



IOWA ADMINISTRATIVE BULLETIN

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November 4, 2009

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Pages 1141 to 1214

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PREFACE

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

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

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

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

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

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2009

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Thursday, November 12, 2009	December 2, 2009
13	Wednesday, November 25, 2009	December 16, 2009
14	Wednesday, December 9, 2009	December 30, 2009

PLEASE NOTE:

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

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

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

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Endow Iowa tax credits, amendments to ch 47 IAB 10/7/09 ARC 8228B	Iowa Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	November 10, 2009 3:30 to 4:30 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Portfolio review and evaluation fees, 12.8 IAB 11/4/09 ARC 8251B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 25, 2009 1 p.m.
Portfolio review and evaluation for applicants from non-Iowa institutions, 13.3 IAB 11/4/09 ARC 8249B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 25, 2009 1 p.m.
Exchange licenses for applicants from non-Iowa institutions, 13.17 IAB 11/4/09 ARC 8250B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 25, 2009 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Outstanding Iowa waters, ch 61 IAB 8/12/09 ARC 8038B (See Regulatory Analysis, IAB 10/21/09)	Auditorium, Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	November 10, 2009 1 p.m.
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INSPECTIONS AND APPEALS DEPARTMENT[481]

Health care facilities, 50.10 to 50.13, 56.3, 56.6, 56.13 to 56.16, 58.57 IAB 10/7/09 ARC 8190B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	November 19, 2009 3 p.m.
	Room 118, Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	November 19, 2009 3 p.m.
	Room 024, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	November 19, 2009 3 p.m.
	Room D, Public Library 123 S. Linn St. Iowa City, Iowa	November 19, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	November 19, 2009 3 p.m.
	Room 106, Activity Center North Iowa Community College 500 College Dr. Mason City, Iowa	November 19, 2009 3 p.m.
	Room 2, Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	November 19, 2009 3 p.m.
	Public Library 529 Pierce St. Sioux City, Iowa	November 19, 2009 3 p.m.

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Title guaranty division, amendments to ch 9 IAB 11/4/09 ARC 8264B	Iowa Finance Authority Office 2015 Grand Ave. Des Moines, Iowa	November 24, 2009 1 p.m.
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OSHA standards; amusement ride reinspection fee, 10.20; ch 35 title; 61.1(2) IAB 10/21/09 ARC 8241B	Stanley Room Iowa Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	November 17, 2009 2 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Continuing education for plumbing and mechanical systems professionals, ch 30 IAB 11/4/09 ARC 8268B (ICN Network)	National Guard Armory 3200 2nd Mech Dr. Sioux City, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Iowa Western Community College – 3 2700 College Rd. Council Bluffs, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	National Guard Armory 3306 Airport Blvd. Waterloo, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	State Historical Building 600 E. Locust Des Moines, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Iowa Western Community College – 2 923 E. Washington Clarinda, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	National Guard Armory 1160 19th St. SW Mason City, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Crestwood High School 1000 4th Ave. East Cresco, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Archdiocesan Pastoral Center 1229 Mount Loretta Dubuque, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	November 24, 2009 11 a.m. to 1 p.m.
	Prairie Lakes AEA 1 Triton Circle, Library Bldg. Fort Dodge, Iowa	November 24, 2009 11 a.m. to 1 p.m.

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**(ICN Network)**

University of Iowa – 1
Room 103, North Hall
End of N. Madison St.
Iowa City, Iowa

November 24, 2009
11 a.m. to 1 p.m.

Burlington High School
421 Terrace Dr.
Burlington, Iowa

November 24, 2009
11 a.m. to 1 p.m.

UTILITIES DIVISION[199]

Electric interconnection of
distributed generation facilities,
amend 15.8, 15.10, 15.11(4);
adopt ch 45
IAB 10/7/09 **ARC 8201B**

Board Hearing Room
350 Maple St.
Des Moines, Iowa

December 10, 2009
10 a.m.

High-volume access service,
22.1(3), 22.14(2), 22.20(5)
IAB 10/7/09 **ARC 8227B**

Board Hearing Room
350 Maple St.
Des Moines, Iowa

December 8, 2009
9 a.m.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa veterans home,
10.36, 10.43, 10.47
IAB 10/21/09 **ARC 8235B**

Ford Memorial Conference Room
Iowa Veterans Home
1301 Summit St.
Marshalltown, Iowa

November 11, 2009
1 p.m.
(If requested)

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

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

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

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

The following list will be updated as changes occur:

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ARC 8257B

ATTORNEY GENERAL[61]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 809A.25, the Attorney General hereby gives Notice of Intended Action to amend Chapter 33, “Forfeited Property,” Iowa Administrative Code.

Forfeited property may be used by the Attorney General (the Department of Justice or “the Department”) in the enforcement of the criminal law. The Department may give forfeited property to any other law enforcement agency within the state if, in the opinion of the Attorney General and pursuant to Iowa Code section 809A.17, it will enhance law enforcement within the state.

The proposed amendments increase the amount of forfeited funds retained by the Department from 10 percent to 20 percent and decrease the amount of forfeited funds given to local law enforcement agencies from 90 percent to 80 percent. The proposed amendments also increase the fee charged by the Department for transfer of title of forfeited vehicles from \$100 to \$200. In addition, the proposed amendments set at 20 percent the amount of proceeds from the sale of forfeited real estate retained by the Department.

The increased revenue to the Department will help the Department to execute its duty to enforce criminal law in the state of Iowa through its Criminal Appeals Division, its Area Prosecutions Division, and its Prosecuting Attorneys Training Coordinator.

The proposed amendments also impose a requirement on law enforcement agencies to notify the Department whenever they seize property for forfeiture. This change is intended to facilitate effective oversight of forfeiture proceedings throughout the state and to enable the Department to monitor the handling of these public funds.

The proposed rules are not subject to waiver. The reporting requirement is not onerous; seeking a waiver would require more effort on the part of the local agency than complying with the rule. As to the amount remitted to the local agency, the 80 percent proposed by this rule making puts the state of Iowa in line with the United States Department of Justice’s practice of returning 80 percent of federal forfeiture proceeds to local seizing law enforcement agencies.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 24, 2009. Such written material should be directed to Thomas H. Miller, Deputy Attorney General, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319; fax (515)281-4209. Persons who wish to convey their views orally should contact Thomas H. Miller at (515)281-3349.

These amendments are intended to implement Iowa Code chapter 809A.

The following amendments are proposed.

ITEM 1. Amend rule 61—33.3(809A) as follows:

61—33.3(809A) Notice to department of ~~forfeited~~ property.

33.3(1) An agency which seizes ~~real~~ property for forfeiture must notify the department within ten days of the seizure. Notice shall include the identity of the party from whom the property was seized, the date and county of seizure, and an inventory of the property seized for forfeiture.

33.3(2) A prosecuting attorney who obtains a declaration of forfeiture or an order forfeiting property must provide the department with a copy of the declaration or the order forfeiting the property within ten working days of receiving the order.

ATTORNEY GENERAL[61](cont'd)

ITEM 2. Adopt the following **new** paragraph **33.4(4)“e”**:

e. The department will retain 20 percent of the gross sale price of the real property. The balance of the proceeds, 80 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

ITEM 3. Amend paragraph **33.4(6)“c”** as follows:

c. The department requires payment of a fee of \$100 \$200 for processing the transfer of title to a vehicle.

ITEM 4. Adopt the following **new** subrule 33.4(7):

33.4(7) Cash.

a. The department will retain 20 percent of forfeited cash. The balance of forfeited cash, 80 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.

b. In the event of a cash forfeiture in excess of \$400,000, amounts over \$400,000 shall be apportioned as follows: 40 percent to the seizing agency or agencies; 40 percent to other law enforcement agencies within the region; and 20 percent to be retained by the department.

ITEM 5. Amend rule 61—33.5(809A) as follows:

61—33.5(809A) Use by the department.

~~**33.5(1)** The department will review each item of forfeited property to determine if it is of a nature that would be useful to the department in enforcement of the law. If such a use exists, the department may take possession of the property and retain ownership instead of transferring it to the seizing agency.~~

~~**33.5(2)** The department will retain 10 percent of forfeited cash. The balance of forfeited cash, 90 percent, will be given to the seizing agency for its use or for division among law enforcement agencies and prosecutors pursuant to agreement.~~

~~**33.5(3)** In the event of a cash forfeiture in excess of \$400,000, amounts over \$400,000 shall be apportioned as follows: 45 percent to the seizing agency or agencies; 45 percent to other law enforcement agencies within the region; and 10 percent to be retained by the department.~~

ARC 8275B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Termination

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on July 15, 2009, as **ARC 7955B** to amend Chapter 36, “Film, Television, and Video Project Promotion Program,” Iowa Administrative Code.

The Department held a public hearing on August 4, 2009, and received a number of comments about the proposed amendments. Many of the changes suggested are beyond the scope of this Notice of Intended Action. It is anticipated that there will be recommendations from the Attorney General’s office, the State Auditor and the Department of Revenue about this program. This Notice is being terminated to give the Department time to review the comments and recommendations and prepare a new filing to amend the program rules.

The IDED Board approved the filing of this Notice of Termination on October 15, 2009.

ARC 8273B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Termination

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development terminates the rule making initiated by its Notice of Intended Action published in the Iowa

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Administrative Bulletin on September 23, 2009, as **ARC 8148B** to amend Chapter 59, "Enterprise Zone Program," Iowa Administrative Code.

The proposed amendment would have permitted the Department, at its discretion, to limit the amount of state housing investment tax credit awarded to projects also utilizing federal low-income housing tax credits to 30 percent of the total amount of housing tax credit allocated or awarded to housing by the Department during the fiscal year. Upon reconsideration, the Department determined that there is not a need for the amendment at this time.

The IDED Board approved the filing of this Notice of Termination on October 15, 2009.

ARC 8251B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 12, "Fees," Iowa Administrative Code.

The proposed amendment establishes a portfolio review and evaluation process fee, which is necessary due to the many staff hours that are required to review each applicant portfolio.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 25, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Monday, November 30, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt the following **new** rule 282—12.8(272):

282—12.8(272) Portfolio review and evaluation fees. The fee for review and evaluation of an applicant portfolio is set as follows:

12.8(1) For the professional education core, the portfolio review and evaluation fee shall be \$500.

12.8(2) For content endorsement, the portfolio review and evaluation fee shall be \$250.

ARC 8249B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

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

The proposed amendment to the rules for the portfolio review and evaluation process ensures that applicants who are completing nontraditional teacher preparation programs meet the same basic requirements as other applicants for Iowa licensure.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 25, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Monday, November 30, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—13.3(272) as follows:

282—13.3(272) Applicants from ~~recognized~~ non-Iowa institutions.

13.3(1) Requirements for applicants from non-Iowa institutions. An applicant for ~~initial~~ licensure who completes the teacher, administrator, or school service personnel preparation program from a ~~recognized~~ non-Iowa institution shall verify the requirements of either subrule 13.18(4) or 13.18(5).

13.3(2) Requirements for applicants from non-Iowa traditional teacher preparation programs. Provided all requirements for Iowa licensure have been met through a state-approved regionally accredited teacher education program at the graduate or undergraduate level in which college or university credits were given and student teaching was required, the applicant shall:

- a. Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, and
- b. Submit a copy of a valid regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate, and
- c. Provide verification of successfully passing mandated tests in the state in which the applicant is currently licensed if the applicant has fewer than three years of teaching experience.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~13.3(1)~~ **13.3(3)** *Requirements for ~~an alternative~~ applicants from out-of-state nontraditional teacher preparation license for out-of-state candidates programs.* An applicant who holds a valid license from another state and whose preparation was completed through a state-approved alternative nontraditional teacher preparation program must:

a. Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.

b. Provide a valid out-of-state teaching license based on a state-approved alternative nontraditional teacher preparation program.

c. Provide a recommendation from a regionally accredited institution, department of education, or a state's standards board indicating the completion of an approved alternative nontraditional teacher preparation program.

d. Provide an official institutional transcript(s) to be analyzed for the requirements necessary for full Iowa licensure based on 13.9(4) "a"(1) to (7), ~~and~~ 13.9(4) "c"(1) to (5), and 13.18(2).

e. Meet the recency requirements listed in 13.10(3).

~~e. f.~~ If the applicant has ~~completed~~ fewer than three years of teaching experience, provide verification from the state licensing agency/department in the state where the alternative nontraditional teacher preparation program was completed indicating that the applicant has successfully passed that state's mandated tests.

~~f. g.~~ Verify Complete a student teaching or internship experience or verify three years of teaching experience, which will waive the student teaching requirement.

h. If through a transcript analysis the professional education core requirements set forth in 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) and the content endorsement requirements may be identified by course titles, published course descriptions, and grades, then the transcripts will be reviewed to determine the applicant's eligibility for an Iowa teaching license. However, if the professional education core requirements of 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) and the content endorsement requirements cannot be reviewed in this manner, a portfolio review and evaluation process will be utilized.

13.3(4) *Portfolio review and evaluation process.* An applicant whose professional education core requirements pursuant to 13.9(4) "a"(1) to (7), 13.9(4) "c"(1) to (5), and 13.18(2) or whose content endorsement requirements for special education could not be reviewed through transcript analysis may submit to the board a portfolio in the approved format for review and evaluation.

a. An applicant must demonstrate proficiency in seven of the nine standards in the Iowa professional education core, set forth in 13.18(4) "a" to "i," to be eligible to receive a license.

b. An applicant must have completed at least 50 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who does not have at least 50 percent of one content endorsement area completed will not be issued a license.

c. An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.

d. Any deficiencies in the professional education core as set forth in 13.18(4) "a" to "i" or in the special education content endorsement area that are identified during the portfolio review and evaluation process shall be met through coursework with course credits completed at a state-approved, regionally accredited institution or through courses approved by the executive director. Other content deficiencies may be met through coursework in a two- or four-year institution in which course credits are given.

~~13.3(2)~~ **13.3(5)** *Definitions.* A ~~recognized non-Iowa teacher preparation institution~~ is one "Recognized non-Iowa teacher preparation institution" means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

"Nontraditional" means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

“Proficiency,” for the purposes of 13.3(4) “a,” means that an applicant has passed all parts of the standard.

ARC 8250B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

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

The proposed amendment to the rules regarding exchange license requirements for applicants who submit a portfolio for review and evaluation pursuant to proposed subrule 13.3(4) [see **ARC 8249B** herein] ensures that applicants who are completing nontraditional teacher preparation programs meet the same basic requirements as other applicants for Iowa licensure.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 25, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Monday, November 30, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—13.17(272) as follows:

282—13.17(272) Specific requirements for exchange licenses. An applicant seeking Iowa licensure who completes the teacher preparation program from a recognized non-Iowa institution shall verify the requirements of subrules 13.18(4) and 13.18(5) through traditional course-based preparation program and transcript review. A recognized non-Iowa teacher preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants for nontraditional exchange licenses are not required to have received their preparation through regionally approved teacher education programs.

