

22.12(4) *No person shall construct, install or modify any project without first obtaining, or contrary to any condition of, a construction permit issued by the executive director or by a local public works department authorized to issue such permits under 24.9(455B) except as provided in 22.12(6).*

ITEM 6. Amend 22.12(4)"a" by striking the words "plans and specifications" in line 2 and inserting in lieu thereof the word "application", and by adding the words "and 24.6(455B)" before the word "that" in line 2.

ITEM 7. Amend 22.12(4)"b", line 1, by striking the words "Plans and specifications" and inserting in lieu thereof the word "Application".

ITEM 8. Amend 22.12(5) by striking the word "Information" in line 1 and inserting in lieu thereof the words "An engineering report containing information", and by inserting the words "the conformance of the project to the standards for construction and operation in 22.12(2) and" after the word "determine" in line 2.

ITEM 9. Amend 22.12(5)"a" by striking the words "1976 Recommended Standards for Water Works", as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers" and inserting in lieu thereof the words "Ten States Standards".

ITEM 10. Amend 22.12(6) by inserting the words "or an authorized local public works department" after the word "department" in line 2 and in line 9, and by striking the words "from the department" in lines 9 and 10.

ITEM 11. Amend 22.12(7) by striking the subrule and inserting in lieu thereof the following:

22.12(7) *Proposed raw or finished water site approval.*

a. *Approval required. The site for each proposed raw water supply source or finished water below-ground level storage facility must be approved by the department prior to the submission of plans and specifications.*

b. *Criteria for approval. A site may be approved by the executive director if the executive director concludes that the criteria in this paragraph are met.*

(1) *A well site must be separated from sources of contamination by at least the distances specified in Table C.*

Drainage must be away from the well in all directions for a minimum radius of fifteen feet.

After the well site has received preliminary approval from the department, the owner of the proposed public well shall submit proof of legal control of contiguous land, through purchase, lease, easement, ordinance, or other similar means that insures that the siting criteria for distances of 200 feet or less described in the above table will be maintained for the life of the well. Such control shall also provide for a minimum separation distance of at least 200 feet between a public well and sources of contamination listed in Table C with distances equal to or greater than 200 feet. Proof of legal control should be submitted as part of the

construction permit application and shall be submitted prior to issuance of a permit to construct.

When a proposed well is located in an existing well field and will withdraw water from the same aquifer as the existing well or wells, individual separation distances may be waived if substantial historical data is available indicating that no contamination has resulted.

(2) *The applicant must submit proof, including analysis of four consecutive quarterly samples, that a proposed surface water source can, through readily available treatment, comply with 22.3(455B) and that the raw water source is adequately protected against potential health hazards, including but not limited to point source discharges, hazardous chemical spills, and the potential sources of contamination listed in Table C.*

The quarterly samples for all proposed surface water sources shall be collected in March, June, September and December, unless otherwise specified by the department. Samples shall be collected at a location representative of the raw water at the point of withdrawal. The June sample shall be analyzed for the contaminants listed in 22.3(1)"b", 22.3(2), 22.3(5) and 22.3(6). All quarterly samples shall be analyzed for specific conductance, solids (filterable, nonfilterable, volatile, fixed and settleable), turbidity, hardness, alkalinity, pH, color, algae (qualitative and quantitative), total organic carbon, biochemical oxygen demand (five day), dissolved oxygen, surfactants, nitrogen series (organic, ammonia, nitrite and nitrate), phosphate, calcium, chloride, fluoride, iron, magnesium, manganese, sodium, sulfate, carbonate and bicarbonate.

After a surface water impoundment has received preliminary approval from the department for use as a raw water source, the owner of the water supply system shall submit proof of legal control through ownership, lease, easement or other similar means, of contiguous land for a distance of 400 feet from the shoreline at the maximum water level. Legal control shall be for the life of the impoundment and shall control location of sources of contamination within the 400 foot distance. Proof of legal control should be submitted as part of the construction permit application and shall be submitted prior to issuance of a permit to construct.

(3) *The minimum separation between a below-ground level finished water storage facility and any source of contamination, listed in Table C as being 50 feet or more, shall be 50 feet. Separation distances listed in Table C as being less than 50 feet shall apply to a below-ground level finished water storage facility.*

(4) *Greater separation distances may be required where necessary to assure that no adverse effects to water supplies or the existing environment will result. Lesser separation distances may be considered if detailed justification is provided by the applicant's engineer showing that no adverse effects will result from a lesser separation distance, and the regional staff recommends approval of the lesser distance. Such exceptions must be based on special construction techniques or localized geologic or hydrologic conditions.*

ITEM 12. Amend 22.12(455B) by renumbering 22.12(8) through 22.12(11) as 22.12(9) through 22.12(12) and by adding a new subrule as follows:

22.12(8) *Ground water source capacity. Water supply systems that rely solely on ground water for the water source shall provide a source capacity equal or exceeding the design maximum day demand and shall provide the design average day demand with the largest producing well out of service. A water supply system may provide one*

ENVIRONMENTAL QUALITY[400] (cont'd)

well when a minimum finished water storage capacity equal or exceeding the average day demand and a complete standby pump and motor are provided.

ITEM 13. Amend 22.12(9)"a" (as renumbered), line 2, by striking the word "system" and inserting in lieu thereof the word "systems".

ITEM 14. Amend chapter 22 by adding a new rule as follows:

400—22.14(455B) Certificate of completion. *Within thirty days after completion of construction, installation or modification of any project, the permit holder shall submit a certification by a registered professional engineer that the project was completed in accordance with the approved plans and specification.*

NOTE: See succeeding page for Table C.

[Filed 10/13/78, effective 12/6/78]

Notice of intended action on these rules was published in the May 3, 1978, IAC Supplement. The rules are substantially the same as the proposed rules. However, in Item 3, the AWWA standards as amended through June 1, 1978, rather than through January 1, 1978, were adopted; a provision that strikes the interim standard on PVC pipe (published in the June 14, 1978, Iowa Administrative Bulletin) was added to Item 4; a new subrule 22.12(8) was added by Item 12; and Item 14 was modified to require certification within thirty days of completion of construction. In the Iowa Standards for Water Supply Distribution Systems, adopted by reference in these rules, 8.4.2 was modified to require valves for rural water districts at 2.5 mile intervals; in 8.4.7.2, the construction criteria was based on drainage area instead of stream width, the requirements of a valve manhole and permanent taps was eliminated, and special construction requirements at crossings of drainage ways was excluded; and in 8.5.1, the depth of bury was changed to 4, 5 and 5½ feet from 4, 5 and 6 feet, and an additional foot of bury was recommended.

These rules were adopted by the Water Quality Commission on September 6, 1978, and were approved by the Executive Committee on October 11, 1978.

These rules shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78:

* Available upon request to department, also filed with Administrative rules co-ordinator.

ENVIRONMENTAL QUALITY[400] (cont'd)

TABLE C
SEPARATION DISTANCES FROM WELLS

	SOURCE OF CONTAMINATION	DISTANCES (FT.)									
		5	10	25	50	75	100	200	400	1000	
WASTEWATER STRUCTURES	POINT DISCHARGE TO GROUND SURFACE	Well house floor drains	A								
	POINT DISCHARGE TO GROUND SURFACE	Water treatment plant wastes			A						
		Sanitary & industrial discharges							A		
	SEWERS AND DRAINS	Well house floor drains to surface	A	WM	A	SP	A	unknown			
		Well house floor drains to sewers			A	WM	A	SP	A	unknown	
		Water plant wastes			A	WM	A	SP	A	unknown	
		Sanitary & storm sewers, drains			A	WM	A	SP	A	unknown	
		Sewer force mains					A	WM	A	SP	
	LAND DISPOSAL OF WASTES	Land application of solid wastes						D	S		
		Irrigation of wastewater						D	S		
		Concrete vaults & septic tanks						D	S		
		Mechanical wastewater treatment plants						D	S		
		Cesspools & earth pit privies						D	S		
	Soil absorption fields						D	S			
	Lagoons						D	S			
CHEM.	Chemical application to ground surface						D	S			
	CHEMICAL AND MINERAL STORAGE	Above ground					D	S			
On or under ground							D	S			
ANIMALS	Animal pasturage				A						
	Animal enclosure						D	S			
	ANIMAL WASTES	Land application of solids						D	S		
		Land appl. of liquid or slurry						D	S		
		Storage tank						D	S		
		Solids stockpile							D	S	
	Storage basin or lagoon								D	S	
Earthen silage storage trench or pit						D	S				
MISC.	Basements, pits, sumps		A								
	Flowing streams or other surface water bodies				A						
	Cisterns				D		S				
	Cemeteries							A			
	Private wells							D	S		
	Solid waste disposal sites								A		

KEY

D - Deep well
S - Shallow well
A - All wells

WM - Pipe of water main specifications
SP - Pipe of sewer pipe specifications
ENC.WM - Encased in 4" of concrete

ENVIRONMENTAL QUALITY[400]

WATER QUALITY COMMISSION

Pursuant to the authority of sections 455B.32(3), 455B.32(11) and 455B.45(3) of the Code, 1977, the rules of practice of the Water Quality Commission, appearing in [400] chapter 24 of the Iowa Administrative Code, are hereby amended.

ITEM 1. Amend 24.2(455B) by adding at the end thereof the following: *"For systems with permits conditioned by limitations on additional loads under paragraphs "a", "b", or "f" of 19.2(10), subsequent construction permit applications must be accompanied by an accounting of connections and additional loading since the time the initial conditioned permit was issued.*

If schedule B, "Collection System", of the construction permit application does not provide sufficient information on which to make a determination to grant or deny a sewer system construction permit under this subrule, additional information, such as the following, may be requested and evaluated:

- (1) Sources of extraneous flows,
- (2) Population trends and density in area to be served,
- (3) Quality and strength of wastes from industrial contributors,
- (4) Existing water used data,
- (5) Historical and experience data,
- (6) Location, capacity, and condition of existing sewer system and stormwater drainage courses,
- (7) Probability of annexation or development of adjacent areas,
- (8) Service agreements with adjacent communities,
- (9) Existence and effectiveness of industrial waste ordinance,
- (10) Drainage area limits,
- (11) Bypasses and combined sewers,
- (12) Municipal sewer map."

ITEM 2. Amend chapter 24 by renumbering rules 24.8(455B) through 24.12(455B) as rules 24.10(455B) through 24.14(455B) and by adding two new rules as follows:

400—24.8(455B) Applications for site surveys.

24.8(1) Procedure. The applicant's engineer must submit a completed application in duplicate, to the Chemicals and Water Quality Division of the department before a site survey will be conducted. If the application is incomplete, the department will return the application to the engineer. The applicant should allow sixty days from the date of application for preliminary approval of a site. Reserve status grant projects (wastewater facilities) may not receive site surveys.

The Chemicals and Water Quality Division will review the application. If the application is complete, one of the following courses of action will be taken.

a. When the data submitted indicates on its face that the site would be unsuitable for its intended purpose, a letter of rejection will be sent to both the applicant and the engineer.

b. A comment letter may be sent to the applicant and engineer if clarifications or additional data are required.

c. If the application is acceptable, a site survey will be conducted by the department.

24.8(2) Site survey application for wastewater treatment plants. The following minimum information must be submitted to the Chemicals and Water Quality

Division by the applicant's engineer before a site survey for a proposed wastewater treatment plant will be conducted:

a. A preliminary engineering report or a cover letter which contains a brief description of the proposed treatment process and assurance that the project is in conformance with the longrange planning of the area.

b. Completed "Schedule A - General Information."

c. Completed "Schedule F - Treatment Project Site Selection."

d. Completed "Schedule G - Treatment Project Design Data."

24.8(3) Site survey application for public water supply sources and for below-ground level finished water storage. The following minimum information must be submitted to the Chemicals and Water Quality Division before a site survey for a proposed public water supply source or below-ground level finished water storage facility sites will be conducted:

a. A preliminary engineering report or a cover letter which contains a brief description of the proposed source or storage facility, and assurance that the project is in conformance with the long-range planning of the area.

b. Completed "Schedule 1 - General Information."

c. Completed "Schedule 2a - Water Facility Design Data."

d. Completed "Schedule 4 - Water Supply Facility Site Selection."

e. A detailed map showing all potential sources of contamination (see Table C at the end of chapter 22) within:

(1) 1000 feet of the proposed well location. The scale shall not be smaller than 1 inch = 200 feet,

(2) 200 feet of the proposed ground level finished water storage.

(3) 2500 feet of the proposed surface water supply and a plat showing all facilities more than 2500 feet from the shoreline of an impoundment that may be potential sources of contamination. The scale shall not be smaller than 1 inch = 660 feet.

(4) Six miles upstream of a proposed river intake.

400—24.9(455B) Delegation of authority to issue permits for water main or sewer extensions.

24.9(1) A local public works department requesting permitting authority for sewer or water supply distribution system extensions under Section 455B.45, Code of Iowa, shall apply in writing to the executive director. The application shall include specific statements of agreement to comply with the requirements of paragraphs, "c", "d", "e" and "f" of 24.9(2), and shall include other information necessary to determine the scope of delegation sought and areas of jurisdiction, and to verify the qualifications of the applicant, including the qualifications of the reviewing engineer. Additional information may be requested by the executive director.

24.9(2) The requirements for delegation of permitting authority and requirements applicable to local public works departments which have been delegated permitting authority are as follows:

a. The local department's standard specifications must be in conformance with the Iowa Standards for Sewer Systems or Iowa Standards for Water Supply Distribution Systems, and must be filed with the department.

b. The reviewing engineer shall be a full-time employee of the governmental subdivision, whose

ENVIRONMENTAL QUALITY[400] (cont'd)

qualifications shall include:

(1) Registration as a professional civil or sanitary engineer in Iowa.

(2) Two years experience with sanitary sewers and water distribution systems. Experience includes plan review, inspection or design experience.

(3) Attendance at a training session conducted by the department on plans and specifications review.

c. The local public works department shall use the Iowa Standards for Sewer Systems, Iowa Standards for Water Supply Distribution Systems, and the local standard specifications approved by the department, in reviewing applications for sewer and water supply distribution system extensions under its jurisdiction.

d. The local public works department shall use the same review and permit forms used by the department in reviewing plans and a copy of the applicable "review checklist" will be submitted to the department with each permit copy.

e. The local public works department shall submit a complete quarterly report by the fifteenth day of the month following each quarter of the calendar year on the form provided by the department.

f. Plans for which a construction permit has been issued shall be retained on file by the local permitting authority for the life of the extension or until the extension has been platted.

24.9(3) The executive director shall authorize, in writing, a local public works department to issue permits in areas under its jurisdiction, if the local department meets all of the qualifications and requirements of section 455B.45, Code of Iowa, and of this rule.

[Filed 10/13/78, effective 12/6/78]

Notice of intended action on these rules was published in the May 3, 1978, IAC Supplement. The rules are substantially the same as the proposed rules. However, 24.8(2)"d" was added and 24.9(1) and 24.9(2) were modified to make it clear that a local public works department could seek delegation of authority over either sewer extensions or water main extensions, or both.

The rules were adopted by the Water Quality Commission on September 6, 1978, and were approved by the Executive Committee on October 11, 1978.

The rules shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

ENVIRONMENTAL QUALITY DEPARTMENT[400]

EXECUTIVE COMMITTEE

Pursuant to the authority of sections 17A.3(1)"a" and 455B.7(1) of the Code, the rules of the Executive Committee relating to procedures in contested cases, appearing in chapter 55, are hereby amended.

ITEM 1. Amend 55.1(1) to read as follows:

55.1(1) In general. This chapter shall govern procedure in contested cases, as defined in the Iowa

administrative procedure Act, and license revocation or suspension proceedings, or other licensee disciplinary proceedings and license renewal proceedings before all agencies within the department.

ITEM 2. Amend 55.1(3), unnumbered paragraph one, to read as follows:

55.1(3) Licensee revocation or suspension, or other licensee disciplinary hearings enumerated. License revocation or suspension or other licensee disciplinary hearings include but are not limited to evidentiary hearings related to:

ITEM 3. Amend 55.1(3)"b" by striking the paragraph and inserting in lieu thereof the following new paragraph:

b. The discipline of a certified operator of a water treatment plant, water distribution system, or waste water treatment plant, including revocation of a certificate of competency, pursuant to section 455B.59 of the Code, 1977, and the Acts of the Sixty-seventh General Assembly, chapter 95, section 3, and 21.13(455B) of these rules.

ITEM 4. Amend 55.2(455B) by adding a new subrule as follows:

55.2(6) "Board" means the board of certification of the department.

ITEM 5. Amend 55.8(1) to read as follows:

55.8(1) Presiding officer. Except as provided otherwise in this subrule, A hearing officer shall preside at every contested case hearing for the reception of evidence; except an appeal to, or review on motion of, the agency having jurisdiction of, the contested case. On However: On motion of a party to a contested case, or on its own motion, the agency may order that the evidentiary hearing be conducted in the presence of the agency; in a licensee disciplinary hearing under 55.1(3)"b", the evidentiary shall be before the board, with at least a quorum present, and with a hearing officer present to assist the board in assuring that the requirements of the Act are met; and, in the case of an appeal to or review on motion of the agency having jurisdiction over a proposed decision of the hearing officer, the agency shall preside.

ITEM 6. Amend 55.8(4) to read as follows:

55.8(4) Attendance and participation of the public. Every Except as provided otherwise in this subrule, every hearing in a contested case before an agency of the department, the executive director, or a hearing officer, except a hearing involving evidence which has been determined to be confidential pursuant to section 455B.37(6) shall be open to the public. However, a licensee disciplinary hearing under 55.1(3)"b" shall be open to the public only at the discretion of the licensee. And a hearing involving information that has been accorded confidential status under chapter 52 of these rules may be closed to the public.

[Filed 10/13/78, effective 12/6/78]

Notice of intended action on these rules was published in the May 31, 1978, IAC supplement.

The rules are the same as the proposed rules.

The rules were adopted by the executive committee on October 11, 1978.

The rules shall be effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

HEALTH DEPARTMENT[470]

Pursuant to the authority of chapter 17A and section 135C.14 of the Code of Iowa (1977), the Health Department adopts the following amendments to chapters 57, 58, 59, 63, and 64 of the rules for health care facilities.

ITEM 1. Paragraph 470—57.19(3)"c" is amended to read as follows:

c. ~~Controlled drugs, as defined in chapter 204 of the Code, and injectable *Injectable* medications shall not be administered by anyone other than a qualified nurse or physician. Variance may be granted if the resident's physician designates someone other than a licensed nurse to administer insulin, and certifies the resident does not need nursing care. In the case of a resident who has been certified by their physician as capable of taking their own insulin, the resident may inject their own insulin. (II)~~

ITEM 2. Paragraph 470—58.21(15)"a" is amended to read as follows:

a. ~~Controlled drugs, as defined in chapter 204 of the Code and injectable *Injectable* medications shall not be administered by anyone other than a qualified nurse or physician. In the case of a resident who has been certified by their physician as capable of taking their own insulin, the resident may inject their own insulin. (II)~~

ITEM 3. Paragraph 470—59.26(17)"a" is amended to read as follows:

a. ~~Controlled drugs, as defined in chapter 204 of the Code, and injectable *Injectable* medications shall not be administered by anyone other than a qualified nurse or physician. In the case of a resident who has been certified by their physician as capable of taking their own insulin, the resident may inject their own insulin. (II)~~

ITEM 4. Paragraph 470—63.18(3)"c" is amended to read as follows:

c. ~~Controlled drugs, as defined in chapter 204 of the Code, and injectable *Injectable* medications shall not be administered by anyone other than a qualified nurse or physician. Variance may be granted if the resident's physician designates someone other than a licensed nurse to administer insulin, and certifies the resident does not need nursing care. In the case of a resident who has been certified by their physician as capable of taking their own insulin, the resident may inject their own insulin. (II)~~

ITEM 5. Paragraph 470—64.27(13)"a" is amended to read as follows:

a. ~~Controlled drugs, as defined in chapter 204 of the Code and injectable *Injectable* medications shall not be administered by anyone other than a qualified nurse or physician. In the case of a resident who has been certified by their physician as capable of taking their own insulin, the resident may inject their own insulin. (II)~~

[Filed 10/13/78, effective 12/7/78]

A Notice of Intended Action was published in the Iowa Administrative Bulletin, Volume I, Number 7, dated September 6, 1978, that the Health Department intended to amend chapters 57, 58, 59, 63, and 64. The amendments have been changed at the request of the Administrative Rules Review Committee.

These amendments are intended to further the accomplishment of the purposes of chapter 135C of the Code of Iowa (1977). These amendments shall become effective on December 7, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

HEALTH DEPARTMENT[470]

CHIROPRACTIC BOARD OF EXAMINERS

Pursuant to the authority of sections 17A.3 and 147.53 the Chiropractic Board of Examiners hereby adopts subrule 141.10(1) paragraph "c" of their rules appearing in the Iowa Administrative Code[470] chapter 141.

Amend subrule 141.10(1) by striking paragraph "c" and inserting a substitute as follows:

c. *Renewal of a license to practice Chiropractic \$50.00*

This rule is intended to implement 147.80 of the Code.

[Filed 10/5/78, effective 12/6/78]

Notice of Intended Action was published in the Iowa Administrative Bulletin July 26, 1978. Rule is identical to that published under notice. Rule shall become effective December 6, 1978.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to medical assistance (chapter 79) are hereby amended.

Add the following new rule:

770—79.7(249A) Medical assistance advisory council.

79.7(1) Officers. Officers shall be a chairperson, and a vice-chairperson.

a. Elections shall be held each year at the meeting held in January.

b. The term of office shall be one year. Officers shall serve no more than two terms.

c. The vice-chairperson shall serve in the absence of the chairperson.

d. The chairperson and the vice-chairperson shall have the right to vote on any issue before the council.

e. The chairperson shall appoint a nominating committee of not less than three members and shall appoint other committees approved by the council.

79.7(2) Alternates. Each organization represented may select one alternate as representative when the primary appointee is unable to be present. Alternates may attend any and all meetings of the council, but only one representative of each organization shall be allowed to vote.

79.7(3) The travel expenses of the public representatives and other expenses, such as those for clerical services, mailing, telephone, and meeting place, shall be the responsibility of the department of social services. The department shall arrange for a meeting place, related services, and accommodations.

79.7(4) Meetings. The council shall meet at least four times each year. At least two of these meetings shall be with the department of social services. Additional meetings may be called by the chairperson, upon written request of at least fifty percent of the members, or by the commissioner of the department of social services.

a. Meetings shall be held in the Des Moines, Iowa, area unless other notification is given.

b. Written notice of council meetings shall be mailed at least two weeks in advance of such meetings. Each notice shall include an agenda for the meeting.

79.7(5) Procedures.

a. A quorum shall consist of two-thirds of the voting members.

b. Where a quorum is present, a position is carried by a majority of the quorum.

c. Minutes of council meetings and other written materials developed by the council shall be distributed by the department to each member and alternate and to the executive office of each organization or body represented.

d. Notice shall be made to the representing organization when the member, or alternate has been absent from three consecutive meetings.

e. In cases not covered by these rules, Robert's Rules of Order shall govern.

79.7(6) Duties. The medical assistance advisory council shall:

a. Make recommendations on the reimbursement for medical services rendered by providers of services.

b. Assist in identifying unmet medical needs and maintenance needs which affect health.

c. Make recommendations for objectives of the program and for methods of program analysis and evaluation, including utilization review.

f. Recommend ways in which needed medical supplies and services can be made available most effectively and economically to the program recipients.

g. Advise on such administrative and fiscal matters as the commissioner of the department of social services may request.

h. Advise professional groups and act as liaison between them and the department.

i. Report at least annually to the appointing authority.

j. Perform such other functions as may be provided by state or federal law or regulation.

k. Communicate information considered by the council to the member organizations and bodies.

79.7(7) Responsibilities.

a. Recommendations of the council shall be advisory and not binding upon the department of social services or the member organizations and bodies. The department will consider all advice and counsel of the council.

b. The council may choose subjects for consideration and recommendation. It shall consider all matters referred to it by the department of social services.

c. Any matter referred by a member organization or body shall be considered upon an affirmative vote of the council.

d. The department shall provide the council with reports, data, and proposed and final amendments to rules, regulations, laws, and guidelines, for its information, review, and comment.

e. The department shall present the biennial budget for the medical assistance program for review and comment.

f. The department shall permit staff members to appear before the council to review and discuss specific information and problems.

g. The department shall maintain a current list of members and alternates on the council.