13.17(1) One-year teacher exchange license.

a. ~~A~~ For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to ~~an~~ the applicant under the following conditions:

(1) to (7) No change.

b. No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~13.17(2) Two-year nonrenewable school counseling exchange license.~~

~~a. A two-year nonrenewable school counseling exchange license may be issued to an individual, provided that the individual:~~

~~(1) Has completed a regionally accredited master's degree program in school guidance counseling.~~

~~(2) Holds a valid school counseling certificate or license issued by an examining board which issues certificates or licenses based on requirements which are substantially equivalent to those of the board of educational examiners.~~

~~(3) Meets the qualifications in Iowa Code section 272.6.~~

~~(4) Is not subject to any pending disciplinary proceeding in any state.~~

~~b. Each exchange license shall be limited to the area(s) and level(s) of counseling as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the school counseling license was completed.~~

~~c. Each applicant for the exchange license shall comply with all requirements with regard to application processes and payment of licensure fees.~~

~~d. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for a regular educational license in Iowa.~~

~~e. Individuals licensed under this provision are subject to the administrative rules of the board.~~

13.17(2) Two-year nontraditional exchange license. For an applicant applying under 13.3(3) and 13.3(4), a two-year nontraditional teacher exchange license may be issued to the applicant from state-approved preparation programs, under the following conditions:

a. The applicant has met the requirements of 13.3(4) "a" and "b."

b. The applicant has met the requirements of 13.17(1) "a"(3) through (7).

c. To convert the two-year nontraditional exchange license, the applicant must meet all deficiencies as well as meet the Iowa teaching standards as determined by a comprehensive evaluation by a licensed evaluator, and the applicant shall have two years of successful teaching experience in Iowa. The evaluator may recommend extending the license for a third year to meet Iowa teaching standards.

d. The license may be extended to meet the requirements for two years of successful teaching in Iowa with proof of employment.

13.17(3) No change.

ARC 8272B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 234.6(4), 239B.4(6), and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 65, "Food Assistance Program Administration," Chapter 75, "Conditions of Eligibility," Chapter 76, "Application and Investigation," and Chapter 92, "IowaCare," Iowa Administrative Code.

The proposed amendments would:

- Enable people to gain or regain Family Investment Program, Food Assistance, or Medicaid eligibility after denial or cancellation of assistance due to lack of information or lack of an interview when the required information is provided or the interview is completed within 14 days of the cancellation or denial. A new application would not be required.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Exempt all reasonable income-producing costs from gross unearned income to align policies between unearned lump-sum income and other types of unearned monthly income.
- Allow flexibility for workers to complete application interviews for the Family Investment Program by telephone or face to face and make an interview optional for reviews.
- Make technical corrections to update form numbers and procedures.

Allowing a grace period to cure a denial or cancellation will streamline the eligibility determination process for applicants and members and for Department staff. Iowa has received approval of a waiver from the USDA Food and Nutrition Service to allow reinstatement of Food Assistance without a new application. The waiver will allow uniform processing standards across programs. The changes will reduce the “churning” of otherwise eligible people in and out of programs for procedural reasons.

Changes in the FIP interview requirement will increase flexibility in interviewing requirements and reduce unnecessary procedural requirements. Developing processing efficiencies is essential because Department caseloads are very high. Participation in the Food Assistance and Medicaid programs is at an all-time high, and the Family Investment Program caseload is increasing after years of steady decline. The combined effect of increased use of Department programs has increased the average caseload for an income maintenance worker over 15 percent, from 467 in June 2008 to 540 in June 2009. Based on the current number of staff, the projected average caseload would increase to 594 by June 2011.

These amendments do not provide for waivers in specified situations because allowing a grace period for establishing eligibility, allowing more income deductions, and waiving some interview requirements are all benefits to clients.

Any interested person may make written comments on the proposed amendments on or before November 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 234.12, 239B.2, 239B.3, 239B.7, and 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 40.22(5) as follows:

40.22(5) Reinstatement.

a. Assistance shall be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished, or the family meets the conditions described at 441—subparagraph 41.30(3)“d”(9) 41.30(3)“f”(9). EXCEPTION: The reinstatement provisions of subrule 40.22(5) do not apply when assistance is canceled due to the imposition of a subsequent limited benefit plan as described at 441—subrule 41.24(8)-, unless the limited benefit plan is stopped as described in 441—paragraph 41.24(8)“g” or “h.”

b. ~~Rescinded IAB 7/11/01, effective 9/1/01.~~ When assistance has been canceled for failure to provide requested information, assistance shall be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date all information required to establish eligibility is provided.

c. ~~When eligibility factors are met, assistance shall be reinstated when~~ When assistance has been canceled for failure to return a completed Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document review form pursuant to subrule 40.27(3), assistance shall be reinstated without a new application if the completed form is received by the department within ten 14 days of the effective date a of cancellation notice is sent to the recipient because the form was incomplete or not returned and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the Review/Recertification Eligibility Document is received.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~d. Rescinded, effective October 1, 1985. When assistance has been canceled for failure to complete a required review interview, assistance shall be reinstated without a new application if the interview is completed and all necessary information to determine eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility is reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date the interview is completed.~~

ITEM 2. Adopt the following new subrule 40.23(4):

40.23(4) Grace period.

a. When an application has been denied for failure to provide requested information, if all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date all of the information is provided.

b. When an application has been denied for failure to attend an interview, if the interview is completed and all necessary information to establish eligibility, including verification of any changes, is provided within 14 days of the date of denial, a new application is not required. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information. If eligibility can be established, the effective date of assistance is the date the interview is completed or the date all of the information is provided, whichever is later.

ITEM 3. Amend subrule **40.24(2)**, introductory paragraph, as follows:

~~**40.24(2)** In processing an application, the The department or the designated worker as described in subrule 40.23(1) who is in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided shall conduct at least one a face-to-face or telephone interview with the applicant before approval of the initial application for assistance and a face-to-face or telephone interview before approval of any subsequent application for assistance.~~

ITEM 4. Amend subrule 40.27(1) as follows:

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program.

~~a. A semiannual review shall be conducted using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.~~

~~b. An interview shall may be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.~~

~~c. When the client has completed a Health and Financial Support Application, Form 470-0462 or 470-0466 (Spanish), for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.~~

ITEM 5. Amend subrules 40.27(3) and 40.27(4) as follows:

40.27(3) Information for semiannual reviews ~~and the annual determination interview~~ shall be submitted on Form 470-2881, 470-2881(M), ~~470-4083 (Spanish)~~ 470-2881(S), or ~~470-4083(M)~~ 470-2881(MS), Review/Recertification Eligibility Document (RRED).

a. The department shall supply the review form to the recipient as needed or upon request. The department shall pay the cost of postage to return the form.

(1) When the review form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the seventh day after the date it is mailed by the department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

~~a. b.~~ When the client has completed Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as ~~the quarterly report or~~ as the review document for ~~the semiannual or annual review.~~

~~b. c.~~ The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf.

40.27(4) Responsibilities of recipients. For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The recipient shall cooperate by giving complete and accurate information needed to establish eligibility and the amount of the family investment program grant.

b. The recipient shall complete ~~Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document,~~ the required review form when requested by the department in accordance with ~~these rules~~ subrule 40.27(3). ~~The department shall supply the form as needed to the recipient. The department shall pay the cost of postage to return the form.~~

~~(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the fifth calendar day of the following month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the department by the seventh day after the date it is mailed by the department.~~

~~(2) The department shall supply the recipient with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.~~

~~(3) Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated and accompanied by verification as required in 441—paragraphs 41.27(1) "i" and 41.27(2) "q."~~

c. The recipient has the primary responsibility for providing information and verification needed to establish eligibility and the amount of the family investment program grant. The recipient shall supply, insofar as the recipient is able, information and verification needed within ~~five~~ ten working days from the date a written request is mailed by the department to the recipient's current mailing address or given to the recipient. The department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) to (3) No change.

d. to g. No change.

ITEM 6. Amend subrule 41.27(1), introductory paragraph, as follows:

41.27(1) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (~~federal insurance contribution~~ Federal Insurance Contribution Act, state and federal income taxes). Net unearned income, ~~from investment and nonrecurring lump sum payments,~~ shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

ITEM 7. Amend subparagraph **41.27(2)"m"(1)** as follows:

(1) \$41 plus an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp assistance~~ program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food ~~stamp allotment in the food stamp assistance~~ program benefit for a one-member household for a boarder.

ITEM 8. Amend paragraph **41.27(6)"b"** as follows:

b. The value of the ~~coupon allotment in the food stamp assistance~~ program benefit.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 9. Amend subparagraph **41.27(9)“b”(1)** as follows:

(1) The department shall prospectively compute eligibility and benefits when a ~~Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M)~~, review information is completed submitted as described in ~~441—40.27(239B)~~ 441—subrule 40.27(3). All countable earned and unearned income received by the eligible group during the previous 30 days shall be used to project future income. If the participant indicates that the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

ITEM 10. Amend subparagraph **65.4(5)“a”(1)** as follows:

(1) The client shall sign Form 470-2827, ~~Offline Food Stamp~~ POS Voucher, to authorize a debit of the household's EBT account.

ITEM 11. Amend subrule 65.20(1) as follows:

65.20(1) Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, 470-2881(M), ~~470-4083 (Spanish)~~ 470-2881(S), or ~~470-4083(M)~~ 470-2881(MS), Review/Recertification Eligibility Document (RRED), or a hand-issued Form 470-0325, Notice of Expiration.

ITEM 12. Strike the word “stamp” wherever it appears in subrule **65.28(19)** and insert the word “assistance” in lieu thereof.

ITEM 13. Adopt the following new subrule 65.29(12):

65.29(12) *Unearned income.* Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to the household.

ITEM 14. Amend rule 441—65.44(234) as follows:

441—65.44(234) Reinstatement.

65.44(1) The department shall reinstate assistance without a new application when the element that caused termination of a case no longer exists and eligibility can be reestablished prior to the effective date of cancellation.

65.44(2) When assistance has been canceled for failure to provide requested information, assistance shall be reinstated without a new application if all information necessary to establish eligibility, including verification of any changes, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. The effective date of assistance shall be the date all information required to establish eligibility is provided.

ITEM 15. Rescind and reserve rule **441—75.51(249A)**.

ITEM 16. Amend rule 441—75.52(249A) as follows:

441—75.52(249A) Continuing eligibility.

75.52(1) *Reviews.* Eligibility factors shall be reviewed at least annually for the FMAP-related programs.

~~a.~~ Reviews shall be conducted using information contained in and verification supplied with ~~Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M)~~, ~~Review/Recertification Eligibility Document~~ the review form specified in subrule 75.52(3).

~~b.~~ ~~Family medical assistance-related medically needy recertifications shall be conducted using information contained in and verification supplied with Form 470-3118 or 470-3118(S), Medicaid Review.~~

75.52(2) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

75.52(3) Forms.

a. Information for the annual review shall be submitted on Form 470-2881, 470-2881(M), ~~470-4083 (Spanish)~~ 470-2881(S), or ~~470-4083(M)~~ 470-2881(MS), Review/Recertification Eligibility Document (RRED), with the following exceptions:

~~a.~~ (1) When the client has completed Form 470-0462 or 470-0466 (Spanish), Health and Financial Support Application, for another purpose, this form may be used as the review document for the ~~semiannual~~ or annual review.

~~b.~~ (2) Information for recertification of family medical assistance-related medically needy shall be submitted on Form 470-3118 or 470-3118(S), Medicaid Review.

b. The department shall supply the review form to the client as needed, or upon request, and shall pay the cost of postage to return the form.

(1) When the review form is issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the following month.

(2) When the review form is not issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date the form is mailed by the department.

(3) A copy of a review form received by fax or electronically shall have the same effect as an original form.

c. No change.

75.52(4) Client responsibilities. For the purposes of this subrule, "clients" shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The client shall cooperate by giving complete and accurate information needed to establish eligibility.

b. The client shall complete ~~Form 470-2881, 470-2881(M), 470-4083(Spanish), or 470-4083(M), Review/Recertification Eligibility Document (RRED), or Form 470-3118 or 470-3118(S), Medicaid Review,~~ the required review form when requested by the department in accordance with these rules subrule 75.52(3). ~~The department shall supply the form to the client as needed, or upon request, and shall pay the cost of postage to return the form.~~

~~(1) When the form is issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the fifth calendar day of the review month.~~

~~(2) When the form is not issued in the department's regular end-of-month mailing, the client shall return the completed form to the department by the seventh day after the date it is mailed by the department.~~

~~(3) If the department does not receive a completed form, assistance shall be canceled. A completed form is one that has all items answered, is signed, is dated, and is accompanied by verification as required in paragraphs 75.57(1) "f" and 75.57(2) "l."~~

~~(4) A copy of a form received by fax or electronically shall have the same effect as an original form.~~

c. to h. No change.

75.52(5) No change.

ITEM 17. Amend subrule 75.57(1) as follows:

75.57(1) Unearned income. Unearned income is any income in cash that is not gained by labor or service. When taxes are withheld from unearned income, the amount considered will be the net income after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Net unearned income, ~~from investment and nonrecurring lump sum payments,~~ shall be determined by deducting reasonable income-producing costs from the gross unearned income. Money left after this deduction shall be considered gross income available to meet the needs of the eligible group.

a. to e. No change.

f. The client shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—75.50(249A).

(1) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) When the client notifies the department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy before the eligibility month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), applicable to the eligibility month, whichever is later.

ITEM 18. Amend subparagraph **75.57(2)“h”(1)** as follows:

(1) \$41 plus an amount equivalent to the monthly maximum food stamp allotment in the food stamp assistance program benefit for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or \$41 for a roomer, or an amount equivalent to the monthly maximum food stamp allotment in the food stamp assistance program benefit for a one-member household for a boarder.

ITEM 19. Amend paragraph **75.57(6)“b”** as follows:

b. The value of the coupon allotment in the food stamp assistance program benefit.

ITEM 20. Amend subparagraph **75.57(9)“a”(1)** as follows:

(1) Upon application, the department shall use all earned and unearned income received by the eligible group during the 30 days before the application date to project future income. ~~EXCEPTION: If the applicant provides verification that the 30-day period specified above is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.~~ Allowable work expenses shall be deducted from earned income, except in determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of initial eligibility is a three-step process as described at rule 441—75.57(249A).

ITEM 21. Amend rule 441—76.2(249A) as follows:

441—76.2(249A) Information and verification procedure. The decision with respect to eligibility shall be based primarily on information and verification furnished by the applicant or member. ~~The department shall notify the applicant or member in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally, or by mail or facsimile. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration (SSA) shall make application to the SSA within five working days of referral by the department. If, by the due date, the department does not receive the information or verification requested, an authorization to obtain the specific information or verification requested, or a request for an extension of the due date, the application shall be denied or assistance canceled. Signing a general authorization for release of information to the department does not meet this responsibility. Five working days shall be allowed for the applicant or member to supply and the department to receive the information or verification requested. The department may extend the deadline for a reasonable period of time when the applicant or member is making every effort but is unable to secure the required information or verification from a third party.~~

76.2(1) to 76.2(3) No change.

76.2(4) Monthly reporting Providing additional information. ~~Rescinded IAB 10/4/00, effective 10/1/00.~~ The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally or by mail or facsimile.

a. The department shall allow the applicant five working days to supply the information or verification requested. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration shall make application to the Social Security Administration within five working days of referral by the department.

b. The department may extend the deadline for a reasonable period of time when the applicant is making every effort but is unable to secure the required information or verification from a third party.

c. The application shall be denied or assistance shall be canceled if the department does not receive one of the following by the due date:

(1) The information or verification,

(2) An authorization to obtain the information or verification, or

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) A request for an extension of the due date.

d. If benefits are denied for failure to provide information and the information is provided within 14 calendar days of the effective date of the denial, the department shall complete the eligibility determination as though the information were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant shall have until the next business day to provide the information.

76.2(5) No change.

ITEM 22. Adopt the following **new** subrule 76.5(4):

76.5(4) Reinstatement.

a. Eligibility for medical assistance may be reinstated without a new application when all information necessary to establish eligibility, including verification of any changes, is provided within 14 calendar days of the effective date of the cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

b. When medical assistance has been canceled for failure to return a completed review form as required by subrule 75.52(3), assistance may be reinstated without a new application if the department receives the completed form within 14 calendar days of the effective date of cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

ITEM 23. Amend subrule 76.7(1), introductory paragraph, as follows:

76.7(1) The member shall supply, insofar as the member is able, additional information needed to establish eligibility within ~~five~~ **ten** working days from the date a written request is issued.

ITEM 24. Adopt the following **new** paragraph **92.4(1)“c”**:

c. If benefits are denied or canceled for failure to provide information and the information is provided within 14 calendar days of the effective date of the denial or cancellation, the department shall complete eligibility determination as though the information were received timely. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information.

ITEM 25. Adopt the following **new** subrule 92.6(4):

92.6(4) Reinstatement. Eligibility for IowaCare may be reinstated without a new application when all information necessary to establish eligibility, including verification of any changes, is provided within 14 calendar days of the effective date of the cancellation. If the fourteenth calendar day falls on a weekend or state holiday, the client shall have until the next business day to provide the information. When eligibility can be reestablished, assistance shall be reinstated with an effective date of the first day of the month following the month of cancellation.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 92, “IowaCare,” Iowa Administrative Code.

IowaCare rules are amended to:

- Change the cross reference to Medicaid citizenship requirements to clarify that all requirements for documentation of citizenship apply equally to IowaCare applicants.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Require use of Form 470-4542, IowaCare Insurance Information Request, to gather health insurance information from an IowaCare member. The member must complete the form to confirm the status of the member's group health insurance.

One of the eligibility requirements for IowaCare is that a person who has access to group health insurance is not eligible. If the Iowa Medicaid Enterprise discovers through data matches with insurance carriers that the IowaCare member has health insurance, additional information is needed to determine if the member remains eligible. An IowaCare member is not considered to have access to group health insurance if certain conditions exist. Form 470-4542 assists the Department in establishing the presence of these conditions.

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

Any interested person may make written comments on the proposed amendments on or before November 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 249J.

The following amendments are proposed.

ITEM 1. Amend subrule 92.2(2) as follows:

92.2(2) Citizenship. To be eligible for IowaCare benefits, a person must meet the requirements in ~~441—paragraph 75.11(2)“a.”~~ 441—subrule 75.11(2). A person who claims a qualified alien status shall provide documentation of this status.

ITEM 2. Amend subrule 92.2(4), introductory paragraph, as follows:

92.2(4) Group health insurance. A person who has access to group health insurance is not eligible for IowaCare. The department shall use Form 470-4542, IowaCare Insurance Information Request, to obtain information to confirm the status of an IowaCare member's group health insurance. An applicant or member shall not be considered to have access to group health insurance if any of the following conditions exist:

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments:

- Enable families to regain Child Care Assistance eligibility after cancellation or denial of assistance when the required information is provided or the interview is completed within 14 days of cancellation or denial. Similar changes are being made in the Food Assistance, Family Investment, Medicaid, HAWK-I, and IowaCare programs to streamline eligibility determination.

- Specify that a family cannot receive Child Care Assistance before the date of application or the date the need for child care services begins, whichever is later. Since families receiving assistance through the Family Investment Program do not have to file a formal application, the effective date of Child Care Assistance shall be the latest of the effective date of Family Investment Program assistance, 30 days

HUMAN SERVICES DEPARTMENT[441](cont'd)

before the date the family requested Child Care Assistance, or the date the need for child care services begins.

- Clarify existing policy and practice on application forms and time frames and on documenting the need for protective child care.
- Update or delete outdated language and references, including the requirement that a provider develop an individual program plan for a child whose need for care is protective.

These amendments do not provide for waivers in specified situations. A grace period for reestablishing eligibility without an application after denial or cancellation is beneficial to applicants and recipients. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before November 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 237A.13.

The following amendments are proposed.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “Child with protective needs,” as follows:

“Child with protective needs” means a child who is not in foster care and has a case plan file that identifies protective child care as a required service and who is a member of a family with one of the following: safety or well-being need to prevent or alleviate the effects of child abuse or neglect. Child care is provided as part of a safety plan during a child abuse or child in need of assistance assessment or as part of the service plan established in the family’s case plan. The child must have:

1. *A confirmed case of An open child abuse assessment; -*
2. *Episodes of family or domestic violence or substance abuse which place the child at risk of abuse or neglect and have resulted in a service referral to family preservation or family-centered services. An open child in need of assistance assessment;*
3. *An open child welfare case as a result of a child abuse assessment;*
4. *A petition on file for a child in need of assistance adjudication; or*
5. *Adjudication as a child in need of assistance.*

ITEM 2. Amend subparagraph **170.2(1)“d”(10)** as follows:

(10) The value of the food assistance allotment under the Food Stamp and Nutrition Act of 1964 2008.

ITEM 3. Amend subparagraph **170.2(2)“b”(3)** as follows:

(3) The parent has a child with protective needs for child care as part of a protective service plan to prevent or alleviate child abuse or neglect.

ITEM 4. Amend rule 441—170.3(237A,239B) as follows:

441—170.3(237A,239B) Application and determination of eligibility.

170.3(1) Application process.

a. Application for child care assistance may be made at any local office of the department on:

- (1) Form 470-3624 or 470-3624(S), Child Care Assistance Application, or
- (2) Form 470-0462 or 470-0466, Health and Financial Support Application, or
- (3) Form 470-4377 or 470-4377(S), Child Care Assistance Review, when returned after the end of the certification period.

b. No change.

c. The date of application is the date a signed application form containing a legible name and address is received in the department office. An electronic or paper application delivered to a closed office is considered to be received on the first day following the day the office was last open that is not a weekend or state holiday.

d. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

170.3(2) Exceptions to application requirement. ~~Applications are~~ An application is not required for:

- a. No change.
- b. Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients. The date of application is the date the family requests child care assistance from the department.
- c. Families A child with protective ~~service~~ needs.
- d. No change.
- e. Families whose application has been denied for failure to provide requested information who have provided all necessary information to determine eligibility within 14 days of the denial of the application, or by the next working day if the fourteenth day falls on a weekend or state holiday.

170.3(3) Application processing. The department shall approve or deny an application as soon as possible, but no later than 30 days following the date the application was received. This time limit shall apply except in unusual circumstances, such as when the department and the applicant have made every reasonable effort to secure necessary information that has not been supplied by the date the time limit expires, or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

- a. No change.
- b. The department shall issue a written notice of decision to the applicant by the next working day following a determination of eligibility. ~~EXCEPTION: When the court orders services, the court order provided by the court and the case plan provided by the department shall serve as written notification.~~
- c. The effective date of assistance shall be the date of application or the date the need for service began, whichever is later. When an application is not required as described under subrule 170.3(2), the effective date shall be as follows:

(1) For a person participating in activities under the PROMISE JOBS program, the effective date of child care assistance shall be the date the person becomes a PROMISE JOBS participant as defined in rule 441—93.1(239B) or the date the person has a need for child care assistance to participate in an approved PROMISE JOBS activity as described in 441—Chapter 93, whichever is later.

(2) For a family receiving family investment program benefits, the effective date of child care assistance shall be no earlier than the effective date of family investment program benefits, or 30 days before the date of application for child care assistance, or the date the need for service began, whichever is the latest.

(3) For a family with protective service needs, the effective date of assistance shall be the date the family signs Form 470-0615 or 470-0615(S), Application for All Social Services.

(4) When child care services are provided under a court order, the effective date of assistance shall be the date specified in the court order or the date of the court order if no date is specified.

(5) For a family whose application was denied for failure to provide requested information but who provides all information necessary to determine eligibility, including verification of all changes in circumstances, within 14 days of the denial, the effective date of assistance shall be the date that all information required to establish eligibility is provided. If the fourteenth calendar day falls on a weekend or state holiday, the family shall have until the next business day to provide the information.

170.3(4) No change.

170.3(5) Review and redetermination. The department shall redetermine a family's financial and general eligibility for child care assistance at least every six months. EXCEPTION: The department shall redetermine only general eligibility for recipients of the family investment program (FIP) and for those whose earned income was taken into account in determining the needs of FIP recipients, because these people are deemed financially eligible so long as the FIP eligibility continues.

- a. No change.
- b. The department shall use information gathered on Form 470-4377 or 470-4377(S), Child Care Assistance Review, to redetermine eligibility.

(1) The department shall issue a notice of expiration for the child care assistance certification period ~~in~~ on Form 470-4377 or 470-4377(S).

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(2) If the family does not return ~~the~~ a complete review form to the department by the end of the certification period, the family must reapply for benefits, ~~except as provided in paragraph 170.3(6) "b."~~ A complete review form is Form 470-4377 or 470-4377(S) with all items answered that is signed and dated by the applicant and is accompanied by all verification needed to determine continued eligibility.

170.3(6) Reinstatement.

a. Assistance shall be reinstated without a new application when all necessary information is provided before the effective date of cancellation and eligibility can be reestablished. If there is a change in circumstances, the change must be verified before the case will be reinstated.

b. Assistance shall be reinstated without a new application when the case was canceled for failure to provide requested information but all information necessary to determine eligibility, including verification of all changes in circumstances, is provided within 14 days of the effective date of cancellation and eligibility can be reestablished. If the fourteenth calendar day falls on a weekend or state holiday, the family shall have until the next business day to provide the information. The effective date of child care assistance shall be the date that all information required to establish eligibility is provided.

ITEM 5. Amend subrule 170.4(1) as follows:

170.4(1) Case plan file. The child welfare case plan file shall be developed by the department service worker and contain information described in 441—subrule 130.7(2), when the child meets document the need eligibility for service under 170.2(2) "b" (3).

ITEM 6. Rescind and reserve subrule **170.4(6)**.

ITEM 7. Amend paragraph **170.5(2) "c"** as follows:

c. There is another ~~community~~ resource available to provide the service or a similar service free of charge that allows parents to select from the full range of eligible providers; or

ITEM 8. Amend paragraph **170.5(3) "e"** as follows:

e. Another ~~community~~ resource is available to provide the service or a similar service free of charge that allows parents to select from the full range of eligible providers; or

ITEM 9. Amend paragraph **170.5(4) "b"** as follows:

b. Another ~~community~~ resource is available to provide the same or similar service free of charge that will meet the client's needs and allow parents to select from the full range of eligible providers; or

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IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1) "b" and 16.5(1) "r," the Iowa Finance Authority proposes to amend Chapter 9, "Title Guaranty Division," Iowa Administrative Code.

The purpose of this rule making is to make changes in rules governing administration of the Title Guaranty Division to simplify and better organize the Division by updating the rules; placing all definitions which apply to Chapter 9 in its entirety in rule 265—9.1(16); moving applications for title guaranties, audit procedures, and closing protection letter issuance under the operational control of the Title Guaranty Program; and deleting or consolidating repetitive information.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on November 24, 2009. Comments may be addressed to Loyd Ogle, Director, Title Guaranty Division,

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Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Loyd Ogle at (515)725-4901 or E-mailed to loyd.ogle@iowa.gov.

There will be a public hearing on November 24, 2009, at 1 p.m. at the Iowa Finance Authority office, at which time persons may present their views either orally or in writing. The Iowa Finance Authority office is located at 2015 Grand Avenue, Des Moines, Iowa.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.91(5).

The following amendments are proposed.

ITEM 1. Rescind rules 265—9.1(16) to 265—9.3(16) and adopt the following **new** rules in lieu thereof:

265—9.1(16) Definitions. The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

“*Abstract of title*” or “*abstract*,” for the purposes of the title guaranty program, means a written or electronic summary of all matters of record including, but not limited to, grants, conveyances, easements, encumbrances, wills, and judicial proceedings affecting title to a specific parcel of real estate, together with a statement including, but not limited to, all liens, judgments, taxes and special assessments affecting the property and a certification by a participating abstractor that the summary is complete and accurate; provided, however, that for purposes of issuance of a title guaranty certificate covering nonpurchase financing, and for only such purposes, the “abstract of title” or “abstract” may also mean a title guaranty report of title.

“*Authority*” means the Iowa finance authority described in Iowa Code chapter 16.

“*Certificate*” means the division certificate, including any part or schedule thereof and any endorsements thereto.

“*Closing protection letter*” means an agreement by the division to indemnify a lender or owner or both for loss caused by a division closer’s theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the division closer.

“*Commitment*” means the division commitment to guarantee title, including any part or schedule thereof and any endorsements thereto.

“*Division*” means the title guaranty division of the Iowa finance authority.

“*Division board*” means the board of the title guaranty division created pursuant to Iowa Code section 16.2A(1).

“*Division closer*” means a participating attorney, a participating abstractor, or an independent closer who is authorized by the division to conduct a division closing under the protection of a closing protection letter.

“*Division closing*” means a settlement in which a division closer is appointed to finalize a real estate transaction in accordance with general and specific instructions prior to disbursement of the proceeds and for which a closing protection letter is issued.

“*Division escrow account*” means, in conjunction with division closings, escrows, settlements, and title indemnities, any checking account utilized for the purpose of:

1. Deposits, including, but not limited to, the acceptance of incoming funds from the lender or borrower or both; and

2. Disbursements, including, but not limited to, sellers’ proceeds, mortgage payoffs, expenses of sale, and professional fees.

However, “division escrow account” shall not include client trust accounts subject to the requirements of chapter 45 of the Iowa Court Rules.

“*Electronic record*,” for the purposes of the title guaranty program, means a record created, generated, sent, communicated, received, or stored by electronic means that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“*Field issuer*” means a participating attorney, a participating abstractor, or an independent closer authorized by the division to issue commitments and certificates.

IOWA FINANCE AUTHORITY[265](cont'd)

“*Form*” or “*forms*” means printed instruments used in guaranteeing title to Iowa real estate that, when completed and executed, create contractual obligations or rights affecting the division.