[Filed 10/10/78, effective 12/6/78]

Notice of intended action regarding these rules was published in the IAB July 26, 1978, and these rules shall become effective December 6, 1978. These rules were modified at the request of the Administrative Rules Review Committee to specify that a quorum is two-thirds of the members.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

SOCIAL SERVICES DEPARTMENT[70]

Pursuant to the authority of section 249A.4 of the Code, rules of the department of social services appearing in the IAC relating to intermediate care facilities for the mentally retarded (chapter 82) are hereby amended.

ITEM 1. Rule 770—82.1(249A) is amended to read as follows:

SOCIAL SERVICES[770] (cont'd)

770—82.1(249A) Definitions.

82.1(1) Qualified mental retardation professional. The term "qualified mental retardation professional" means a person who qualifies under one of the following categories:

a. A psychologist with at least a master's degree from an accredited program and one year of experience in treating the mentally retarded.

b. A physician licensed under state law to practice medicine or osteopathy and one year experience in treating the mentally retarded.

c. An educator with a degree in education from an accredited program and one year experience in working with the mentally retarded.

d. A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social work and at least three years social work experience under the supervision of a qualified social worker, and one year experience in working with the mentally retarded.

e. A physical or occupational therapist who has one year experience in treating the mentally retarded.

f. A speech pathologist or audiologist who is licensed, when applicable, by the state in which practicing, and has one year experience in treating the mentally retarded.

g. A registered nurse who has one year of experience in treating the mentally retarded.

h. A therapeutic recreation specialist who is a graduate of an accredited program and, where applicable, is licensed or registered in the state where practicing, and who has one year of experience in working with the mentally retarded.

ITEM 2. Subrule 82.6(3) is amended to read as follows:

82.6(3) Certification statement. Eligible individuals may be admitted to an intermediate care facility for the mentally retarded upon the certification of a physician or a qualified mental retardation professional that there is a necessity for care at the facility. Eligibility shall continue as long as a valid need for such care exists. The term "qualified mental retardation professional" means a person who qualifies under one of the following categories:

a. A psychologist with at least a master's degree from an accredited program and one year of experience in treating the mentally retarded.

b. A physician licensed under state law to practice medicine or osteopathy and one year experience in treating the mentally retarded.

c. An educator with a degree in education from an accredited program and one year experience in working with the mentally retarded.

d. A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social work and at least three years social work experience under the supervision of a qualified social worker, and one year experience in working with the mentally retarded.

e. A physical or occupational therapist who has one year experience in treating the mentally retarded.

f. A speech pathologist or audiologist who is licensed, when applicable, by the state in which practicing, and has one year experience in treating the mentally retarded.

g. A registered nurse who has one year of experience in treating the mentally retarded.

h. A therapeutic recreation specialist who is a graduate of an accredited program and, where applicable, is licensed or registered in the state where

practicing, and who has one year of experience in working with the mentally retarded.

ITEM 3. Subrule 82.7(2) is amended to read as follows:

82.7(2) Certification. The initial certification as described in rule 82.6(249A) shall be made not more than forty-eight hours after the date of entrance on the medical assistance program and no earlier than three months prior to admission. Psychological exams shall not be made more than three months prior to admission to the facility. When more than forty-eight hours elapse before the certification, payment shall begin forty-eight hours prior to the date of signature of the physician or the qualified mental retardation professional.

ITEM 4. Subrules 82.8(1) and 82.8(2) are amended to read as follows:

82.8(1) Frequency. A physician or a qualified mental retardation professional shall recertify the need for care and services every sixty days.

82.8(2) Progress notes. Progress notes on the resident's chart shall be utilized for recertification. These notes shall be signed and dated by the physician or qualified mental retardation professional during visits to the facility. The physician or qualified mental retardation professional shall review the treatment and medication provided the resident, and, when indicated, certify that the resident continues to need the care and services provided by the facility. When the resident needs a different level of care, the local office of the department of social services shall be notified so that arrangements may be initiated to insure proper placement.

ITEM 5. Subrule 82.11(2), paragraph "b", subparagraphs (1) and (2), are amended to read as follows:

b. Each utilization review plan shall include the following provisions:

(1) There will be a certification by a physician or qualified mental retardation professional that each patient or resident at or before the time of admission required or requires in-patient services. Recertification will be made each sixty days where such services are furnished over a period of time.

(2) A written plan of care will be provided for each resident. This plan will cover such factors as orders for medications, treatments, restorative services, diet, and plans for continuing care or discharge. This plan will be reviewed at least every ninety days by a physician or a qualified mental retardation professional and entered in the resident's record.

ITEM 6. Subrule 82.12(5) paragraph "c", subparagraphs (1) and (3) are amended to read as follows:

(1) That the physician or qualified mental retardation professional has recertified the individual's need for continued care at least every sixty days.

(3) That the facility is adhering to the physician's or qualified mental retardation professional's written treatment plan.

[Filed 10/12/78, effective 12/6/78]

Notice of intended action was published in the IAB June 28, 1978, and an Economic Impact Statement was published in the IAB September 20, 1978. These rules shall become effective December 6, 1978. These rules are identical to those published in the June 28, 1978, IAB.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

**TRANSPORTATION,
DEPARTMENT OF[820]**

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 307.10 of the Code, rules 820—[07,D] chapter 10 entitled "Motor Vehicle Dealers, Manufacturers and Distributors" are hereby amended.

ITEM 1. Amend subrule 10.4(1) by striking the subrule and inserting in lieu thereof the following:

10.4(1) Dealer plates as provided in sections 321.57 to 321.61 of the Code may be obtained by:

a. Persons licensed under the provision of chapter 322 of the Code.

b. Persons engaged in the business of buying, selling, or exchanging vehicles of a type subject to registration in chapter 321 of the Code that are not self-propelled. Such plates shall display the word "trailer" thereon.

c. Insurers selling vehicles of a type subject to registration in chapter 321 of the Code, solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement. Such plates shall display the words "limited use" thereon.

d. Persons selling vehicles of a type subject to registration in chapter 321 of the Code, solely for the purpose of disposing of vehicles acquired or repossessed by such persons in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations, who are not required to be licensed under the provisions of chapter 322 of the Code. Such plates shall display the words "limited use" thereon.

[Filed 10/10/78, effective 12/6/78]

A notice of intended action for the amendment of these rules was published in the August 23, 1978 Iowa Administrative Bulletin. The transportation commission approved the amendment to these rules on October 3, 1978. The amendment to these rules is to be published as adopted in the November 1, 1978 Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective December 6, 1978. The amendment to these rules is identical to the one published under notice.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

**TRANSPORTATION,
DEPARTMENT OF[820]**

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 307.10 of the Code, rules 820—[07,D] chapter 11 entitled "Vehicle Registration and Certificate of Title" are hereby amended.

ITEM 1. Subrule 11.1(7) is amended to read as follows:

11.1(7) Motor vehicle control number means a social security account number, a ~~driver's license~~ *motor vehicle license* number, a federal employer's identification number or a number assigned to a person by the department, which may be listed on a certificate of title or registration card as a means of identifying such person.

ITEM 2. Rescind subrule 11.1(8).

ITEM 3. Rescind subrule 11.1(12).

ITEM 4. Subrule 11.3(1) and paragraphs "a", "b", and "d" of subrule 11.3(1) are amended to read as follows:

11.3(1) Motor vehicle control number and motor vehicle control number code: The motor vehicle control number shall be referred to as an M.V.C. number on the "Application for Certificate of Title and/or Registration for a Vehicle" form (~~Form # M.V. 501 H~~) (*Form #411007*). The motor vehicle control number code shall be referred to as an M.V.C. code on the application form. The M.V.C. number and code shall become an integral part of the vehicle owner's certificate of title and registration record.

a. If the applicant for a certificate of title or registration of a vehicle is an individual such individual shall list the ~~drivers license~~ *motor vehicle license* number issued to such person in the space on the application form referring to the M.V.C. number and shall affix the numeral "1" in the space pertaining to the M.V.C. code.

b. If the applicant does not have an Iowa ~~drivers license~~ *motor vehicle license* such applicant ~~shall~~ *may* list the social security account number assigned to such person in the space on the application form referring to the M.V.C. number and shall affix the numeral "2" in the space pertaining to the M.V.C. code.

d. If the applicant has not been issued an Iowa ~~drivers license~~ *motor vehicle license*, a social security account number, ~~or~~ a federal employer's identification number, *or if the applicant does not want the social security account number listed on the application*, then a distinctive number assigned by the department ~~may~~ *shall* be listed on the certificate of title and registration card issued to such person.

ITEM 5. Strike all of subrule 11.3(6) including all of its paragraphs and subparagraphs and insert in lieu thereof the following:

11.3(6) Specially constructed or reconstructed vehicle. If the vehicle to be described on the certificate of title and registration card is a specially constructed or reconstructed vehicle, the following procedure shall be followed:

a. Motor vehicle.

(1) The applicant shall complete and sign an "Application for Certificate of Title and/or Registration for a Vehicle" form (Form #411007), an "Application for a Specially Constructed or Reconstructed Vehicle" form (Form #417050) and an "Application for an Assigned Vehicle Identification Number" form (Form #411041).

(2) The additional exhibits which shall be submitted upon application are as follows:

TRANSPORTATION[820] (cont'd)

Two photographs of the vehicle, one photograph to be taken from such an angle to clearly show the front and side of the vehicle and one photograph to be taken from such an angle to clearly show the back and side of the vehicle; if the vehicle has been reconstructed, a photographic copy of the face of the certificate of title or manufacturer's statement of origin last issued for the vehicle and a pencil tracing of the vehicle identification number. A photographic copy of the bill of sale or junking certificate conveying ownership of the vehicle to the applicant shall be submitted in lieu of the photographic copy of the title, if the vehicle has been legally dismantled and the title has been surrendered to the county treasurer as provided for in section 321.52 of the Code. A weight ticket indicating the weight of the vehicle shall be submitted for all vehicles except motorcycles, trucks, truck tractors, road tractors or trailer-type vehicles.

(3) If the vehicle is reconstructed and the applicant is unable to obtain the additional exhibits described above, the applicant may follow the bonding procedure as set forth in section 321.24 of the Code.

(4) The applications and additional exhibits as specified in 11.3(6)"a", subparagraphs (1) and (2), herein shall be submitted to the county treasurer of the applicant's residence.

(5) The county treasurer shall submit the applications and additional exhibits to a motor vehicle investigator assigned to the county.

(6) Upon receipt of the applications and additional exhibits, the motor vehicle investigator shall, within five working days, contact the applicant in person or by telephone and schedule a time and place for an examination of the vehicle and the ownership documents. The time scheduled for the examination shall be within fifteen days of the initial contact by the investigator.

(7) The applicant, when appearing with the vehicle as scheduled for examination, shall submit to the investigator the certificate of title, the manufacturer's statement of origin or a junking certificate issued for the vehicle being reconstructed, and bills of sale for all essential parts used to reconstruct or construct the vehicle. Each bill of sale shall contain a description of the part, the manufacturer's identification number of the part, if any, and the name, address, and telephone number of the seller.

(8) If the motor vehicle investigator determines that the motor vehicle complies with rule 820—[07, E]1.2(321) IAC, is in safe operating condition and the integral parts and components have been identified as to ownership, the investigator shall affix to the vehicle an assigned identification number plate. Such plate shall bear thereon a distinguishing number; and the vehicle shall thereafter be identified by such number.

(9) If the vehicle described on the application for title and registration is a passenger-type vehicle, the investigator shall determine the weight and value of the vehicle and such weight and value shall constitute the basis for determining the annual registration fee under the formula set forth in section 321.109 of the Code.

(10) The investigator, upon determining that the applications have been completed in proper form, shall complete, date, and sign that part of the application forms applicable to the approval by the department. Such approval shall constitute authorization by the department to have the motor vehicle registered and title as provided for in section 321.23 of the Code.

(11) The investigator shall return the applications and bills of sale to the applicant.

(12) The applicant shall have the vehicle inspected at an official motor vehicle inspection station.

(13) If the vehicle is approved by the department, the applicant shall surrender the application forms and the motor vehicle inspection statement to the county treasurer of the applicant's residence. The county treasurer shall then issue a certificate of title and registration for the vehicle upon payment of the appropriate fees.

(14) If the investigator determines that the vehicle does not comply with rule 820—[07, E]1.2(321) IAC, is not in a safe operating condition or the integral parts or component parts have not been properly identified as to ownership, the investigator shall not approve the vehicle for registration or issuance of a certificate of title.

b. Mobile home, travel trailer, semitrailer, or trailer with empty weight exceeding two thousand pounds.