“*Grandfathered attorney*” means a participating attorney who has been providing abstract services continuously from November 12, 1986, to the date of application to be a participating abstractor, either personally or through persons under the participating attorney’s supervision and control, who is exempt from the requirement to own or lease a title plant.

“*Independent closer*” means a person or entity, other than a participating attorney or a participating abstractor, conducting a division closing and authorized to close a transaction under protection of a closing protection letter.

“*Manual*” means a title guaranty reference book approved by the division board containing division certificate forms, and certain Iowa statutory requirements.

“*Nonpurchase financing*,” for the purposes of the title guaranty program, means a refinanced or junior mortgage securing an amount fixed by the division board and included in the manual.

“*Participant*” means a participating attorney or a participating abstractor.

“*Participating abstractor*” means an abstractor who is authorized to participate in the title guaranty program and who is in full compliance with the abstractor’s participating agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

“*Participating attorney*” means an attorney who is authorized to participate in the title guaranty program, who is in full compliance with the attorney’s participating agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division, and who is not subject to current disciplinary proceedings by the Iowa supreme court that preclude the attorney from practicing law in this state.

“*Person*” shall have the same meaning as in Iowa Code section 4.1(20).

“*Residential property*,” for the purposes of the title guaranty program, means residential real estate consisting of single-family housing or multifamily housing of no more than four units.

“*Supervision and control*,” for the purposes of the title guaranty program, means that a participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments or certificates at the direction of or in the name of the participant or independent closer, shall comply with the requirements of the contracts, forms, the manual, staff supplements, and any other written or oral instructions or requirements given by the division. A participant or independent closer shall be liable to the division for loss or damage suffered by the division resulting from acts or omissions of the participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments or certificates at the direction of or in the name of the participant or independent closer as an agent of the division as though the act or omission were that of the participant or independent closer.

“*Title guaranty report of title*,” for the purpose of nonpurchase financing, means a written or electronic short form of the abstract of title covering the borrower’s title, liens, and encumbrances. The division board shall approve requirements and procedures for the title guaranty report of title in the manual.

“*Title search(es)*” or “*search(es)*,” for the purposes of the title guaranty program, means the abstract of title.

265—9.2(16) Purpose. This chapter describes the mission, organization, programs and operations of the division, including the office where and the means by which interested persons may obtain information and make submissions or requests.

IOWA FINANCE AUTHORITY[265](cont'd)

265—9.3(16) Mission. The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney's title opinion system, a low-cost mechanism to facilitate mortgage lenders' participation in the secondary market and add to the integrity of the land-title transfer system in the state. Surplus funds in the title guaranty fund shall be transferred to the authority's housing program fund after providing for adequate reserves and for the operating expenses of the division.

ITEM 2. Amend subrule 9.4(2) as follows:

9.4(2) *Division board and staff.* ~~The powers of the division are vested in and exercised by a board of five members, appointed by the governor and subject to confirmation by the senate. The board membership includes an attorney, an abstractor, a real estate broker, a representative of a mortgage lender, and a representative of the housing development industry. A chair and vice-chair are shall be elected annually by the members of the division board, generally at the first meeting following July 1 of each year, which is the beginning of the fiscal year. Division staff consists of a director and additional staff as approved by the executive director of the authority.~~

ITEM 3. Rescind subrule 9.4(3) and adopt the following **new** subrule in lieu thereof:

9.4(3) *Meetings.* Meetings of the division board shall be held quarterly on the date and time determined by the board. Meetings of the division board may also be held at the call of the chair or on written request of two members. The division will give advance public notice of the specific date, time and place of each division board meeting, and will post the tentative agenda for each meeting at least 24 hours before commencement of the meeting at the main office of the authority, as well as on the authority's Web site. Meetings may occasionally be conducted by electronic means. Any interested person may attend and observe division board meetings except for any portion of a meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available for viewing at the main office of the authority or via the authority's Web site. Three members of the division board constitute a quorum. An affirmative vote of a majority of the appointed board members is necessary for any substantive action taken by the division board. The majority shall not include any board member who has a conflict of interest, and a statement of a conflict of interest shall be conclusive for this purpose.

ITEM 4. Rescind subrule **9.4(4)**.

ITEM 5. Amend subrule 9.6(1) as follows:

9.6(1) *General Operation.* The division operates a program to offer guaranties of real property titles in the state through the issuance of title guaranty commitments and certificates. ~~Title guaranty certificates may be issued by the division, by participating abstractors for the division pursuant to subrule 9.6(3), paragraph "f," 9.6(4), paragraph "c," herein, or by participating attorneys pursuant to Iowa Code section 16.91(7).~~

ITEM 6. Rescind subrule 9.6(2) and adopt the following **new** subrule in lieu thereof:

9.6(2) *Application for title guaranty commitments or certificates.* The division may authorize entities engaged in the real estate industry to apply directly to the division staff, an independent closer, a participating attorney, or a participating abstractor for a title guaranty commitment or certificate. The applicant shall complete and submit such forms and other information as the division may require and pay the appropriate fee. Entities engaged in the real estate industry that the division may authorize to apply include, but are not limited to, mortgage lenders as defined in Iowa Code section 16.1(1) "y," and closing and escrow companies.

ITEM 7. Rescind subrule 9.6(3) and adopt the following **new** subrule in lieu thereof:

9.6(3) *Participating attorneys.* An attorney licensed to practice law in the state of Iowa may participate in the title guaranty program upon approval by the division director of an application submitted by the licensed attorney to the division and upon execution and acceptance by the division director of the attorney's participation agreement.

a. License. A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

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b. Underwriting determinations. A participating attorney shall make all underwriting determinations prior to or at the time of closing. If the participating attorney does not attend the closing and is not available by telephone during the closing, all underwriting determinations must have been made by the participating attorney issuing the opinion, commitment or certificate prior to closing. For purposes of this rule, the term “underwriting determinations” includes, but is not limited to, guaranteeing access, reviewing gap searches, possible judgments, survey matters (including encroachments), unreleased mortgages or other liens, and any other matters disclosed by the opinion, commitment or other sources of title information. A participating attorney who causes or allows an erroneous underwriting determination to be made by someone other than a member of the division’s legal staff or the participating attorney who issued the opinion, commitment or certificate shall be strictly liable to the division for loss or damage the division may suffer as a result of the erroneous underwriting determination.

(1) A participating attorney shall make all underwriting determinations arising out of the issuance of an attorney title opinion or a title commitment or certificate using both:

1. Generally accepted and prudent title examining methods; and
2. Procedures implemented by the division and outlined in these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

(2) Any underwriting determination about which there may be a bona fide difference of opinion among local lawyers and that is not specifically covered by materials provided by the division shall be approved by division legal staff.

c. Authority of participating attorney. A participating attorney is authorized to act as an agent of the division but only for the purposes and in the manner set forth in the attorney’s participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions given by the division and in no other manner whatsoever. The authority of the participating attorney under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other participants, independent closers, agents, or representatives of the division to transact the business of opening on titles to real estate and issuing commitments and certificates and is further subject to the right of the division to appoint other participants and independent closers.

ITEM 8. Rescind subrule 9.6(4) and adopt the following **new** subrule in lieu thereof:

9.6(4) Participating abstractors. An abstractor or abstracting concern may participate in the title guaranty program upon approval by the division director of an application to the division and upon execution and acceptance by the division director of an abstractor’s participation agreement.

a. Title plant. Participating abstractors shall own or lease, and maintain and use in the preparation of abstracts, an up-to-date abstract title plant including tract indices for real estate for each county in which abstracts are prepared for titles to real property guaranteed by the division. Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor’s participation in the title guaranty program.

b. Title plant exemption. Grandfathered attorneys and attorneys and abstractors who have received a waiver of the use of an up-to-date plant described in Iowa Code section 16.91(5) “a”(2), either personally or through persons under their supervision and control, shall be exempt from the requirement to own or lease a title plant. This exemption is a personal exemption of the individual participant, is not transferable, and terminates at such time as the participant ceases providing abstracting services or upon the death or incapacity of the participant.

c. Issuing title guaranty. Pursuant to a written contract with the division director, a participating abstractor may be authorized to issue a title guaranty commitment or certificate for the division when the participating attorney who prepares the opinion allows issuance by the participating abstractor. Written contractual approval by the division director for division issuance will be based upon the completion of a division request form by a participating abstractor and the attachment of all disclosures required by

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the division. A participating abstractor authorized to process a title guaranty commitment or certificate must comply with the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions given by the division and in no other manner whatsoever. The rights of the participating abstractor under the preceding sentence are not exclusive and are subject to the rights of the authority, the division, and other field issuers of the division to issue commitments or certificates and are further subject to the right of the division to appoint other field issuers. A participating abstractor's right to process commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to the written contract with the division.

d. Authority of participating abstractor. A participating abstractor is authorized to act as an agent of the division but only for the purposes and in the manner set forth in the abstractor's participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions given by the division and in no other manner whatsoever. The authority of the participating abstractor under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other participating abstractors, agents, or representatives of the division to transact the business of abstracting, which includes but is not limited to any manner of title search or review of titles to real estate, and is further subject to the right of the division to appoint other participating abstractors.

ITEM 9. Rescind subrule 9.6(5) and adopt the following **new** subrule in lieu thereof:

9.6(5) Participation requirements.

a. Errors and omissions insurance. A participant shall maintain errors and omissions insurance at all times while acting as an agent of the division, with such coverage and in such amounts as the division board may direct from time to time by resolution.

(1) The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed change in the amount of required errors and omissions insurance at least 30 days prior to the date of the meeting at which the matter will be considered.

(2) Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

b. Participation fees. A participant shall pay a participation fee set by resolution of the division board subject to the approval of the authority board.

(1) The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed change in the amount of attorney participation fees at least 30 days prior to the date of the meeting at which the matter will be considered.

(2) Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

ITEM 10. Rescind subrule 9.6(6) and adopt the following **new** subrule in lieu thereof:

9.6(6) Abstract of title. All abstracts of title shall be prepared and conducted in compliance with division procedures as specified in the manual, staff supplements, and any other written or oral instructions or requirements given by the division that are in effect at the time of abstracting. A participating abstractor shall retain a written or electronic copy of each abstract of title prepared for a title guaranty certificate and shall provide such copy to the division upon request.

ITEM 11. Adopt the following **new** subrule 9.6(7):

9.6(7) Attorney title opinion. All attorney title opinions shall be prepared and issued in compliance with division procedures as specified in the manual, staff supplements, and any other written or oral instructions or requirements given by the division that are in effect at the time of issuance. A participating attorney who is a field issuer may issue a commitment as the preliminary attorney title opinion and the certificate as the final attorney title opinion in compliance with division procedures. A written or electronic copy of each attorney title opinion shall be retained by a field issuer, and a copy thereof shall be provided to the division upon request.

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ITEM 12. Adopt the following **new** subrule 9.6(8):

9.6(8) Closing protection letters.

a. Issuance of closing protection letters. Division closers may be authorized to receive a closing protection letter approved by the division board when:

- (1) A division closer has completed division forms and procedures training,
- (2) The division director has approved the application, and
- (3) A division commitment is issued.

b. Application. Application for designation of division closer status shall be on forms provided by the division, and all requested information shall be provided with the application form. The division may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the division within 30 days after the division requests the information. The application shall be accompanied by a fee to be set by the division board. The division director shall approve or deny the application within 90 days after the application has been accepted for processing and send written notice thereof to the applicant.

c. Guidelines. In determining whether to approve or deny an application for designation of division closer status, the division director may consider the following factors, including but not limited to:

- (1) The needs of the public and the needs of existing or potential customers of the applicant that are served by a designation of division closer status.
- (2) A history of operation and management of the applicant's business.
- (3) Character, fitness, financial responsibility and experience of the applicant and the applicant's employees.
- (4) Criminal background checks for felony or misdemeanor convictions of the applicant or the applicant's employees involving moral turpitude.
- (5) A record of defaulting by the applicant or the applicant's employees in the payment of moneys collected for others in this state or other states.
- (6) A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.
- (7) The applicant's credit report, which is to be submitted directly to the division director at the expense of the applicant.
- (8) Other factors as determined by the division director to be relevant.

d. Investigation. The division director may conduct an investigation as deemed necessary. The division director may solicit, by whatever manner deemed appropriate, comments from other persons conducting closings, or from any other person or entity which may be affected by or have an interest in the pending application.

e. Revocation. The division director has discretion to revoke a division closer's status for reasons including but not limited to the following:

- (1) When the financial condition of the division closer deteriorates.
- (2) When the division director determines that the division closer's activities are being conducted unlawfully or in an unsafe or unsound manner.

f. Authority of division closer. A division closer is authorized to conduct division closings only for the purposes and in the manner set forth in the division closer's agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other instructions or requirements given by the division and in no other manner whatsoever. The authority of the division closer under the preceding sentence is not exclusive and is subject to the rights of the authority, the division, and other division closers to transact the business of guaranteeing titles to real estate in Iowa and is further subject to the right of the division to appoint other division closers.

A division closer shall obtain the written authorization of a member of the division's legal staff prior to issuing a commitment or certificate which exceeds such amounts as the division board may set from time to time by resolution. If any authorization required under 9.6(8) "f" is not obtained through the act or omission of the division closer, the division closer shall be strictly liable to the division for any resulting loss or damage.

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g. Division escrow accounts. The division board shall approve procedures and requirements for the maintenance of division escrow accounts. Division closers shall comply with the rules and requirements set by the division board with respect to the procedures, format, and style for maintaining the division escrow accounts. The division board may require the division closer to provide an irrevocable letter of direction to the institution at which each division escrow account is established, authorizing the division to review and audit the institution's records of such account at any time that the division, in its discretion, deems necessary.

ITEM 13. Adopt the following new subrule 9.6(9):

9.6(9) General provisions.

a. Commitment and certificate amount limitations. A field issuer shall obtain the written authorization of a member of the division's legal staff prior to issuing a commitment or certificate which exceeds such amounts as the division board may set from time to time by resolution. If any authorization required under this paragraph is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment or certificate.

b. Title/closing files and forms. A participant or independent closer shall maintain separate title, client and closing files or maintain client files in such a manner that information pertaining to activities of the participant or the independent closer is readily available to the division. A participant or independent closer shall maintain files for a period of ten years after the effective date of the commitment and certificate or certificates.

(1) The division will provide forms to a participant or independent closer for use in acting for the division. A participant or independent closer may not alter any form supplied by the division, or use a form supplied by another person or entity to bind the division, or otherwise bind the division to liability with a form, other writing or representation not supplied or authorized by the division. In addition, the participant or independent closer shall:

1. Return the original of any canceled certificate to the division, and
2. Not transfer or attempt to transfer unissued commitments or certificates to another participant, independent closer, or other person or entity unless authorized in writing by the division.

(2) If a participant or independent closer fails to comply with the requirements of 9.6(9) "b," in addition to the division's other rights and remedies, the division may refuse to supply any forms to the participant or independent closer until the participant or independent closer complies with the requirements of 9.6(9) "b" to the satisfaction of the division.