(1) The applications and additional exhibits as specified in 11.3(6)"a", subparagraphs (1) and (2), shall be submitted by the applicant to the county treasurer of the applicant's residence. The county treasurer shall forward such applications and additional exhibits to the department.

(2) If the application forms appear to be properly completed and the photographs indicate that the vehicle is a specially constructed or reconstructed vehicle, the department shall forward to the applicant the applications, an assigned identification number plate bearing a distinguishing number thereon, and an information sheet which shall indicate thereon the location for the attachment of the assigned identification number plate and equipment requirements applicable to trailer-type vehicles. The applicant shall attach the assigned identification number plate to the vehicle in the manner specified on the information sheet and shall certify and sign in the appropriate space provided on the "Application for an Assigned Vehicle Identification Number" form, that the assigned identification number plate has been attached and the vehicle is properly equipped.

(3) The applicant shall surrender the application forms to the county treasurer of the applicant's residence. The county treasurer shall issue a certificate of title and registration card upon payment of the appropriate fees.

(4) If the department determines that an application for an assigned identification number form has not been properly completed or that the vehicle is not a specially constructed or reconstructed vehicle, the department shall notify the applicant within thirty days.

c. Trailer with empty weight of two thousand pounds or less.

(1) The applicant shall complete an "Application for Certificate of Title and/or Registration of a Vehicle" form (Form #411007) and submit the form to the county treasurer of the applicant's residence.

(2) The applicant may make application for an assigned identification number.

(3) Upon determining that the application has been properly completed and upon payment of the appropriate fee, the county treasurer shall register the vehicle but shall not issue a certificate of title.

d. Application forms. Application forms for specially constructed or reconstructed vehicles may be obtained from the office of any county treasurer or from the Office

TRANSPORTATION[820] (cont'd)

of Vehicle Registration, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319.

ITEM 6. Strike all of subrule 11.7(3) including all of its paragraphs and insert in lieu thereof the following:

11.7(3) Used vehicle from a foreign jurisdiction. If the vehicle was subject to the issuance of a certificate of title in the foreign jurisdiction, the certificate of title issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

a. A security interest, noted on the face of the foreign certificate of title, which has not been cancelled, shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant.

b. A certificate of title issued in a foreign jurisdiction may be assigned to a motor vehicle dealer in another jurisdiction, except to a motor vehicle dealer licensed in this state, and such dealer may reassign the certificate of title to the applicant. An assignment or reassignment form, issued by a foreign jurisdiction, may be used in conjunction with a foreign title certificate to complete an assignment or reassignment of ownership from a foreign motor vehicle dealer to the applicant, providing the ownership chain is complete.

c. If the vehicle was not subject to the issuance of a certificate of title in the foreign jurisdiction, the registration document issued by the foreign jurisdiction to the applicant or properly assigned to the applicant shall be submitted.

(1) If the foreign registration document is not issued in the applicant's name and does not contain an assignment of ownership form thereon, a bill of sale conveying ownership from the owner as listed on the foreign registration document to the applicant shall be submitted with the foreign registration document.

(2) Upon receipt of the foreign registration document, the county treasurer shall issue a nontransferable-negotiable registration unless the foreign registration document has been approved by the department.

(3) Acceptance of the foreign registration document shall be approved by the department on an individual basis, if the county treasurer of the county where the certificate of title is to be issued cannot determine whether the document is acceptable.

d. If a trailer-type vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, a bill of sale conveying ownership to the applicant, if acquired by a resident from a nonresident, or an affidavit of ownership signed by the applicant, if the applicant is establishing residence in this state, shall be submitted.

e. If a motor vehicle is exempt from the issuance of a certificate of title and registration in the foreign jurisdiction, the bonding procedures as provided in 321.24 of the Code shall be followed.

ITEM 7. Rescind subrule 11.7(5).

ITEM 8. Rescind rule [07,D]11.13(321) in its entirety.

ITEM 9. [07,D] Chapter 11 is amended by adding rule [07,D]11.15(321) as follows:

820—[07,D]11.15(321) Cancellation of certificate of title. The department shall cancel a certificate of title when authorized by any other provision of law or when it has reasonable grounds to believe that the title has not

been surrendered to the county treasurer as provided in section 321.52 of the Code, or that the vehicle has been stolen or embezzled from the rightful owner or seized under the provisions of section 321.84 of the Code, and the person holding the certificate of title, purportedly issued for said vehicle, has no immediate right to possession of the vehicle.

This rule is intended to implement section 321.101 of the Code.

ITEM 10. Rescind subrule 11.20(6).

ITEM 11. Rescind rule [07,D]11.23(321) in its entirety.

ITEM 12. Rule [07,D]11.25(321) is amended to read as follows:

820—[07,D]11.25(321) Penalty on new vehicle registration fee. Penalty on the registration fee for a new vehicle shall accrue on the first day of the month following the date of purchase or the date the new vehicle was brought into this state. When a vehicle is sold by an Iowa dealer licensed under the provisions of chapter 322, no penalty shall accrue if the application for registration is delivered to the county treasurer or the department within five seven days of the date of sale.

ITEM 13. Rule [07,D]11.34(321) is amended by adding the following new subrules.

11.34(1) If the owner of a vehicle which appears to be a multipurpose vehicle according to the information listed on the ownership document certifies in writing to the county treasurer of the owner's residence that said vehicle is not equipped with rear seats and is in fact a motor truck, the county treasurer shall register the vehicle as a motor truck.

11.34(2) A vehicle that appears to be a multipurpose vehicle according to the information on the ownership document but is certified to and registered as a motor truck shall not be operated or moved upon the highway when it is equipped with a rear seat.

11.34(3) The owner of a multipurpose vehicle that is registered under the weight and list price formula as provided in section 321.109 of the Code may operate or move the vehicle with or without the vehicle being equipped with rear seats.

ITEM 14. Subrule 11.42(2) is amended to read as follows:

11.42(2) Renewal of personalized plates. Renewal fees for personalized plates shall be paid at the time of payment of regular registration fees, to the county treasurer of the county where the vehicle is registered. Renewal fees for personalized plates ~~must~~ shall be paid prior to ~~February 1~~ March 15 or that combination of ~~characters~~ characters may be issued to any other person.

ITEM 15. Rule [07,D]11.42(321) is amended by adding the following new subrule.

11.42(7) Personalized plates may be reassigned from the owner of a vehicle to whom the plates are assigned to the owner of another vehicle upon compliance with the following:

a. Both vehicles shall be currently registered.

b. A written request for a reassignment of personalized plates shall be completed and signed by the owner currently assigned the plates and the owner to whom the plates are to be assigned.

c. The person to whom the plates are currently assigned shall submit the personalized plates, the registration card and the request for reassignment to the

TRANSPORTATION[820] (cont'd)

county treasurer of that person's residence who shall issue new county plates and a registration card bearing such plate number.

(1) If the person to whom the plates are reassigned is a resident of the same county, the county treasurer shall issue a registration card for that person which bears the personalized plate number and give the personalized plates to that person upon surrender of that person's regular plates and registration.

(2) If the person to whom the plates are reassigned is not a resident of the same county, the county treasurer shall forward the personalized plates and request for reassignment to the county treasurer of that person's residence, and that county treasurer shall issue a registration card bearing the personalized plate number and give the personalized plates to that person upon surrender of the regular plates and registration card.

d. The written request for reassignment shall be forwarded to the department by the county treasurer.

ITEM 16. Rule [07,D]11.44(321) is amended by adding the following new subrule:

11.44(4) Statement of nonuse. If the owner of a vehicle, on which the registration fees have not been paid for three or more years, certifies to the county treasurer of the owner's residence that the vehicle has not been moved or operated upon the highway since the year it was last registered, the county treasurer may register the vehicle upon payment of the current year's registration fee. The statement of nonuse shall not apply to a mobile home.

ITEM 17. Rule [07,D]11.46(321) is amended to read as follows:

820—[07,D]11.46(321) **Suspension of registration.** When the registration of a vehicle has been suspended as provided for in chapter 321 or 321A, *the county treasurer, or the department if the vehicle is owned by a nonresident, upon termination of the suspension, shall issue new plates for the vehicle. If the new plates replace a current series of plates, there shall be a replacement fee of two dollars for each plate issued. If the vehicle is not currently registered, the registration fee and penalty shall be determined in the following manner:*

ITEM 18. Strike all of rule [07,D]11.51(321) including its subrules and paragraphs and insert in lieu thereof the following:

820—[07,D]11.51(11.51(321)) **Assigned identification numbers.** The department is authorized to assign a distinguishing number to a vehicle or component part and to issue to the owner of such vehicle or component part a special plate bearing the distinguishing number. Such vehicle shall be registered and titled under such distinguishing number. Such distinguishing number assigned to a component part shall be used only for identification purposes of the component part. The issuance of a distinguishing number shall be in accordance with the following:

11.51(1) Assignment of a distinguishing number. The department shall assign a distinguishing number to a vehicle or component part whenever:

a. The original vehicle identification number or component part identification number has been destroyed, removed or obliterated.

b. The vehicle has had a cab, body, or frame change and the replacement cab, body, or frame is within the manufacturer's interchangeability parts specifications catalog and is compatible with the make, model, and year

of the vehicle. If the replacement cab, body, or frame change is not within the manufacturer's interchangeability parts specification catalog or is not compatible with the make, year, and model of the vehicle, the vehicle shall be considered reconstructed and subject to the provisions of subrule 11.3(6) herein.

c. The vehicle is reconstructed or specially constructed.

11.51(2) Application for assignment of a distinguishing number. Whenever an assigned vehicle identification number is required under 11.51(1), the owner of such vehicle or component part or the person holding lawful custody shall make application to the county treasurer of the owner's residence, on an "Application for an Assigned Vehicle Identification Number" form (Form #411041).

a. Motor vehicle - not specially constructed or reconstructed. If the application refers to a motor vehicle, not specially constructed or reconstructed, or to a component part, the county treasurer shall forward the application to a motor vehicle investigator assigned to that county. The investigator shall contact the applicant and schedule a time and place for an examination of the vehicle and ownership documents.

(1) If the vehicle has had a cab, body, or frame change, the applicant shall have for evidence of ownership for the replacement cab, body, or frame, a bill of sale which shall contain thereon a description of the part, complete with the manufacturer's identification number, if any, and the name, address, and telephone number of the seller. The bill of sale, the vehicle, and the cab, body or frame that has been replaced shall be made available for examination at the time and place scheduled.

(2) The investigator upon approval of the application shall affix to the vehicle the assigned identification number plate and return the application to the owner, who shall submit the application form, the certificate of title, and the registration card issued for the vehicle to the county treasurer of the owner's residence or to the department if the owner is a nonresident. If the certificate of title is in the possession of a secured party, the county treasurer or the department shall notify the secured party to return the certificate of title to the county treasurer or the department for the purpose of issuing a corrected title. Upon receipt of the notification, the secured party shall submit the certificate of title within ten days. The county treasurer or the department, upon receipt of the certificate of title, the registration card and the application form, shall issue a corrected title and registration card listing as the vehicle identification number thereon the assigned identification number attached to the vehicle by the investigator and certified to on the application.

(3) If the assigned identification number is for a component part, the investigator shall affix to the component part the assigned identification number plate and return the application to the owner which shall be retained by the owner as a record of issuance and attachment. The application, certified by a motor vehicle investigator, shall be made available on demand by any peace officer for examination.

b. Trailer-type vehicle not specially constructed or reconstructed. If the application for an assigned identification number refers to a trailer-type vehicle and is not specially constructed or reconstructed, the county treasurer shall forward the application to the

TRANSPORTATION[820] (cont'd)

department. The department upon receipt of the application shall issue an assigned identification number plate. The department shall deliver the assigned identification number plate, the application form and an information sheet to the owner who shall cause the assigned identification number plate to be attached to the vehicle in a manner prescribed on the information sheet. In the appropriate space provided on the application form, the owner shall certify that such plate has been attached to the vehicle. The applicant shall submit the certificate of title, registration card and the application form to the county treasurer of the owner's residence or to the department if the owner is a nonresident. If the certificate of title is in possession of a secured party, the county treasurer or the department shall notify the secured party to return the certificate of title to the county treasurer or the department for the purpose of issuing a corrected certificate of title. Upon receipt of such notice, the secured party shall return the certificate of title within ten days. Upon receipt of the certificate of title, registration card and application, the county treasurer or the department shall issue a corrected certificate of title and registration listing thereon the assigned identification number in the same manner as listed on the application form by the department.

c. Specially constructed or reconstructed vehicle. If the application for an assigned identification number refers to a specially constructed or reconstructed vehicle, the procedure as outlined in subrule 11.3(6) herein shall be followed.

11.51(3) Fees. A certificate of title fee and a fee for a notation of a security interest, if applicable, shall be collected by the county treasurer or the department upon issuance of a corrected certificate of title.

11.51(4) Availability of application form. The "Application for an Assigned Vehicle Identification" form (Form #411041) may be obtained from the office of any county treasurer or from the Office of Vehicle Registration, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319.

This rule is intended to implement section 321.42 and 321.92 of the Code.

ITEM 19. Rule [07,D]11.56(321) including its subrules and paragraphs are amended to read as follows:

820—[07,D]11.56(321) Informal settlements and hearings. Whenever the department suspends *or*, revokes, *or denies* the registration of a vehicle, registration card, registration plate or any nonresident or other permit under the provisions of ~~section 321.101~~ *chapter 321*, the owner of the vehicle may request an opportunity for an informal settlement. If the matter cannot be resolved through an attempt at an informal settlement the owner of the vehicle may request a hearing. The following rules shall apply to informal settlements and hearings:

11.56(1) Informal settlement. Any person whose registration of a vehicle, registration card, registration plate or any nonresident or other permit has been suspended *or*, revoked, *or denied* by the department may request an opportunity for an informal settlement. The request for an informal settlement shall be made in writing by the vehicle owner and shall be addressed to the Office of Vehicle Registration, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319. The department shall notify the vehicle owner of the time and place where the attempt for

an informal settlement shall be held. The following rules shall apply to an attempt for an informal settlement:

a. The facts upon which the suspensions, *or* revocation, *or denial* was based shall be reviewed.

b. The vehicle owner shall present whatever evidence that person may have which would indicate that the basis for the suspension, *or* revocation, *or denial* is not valid.

c. The department hearing officer shall determine whether such evidence is substantiated and if it appears that the basis for the suspension, *or* revocation, *or denial* was erroneous, the hearing officer shall recommend that the suspension, *or* revocation, *or denial* be terminated.

d. If the department hearing officer determines that the suspension, *or* revocation, *or denial* was based on a provision of ~~section 321.101~~ *chapter 321* of the Code and that such suspension, *or* revocation, *or denial* was not erroneous, the hearing officer shall advise the department of such fact and the department shall extend the suspension, *or* revocation, *or denial*.

e. If the attempt at an informal settlement does not resolve the controversy the vehicle owner may request a hearing.

11.56(2) Hearings. Any person whose registration of a vehicle, registration card, registration plate or any nonresident or other permit has been suspended, *or* revoked, *or denied* under the provisions of ~~section 321.101~~ *chapter 321* may request a hearing. The request shall be made in writing by the vehicle owner and shall be addressed to the Vehicle Registration Office, Motor Vehicle Division, Department of Transportation, Lucas Office Building, Des Moines, Iowa 50319. The following rules shall apply to such hearings:

a. The hearing shall be held in accordance with the provisions of chapter 17A.

b. Following such hearing the department shall either rescind the order of suspension, *or* revocation, *or denial*, or, good cause appearing therefor, shall extend the suspension, *or* revocation, *or denial*.

c. Judicial review of the action of the department may be sought in accordance with the terms of the Iowa administrative procedures Act as set forth in chapter 17A.

ITEM 20. Strike all of rule [07,D]11.64(321) including its subrules and insert in lieu thereof the following:

820—[07,D]11.64(321) County treasurer's report of motor vehicle collections and funds. The county treasurer shall file the report provided for in section 321.153 of the Code in duplicate on the form entitled "County Treasurer's Report of Motor Vehicle Collections and Funds." the report shall be filed in the following manner:

11.64(1) Part One of the report shall be received by the department on or before the tenth day of the month following the month for which the fees were collected. A check or draft, payable to the Department of Transportation, covering the amount of total collections less the amount the county treasurer is entitled to retain, shall be submitted along with Part One of the report.

11.64(2) Upon determining that the report is in proper order, the department shall send a receipt to the county treasurer's office for the amount remitted to the department.

11.64(3) Part Two of the report shall be retained by the county treasurer.

This rule is intended to implement section 321.153 of the Code.

TRANSPORTATION[820] (cont'd)

A notice of intended action for the amendment of these rules was published in the August 23, 1978, Iowa Administrative Bulletin. The transportation commission approved the amendment to these rules on October 3, 1978. The amendment to these rules is to be published as adopted in the November 1, 1978, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective December 6, 1978. The amendment to these rules is identical to the one published under notice except that a clarifying sentence was added to Item 16 upon the suggestion of the Administrative Rules Review Committee.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

This rule is intended to implement section 321.34 of the Code, as amended by Acts of the Sixty-seventh General Assembly, 1977 session, chapter 103, section 10.

[Filed 10/10/78, effective 12/6/78]

A notice of intended action for the amendment of these rules was published in the August 23, 1978 Iowa Administrative Bulletin. The transportation commission approved the amendment to these rules on October 3, 1978. The amendment to these rules is to be published as adopted in the November 1, 1978, Iowa Administrative Bulletin and Supplement to the Iowa Administrative Code to be effective December 6, 1978. The amendment to these rules is identical to the one published under notice.

[Published 11/1/78]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/1/78.

TRANSPORTATION, DEPARTMENT OF[820]

07 MOTOR VEHICLE DIVISION

Pursuant to the authority of section 307.10 of the Code, rules 820—[07,D] chapter 11 entitled "Vehicle Registration and Certificate of Title" are hereby amended.

ITEM 1. Chapter 11 is amended by adding rule [07,D]11.19(321) as follows:

820—[07 D]11.19(321) Temporary use of vehicle without plates. A person who acquires a vehicle which is currently registered, who has not been assigned registration plates which may be displayed on the vehicle, may operate or permit the operation of the vehicle not to exceed seven days from the date of purchase or transfer without registration plates displayed thereon, subject to the following conditions:

11.19(1) A valid inspection sticker shall be attached to the vehicle, and the owner's copy of the inspection form shall be carried in the vehicle, unless the vehicle is exempt from the inspection provisions of section 321.238 of the Code.

11.19(2) The certificate of title or registration receipt properly assigned to the person who has acquired the vehicle, or a photocopy thereof, or a bill of sale conveying ownership of the vehicle to the person who has acquired the vehicle, shall be carried in the vehicle.

11.19(3) The inspection form and ownership evidence provided for in this rule shall be shown to any peace officer upon request.

This rule is intended to implement section 321.46 of the Code, as amended by Acts of the Sixty-seventh General Assembly, 1977 session, chapter 103, section 16.

ITEM 2. Strike all of rule [07,D]11.53(321) and insert in lieu thereof the following:

820—[07,D]11.53(321) Validation stickers and gross weight emblems. Validation stickers and gross weight emblems shall be attached to each registration plate in the following manner:

11.53(1) Validation stickers shall be attached to the lower right hand corner of each plate.

11.53(2) Gross weight emblems shall be attached to the lower left hand corner of each plate.

AGRICULTURE DEPARTMENT[30]

At its October 10th meeting the Administrative Rules Review Committee voted the following objection:

The Committee objects to subrule 30—16.151(3) on the grounds that it is arbitrary. The subrule relates to release from quarantine for Aujeszky's disease, and the Committee feels the subrule to be arbitrary in that it does not allow a producer to vaccinate swine at or before the time of sale and

then transport them into a quarantined herd. This restriction will pose a serious problem to producers who have an excess number of bred sows ready to farrow; without the ability to vaccinate and move these additional animals, their sales price will be considerably reduced. The Committee requests that the department amend the subrule to allow for such vaccination and movement.

These rules are filed emergency and appear in the 9-20-78 issue of the Iowa Administrative Bulletin at page 444.

DELAYS**EFFECTIVE DATE DELAY**

[Pursuant to §17A.4(5)]

AGENCY	RULE	DELAYED
City Finance[230]	4.2	Delayed up to 70 days from 11/8/78

In the Name and By the Authority of the State of Iowa

Executive Order Number 32

- Whereas, the use of sick leave by state employees together with its attendant costs and disruption of service is a serious concern of all state agencies; and
- Whereas, substantial reduction in sick leave use has been realized with the reduction of six leave from thirty days per year to eighteen days per year combined with the addition of unlimited sick leave accrual; and
- Whereas, there is a need for a program which would provide an additional incentive for all state employees to conscientiously limit use of their sick leave;
- Whereas, Chapter 79, laws of the 67th General Assembly, 1978 Session (also known as Senate File 2247) recognized such a need and provides that the Governor implement a vacation allowance provision in conjunction with a sick leave program;

Now, Therefore, I, Robert D. Ray, Governor of the State of Iowa, do hereby establish the following sick leave program to be effective July 1, 1978:

1. All eligible state employees who do not use sick leave for a full calendar month may elect to have one-half day (4 hours) added to their accrued vacation account in lieu of adding one and one-half days (12 hours) to their accrued sick leave account.
2. Eligible employees are those permanent, full-time state employees
 - a. who have accumulated a minimum of thirty days (240 hours) in their sick leave account; and
 - b. who are not covered by a collective bargaining agreement negotiated under chapter 20 of the Code of Iowa; and
 - c. who are not employees holding faculty rank within the institutions governed by the Board of Regents and not otherwise eligible for accrued vacation.
3. Employees who have made an election pursuant to this Executive Order will be allowed to accumulate up to an additional 12 days (96 hours) beyond twice their annual vacation and unscheduled holiday entitlement.
4. The State Comptroller is directed to promulgate all necessary procedures for the implementation of this sick leave program.

This Executive Order shall remain in effect until such time as legislation providing credit for the compensation of employees who have accrued sick leave is enacted.

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 31st day of July in the year of our Lord one thousand nine hundred seventy-eight.

Attest:

/s/ Robert D. Ray

Governor

/s/ Melvin D. Synhorst

Secretary of State

PROCLAMATIONS

Robert D. Ray, Governor of the State of Iowa, proclaimed the following:

Career Education Week	October 8 - 14, 1978
Iowa Fire Prevention Week	October 8 - 14, 1978
State Conference on Career Education	October 12 - 13, 1978
Cerebral Palsy Week	October 9 - 14, 1978
Columbus Day	October 12, 1978
Myasthenia Gravis Week	October 16 - 23, 1978
Surgical Technologist Week	October 22 - 28, 1978
Career Guidance Week	November 5 - 11, 1978
Iowa Safety Week	November 13 - 17, 1978
National Diabetes Month	November, 1978

SUMMARY OF DECISIONS - THE SUPREME COURT OF IOWA
Filed - October 18, 1978

NOTE: Copies of these opinions may be obtained from the Supreme Court, State House, Des Moines, Iowa 50319, for a fee of 40 cents per page.

No. 61195. GIBSON v. DEUTH.

Appeal from Black Hawk District Court, Roger F. Peterson, Judge. Affirmed on Deuth's appeal; reversed on Gibson's cross-appeal and remanded with directions. Considered by Reynoldson, C.J., and LeGrand, Rees, Uhlenhopp and Harris, JJ. Opinion by Reynoldson, C.J. (9 pages \$3.60)

Both parties appeal judgment awarding defendant costs only in retrial of action for accounting of partnership assets. OPINION HOLDS: I. This action for an accounting is equitable in nature, and our review is de novo. II. The trial court's reception and use of evidence of fees and expenses wholly attributable to work done by the remaining partner after dissolution was error. III. Plaintiff should have judgment against defendant for the balance of \$4244.72 in pre-dissolution profits which were not paid to him.

No. 61425. STOCKBURGER v. ROBINSON.

Appeal from Plymouth District Court, George F. Davis, Judge. Appeal dismissed. Considered by Reynoldson, C.J., and LeGrand, Rees, Uhlenhopp and Harris, JJ. Opinion by Reynoldson, C.J. (3 pages \$1.20)

Plaintiff husband appeals from pretrial dismissal of his action against municipality for failure to comply with claim notice provision. OPINION HOLDS: I. The finality of the order appealed from is always examined by the court because it is jurisdictional. II. We have concluded that appellant's claim is "dependent upon or intertwined with" his co-plaintiff's claim against the same defendant; this test is applicable in this situation involving multiple plaintiffs; we do not view the ruling appealed from as a final decision; it follows we have no jurisdiction to proceed and must dismiss the appeal.

No. 61146. CITIZENS FIRST NATIONAL BANK v. HOYT.