(3) The participant or independent closer shall be liable to the division for loss or damage sustained by the division by reason of the loss of, misuse of, or inability of the participant or independent closer to account for any form supplied by the division, or the failure of the participant or independent closer to comply with the requirements of 9.6(9) "b."

c. Training. The division director may require a participant, an independent closer, and the participant's and independent closer's staff to attend training sessions or continuing education seminars as deemed necessary by the division director in order to ensure compliance with division requirements and procedures.

d. Office audits. The division may, with or without notice to a participant or an independent closer, audit the participant or independent closer at the participant's or independent closer's office. This audit may include, but need not be limited to, a review of the participant's or independent closer's commitment and certificate issuance procedures, an audit of serialized forms, an audit and test of title plants and tract indices, an audit of closing operation and closing procedures, an audit of the division escrow account(s), and verification of the participant's or independent closer's compliance with division rules, participation agreements, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

e. Interest in property. No participant or independent closer shall prepare an abstract of title, issue attorney title opinions, commitments, or certificates, or conduct a closing upon property in which the participant or independent closer has an interest without prior authorization of the division.

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ITEM 14. Rescind rule 265—9.8(16) and adopt the following **new** rule in lieu thereof:

265—9.8(16) Title guaranty contracts, forms, manual, and staff supplements. The division shall adopt and issue such contracts, forms, and the manual as the division deems necessary to set out standards and requirements, and such other matters that the division deems necessary for implementation and effective administration of the title guaranty program. The contents of the contracts, forms, and the manual shall be applicable to participants and independent closers in the title guaranty program.

9.8(1) Division board adoption. The form of title guaranty commitments and certificates will be adopted, revised, or amended by resolution of the division board, and the form of such commitments and certificates is subject to the approval of the authority board. The manual will be adopted, revised, or amended on approval of a majority vote of the division board.

a. The division will inform the Iowa State Bar Association, the Iowa Land Title Association, and any person requesting such information of any proposed adoption of or change to the form of title guaranty commitments and certificates at least 30 days prior to the date of the division board meeting at which the matter will be considered.

b. Interested parties may submit evidence or statements in support of or in opposition to the proposal in writing or by personal appearance before the division board.

9.8(2) Division staff adoption. Under the direction of the division director, the division staff shall adopt and issue staff supplements as the division deems necessary to set out standards and requirements of these rules, applicable statutes, and the manual; to address nonresidential, extraordinary and unusual risk situations; and to address such other matters that the division deems necessary for implementation and effective administration of the title guaranty program.

ITEM 15. Rescind rule 265—9.9(16) and adopt the following **new** rule in lieu thereof:

265—9.9(16) Mortgage release certificate. Pursuant to Iowa Code section 16.92, the division is charged with the administration of a system, after notification to lenders, to clear paid-off mortgages from real estate titles in Iowa by executing and filing with county recorders release certificates for mortgages that have been paid in full.

9.9(1) Definitions. As used in this rule, unless the context otherwise requires:

“*Certificate*” means the certificate of release or partial release of mortgage issued by the division.

“*Claim for damages*” means a claim for actual money damages against the division caused by the division’s wrongfully or erroneously, through an act of negligence, filing a certificate while division staff are acting within the scope of their office or employment.

“*Effective release*” or “*satisfaction*” means a release or satisfaction of mortgage pursuant to Iowa Code chapter 655.

“*Mortgage*” means a mortgage or mortgage lien on an interest in real property in this state given to secure a loan in an original principal amount, including any future advances, equal to or less than:

1. \$20 million for mortgages paid off by the division staff or a division closer within a division closing, unless prior written approval is obtained from the division director.

2. \$1 million for all other mortgages.

“*Real estate lender or closer*” means a person licensed to regularly lend moneys to be secured by a mortgage on real property in this state, a licensed real estate broker, a licensed attorney, or a participating abstractor.

9.9(2) Request for certificate. Applications, forms, procedures and practices for the implementation of an effective mortgage release certificate by the division pursuant to Iowa Code section 16.92 shall be provided in the staff supplements. Further, any fee to be charged for the mortgage release application shall be set by the division board upon the recommendation of the division director.

9.9(3) Authority to sign certificate. The division director or designee of the division director may execute and record the certificates pursuant to Iowa Code section 16.92 and this rule.

9.9(4) Additional remedies. In addition to any other remedy provided by law, the division may recover from the real estate lender or closer who requested the certificate all expenses incurred, and all

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damages including punitive or exemplary damages paid to the mortgagee or mortgage service provider, in satisfaction or resolution of a claim for damages.

ITEM 16. Amend rule 265—9.10(16) as follows:

265—9.10(16) Rates. ~~The division board shall fix the~~ The rate or fee, if any, for the owner's guaranty, the lender's guaranty, the various endorsements, and the closing protection letter and any other product or service that will be offered by the division. The division shall set the rates will be fixed by the division board by resolution and may change the rates from time to time in the same manner. In situations involving extraordinary risk, unusual transactions, or unique or multiple endorsements, the division, under the direction of the division director, may make additional charges that are added to and become part of the rate or fee. The rates or fees of any other products or services that will be offered by the division shall be set by the division board upon the recommendation of the division director.

A participant or independent closer shall calculate the title guaranty fees and premiums according to the applicable rate schedule in effect on the effective date of the commitment or the certificate, whichever is earlier. A participant or independent closer shall collect the fee in effect for any other product or service offered by the division at the time the product or service is sold. Additional participant or independent closer responsibilities with regard to the collection and use of fees and premiums shall be set forth in the manual and staff supplements.

ITEM 17. Rescind rule 265—9.11(16) and adopt the following **new** rule in lieu thereof:

265—9.11(16) Claims.

9.11(1) Definitions. The following words and phrases, when used in this rule, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

"Claim" means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

"Claim loss" means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys' fees, and all other expenses and costs related to or arising from the claim in accordance with the provisions of this rule.

"Party" means a participant, independent closer, or any other person or entity that has a contractual relationship with the division to provide coverage or services for which a claim may be brought against the division.

9.11(2) Claim procedures. In the event of a claim, the rights of the division and a party are as follows:

a. Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division's address in subrule 9.4(1). In addition, if the nature of the claim is such that the guaranteed claimant or the division, or both, may suffer loss or damage that might be reduced or avoided by notice given more promptly than required by the preceding sentence, the party shall notify the division by telephone, facsimile transmission, overnight mail or other overnight delivery service, or any combination of these methods.

b. When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

c. A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party's attention with such promptness as the circumstances permit.

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d. The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division's sole discretion, the division may deem advisable.

9.11(3) Claim loss recovery.

a. Any claim losses paid are recoverable from a party by the division.

b. In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including, but not limited to, forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including, but not limited to, errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division that the party relies upon in issuing an abstract of title, opinion, commitment, certificate, or endorsement;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in giving survey coverage or issuing an endorsement or endorsements; or

(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract of title, opinion, commitment, certificate, or endorsement.

c. The party shall reimburse the division for a claim loss when the division determines, in accordance with 9.11(3) "*d.*" that the party is liable and when the claim loss arises from one or more of the following:

(1) Errors by the party in the title search and report of information in the public record;

(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;

(3) Errors made by the party in examining the title information provided in an abstract of title, survey, affidavit, or other source of title information;

(4) Errors made by the party in the preparation or review of an abstract of title, opinion, commitment or certificate;

(5) Knowing issuance of an abstract of title, opinion, commitment or certificate by the party upon a defective title; or

(6) Failure of the party to follow these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division with respect to any other matters not included within 9.11(3) "*c.*"

d. Unless another rule, the Code of Iowa, the manual, a procedure, or a guideline provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:

(1) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3) "*c*"(1), the division may demand reimbursement from the party if the party was grossly negligent in conducting the title search. Gross negligence includes the failure to make a search or the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division-approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.

(2) In the event that a claim loss occurs for which the division may seek recovery from a party under 9.11(3) "*c*"(2), the division may demand reimbursement from that party if the party relied upon sources of title searches or other title information that had not been approved by the division at the time of the reliance.

(3) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3) "*c*"(3), the division may demand reimbursement from the party if the party negligently

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examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a title commitment or certificate.

1. The division may make full review of local county abstracting standards and bar title rules as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract of title or an attorney who examines titles in the community where the claim arose.

2. The division may also consider whether the party followed these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division in examining the title.

3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract of title or of an attorney who examines titles in that community.

(4) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“c”(4), the division may demand reimbursement from the party if the party negligently prepared and reviewed an abstract of title, opinion, commitment or certificate.

(5) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“c”(5), the division may demand reimbursement from the party if the issuance of the abstract of title, opinion, commitment or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract of title, opinion, commitment or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.

(6) In the event that a claim loss occurs for which the division may seek recovery from the party under 9.11(3)“c”(6), the division may demand reimbursement from the party if the party failed to follow these rules, the manual, staff supplements, or any other written or oral instructions or requirements given by the division with respect to the matter causing the claim loss.

(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.

e. The division board may, from time to time by resolution, establish levels of authority, including dollar amounts, for the division board, the division director and the division staff for the settlement of claims made against the division.

ITEM 18. Rescind rule 265—9.12(16) and adopt the following **new** rule in lieu thereof:

265—9.12(16) Rules of construction. In the construction of this chapter, the following rules of construction shall be observed, unless either the rules of Iowa Code chapter 4, Construction of Statutes, or the following rules of construction are inconsistent with the manifest intent or the context of a rule:

1. The word “shall” means mandatory and not permissive and the word “may” means permissive and not mandatory.

2. The word “closing” includes, but is not limited to, the recording of a deed executed and delivered in lieu of a mortgage foreclosure or pursuant to a mortgage foreclosure proceeding and also includes the entry into a binding agreement and transfer of possession by a seller to a buyer on a contract sale of land.

3. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.

4. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other penalties or sanctions under this chapter, or otherwise, against the participating abstractor, participating attorney, independent closer or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.

5. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

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ITEM 19. Rescind rule 265—9.13(16) and adopt the following **new** rule in lieu thereof:

265—9.13(16) Seal. The division shall have a corporate seal that may be altered from time to time. The seal shall impress the words “Title Guaranty Division Iowa Finance Authority” and may be used to authenticate acts and legal instruments of the division.

ITEM 20. Rescind and reserve rules **265—9.14(16)** and **265—9.15(16)**.

ITEM 21. Rescind and reserve rules **265—9.20(16)** to **265—9.22(16)**.

ARC 8267B

PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment was approved at the September 22, 2009, regular meeting of the Board of Pharmacy.

The proposed amendment requires a general pharmacy located in Iowa to post a notice to patients that the pharmacist is required to counsel a patient on any new prescription dispensed to the patient. The proposed amendment provides that the Board will supply the pharmacy with the required signage.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on November 24, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is proposed.

Amend rule 657—6.14(155A), introductory paragraph, as follows:

657—6.14(155A) Patient counseling and instruction. Every general pharmacy located in Iowa shall post in the prescription pickup area in a manner clearly visible to patients a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a general pharmacy with the required signage.

ARC 8269B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Chapter 8, “Universal Practice Standards,” and Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendments were approved at the September 22, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments authorize pharmacies to maintain pharmacy records that are more than 12 months old in a secure storage area located outside the licensed pharmacy department but within the same physical building as the licensed pharmacy department unless such outside storage is prohibited under federal law.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on November 24, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.306, 155A.13, and 155A.35.

The following amendments are proposed.

ITEM 1. Amend rule 657—6.16(124,155A), introductory paragraph, as follows:

657—6.16(124,155A) Records. Every inventory or other record required to be kept under Iowa Code chapters 124 and 155A or rules of the board shall be kept by the pharmacy and be available for inspection and copying by the board or its representative for at least two years from the date of the inventory or record except as specifically identified by law or rule. Controlled substance records shall be maintained in a readily retrievable manner in accordance with federal requirements and 657—Chapter 10. Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department.

ITEM 2. Amend rule 657—8.9(124,155A), introductory paragraph, as follows:

657—8.9(124,155A) Records. Every inventory or other record required to be maintained by a pharmacy pursuant to board rules or Iowa Code chapters 124 and 155A shall be maintained and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record unless a longer retention period is specified for the particular record or inventory. Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department. The following records shall be maintained for at least two years.

PHARMACY BOARD[657](cont'd)

ITEM 3. Amend rule 657—10.34(124,155A), introductory paragraph, as follows:

657—10.34(124,155A) Records. Every inventory or other record required to be kept under this chapter or under Iowa Code chapter 124 shall be kept by the registrant and be available for inspection and copying by the board or its representative for at least two years from the date of such inventory or record except as otherwise required in these rules. Controlled substances records shall be maintained in a readily retrievable manner that establishes the receipt and distribution of all controlled substances. Original hard-copy prescription and other pharmacy records more than 12 months old may be maintained in a secure storage area outside the licensed pharmacy department unless such remote storage is prohibited under federal law. A remote storage area shall be located within the same physical structure containing the licensed pharmacy department.

ARC 8276B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Termination

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 17, 2008, as **ARC 7429B** proposing to adopt new Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

These rules describe the continuing education requirements for licensees covered under Iowa Code chapter 105.

Although public hearings were held and changes were made to the chapter as a result of the public comments, the Board failed to adopt the chapter within 180 days following publication of the Notice and is therefore terminating the rule making commenced in **ARC 7429B**. The proposed rules, which incorporate changes made based on comments received, are published herein under Notice of Intended Action as **ARC 8268B**. These rules were also Adopted and Filed Emergency and are published herein as **ARC 8270B**.

ARC 8268B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board proposes to adopt new Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

These rules describe the continuing education requirements for licensees covered under Iowa Code chapter 105. These rules also describe the standards governing the criteria for continuing education activities; the procedures for auditing licensees’ continuing education reports; the grounds for exempting continuing education requirements; and the grounds for extending the time in which a licensee may fulfill the continuing education requirements.

Consideration will be given to all written suggestions or comments on the proposed rules on or before November 24, 2009. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to choulson@idph.state.ia.us.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Also, there will be a public hearing on November 24, 2009, from 11 a.m. to 1 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

This hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN from the following locations:

- National Guard Armory, 3200 2nd Mech Drive, Sioux City
- Iowa Western Community College – 3, 2700 College Road, Council Bluffs
- National Guard Armory, 3306 Airport Blvd., Waterloo
- Ottumwa Regional Health Center, 1001 E. Pennsylvania, Ottumwa
- Mississippi Bend Area Education Agency 9, 729 21st Street, Bettendorf
- State Historical Building, 600 E. Locust, Des Moines
- Iowa Western Community College – 2, 923 East Washington, Clarinda
- Mason City National Guard Armory, 1160 19th Street SW, Mason City
- Crestwood High School, 1000 4th Avenue East, Cresco
- Archdiocesan Pastoral Center, 1229 Mount Loretta, Dubuque
- Spirit Lake High School, 2701 Hill Avenue, Spirit Lake
- Prairie Lakes Area Education Agency, 1 Triton Circle, Library Bldg., Fort Dodge
- University of Iowa – 1, at the end of North Madison Street, North Hall Room 103, Iowa City
- Burlington High School, 421 Terrace Drive, Burlington

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

These rules were also Adopted and Filed Emergency and are published herein as **ARC 8270B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code chapter 105.

USURY

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

November 1, 2008 — November 30, 2008	5.75%
December 1, 2008 — December 31, 2008	5.75%
January 1, 2009 — January 31, 2009	5.50%
February 1, 2009 — February 28, 2009	4.50%
March 1, 2009 — March 31, 2009	4.50%
April 1, 2009 — April 30, 2009	5.00%
May 1, 2009 — May 31, 2009	4.75%
June 1, 2009 — June 30, 2009	5.00%
July 1, 2009 — July 31, 2009	5.25%
August 1, 2009 — August 31, 2009	5.75%
September 1, 2009 — September 30, 2009	5.50%
October 1, 2009 — October 31, 2009	5.50%
November 1, 2009 — November 30, 2009	5.50%

ARC 8248B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Chapter 14, "Special Education Endorsements," and Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

The amendments to Chapters 13, 14 and 18 had earlier been proposed under Notice of Intended Action; however, the amendments were inadvertently not included in the rule making that reorganized the rules. Thus, the Board is adopting these amendments to complete the reorganization.

The Board finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are unnecessary because these amendments have already been published under Notice of Intended Action.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on October 12, 2009, as the Board of Educational Examiners has the authority under Iowa Code section 272.2 to establish the requirements for licenses.

The Board of Educational Examiners adopted these amendments on October 2, 2009.

These amendments are intended to implement Iowa Code chapter 272.

These amendments became effective on October 12, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 13.28(24) as follows:

13.28(24) Talented and gifted teacher-coordinator. ~~Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas. Practitioners licensed and employed after August 31, 1995, and assigned as teachers or coordinators in programs for the talented and gifted will be required to hold this endorsement.~~

a. Authorization. The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

b. Program requirements—content. Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

- (1) Psychology of the gifted.
 1. Social needs.
 2. Emotional needs.
- (2) Programming for the gifted.
 1. Prekindergarten-12 identification.
 2. Differentiation strategies.
 3. Collaborative teaching skills.
 4. Program goals and performance measures.
 5. Program evaluation.
- ~~(3) Administration and supervision of gifted programs.~~
- (4) (3) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

c. Other. Individuals who were licensed in Iowa prior to August 31, 1995, and were allowed to teach talented and gifted classes without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach talented and gifted classes. A waiver provision is provided through the board of educational examiners for individuals who have been successfully teaching students who are talented and gifted.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 2. Amend rule 282—13.29(272) as follows:

282—13.29(272) Adding, removing or reinstating a teaching endorsement.

13.29(1) Adding an endorsement. After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

a. No change.

b. *Additional requirements for adding an endorsement.*

(1) In addition to meeting the requirements listed in rules 282—13.18(272) and 282—13.28(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

(2) Practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

~~(3)~~ (3) Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

~~(4)~~ (4) Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for a the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the Class B license. The practitioner must obtain a ~~two-year~~ Class B license while practicing with the 5-12 endorsement.

13.29(2) No change.

ITEM 3. Amend subrule 14.1(2) as follows:

14.1(2) Adding special education instructional endorsements to Iowa licenses.

a. and b. No change.

c. If the applicant holds the K-8 special education endorsement for the 5-12 endorsement area being added, the applicant may satisfy the ~~requirement~~ requirements for a the secondary methods class and the student teaching experience by completing all the required coursework and presenting verification of competence of teaching a minimum of two years while properly licensed. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level.

d. No change.

ITEM 4. Amend rule 282—18.4(272) as follows:

282—18.4(272) General requirements for an administrator license.

18.4(1) No change.

18.4(2) Specific requirements for an initial administrator license. An initial administrator license valid for one year may be issued to an applicant who:

a. Is the holder of or is eligible for a standard license; and

b. Has three years of teaching experience; and

c. Has completed a state-approved ~~administrator education~~ PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)) at a college or university approved by the state board of education or the state licensing agency in the individual's preparation state; and

d. Is assuming a position as a ~~school district administrator~~ PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has ~~one year~~ two years of out-of-state or nonpublic administrative experience; and

e. Has completed an approved human relations component; and

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- f. Has completed an exceptional learner component; and
- g. Has completed an evaluator approval program.

ITEM 5. Amend rule 282—18.5(272) as follows:

282—18.5(272) Specific requirements for a professional administrator license. A professional administrator license valid for five years may be issued to an applicant who: ~~completes the requirements in subrule 18.4(2) and has successfully completed one year of administrative experience in Iowa or has two years of administrative experience out of state.~~

18.5(1) Completes the requirements in 18.4(2) “a” to “g”; and

18.5(2) Successfully meets each standard listed below:

a. *Shared vision.* An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The administrator:

(1) In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.

(2) Uses research and best practices in improving the educational program.

(3) Articulates and promotes high expectations for teaching and learning.

(4) Aligns and implements the educational programs, plans, actions, and resources with the district’s vision and goals.

(5) Provides leadership for major initiatives and change efforts.

(6) Communicates effectively to various stakeholders regarding progress with school improvement plan goals.

b. *Culture of learning.* An educational leader promotes the success of all students by advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development. The administrator:

(1) Provides leadership for assessing, developing and improving climate and culture.

(2) Systematically and fairly recognizes and celebrates accomplishments of staff and students.

(3) Provides leadership, encouragement, opportunities and structure for staff to continually design more effective teaching and learning experiences for all students.

(4) Monitors and evaluates the effectiveness of curriculum, instruction and assessment.

(5) Evaluates staff and provides ongoing coaching for improvement.

(6) Ensures that staff members have professional development that directly enhances their performance and improves student learning.

(7) Uses current research and theory about effective schools and leadership to develop and revise the administrator’s professional growth plan.

(8) Promotes collaboration with all stakeholders.

(9) Is easily accessible and approachable to all stakeholders.

(10) Is highly visible and engaged in the school community.

(11) Articulates the desired school culture and shows evidence about how it is reinforced.

c. *Management.* An educational leader promotes the success of all students by ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment. The administrator:

(1) Complies with state and federal mandates and local board policies.

(2) Recruits, selects, inducts, and retains staff to support quality instruction.

(3) Addresses current and potential issues in a timely manner.

(4) Manages fiscal and physical resources responsibly, efficiently, and effectively.

(5) Protects instructional time by designing and managing operational procedures to maximize learning.

(6) Communicates effectively with both internal and external audiences about the operations of the school.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

d. Family and community. An educational leader promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:

(1) Engages family and community by promoting shared responsibility for student learning and support of the education system.

(2) Promotes and supports a structure for family and community involvement in the education system.

(3) Facilitates the connections of students and families to the health and social services that support a focus on learning.

ITEM 6. Amend subrule 18.10(3) as follows:

18.10(3) Administrative experience.

a. The applicant must have had three years of experience as a building principal ~~or other PK-12 or area education agency administrative experience.~~

b. Other administrative experience: PK-12 or area education agency administrative experience is acceptable if the applicant acquires the three years' experience while holding a valid administrator license.

[Filed Emergency 10/12/09, effective 10/12/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8261B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment makes the income policy for the coverage group "Medicaid for Children with Disabilities," also known as "Medicaid for Kids with Special Needs," less restrictive. The Department implemented this coverage group January 1, 2009, as directed by 2008 Iowa Acts, chapter 1188, section 55. Upon review of the Medicaid State Plan amendment for this group, the Centers for Medicare and Medicaid Services has advised the Department that the state cannot apply an income policy more restrictive than that in effect for the federal Supplemental Security Income (SSI) program. The reason for this interpretation is that Iowa has an agreement under Section 1634 of the Social Security Act in which the state agrees to authorize Medicaid eligibility based upon a person's entitlement to SSI benefits.

As originally promulgated, subrule 75.1(43) followed SSI policy except for the exclusions and deductions that SSI allows to be applied to a disabled person's income when determining eligibility. This amendment removes that exception and allows all of SSI's income exclusions and deductions, such as the deduction of \$65 plus one-half of any earned income for the household. The result will be that more children could attain eligibility under this coverage group.

This amendment does not provide for waivers in specified situations because it removes a restriction on eligibility.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on August 12, 2009, as **ARC 8040B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on October 14, 2009.

The Department finds that this amendment confers a benefit on families of children with disabilities by making it easier to qualify for assistance. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code section 249A.3.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment became effective on October 15, 2009.

The following amendment is adopted.

Amend subparagraph **75.1(43)“d”(3)** as follows:

(3) For this purpose, the income of all persons included in the child's household shall ~~include all earned and unearned income as defined for purposes of the Supplemental Security Income program by 20 CFR Sections 416.1102, 416.1103, 416.1110, 416.1111, and 416.1120 to 416.1123 as amended to August 20, 2008, without regard to exclusions or deductions from income applied in determining eligibility for Supplemental Security Income~~ be determined as provided for SSI-related groups under subrule 75.13(2).

[Filed Emergency After Notice 10/15/09, effective 10/15/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8270B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby adopts new Chapter 30, "Continuing Education for Plumbing and Mechanical Systems Professionals," Iowa Administrative Code.

These rules describe the continuing education requirements for licensees covered under Iowa Code chapter 105. These rules also describe the standards governing the criteria for continuing education activities; the procedures for auditing licensees' continuing education reports; the grounds for exempting continuing education requirements; and the grounds for extending the time in which a licensee may fulfill the continuing education requirements.

In compliance with Iowa Code section 17A.4(3), the Board finds that notice and public participation are unnecessary because these rules were originally published under Notice of Intended Action in the Iowa Administrative Bulletin as **ARC 7429B** on December 17, 2008, with public hearings occurring thereafter. Changes were made to the chapter as a result of the public comments. The Board failed, however, to adopt the chapter within 180 days following publication of the Notice, and therefore has submitted a Notice of Termination published herein as **ARC 8276B**. Furthermore and contemporaneously hereto, the Board has also submitted a Notice of Intended Action pertaining to the same rules published herein as **ARC 8268B** to allow for further public comment.

The Board also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the rules should be waived and these rules should be made effective upon filing because the rules confer a benefit on the public. Professional licenses are being issued under Iowa Code chapter 105, and these rules provide the guidelines and procedures necessary for the licensees to begin obtaining continuing education credits.

The Iowa Plumbing and Mechanical Systems Board adopted these rules on September 22, 2009.

These rules became effective on October 16, 2009.

These rules are intended to implement Iowa Code chapters 105 and 272C.

The following amendment is adopted.

Adopt the following new 641—Chapter 30:

CHAPTER 30

CONTINUING EDUCATION FOR PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS

641—30.1(105) Definitions. For the purpose of these rules, the following definitions shall apply:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Approved program/activity*” means a continuing education program/activity meeting the standard set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the plumbing and mechanical systems board as established pursuant to Iowa Code section 105.3.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

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

“*License*” means a license to work in a specific discipline covered under Iowa Code chapter 105.

“*Licensee*” means any person licensed to work in a specific discipline covered under Iowa Code chapter 105.

641—30.2(105) Continuing education requirements.

30.2(1) The biennial continuing education compliance period shall begin on the license issue date and end two years later on the license expiration date.

30.2(2) Each biennium:

a. A master or journey licensee shall be required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the prescribed practice discipline. A minimum of 2 hours of the 8 hours shall be in the content area of the applicable Iowa plumbing or mechanical codes, and 2 hours of the 8 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

b. A master or journey licensee holding licenses in multiple disciplines shall obtain a minimum of 14 hours of board-approved continuing education, of which 8 hours shall be in any of the prescribed practice disciplines. A minimum of 2 hours of the 14 hours shall be in each of the content areas of the applicable Iowa plumbing code, Iowa mechanical code, or both, and 4 hours of the 14 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

30.2(3) Up to 2 hours of board-approved continuing education required by subrule 30.2(2) each biennium may be obtained through completion of computer-based continuing education programs/activities approved by the board.

30.2(4) It is the responsibility of each licensee to finance the cost of continuing education.

30.2(5) A licensee who is a presenter of a board-approved continuing education program may receive credit once per biennium for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

641—30.3(105) Continuing education programs/activities.

30.3(1) *Standards for continuing education programs/activities.* A program/activity is appropriate for continuing education credit if the program/activity meets all of the following criteria:

- a.* Is board-approved;
- b.* Constitutes an organized program of learning that contributes directly to the professional competency of the licensee;
- c.* Pertains to subject matters that integrally relate to the practice of the discipline;
- d.* Is conducted by individuals who have obtained board approval as required under subrule 30.4(1). This criterion shall not be required for computer-based continuing education programs/activities conducted pursuant to subrule 30.2(3);
- e.* Fulfills stated program goals, objectives, or both; and
- f.* Covers product knowledge, methods, and systems of one or more of the following:
 - (1) The theory and technique for a specific discipline;
 - (2) The current Iowa plumbing code, Iowa mechanical code, or both;
 - (3) The standards comprising the current Iowa Occupational Safety and Health Act.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

30.3(2) Board approval. Board approval for specific programs/activities under paragraph 30.3(1) "a" shall be valid for one year.

641—30.4(105) Course instructor(s).

30.4(1) Standards for instructor approval. An individual is deemed qualified to instruct continuing education programs/activities if the individual meets all of the following criteria:

a. Is board-approved to instruct continuing education programs/activities in one or more of the educational content areas set forth in paragraphs 30.2(2) "a" and "b" (i.e., prescribed practice discipline, plumbing or mechanical code or both, or the Iowa Occupational Safety and Health Act); and

b. Demonstrates appropriate competency to instruct continuing education programs/activities by meeting one or both of the following:

(1) If seeking approval to instruct in the content areas of the plumbing or mechanical code or both or the Iowa Occupational Safety and Health Act, the individual must possess specialized education or training relevant to the subject matter; or

(2) If seeking approval to instruct in the content area of a prescribed practice discipline, the individual must possess specialized education, training, or experience relevant to the subject matter.

30.4(2) Board approval. Board approval for an instructor under paragraph 30.4(1) "a" shall be valid for three years.

641—30.5(105) Audit of continuing education requirements. The board may conduct an audit of a licensee's license renewal application to review compliance with continuing education requirements.

30.5(1) Upon board request, the licensee must submit to the board an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor or course instructor. These documents must contain the course title, date(s), contact hours, sponsor's name, and licensee's name. In some instances, licensees will be requested to provide to the board additional information including, but not limited to, program content, objectives, presenters, location, and schedule. An inclusive brochure may meet this requirement.

30.5(2) Upon board request, a licensee must submit all information set forth in subrule 30.5(1) within 30 calendar days following the board's request. The board may grant extensions on an individual basis.

30.5(3) If the submitted materials are incomplete or unsatisfactory and the board determines that the deficiency was the result of good-faith conduct on the part of the licensee, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. A licensee must complete the continuing education hours and submit documentation establishing completion of the required make-up continuing education hours to the board within 120 calendar days from the date of the board's finding of good-faith conduct.