Appeal from Monroe District Court, L. R. Carson, Judge. Reversed and remanded with directions. Considered by Reynoldson, C.J., LeGrand, Rees, Uhlenhopp and Harris, JJ. Per Curiam. (10 pages \$4.00)

Defendant Hoyt appeals from judgments in favor of plaintiff on a loan agreement and promissory note, and in favor of defendant-appellee Koffman on cross-petition. OPINION HOLDS: This case is reversed to enable the trial court to properly pass upon the appellant's motion to amend and enlarge findings under rule 179(b) as interrelated with rule 118, R.C.P., which requires separate rulings on separate grounds.

No. 60920. FRITZ v. IOWA STATE HIGHWAY COMMISSION.

Appeal from Des Moines District Court, William S. Cahill, Judge. Affirmed. Considered en banc. Opinion by Rees, J. (17 pages \$6.80)

Defendant, Iowa State Highway Commission, appeals from trial court order overruling its motion for a new trial, and to set aside jury verdict for diminution of value of plaintiff's leasehold interest in land condemnation proceedings. OPINION HOLDS: I. The provisions of §§ 562.5 and 562.6, The Code, are not determinative of the length of this oral farm tenancy when terms of the covenant between plaintiff and his lessor would renew the lease beyond the statutory period; only the plaintiff and his lessor had standing to assert the statute of frauds,

SUPREME COURT (cont'd)

and they did not, so the statute of frauds cannot be asserted in this action by the highway commission. II. It is unlikely that the commission was prejudiced by the admission of evidence concerning the reduction in the fair market value of plaintiff's personal property damaged or reduced in value by the condemnation since the jury chose not to return the verdict form which provided for an allowance for damages for the reduction in value of plaintiff's personal property. III. The trial court did not err in admitting evidence of the intrinsic value of the leasehold to the plaintiff. IV. In the light of the instructional safeguards and the nature of the evidence tending to show the value of the remainder of the leasehold, there was no abuse of discretion in overruling the defendant's motion in limine by which it sought to prohibit plaintiff from presenting evidence of specific costs of equipment to offset the detriment or burden caused by the condemnation. V. The trial court did not err in sustaining plaintiff's motion in limine and thereby prohibiting defendant from advising the jury of the amount that the owner of the fee title of the parcel condemned had been previously compensated in separate proceedings. VI. Since three jurors' affidavits tendered by defendant in support of its motion for new trial relate to matters discussed in arriving at the verdict, rather than actual happenings in the jury room, the trial court properly refused to sustain defendant's motion for new trial.

No. 61548. BLOOM v. ARROWHEAD AREA EDUCATION AGENCY.

Appeal from Buena Vista District Court, Richard W. Cooper, Judge. Reversed. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by McCormick, J. (8 pages \$3.20)

The trial court held that defendant Arrowhead Area Education Agency failed to adopt and file with the state department of public instruction (DPI) a tentative plan for reorganization of area school districts before approving a specific reorganization proposal for submission to election and set aside the election order. Defendant agency appeals. OPINION HOLDS: A tentative plan was not necessarily required to include a proposed reorganization of districts in the area; Arrowhead's tentative plan substantially complied with § 275.5, The Code, 1977, the sixty-day period after a specific proposal was presented defined the deadline by which a tentative plan had to be filed but did not preclude an earlier filing; Arrowhead did not act illegally in approving the Sioux Rapids-Rembrandt merger proposal for submission to the voters in the affected districts; the trial court erred in sustaining the writ of certiorari.

No. 61236. CURTIS v. BOARD OF SUPERVISORS.

Appeal from Clinton District Court, L. D. Carstensen, Judge. Affirmed. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by McCormick, J. (6 pages \$2.40)

Plaintiffs, alleging they are residents of Clinton County, filed a petition for writ of certiorari attacking a resolution of the defendant Clinton County board of supervisors expressing its preference regarding the placement of an overpass on a proposed north-south freeway. The trial court's ruling denying the petition will be considered a judgment dismissing the petition under rule 104(b), Rules of Civil Procedure. OPINION HOLDS: Exclusive jurisdiction was in the state Department of Transportation to determine the location of the overpass; the board's resolution does not decide the issue and is not reviewable in certiorari as a judicial function.

No. 60913. STATE v. KIRK.

Appeal from Polk District Court, Norman Elliott, Associate Judge. Appeal dismissed. Considered by Reynoldson, C.J., LeGrand, McCormick, McGiverin and Larson, JJ. Per Curiam. (2 pages \$.80)

State appeals acquittal of defendant on charges of violating the open meetings law, chapter 28A, The Code. OPINION HOLDS:

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case only upon a finding of invalidity of an ordinance or statute; the initial appeal is to the district court, § 762.43, The Code; this procedure was not followed here; we are without jurisdiction and must dismiss this appeal on our own motion.

No. 61254. STATE v. LINT.

Appeal from Wright District Court, Albert Habhab and Russell J. Hill, Judges. Affirmed. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by McGiverin, J. (6 pages \$2.40)

The defendant appeals his conviction of robbery without aggravation on the sole ground that trial court erred in refusing to set aside the information. Defendant was unindicted and incarcerated in the county jail at the time the grand jury was in session, but the grand jury did not inquire into his case. He alleges its failure to do so required the subsequently filed information to be set aside. OPINION HOLDS: Defendant has no federal constitutional right to be indicted by a grand jury rather than being charged by county attorney's information; similarly there is no state constitutional right to a grand jury indictment; the language in sections 771.1 and 771.2(1), The Code 1977, which require the grand jury to inquire into all indictable offenses committed within the county and into the cases of all persons in the county jail who are charged and not indicted does not impose a mandatory duty on the grand jury to indict the defendant when considered with section 769.2 which gives the county attorney the concurrent right to "file with the clerk of the district court, upon approval by a district judge...an information charging a person with an indictable offense."

No. 61145. ABRISZ v. PULLEY FREIGHT LINES, INC.

Appeal from Polk District Court, Ray A. Fenton, Judge. Affirmed. Considered by Reynoldson, C.J., and LeGrand, Rees, Uhlenhopp, and Harris, JJ. Opinion by LeGrand, J. (7 pages \$2.80)

Plaintiff appeals from adverse decree on claim for damages resulting from alleged wrongful termination of employment contract. OPINION HOLDS: The trial court findings that plaintiff was discharged without malice, that her letter critical of her employers contained inaccuracies, that she held a position of trust, and that this trust had been destroyed by the letter were supported by substantial evidence; this discharge was thus not violative of public policy; we do not decide if an employee under an at-will contract is without remedy under any circumstances.

No. 61462. WALTON v. STOKES.

Appeal from Black Hawk District Court, Roger F. Peterson, Judge. Affirmed. Considered by Reynoldson, C.J., and LeGrand, Rees, Uhlenhopp, and Harris, JJ. Opinion by Harris, J. (4 pages \$1.60)

Plaintiff seeks recovery under our dram shop act, § 123.92, The Code, for injuries sustained in an altercation at defendant's lounge in Waterloo. Defendant brings this interlocutory appeal from the trial court's ruling on a motion to adjudicate law points that there is no requirement to show the causal connection between the fact of plaintiff's injury and the serving of the third person who shot him. Opinion Holds: The trial court was right in its holding that there is no requirement, in a dram shop case, for a plaintiff to show the serving of intoxicating liquor was a proximate cause of his injuries by the intoxicated person.

No. 61229. STATE v. HEPBURN.

Appeal from Polk District Court, Ray A. Fenton, Judge. Affirmed. Considered by Reynoldson, C.J., and LeGrand, Rees, Uhlenhopp, and Harris, JJ. Opinion by Harris, J. (7 pages \$2.80)

Defendant appeals his conviction of operating a motor vehicle while under the influence of an intoxicating beverage, second offense, in violation of §321.281, The Code. Opinion Holds: I. An instruction stating that evidence concerning the manner in which defendant operated his motor vehicle should be given such weight as the jury thinks it should be given did not unduly emphasize the manner in which he was driving at the time of his arrest. II

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Section 785.16, The Code, 1977, (since repealed and readopted as § 813.2, rule 18(9), The Code, 1977, Supp.), which provides for a bifurcated trial on the charge of being a repeat OMVUI offender, did not unconstitutionally deny defendant due process when he was tried by the same jury that had convicted him on the OMVUI charge; allowing this procedure was not an abuse of the trial court's discretion.

No. 60710. KAUZLARICH v. KAUZLARICH.

Appeal from Appanoose District Court, Charles N. Pettit, Judge. Affirmed. Considered by Rees, P.J., and Uhlenhopp, Harris, Allbee, and Larson, JJ. Per Curiam. (3 pages \$1.20)

Petitioner appeals from provision of a marriage dissolution decree. Opinion Holds: I. Error was not preserved on petitioner's complaint that a court reporter was not called to report the evidence following settlement of the case. II. We see nothing improper or inequitable in the division of the real estate between the parties on the 50-50 basis, stipulated to, and decreed by the court.

No. 61687. COMMITTEE ON PROFESSIONAL ETHICS v. N.B. (MIKE) WILSON

On review of report of the Grievance Commission. License suspended. Considered en banc. Opinion by McGiverin, J. (7 pages \$2.80)

Respondent appeals from report of Grievance Commission in lawyer disciplinary proceeding. OPINION HOLDS: I. Respondent's conduct in provoking a courthouse altercation with another attorney violates Ethical Considerations 1-5 and 9-2 of the Code of Professional Responsibility for Lawyers and sections 610.14(1) and 610.24(3), The Code 1977. II. We find that respondent's statement to the panel of investigating judges contained misrepresentations of material facts concerning the courthouse altercation; the statement violated Disciplinary Rule 1-102(A)(4). III. The evidence does not substantiate Counts III and IV concerning respondent's dealings with two clients. IV. It is ordered that respondent be suspended indefinitely from the practice of law with leave to apply for reinstatement after expiration of six months from the date of this decision pursuant to Supreme Court Rule 118.13.

No. 58087. AVERY v. HARMS IMPLEMENT COMPANY.

Appeal from Clay District Court, James P. Kelley, Judge. Affirmed in part, reversed in part and remanded for new trial. Considered en banc. Opinion by LeGrand, J. Dissent by McCormick, J. (16 pages \$6.40)

Plaintiffs appeal from adverse judgments on claims arising out of a tractor-automobile accident in which the tractor driver sustained personal injuries. OPINION HOLDS: I. Plaintiff was denied the right to full cross-examination of the president of Harms Implement Company; a number of objections were sustained on the ground that questions went beyond the scope of direct examination; some objections were also sustained on the grounds of relevancy and materiality; we believe these rulings constitute reversible error. II. We see nothing wrong with the instruction which stated that the tractor driver was "required to use reasonable and ordinary care" in the use of the lighting equipment and that a failure to do so would constitute negligence. III. Plaintiff's right to challenge the summary judgment in favor of co-defendant International Harvester Company has been lost by failure to appeal within 30 days as directed by rule 335, R.C.P., (now rule 5, Rules of Appellate Procedure).

No. 60917. CITY OF ELDRIDGE v. CATERPILLAR TRACTOR COMPANY..

Appeal from Scott District Court, James R. Haverkamp, Judge. Appeal dismissed. Considered by Reynoldson, C.J., LeGrand, Rees, Uhlenhopp and Harris, JJ. Opinion by Rees, J. Dissent in part by Harris, J. (12 pages \$4.80)

This is an appeal by the City of Eldridge from orders of the trial court sustaining motions for summary judgment of defendants Caterpillar Tractor Company and City of Davenport and overruling plaintiff's motion to enlarge or amend findings and conclusions in accordance with rule 179. Rules of Civil

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Procedure. The notice of appeal was filed within 30 days of the order overruling the motion for enlargement and amendment of findings and conclusions under rule 179(b), but more than 30 days after the order of the trial court sustaining defendants' motion for summary judgment. OPINION HOLDS: A rule 179(b) motion was not available to plaintiff because the sustaining of a motion for summary judgment is a determination that there are no issues of material fact, and that the moving party is entitled to judgment as a matter of law, and that there are no findings of fact which could be amended or enlarged; the notice of appeal was therefore not timely, more than 30 days having passed since the sustaining of the motion for summary judgment before the appeal was taken. DISSENT IN PART ASSERTS: I. The appeal in this case was timely. II. On the merits I do not believe the plaintiff city can prevail; summary judgment was therefore proper.

No. 61013. CORNING LABORATORIES, INC. v. DEPARTMENT OF REVENUE.
Appeal from Black Hawk District Court, Karl Kenline, Judge. Reversed and remanded. Considered en banc. Opinion by LeGrand, J. (8 pages \$3.20)

Department of Revenue appeals from ruling holding sales tax imposed against appellee corporation on testing services performed for out-of-state customers is invalid. OPINION HOLDS: We believe Corning has failed to show an unconstitutional interference with interstate commerce; there is no evidence that any other state has attempted to tax the use of the information contained in Corning's laboratory test reports; neither is there any proof as to the extent to which Corning has dealings to those states which permit such a tax; this does not meet the test of demonstrating multiple taxation; Iowa may validly impose a sales tax on the services performed by Corning wholly within this state for out-of-state customers; such services are not exempt under § 422.45(1), The Code.

No. 60960. RICHARDS v. IOWA STATE COMMERCE COMMISSION.
Appeal from Madison District Court, Maynard J. V. Hayden, Judge. Reversed. Considered en banc. Opinion by Uhlenhopp, J. (15 pages \$6.00)

This is an appeal by the Iowa State Commerce Commission and the intervenor utility companies from the district court's dismissal of the third petition of Iowa Power & Light for an electric transmission line franchise. William H. Anstey and others and Dorothy Stortenbecker and others cross-appeal from other portions of the district court's ruling. OPINION HOLDS: I. A party seeking judicial review of intermediate agency action under § 17A.19(1), The Code, must show compliance with the section's provisions in particular that both (1) adequate administrative remedies have been exhausted and (2) review of the final agency action would not provide an adequate remedy. II. Examination of the present case indicates that judicial review of the final agency action would provide appellees with an adequate remedy. III. Appellees may not seek judicial review in the absence of statutory authorization even though lack of agency jurisdiction is alleged when the trial court's review, encompassing findings of disputed facts, deals with the merits of the controversy and is not a review of undisputed facts showing no jurisdiction by the agency as a matter of law; the trial court erred in entertaining judicial review of this intermediate agency action.

No. 60660. STATE v. HUEMPHREUS.
Appeal from Johnson District Court, Ansel J. Chapman, Judge. On Review from Court of Appeals. Affirmed. Considered by Reynoldson, C.J., LeGrand, Rees, Uhlenhopp, and Harris, JJ. Opinion by LeGrand, J. (13 pages \$5.20)

Defendant appealed from District Court judgment sentencing him to a term of not more than eight years in the penitentiary following his conviction of manslaughter. The Court of Appeals affirmed the judgment and we granted further review. OPINION HOLDS: The sole issue presented concerns the trial court's instruction on self-defense; defendant's principal complaint is that the instruction fails to allow him the benefit of an attempted, as well as actual, withdrawal from hostilities; the gist of either withdrawal or attempted withdrawal is notice to

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one's adversary; defendant, the initial aggressor, neither said nor did anything furnishing reasonable grounds for notice to his adversary that the danger was past and combat was ended; we doubt defendant was entitled to a withdrawal-from-combat instruction at all; certainly the one given was as favorable as he could reasonably hope for.

No. 60537. JOHNSON v. MILLER.

Certiorari to Polk District Court, Theodore H. Miller, Judge.
Writ annulled. Considered en banc. Opinion by Harris, J.
(5 pages \$2.00)

We granted certiorari to test rule 26(f)(7), a local court rule of the fifth judicial district in Iowa, which requires a criminal defendant to give pretrial notice of certain affirmative defenses. Petitioner, a criminal defendant, was confronted with the rule in preparing her defense. Petitioner argues the trial court lacked the constitutional and statutory power to adopt the rule because it denies her equal protection, due process, the right to a fair trial, and violates her privilege against self-incrimination under our own and the federal constitutions. OPINION HOLDS: I. The judges of the fifth judicial district had the inherent power to enact local court rule 26(f)(7) as a procedural rule; the rule did not violate any statute nor offend against any constitutional rights of the petitioner. II. The petitioner did not, prior to petitioning for the writ of certiorari, raise her reciprocal notice and discovery rights; nevertheless application of local court rule 26(f)(7) must accord her those rights if she so demands.

No. 61180. SCIESZINSKI v. CITY OF WILTON, et al.

Appeal from Muscatine District Court, Max Werling, Judge.
Affirmed. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin, and Larson, JJ. Opinion by Uhlenhopp, J. (6 pages \$2.40)

The plaintiff appeals from the holding of the district court that his action for wrongful imprisonment is barred by the sec. 613A.5, The Code, since it was not properly commenced within the six month period from the incident in question. Prior to the end of that period, plaintiff filed the petition along with a motion together with an ex parte court order requiring the clerk to seal the petition, motion, order and original notice. OPINION HOLDS: I. The officer and city raised the limitations question in their answer. II. A party may not intentionally bury an action until a later date and then escape the bar of an intervening limitations statute on the ground that the petition itself was technically "filed" before the limitations period expired; under rules 48 and 49, Rules of Civil Procedure, the plan for starting actions contemplates prompt service so that ordinarily the defendants will promptly learn of the action, but this objective is defeated if the plaintiff intentionally makes its accomplishment impossible; in these circumstances the filing of the petition was not enough alone to toll the statute of limitations.

No. 60231. ARCHIE'S STEAK INC, v. ROSENTHALL & SONS.

Appeal from Woodbury District Court, D. M. Pendleton, Judge.
Plaintiffs' Motion for Leave to Cross Appeal Denied. Defendants' Cross Appeal Dismissed. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by Uhlerhopp, J.
(7 pages \$2.80)

Plaintiffs appeal challenging the granting of defendants' motion for new trial, and defendants cross-appeal challenging the overruling of their motion for judgment notwithstanding the verdict. This court dismissed plaintiffs' appeal for failure to comply with some of the rules of this court. Defendants then proceeded with their cross appeal. OPINION HOLDS: I. We see no reason to change our original dismissal of plaintiffs' appeal; we accordingly deny plaintiffs' "motion for leave to cross appeal." II. The trial court order overruling defendants' motion for judgment notwithstanding verdict was not a final judgment; the grant of new trial was appealable, and when plaintiffs appealed from that order defendants were thereby enabled to cross-appeal from the denial of their motion notwithstanding verdict; however, when the plaintiffs' appeal was

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dismissed, there was no longer an appeal from a final judgment to give this court jurisdiction over the defendants' cross-appeal; the dismissal of the plaintiffs' appeal revived the defendants' 30-day right to seek permission to take an interlocutory appeal; however, the defendants did not exercise their right to seek permission to appeal; therefore we have no jurisdiction to entertain defendants' cross-appeal.

No. 61375. SULLIVAN v. SKETE PONTIAC, INC.

Appeal from Story District Court, George G. Fagg, Judge. Reversed and remanded. Considered by Uhlenhopp, P.J., McCormick, Allbee, McGiverin, and Larson, JJ. Opinion by Uhlenhopp, J (8 pages \$3.20)

Plaintiff in automobile accident case appeals from judgment for defendant notwithstanding verdict. OPINION HOLDS: I. Noncompliance with § 321.238, requiring safety inspection of vehicles at the time of their sale, results in retained ownership responsibility under the owner's liability statute, § 321.493, on the part of the seller. II. In order to put teeth into § 321.238, we hold that when a car does not have a valid inspection certificate affixed but a seller sells and transfers it anyway in violation of § 321.238(19), he does so at his own peril insofar as owner's liability is concerned; under such circumstances we consider the seller to be an owner under § 321.493.

No. 2-60914. IN RE THE MARRIAGE OF FLORKE

Appeal from Woodbury District Court, David J. Blair, Judge. Affirmed as modified. Considered en banc. Opinion by Allbee, J. (5 pages \$2.00)

Petitioner appeals from economic provisions of dissolution decree. OPINION HOLDS: I. We affirm trial court's allocation of property rights and financial obligations, subject to three modifications: (1) the husband should not be required to pay the wife's utility bills; (2) the sale of the parties' residence and division of the proceeds of that sale should occur when the youngest surviving child attains majority or graduates from high school, rather than when the mortgages are paid off; and (3) when the house is sold, the husband's alimony obligation will increase from \$20 to \$50 per week to reflect the fact that all of the husband's other obligations will have expired. II. The trial court imposed on the husband an obligation, which we do not disturb, to make payments on the mortgages against the parties' house; however, trial court sought to enforce this obligation by ordering the husband to deliver a quit-claim deed for his interest in the premises to an escrow agent, who in turn is to deliver the deed to the wife in the event of the husband's substantial failure to meet his mortgage obligations; this enforcement mechanism is improper.

No. 2-61112. CRANE V. FULTON

Appeal from Lucas District Court, Robert O. Frederick, Judge. Appeal dismissed. Considered by Rees, P.J., and McCormick, Allbee, McGiverin and Larson, JJ. Opinion by Allbee, J. (4 pages \$1.60)

Plaintiff, acting in his capacity as Executive Director of the Iowa Department of Environmental Quality, appeals the district court order dismissing a petition brought under § 455B.25, The Code, demanding that each defendant be fined \$1500 for burning a building in violation of a DEQ rule. OPINION HOLDS: This court has no jurisdiction because the amount in controversy is less than \$3000 and the trial judge did not certify the cause for appeal.

No. 2-61248: FIRST FEDERAL STATE BANK V. THE TOWN OF MALVERN.

Appeal from Mills District Court, Paul H. Sulhoff, Judge. Reversed on surety's appeal, affirmed on bank's cross-appeal, and remanded. Considered en banc. Opinion by Allbee, J. (7 pages \$2.80)

Contractor's surety appeals and plaintiff bank cross-appeals from judgment awarding assignee-bank of public works contractor the earned but unpaid progress payments and granting balance of fund to surety. OPINION HOLDS: I. Because the contractor could have no possible claim to any fund beyond the earned but unpaid progress payments, and because the surety, through the town, had a right to all contract payments unearned by the contractor, we affirm on the assignee-bank's cross-appeal. II. Section 573.15 refers only to the claims of materialmen; the section simply has no application to a dispute between the town and the contractor over progress payments which are earned before the contractor's default; the town of Malvern had the right to keep the earned but unpaid progress payments when the excess cost of completion was greater than those earned payments; because any dispute between town and contractor would therefore be resolved in the town's favor, the surety, as the town's subrogee, must prevail; on remand trial court shall enter judgment for the entire fund of unpaid progress payments in favor of the surety.

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No. 2-60731. HARTMAN V. MERGED AREA VI COMMUNITY COLLEGE.

Appeal from Hardin District Court, Russell J. Hill, Judge. Reversed. Considered by Rees, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by Allbee, J. (10 pages \$4.00)

Plaintiff brought this action to contest his discharge from a teaching position. The district court found that declining enrollment and the deterioration of a school district's financial position are "good cause" for the dismissal of a teacher under § 279.24, The Code 1973, and dismissed the petition. Plaintiff appeals. OPINION HOLDS: I. The history of the statute does not support defendant's contention that the absence of "other" in the statute's general provision is significant. II. The phrase "any good cause" in § 279.24 takes meaning from the specifics which precede it and refers only to personal faults of the teacher. III. The statutory scheme indicates legislative intent was for "good cause" in § 279.24 to refer only to factors personal to the teacher. IV. The court expresses no opinion regarding the meaning of "just cause" in chapter 279 as amended subsequent to this action's initiation.

No. 2-61559. FRANKLIN MANUFACTURING CO. v. IOWA CIVIL RIGHTS COMMISSION.

Appeal from Greene District Court, M. D. Seiser, Judge. Reversed and remanded. Considered en banc. Opinion by LeGrand, J. Dissent by Harris, J. (14 pages \$5.60)

The Iowa Civil Rights commission appeals from the decree denying its claim of employment sex discrimination by Franklin Manufacturing Company. In this case two employees were denied disability benefits under Franklin's group insurance plan when they took maternity leaves from their employment. OPINION HOLDS: I. In interpreting the Iowa Civil Rights Act, Iowa courts are not bound by federal decisions interpreting the federal civil rights act. II. Section 601A.12 provides that the Iowa Civil Rights Act's prohibitions against sex discrimination and age discrimination do not apply "to any retirement plan or benefit system"; we conclude the legislative purpose and intent was to exempt only those plans or benefit systems relating to retirement; the group insurance plan involved here is not exempt from the provisions of the Iowa Civil Rights Act. III. Interpreting the Iowa Civil Rights Act to prohibit the denial of disability benefits for maternity leave violates neither the supremacy clause nor the equal protection clause of the federal constitution. IV. The Labor Management Relations Act, 29 U.S.C. § 161 et seq., does not pre-empt the field involved here and preclude the application of Iowa law to alter Franklin's group insurance program, even though the program is part of a lawful collective bargaining agreement; labor disputes arising out of collective bargaining agreements are usually pre-empted by federal law; however, an exception to this pre-emption rule is that issues involving matters of vital state public policy are not pre-empted; equal treatment for male and female workers is a matter of vital state public policy; the goals of Iowa's civil rights statute are not inconsistent with the goals of the Labor Management Relations Act, and the federal act does not deprive this court of jurisdiction to hear the instant case. DISSENT ASSERTS: I would affirm for the reasons expressed in my dissent in Quaker Oats Co. v. Cedar Rapids Human Rights Commission.