30.5(4) A licensee's failure to provide the board with an accurate mailing address shall not be an excuse for noncompliance with any requirement set forth in this rule.

641—30.6(105) Continuing education exemptions.

30.6(1) Automatic exemptions. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

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

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

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

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

30.6(2) Permissive exemptions. The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- a. A licensee seeking a permissive exemption shall apply to the board, in such form as the board may prescribe.
- b. A licensee seeking a permissive exemption shall be required to provide all such documentary evidence as the board may request to establish the exceptional hardship or extenuating circumstances.
- c. In the event of a claimed physical or mental disability or illness, the board may request information from a licensed health care professional who can attest to the existence of any such disability or illness.
- d. A licensee who applies for a permissive exemption shall be notified in writing of the board's decision.
- e. In granting an exemption, the board may impose any such additional conditions on the exemption including, but not limited to, the requirement that the licensee make up a portion of the continuing education requirements.
- f. In lieu of granting a full or partial exemption, the board may grant the licensee an extension of time in which to complete the continuing education requirements.
- g. The granting of an exemption shall not prohibit a licensee from seeking, or the board from granting, an exemption in a subsequent biennial continuing education compliance period(s).
- h. Permissive exemptions shall only be granted in the most exceptional and extraordinary of circumstances.

641—30.7(105) Continuing education extensions. The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time within which to fulfill the minimum continuing education requirements.

30.7(1) Hardship or extenuating circumstances include documented circumstances beyond the control of the licensee which prevent attendance at required activities.

30.7(2) All requests for extension must be made prior to the license expiration date.

641—30.8(105) Continuing education reporting requirements.

30.8(1) *Non-computer-based continuing education programs/activities.* For non-computer-based continuing education programs/activities, at the conclusion of each continuing education course, the course instructor shall:

- a. Inform each attending licensee that a survey of the course and instructor may be completed and submitted by the licensee to the board through either a board-approved written evaluation form or an Internet-based form.
- b. Provide a certificate of completion to each licensee who attends the course. The certificate of completion shall include the following information:
 - (1) The licensee's full name and board-issued license number;
 - (2) The course name or title;
 - (3) The board-approved course identification number;
 - (4) The date of the course;
 - (5) The number of program contact hours;
 - (6) The instructor's full name and board-approved identification number; and
 - (7) The instructor's signature.
- c. Submit to the board a typed or electronic course completion roster within 30 days following the completion of the course. The course completion roster shall contain the following information:
 - (1) The full name and board-issued license number of each attending licensee;
 - (2) The course name or title;
 - (3) The board-approved course identification number;
 - (4) The date of the course;
 - (5) The location of the course;
 - (6) The number of program contact hours;
 - (7) The instructor's full name and board-approved identification number; and
 - (8) The instructor's signature.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

30.8(2) *Computer-based continuing education programs/activities.* For computer-based continuing education programs/activities under subrule 30.2(3), at the conclusion of each computer-based continuing education course, the person authorized to monitor and verify attendance/course completion shall:

a. Provide a certificate of completion to each licensee who completes the course. The certificate of completion shall include the following information:

- (1) The licensee's full name and board-issued license number;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date the course was completed; and
- (5) The number of program contact hours.

b. Submit to the board a typed or electronic course completion roster within 30 days following a licensee's completion of a computer-based continuing education course. The course completion roster shall contain the following information:

- (1) The full name and board-issued license number of each attending licensee;
- (2) The course name or title;
- (3) The board-approved course identification number;
- (4) The date of the course;
- (5) The location of the course; and
- (6) The number of program contact hours.

These rules are intended to implement Iowa Code chapters 105 and 272C.

[Filed Emergency 10/16/09, effective 10/16/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8265B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services amends Chapter 50, "Definitions," Chapter 63, "Leave," and Chapter 64, "Benefits," Iowa Administrative Code.

These amendments reflect the removal of definitions no longer needed in the rules, conformity of the rules to the Family and Medical Leave Act, the addition of new family leave provisions for family members of certain military personnel as required by the National Defense Authorization Act for FY 2008, deletion of outdated information regarding employee benefits, and clarification of reimbursement for educational expenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8115B**. No public comments were received on these amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 9, 2009.

These amendments are intended to implement the Family and Medical Leave Act, the National Defense Authorization Act for FY 2008, and Iowa Code chapters 70A and 509A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 50, 63, 64] is being omitted. These amendments are identical to those published under Notice as **ARC 8115B**, IAB 9/9/09.

[Filed 10/16/09, effective 12/9/09]

[Published 11/4/09]

[For replacement pages for IAC, see IAC Supplement 11/4/09.]

ARC 8258B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 476, section 4, the Department of Human Services amends Chapter 36, "Facility Assessments," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments implement a nursing facility quality assurance assessment based on a facility's non-Medicare patient days. The quality assurance assessment shall be effective the first quarter beginning after all required Centers for Medicare and Medicaid Services approvals are obtained and shall be paid on a quarterly basis. The assessment shall be due to the Department no later than 30 days following the end of each quarter.

The following are the assessment brackets:

- \$1 per non-Medicare patient day if licensed beds are less than or equal to 50.
 - \$1 per non-Medicare patient day for nursing facilities designated as continuing care retirement centers by the Iowa Insurance Division.
 - \$1 per non-Medicare patient day for nursing facilities with annual Iowa Medicaid patient days of 26,500 or greater.
 - \$5.26 per non-Medicare patient day for all other nursing facilities.
- The following nursing facilities would be excluded from paying the quality assurance assessment:
- Nursing facilities operated by the state.
 - Non-state government-owned or government-operated nursing facilities.
 - Distinct-part skilled nursing unit or a swing-bed unit operated by a hospital.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The reimbursement methodology for nursing facilities is modified to provide a quality assurance assessment pass-through rate and a quality assurance assessment rate add-on, pursuant to 2009 Iowa Acts, Senate File 476.

These amendments do not provide for waivers in specified situations because all nursing facilities should be subject to the same assessment and reimbursement structure. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8086B**. The Department also held a public hearing on the Notice of Intended Action, which no one attended. The Department received two comments on the Notice of Intended Action.

In response to these comments, the Department has made one change to the amendments as published under Notice of Intended Action. The following text has been added to subrule 36.7(4) to reflect a provision of the legislation that was not addressed:

“If the department determines that good cause is shown for failure to comply with payment of the quality assurance assessment, the department shall waive the penalty or a portion of the penalty. Requests for a good cause waiver must be submitted to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, Des Moines, Iowa 50315, within 30 days of notice to the facility that the penalty is due.”

In the adopted amendments, subrule 36.7(4) reads as follows:

“**36.7(4)** A nursing facility that fails to pay the quality assurance assessment within the time frame specified above shall pay a penalty in the amount of 1.5 percent of the quality assurance assessment amount owed for each month or portion of a month that the payment is overdue. If the department determines that good cause is shown for failure to comply with payment of the quality assurance assessment, the department shall waive the penalty or a portion of the penalty. Requests for a good cause waiver must be submitted to the Iowa Medicaid Enterprise, Provider Cost Audit and Rate Setting Unit, 100 Army Post Road, Des Moines, Iowa 50315, within 30 days of notice to the facility that the penalty is due.”

The Council on Human Services adopted these amendments on October 14, 2009.

These amendments are intended to implement 2009 Iowa Acts, Senate File 476.

These amendments shall become effective on January 1, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 36 Div II, 36.6, 36.7, 81.6(11)“p,” 81.6(21)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8086B**, IAB 8/26/09.

[Filed 10/15/09, effective 1/1/10]

[Published 11/4/09]

[For replacement pages for IAC, see IAC Supplement 11/4/09.]

ARC 8259B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services amends Chapter 47, “Diversion Initiatives,” Iowa Administrative Code.

These amendments eliminate one of the Department's diversion initiatives, the FIP Diversion Program. The Department and the General Assembly have agreed that funding previously used for the FIP Diversion Program will better serve the overall interests of the state and the families the Department serves by being redirected to other initiatives that have the potential to lead to self-sufficiency, such as basic needs grants, PROMISE JOBS allowances, and Family Self-Sufficiency Grants.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The amendments also make technical changes to clarify that Family Self-Sufficiency Grants are targeted toward PROMISE JOBS participants and to update a form number.

These amendments do not provide for waivers in specified situations, since no funds have been appropriated to continue this program.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8064B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 14, 2009.

These amendments are intended to implement Iowa Code section 239B.11.

These amendments shall become effective on December 9, 2009.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 47**, preamble, as follows:

PREAMBLE

This chapter describes the department of human services diversion ~~initiatives~~ initiative. ~~The purpose of these programs is to provide immediate, short-term assistance to families in lieu of ongoing assistance under the family investment program (FIP diversion) or to meet needs of FIP participants not currently met by existing PROMISE JOBS services (family self-sufficiency grants). Assistance under this chapter is intended to enable families to become or remain self-sufficient by removing barriers to obtaining or retaining employment.~~ While the diversion ~~initiatives~~ initiative is available statewide, local areas may exercise flexibility in program design, within the overall confines of these rules.

ITEM 2. Rescind and reserve **441—Chapter 47, Division I**.

ITEM 3. Amend rule 441—47.24(239B), introductory paragraph, as follows:

441—47.24(239B) Assistance available in family self-sufficiency grants. Family self-sufficiency grants shall be authorized for removing an identified barrier to self-sufficiency when it can be reasonably anticipated that the assistance will enable PROMISE JOBS participant families to retain employment or obtain employment in the two full calendar months following the date of authorization of payment. For example, if a payment is authorized on August 20, it should be anticipated that the participant can find employment in September or October.

ITEM 4. Amend subrule 47.25(2), introductory paragraph, as follows:

47.25(2) Notification process. PROMISE JOBS shall use Form ~~SS-1104-0~~ 470-0602, Notice of Decision: Services, to notify the candidate of the PROMISE JOBS decision regarding the family self-sufficiency grant. Decisions shall be in accordance with policies of this division and the local plan.

[Filed 10/15/09, effective 12/9/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8260B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

These amendments provide that:

- The resource limits for Medicaid's Medicare savings programs will increase each year beginning January 1, 2010, to match the resource limit for the full low-income subsidy (LIS) for the Medicare Part D drug program. "Medicare savings program" coverage groups include "qualified Medicare beneficiaries," "qualified disabled and working persons," "specified low-income Medicare

HUMAN SERVICES DEPARTMENT[441](cont'd)

beneficiaries,” and “expanded specified low-income Medicare beneficiaries” (depending on a person’s income level). Eligibility under one of these groups entitles the member to Medicaid payment for some or all of the person’s out-of-pocket costs under Medicare, such as premiums, deductibles, copayments, and coinsurance. Since the LIS resource limits are more than double the limits currently in effect for the Medicare savings programs, this change will allow more people to qualify.

- An application for LIS benefits will be considered an application for Medicare savings plan coverage (or any other coverage group for which the Department finds the applicant eligible). The Social Security Administration will forward data to the Department on all LIS applications except those on which the applicant has specifically declined to have information shared with the state. Currently, applications for Medicare savings coverage must be individually initiated by the applicant. This change is expected to increase the number of LIS recipients who become eligible for Medicare savings program coverage.

These changes are required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), Public Law 110-275, Sections 112 and 113.

The amendments also make technical changes to update the title of the review form used for children in foster care, subsidized adoption, or subsidized guardianship.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8056B**. The Department received no comments on the Notice of Intended Action.

The Department has restructured paragraph 76.1(1)“e” and added new subparagraph 76.1(1)“e”(2) to specify what application form will be used to gather the rest of the information needed to determine Medicaid eligibility for LIS applicants. Paragraph 76.1(1)“e” now reads as follows:

“e. The department shall initiate a medical assistance application for a person whose application data is received from the federal Social Security Administration pursuant to 42 U.S.C. 1320b-14(c)(3).

“(1) The Social Security Administration transmits data from Form SSA-1020B-OCR-SM, Application for Extra Help with Medicare Prescription Drug Plan Costs, to the department. The date that the Social Security Administration transmits its application data to the department shall be treated as the date of application for medical assistance.

“(2) The department shall mail Form 470-4846, Medicare Savings Program and Food Assistance Application, to the person whose data was transmitted to gather the rest of the information needed to determine eligibility.”

The Council on Human Services adopted these amendments on October 14, 2009.

These amendments are intended to implement Iowa Code section 249A.3.

These amendments shall become effective on January 1, 2010.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.1, 75.52(3), 76.1(1), 76.7(4)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8056B**, IAB 8/26/09.

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ARC 8262B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment clarifies that, in documentation for Medicaid services billed using time-related Current Procedural Terminology (CPT) codes, the total amount of time spent on the service shall be recorded rather than beginning and ending time. The Department intends that the Medicaid policy shall be consistent with Medicare policy in this regard. Consistency between the programs allows greater efficiency for providers.

This amendment does not provide for waivers because all providers should be subject to the same documentation requirements. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8084B**. The Department received two comments on the Notice of Intended Action, questioning how this change would be applied and whether it could lead to inaccurate billing. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on October 14, 2009.

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

This amendment shall become effective on December 9, 2009.

The following amendment is adopted.

Amend subparagraph **79.3(2)“c”(3)**, numbered paragraph **“3,”** as follows:

3. The complete time of the service, including the beginning and ending time if the service is billed on a time-related basis. For those time-related services billed using Current Procedural Terminology (CPT) codes, the total time of the service shall be recorded, rather than the beginning and ending time.

[Filed 10/15/09, effective 12/9/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8263B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment updates the rules on the Medical Assistance Advisory Council to conform to statutory changes enacted in 2005 Iowa Acts, chapter 120. The legislation expanded the membership of the Council and created an Executive Committee, which is required to meet monthly and make recommendations to the Department regarding the budget, policy, and administration of the Medical Assistance Program.

This amendment does not provide for a waiver because it is a technical amendment that describes the membership and duties of the Medical Assistance Advisory Council.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8059B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on October 14, 2009.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment is intended to implement Iowa Code section 249A.4B.
This amendment shall become effective on December 9, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [79.7] is being omitted. This amendment is identical to that published under Notice as **ARC 8059B**, IAB 8/26/09.

[Filed 10/15/09, effective 12/9/09]

[Published 11/4/09]

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ARC 8271B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code chapter 249G, Iowa Code sections 505.8, 522B.18 and 514G.111, Iowa Code section 514H.9 as amended by 2009 Iowa Acts, House File 723, section 21, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, the Insurance Division hereby amends Chapter 39, "Long-Term Care Insurance," and Chapter 72, "Long-Term Care Asset Preservation Program," Iowa Administrative Code.

The rules in Chapter 39 implement Iowa Code chapter 514G to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverage, and to facilitate flexibility and innovation in the development of long-term care insurance.