No. 60582. HAWK CHEVROLET-BUICK, INC. v. INSURANCE COMPANY OF NORTH AMERICA.

Appeal from Pottawattamie District Court, Ernest F. Hanson, Judge. Reversed. Considered en banc. Opinion by Uhlenhopp, J. Dissent by Harris, J. (7 pages \$2.80)

Defendant insurer appeals from judgment for insured in action to recover insurance for aircraft property damage. OPINION HOLDS: I. Under the policy endorsement, when Jim Hawk, an officer of the insured, flew the plane within his ratings the plane was insured, and when he flew the plane beyond his ratings the plane was not insured; on this occasion he flew the plane beyond his ratings and the insurance did not apply. II. The endorsement does not fall within C & J Fertilizer; an insurer does not act unreasonably if it limits its undertaking to flights within the pilot's ratings, and requires its insured to expect that flights must be within the pilot's ratings for the insurance to apply. DISSENT ASSERTS: Informing the insured, prior to the crash, that it was insured, without giving any notice of the suspension provision of the policy, induced an unqualified, yet

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reasonable belief by the insured that it was covered for the crash in the present case; it is especially inappropriate to renounce C & J Fert. or to limit its effect in this case; under C & J Fert. the issue here is not how or whether to regulate either the insured's or the pilot's conduct; the issue is whether the insured corporation had a reasonable expectation of insurance; I would affirm.

No. 60916. CAPITOL CITY DRYWALL CORPORATION v. C. G. SMITH CONSTRUCTION COMPANY.

Appeal from Scott District Court, James R. Havercamp, Judge. Affirmed in part; reversed and remanded in part. Considered by Rees, P.J., McCormick, Allbee, McGiverin and Larson, JJ. Opinion by McCormick, J. (9 pages \$3.60)

Defendants appeal from judgment against them entered in plaintiff's mechanic's lien foreclosure action. OPINION HOLDS: I. When the lien claim does not include the foreclosing plaintiff's entire claim from the transaction the plaintiff may separately plead the remainder of his claim in response to a defendant's pleading of set-off or counterclaim; the trial court did not err in refusing to strike plaintiff's amendment to the petition. II. The evidence shows that the trial court erred in denying deductions of \$1440 and \$960 but was right in denying others. III. Since no basis for personal judgment against the owners was either pled or proved the trial court erred in entering personal judgment against them.

No. 61080. BOLINGER v. KIBURZ.

Appeal from Ringgold District Court, Thomas S. Bown, Judge. Reversed and remanded. Considered by Rees, P.J., Harris, McCormick, McGiverin, and Larson, JJ. Opinion by McCormick, JJ. (7 pages \$2.80)

Plaintiffs' minor son, illegally employed by defendant in a type of job open only to adults, was killed in a vehicular accident during the course of his employment. The plaintiffs contacted an attorney, who obtained a worker's compensation check for \$1000 to cover funeral expenses; the attorney did not tell plaintiffs that worker's compensation was an exclusive remedy or that they had to choose between worker's compensation and a common-law remedy. When the plaintiffs brought the present common-law action for wrongful death, the defendant raised the defense of election of remedies based on plaintiffs' acceptance of the \$1000 check. The trial court found in defendant's favor and entered a summary judgment, from which plaintiffs appeal. OPINION HOLDS: I. A party relying on the doctrine of election of remedies must establish three elements: (1) existence of two or more remedies, (2) inconsistency between them, and (3) a choice of one of them. II. The first element is satisfied because two remedies exist; a 1945 amendment to the worker's compensation statute extended the coverage of that statute to illegally employed minors; we have previously held that this amendment permits but does not require illegally employed minors to resort to the compensation laws. III. The second element of the doctrine of election of remedies is also established; when the plaintiffs received satisfaction on the worker's compensation claim, it then became inconsistent for them to seek the alternative common-law remedy. IV. However, the defendant did not meet his burden to establish the third element of the doctrine of election of remedies; plaintiffs did not make an intelligent or intentional choice of one remedy because they were unaware that the alternative remedy was inconsistent; the third element of the doctrine is not satisfied when the party sought to be bound acted either without full knowledge of the facts or without full knowledge of the correct principles of law applicable to the remedies involved.

SUMMARY OF OPINIONS FROM THE OFFICE OF
ATTORNEY GENERAL RICHARD C. TURNER

SEPTEMBER, 1978

CONSTITUTIONAL LAW

Item Veto, Manner of Exercise. Article III, §16, Constitution of Iowa. In exercising the item veto power, the item vetoed portions of an appropriation bill do not have to be physically removed from the enrolled document and returned to the house of origin and it is sufficient if the Governor's veto message clearly identifies the portions vetoed. The house of origin after entering the vetoed provision on its journal must proceed to reconsider it. (Haesemeyer to Redmond, State Senator, 9-6-78) #78-9-4

COUNTIES AND COUNTY OFFICERS

Hotel and motel tax. Senate File 336, Acts, 67th G.A. (1978). All residents of a county who are otherwise qualified to vote are entitled to vote on the question of whether a county shall impose a hotel and motel tax. (Blumberg to Synhorst, Secretary of State, 9-26-78) #78-9-11

ELECTIONS

Constitutional Law; United States Senator; Qualifications for Office; Inhabitancy. Article I, §3, Clause 3, Constitution of the United States; §§43.5, 44.4, 44.5, 44.6, Code of Iowa, 1977. Objections under §§44.5 and 44.6 to the primary election candidacy of U.S. Senator Dick Clark are inapplicable because Senator Clark is a candidate for nomination under Chapter 43. Moreover, such objections were not timely filed. Federal constitutional qualifications for congressional office exclude all other qualifications and the state constitutions and laws can neither add to nor take away from them. A domicile once established continues until a new one is acquired. The word "residence" used in election statutes and in Article II, §1 of the Constitution means domicile. It is doubtful that a challenge to Senator Clark's qualifications could be successfully mounted on the ground that he is not a resident of Marion, Iowa or that he filed a false affidavit. (Turner to Synhorst, Secretary of State and Koogler, State Representative, 9-14-78) #78-9-8

MOTOR VEHICLES

Passenger and Freight Motor Carrier Safety Rules. §325.38, Code of Iowa, 1977; Administrative Procedures Act, §820-(07,F) 4.9(325). To qualify as exempt from the federal safety regulations adopted in Iowa, an operation must operate wholly within the designated commercial zone. (Hogan to Shaw, Scott County Attorney, 9-8-78) #78-9-6

STATE OFFICERS AND DEPARTMENTS

Open Public Meetings. House File 2074, Acts, 67th G.A. (1978). The new open public meetings law, HF 2074, effective January 1, 1979, does not suffer from the constitutional defects which the Iowa Supreme Court found existed in the present open meetings law insofar as the activities prohibited and criminal sanctions imposed are concerned. (Turner to Redmond, State Senator, 9-7-78) #78-9-5

General Assembly, Member Entitlement to Per Diem and Mileage. §2.10, Code of Iowa, 1977. Members of the General Assembly who served during the 1977 session are entitled to per diem and expenses for the period May 20, 1977 to June 13, 1977. (Haesemeyer to Light, Acting Secretary of the Senate, 9-6-78) #78-9-3

Social Services; Public Records; Abortions. §§68A.1, 68A.2, 68A.7, Code of Iowa, 1977. §68A.2. Any citizen has a right to examine and copy, and the news media may publish, all records and documents belonging to this state or any political subdivision pertaining to abortions or any other medical services, including the names of the doctors, hospitals, nurses or other persons receiving public funds for such services, the number and kind of any such services and the amount of public funds received by each. Any citizen is entitled to develop therefrom statistical information pertaining to such things as the number, ages, sex, marital status, race or religion of patients treated so long as it may be drawn from the records without revealing the identities of those patients. The Iowa Code does not regulate conclusions which can be drawn from this information and the Department of Social Services has no recourse against misrepresentation by the news media or others of information it is authorized or required to provide. (Turner to Baker, Iowa Department of Social Services, 9-20-78) #78-9-10

Airport Commission; Cities and Towns; Officer or Employee; Conflict of Interest. §§330.21, 362.2(8), 362.5, Code of Iowa, 1977. No conflict of interest exists merely because the manager of an airport is a majority stockholder of the corporation which is the fixed-base operator of the airport. Under his management contract with the airport Commission, the manager is neither an officer nor an employee within the meaning of the conflict of interest statute. (Murray to Lightsey, Aeronautics Division, D.O.T., 9-1-78) #78-9-1

Child Care; Licenses. §§237A.1, 237A.2, 237A.3, Code of Iowa, 1977. A relative may provide child care to any number of children within the proper relationship and not be required to register under §237A.3. Once a person provides care to more than six children outside the relationship, however, that person must comply with the registration requirements. The departmental rules would apply to all children (relatives and nonrelatives alike) and the total number in a facility limited. (Robinson to Jackson, Director, Division of Field Operations, IDSS, 9-28-78) #78-9-13

Child Abuse Law. §§235A.1, 235A.5(1), (2), Code of Iowa, 1977; House File 2404, 67th G.A., 1978. The Child Abuse Law, Chapter 235A, as amended, does not allow screening of reports: An appropriate investigation of a child abuse report does not constitute an invasion of privacy. (Robinson to Gurdin, Protective Services Program Manager, IDSS, 9-28-78) #78-9-12

STATUTES

Construction and Interpretation. §§4.11, 332.7, Code of Iowa, 1977. Senate File 7, Acts, 67th G.A. (1977) and Senate File 2107, Acts, 67th G.A. (1978). Senate File 7 and Senate File 2107 both amended §332.7 of the Code. Senate File 7 was effective from January 1, 1978 to July 1, 1978 and the Senate File 2107 was effective from that date on. (Haesemeyer to Redmond, State Senator, 9-12-78) #78-9-9

TAXATION

Authority of Boards of Supervisors Regarding Preparation of Assessment Rolls. §§441.23, 441.26, 441.27, Code of Iowa, 1977. The board of supervisors has no statutory authority to require the assessor to separately list the value of agricultural land and the value of each building located on such land in the assessment rolls sent to agricultural property taxpayers. (Griger to Schneckloth, State Representative, 9-8-78) #78-9-7

Sales Tax on Certain Activities of Clerks of Court. §§422.43, 606.15, Code of Iowa, 1977. The duties performed by the Clerk of Court under §605.15 do not constitute the sale of tangible personal property under §422.43 when copies of documents are made for participants. However, photocopies of documents made by the clerk for third persons would be subject to the Iowa sales tax. (Donahue to Greta, Hardin County Attorney, 9-6-78) #78-9-2

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ATTORNEY GENERAL (cont'd)

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STATUTES CONSTRUED

<u>Code, 1977</u>	<u>Opinion</u>	<u>Code, 1977</u>	<u>Opinion</u>
2.10	78-9-3	237A.1	78-9-13
4.11	78-9-9	237A.2	78-9-13
43.5	78-9-8	237A.3	78-9-13
44.4	78-9-8	325.38	78-9-6
44.5	78-9-8	330.21	78-9-1
44.6	78-9-8	332.7	78-9-9
68A.1	78-9-10	362.2(8)	78-9-1
68A.2	78-9-10	362.5	78-9-1
68A.7	78-9-10	422.43	78-9-2
235A.1	78-9-12	441.23	78-9-7
235A.5(1)	78-9-12	441.26	78-9-7
235A.5(2)	78-9-12	606.15	78-9-2

67th GENERAL ASSEMBLY

Senate File 7	78-9-9	House File 2074	78-9-5
Senate File 336	78-9-11	House File 2404	78-9-12
Senate File 2107	78-9-9		

CONSTITUTION OF IOWA

Article III, §16 78-9-4

CONSTITUTION OF UNITED STATES

Article I, §3,
clause 3 78-9-8