The amendments to Chapter 39 add new Division III, which implements Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, to establish, in conjunction with the Iowa Department of Human Services, a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and Iowa Medicaid. The amendments also change the training required of insurance producers who wish to sell long-term care insurance to include training regarding the long-term care partnership program. The amendments change the term "agent" to "producer," where appropriate, to be consistent with other chapters in the Iowa Code and Iowa Administrative Code, particularly Iowa Code chapter 422B and 191—Chapters 10 and 11. Finally, the amendments prohibit the issuance of insurance policies under the Iowa long-term care asset preservation program in 191—Chapter 72 on or after January 1, 2010. The amendments will become effective December 9, 2009, and insurance companies and producers shall comply with the long-term care insurance rules beginning January 1, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 9, 2009, as **ARC 8132B**. A public hearing was held on October 1, 2009, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments were received, and changes to the proposed amendments were made as follows:

A request was made to extend the effective date of subrule 39.15(4) to July 1, 2010. After discussion of the concerns that led to that request, it was decided to change the compliance date of subparagraph 39.15(4)"c"(1) from December 9, 2009, to January 1, 2010.

A request was made to delete numbered paragraphs "15" and "16" from the list in subparagraph 39.15(4)"c"(2) because they are redundant. That change was made.

A request was made to delete numbered paragraph "15" of the current outline of coverage set forth in subrule 39.18(9), to renumber paragraph "16" as "15," and to change the word "ASSISTANCE" to "INFORMATION" to reflect the correct title of the program. Those changes were made.

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A request was made to insert “partnership” before “policies” in rule 191—39.76(514H,83GA,HF723). That change was made.

A request was made to move the definitions of “CE” and “CE provider” in rule 191—39.77(514H,83GA,HF723) to rule 191—39.4(514G) because the terms are used earlier in the chapter. Instead, the definitions were added to subrule 39.15(4), the only subrule in which the terms are used.

After discussions with interested parties about the exchange process set forth in rule 191—39.82(514H,83GA,HF723), the Division added a time limit to subrule 39.82(1) during which an insurer must make the exchange offer.

An incorrect reference in paragraph 39.82(2)“g” was changed from 39.82(2)“a” to the correct reference, 39.82(1).

A request was made to amend the language related to the notice “required by the state of Iowa” in subrule 39.83(1). That change was made, and the language now includes a reference to new Appendix J.

A request was made to delete rule 191—39.84(514H,83GA,HF723). Subrules 39.84(2), 39.84(3) and 39.84(4) were deleted, and the references within the deleted subrules to long-term care partnership policies were added to subrule 39.15(4) where appropriate. The text of subrule 39.84(1) was retained and has been renumbered as rule 191—39.84(514H,83GA,HF723).

A request was made to move most of the content of proposed rule 191—39.85(514H,83GA,HF723) into rule 191—39.15(514D,514G). Some of the content of rule 191—39.85(514H,83GA,HF723) that was not duplicative of prior subrule language was incorporated into new paragraph 39.15(4)“f.”

A request was made to delete the title of the reporting requirements set forth in proposed subrule 39.86(1) and to modify the requirements for the report to be provided to consumers under proposed subrule 39.86(2). Those changes were made.

A new Appendix J has been added because the changes made to proposed subrule 39.83(1) required it.

Generally, the item numbers and rule numbers were changed to reflect the changes described above, and other nonsubstantive editorial changes were made.

These amendments will become effective December 9, 2009.

These amendments are intended to implement Iowa Code chapters 514G and 522B, Iowa Code section 514G.111, Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171.

The following amendments are adopted.

ITEM 1. Amend subrule 39.6(7), introductory paragraph, as follows:

39.6(7) *Electronic enrollment for group policies.* In the case of a group defined in Iowa Code section 514G.4(4), any requirement that a signature of an insured be obtained by ~~an agent~~ a producer or insurer shall be deemed satisfied if:

ITEM 2. Amend subrule 39.11(1), introductory paragraph, as follows:

39.11(1) Application forms shall include the following questions designed to elicit information whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and ~~agent~~ producer, except where the coverage is sold without ~~an agent~~ a producer, containing such questions may be used. With regard to a replacement policy issued to a group defined by Iowa Code section 514G.4(5) “a,” the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement.

ITEM 3. Amend subrule 39.11(2), introductory paragraph, as follows:

39.11(2) Agents Producers shall list any other health insurance policies they have sold to the applicant.

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ITEM 4. Strike “agent” wherever it appears in subrules **39.11(3)** and **39.11(4)** and insert “producer” in lieu thereof.

ITEM 5. Amend paragraph **39.15(1)“a”** as follows:

a. Establish marketing procedures to ensure that any comparison of policies by its ~~agents~~ producers or by other producers will be fair and accurate.

ITEM 6. Amend paragraph **39.15(2)“c”** as follows:

c. *Cold-lead advertising.* Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance ~~agent~~ producer or insurance company.

ITEM 7. Amend subparagraph **39.15(3)“b”(5)**, numbered paragraph “2,” as follows:

2. Actively monitor the marketing efforts of the insurer and its ~~agents~~ producers; and

ITEM 8. Rescind subrule 39.15(4) and adopt the following **new** subrule in lieu thereof:

39.15(4) Producer training requirements.

a. *Purpose.* The purpose of this subrule is to require certain specific minimum training for insurance producers who wish to sell long-term care insurance or long-term care partnership insurance in Iowa. This additional training is necessary due to the complex nature of long-term care insurance and long-term care partnership insurance products. This additional training is also necessary to ensure that insurance producers are able to determine whether long-term care insurance or long-term care partnership insurance products are suitable for consumers and that producers are able to adequately explain to consumers how the long-term care insurance and long-term care partnership insurance products work. The ultimate goal of this subrule is to ensure that purchasers of long-term care insurance and long-term care partnership insurance products understand basic features of the products.

(1) This subrule applies to all long-term care insurance and long-term care partnership insurance products sold on or after January 1, 2010.

(2) For purposes of this subrule, “CE,” “CE provider,” “CE term” and “credit” shall mean the same as defined in rule 191—11.2(505,522B).

b. *Required training.*

(1) An individual may not sell, solicit or negotiate long-term care insurance or long-term care partnership insurance products unless the individual is licensed as an insurance producer with an accident and health or sickness line of authority and has completed a one-time training course and ongoing training every CE term thereafter. The training shall meet the requirements set forth in paragraph 39.15(4)“c.”

(2) The training content of paragraph 39.15(4)“c” must be approved as continuing education courses under 191—Chapter 11, except that the one-time training required under subparagraph 39.15(4)“b”(1) must be classroom training. However, a CE provider may apply directly to the division and request that a self-study or on-line course be approved as a substitute. Ongoing training may be by any means allowable under 191—Chapter 11.

c. *Training content.*

(1) The one-time training required by this subrule shall be no less than eight credits and the ongoing training required by this subrule shall be no less than four credits, except that producers who have completed four credits of long-term care insurance training prior to January 1, 2010, shall complete only four credits of one-time training specifically related to the long-term care partnership program and Iowa-specific Medicaid requirements.

(2) The training required under subparagraph (1) shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership programs, including, but not limited to:

1. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid requirements;

2. Available long-term care services and providers;

3. Changes or improvements in long-term care services or providers;

INSURANCE DIVISION[191](cont'd)

4. Alternatives to the purchase of private long-term care insurance or long-term care partnership insurance;
5. The effect of inflation on benefits and the importance of inflation protection;
6. Consumer suitability standards and guidelines;
7. The Deficit Reduction Act;
8. Iowa's laws regarding the long-term care partnership program;
9. The Iowa Medicaid program;
10. Miller trusts;
11. Spousal protection;
12. Transfer of assets;
13. Estate recovery; and
14. Eligibility.

(3) Unless otherwise required by state or federal law, the training required by this subrule shall not include training that is specific to a single insurer or company product and shall not include any sales or marketing information, materials, or training, other than those required by state or federal law.

d. Requirements for insurers.

(1) Insurers subject to this chapter shall obtain verification that a producer has received training required by subparagraph 39.15(4)“b”(1) before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance or long-term care partnership insurance products; shall make verifications available to the division upon request; and shall maintain records subject to the state's record retention requirements.

(2) Each insurer subject to this chapter shall maintain records with respect to the training of its producers concerning the distribution of its partnership policies that will allow the division to provide assurance to the Iowa department of human services that producers have received the training set forth in subparagraph 39.15(4)“c”(2), numbered paragraph “1,” as required by subparagraph 39.15(4)“b”(1) and that producers have demonstrated an understanding of the partnership policies and the policies' relationship to public and private coverage of long-term care, including Medicaid, in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the division upon request.

e. Training obtained in other states. The satisfaction of the training requirements in any state shall be deemed to satisfy the training requirements in this state.

f. Requirements for continuing education providers to provide long-term care partnership insurance training. In addition to having been approved as a CE provider under rule 191—11.9(505,522B), a CE provider intending to provide either the initial training or the ongoing continuing education required under subrule 39.15(4) shall:

(1) Provide only classroom training for the initial one-time training for providers. However, the CE provider may apply directly to the division and request that a self-study or on-line course be approved as a substitute. Ongoing training may be by any means allowable under 191—Chapter 11.

(2) If approved, comply with rules 191—11.10(505,522B) and 191—11.11(505,522B).

ITEM 9. Amend paragraph **39.16(2)“b”** as follows:

b. Train its ~~agents~~ producers in the use of its suitability standards; and

ITEM 10. Amend subrule 39.16(3), introductory paragraph, as follows:

39.16(3) To determine whether the applicant meets the standards developed by the issuer, the ~~agent~~ producer and issuer shall develop procedures that take into consideration the following:

ITEM 11. Amend subrule 39.16(4) as follows:

39.16(4) The issuer, and, when an ~~agent~~ a producer is involved, the ~~agent~~ producer, shall make reasonable efforts to obtain the information set out in subrule 39.16(3). The efforts shall include presentation of the “Long-Term Care Insurance Personal Worksheet” to the applicant, at the time of or prior to application. The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in Appendix B, in not less than 12-point type. The issuer may

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request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the commissioner.

A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

The sale or dissemination outside the company or agency by the issuer or agent producer of information obtained through the personal worksheet in Appendix B is prohibited.

ITEM 12. Amend subrule 39.16(6) as follows:

39.16(6) Agents Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance.

ITEM 13. Amend subrule 39.18(2) as follows:

39.18(2) In the case of agent producer solicitations, ~~an agent a producer~~ must deliver the outline of coverage prior to the presentation of an application or enrollment form.

ITEM 14. Amend subrule **39.18(9)**, numbered paragraphs "7," "15" and "16" of the outline of coverage, as follows:

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For agents producers] Neither [insert company name] nor its agents producers represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

~~15.—This policy does not qualify for Medicaid asset protection under the Iowa Long-Term Care Asset Preservation Program. However, this policy is an approved Long-Term Care Insurance Policy under state regulations. For information about policies and certificates qualifying under the Iowa Long-Term Care Asset Preservation Program, contact the Senior Health Insurance Information Program of the Insurance Division at 1-800-351-4664.**~~

16 15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE INFORMATION PROGRAM (800-351-4664)** IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

~~**Outlines of coverage must be updated to include the listed number for the Senior Health Insurance Information Program no later than August 1, 2003. Insurers may continue to use Outlines that list the telephone number of 515-281-5705 until July 31, 2003.~~

ITEM 15. Amend paragraph **39.19(1)"a"** as follows:

a. In the case of agent producer solicitations, ~~an agent a producer~~ must deliver the shopper's guide to the applicant at the time of application.

ITEM 16. Amend subrule 39.24(4) as follows:

39.24(4) No long-term care insurance policy or certificate may be field-issued based on medical or health status. For purposes of this subrule, "field-issued" means a policy or certificate issued by ~~an agent a producer~~ or a third-party administrator pursuant to the underwriting authority granted to the agent producer or third-party administrator by an insurer.

ITEM 17. Amend rule 191—39.27(514G) as follows:

191—39.27(514G) Reporting requirements.

39.27(1) Every insurer shall maintain for each agent producer records of that agent's producer's amount of replacement sales as a percent of the agent's producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent producer as a percent of the agent's producer's total annual sales.

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39.27(2) Every insurer shall report annually by June 30 the 10 percent of its agents producers with the greatest percentages of lapses and replacements as measured by subrule 39.27(1) in the format prescribed in Appendix G.

39.27(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent producer activities regarding the sale of long-term care insurance.

39.27(4) to 39.27(8) No change.

ITEM 18. Reserve rules **191—39.56** to **191—39.74**.

ITEM 19. Adopt the following new division heading in **191—Chapter 39**:

DIVISION III
LONG-TERM CARE PARTNERSHIP PROGRAM

ITEM 20. Adopt the following new rules 191—39.75(514H,83GA,HF723) to 191—39.85(514H,83GA,HF723):

191—39.75(514H,83GA,HF723) Purpose.

39.75(1) This division is intended to implement Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, to establish, in conjunction with the department of human services, a long-term care partnership program in Iowa to provide for financing of long-term care through a combination of private insurance and Iowa Medicaid.

39.75(2) The Iowa long-term care partnership program shall:

- a. Provide incentive for individuals to insure against the costs of providing for long-term care needs;
- b. Provide a mechanism for individuals to qualify for coverage under Iowa Medicaid while having certain assets disregarded for eligibility determinations and recovery; and
- c. Reduce the financial burden on the state's Medicaid program by encouraging the pursuit of private initiatives using qualified long-term care partnership policies or certificates.

191—39.76(514H,83GA,HF723) Effective date. The rules in this division shall apply to all long-term care partnership policies or certificates sold or issued for delivery on or after January 1, 2010.

191—39.77(514H,83GA,HF723) Definitions. For purposes of this division, the definitions in Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, and the definitions in rule 191—39.4(514G) shall apply. In addition, the following definitions shall apply:

“*Asset disregard*” means, with regard to the state's Medicaid program, disregarding assets in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care partnership policy.

“*Division*” means the Iowa insurance division.

“*Iowa long-term care partnership policy*” or “*partnership policy*” means an insurance policy that meets the following requirements:

1. The policy covers an insured who, when coverage first became effective under the policy, was a resident of Iowa or was an individual eligible under subrule 39.78(2).
2. The policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986 and was issued no earlier than January 1, 2010.
3. The policy meets all of the applicable requirements of this chapter and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.
4. The division has certified the policy as meeting the requirements of the following: Section 1917(b) of the Social Security Act, 42 U.S.C. 1396p; Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171; and any applicable federal regulations or guidelines.
5. The policy provides the following inflation protections:

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- For a person who is less than 61 years of age as of the date of purchase of the policy or date of issuance of the certificate, the policy provides either annual compounded inflation protection of not less than 3 percent or annual compounded inflation protection of not less than a rate based on changes in the consumer price index. "Consumer price index" means consumer price index for all urban consumers, U.S. city average, all items, as determined by the Bureau of Labor Statistics of the United States Department of Labor.

- For a person who is at least 61 years of age but less than 76 years of age as of the date of purchase of the policy or date of issuance of the certificate, the policy provides either an inflation feature that meets the requirements of this definition, paragraph "5," first bulleted paragraph, or an automatic inflation feature that provides annual simple inflation increases at a rate of not less than 3 percent.

- For a person who is at least 76 years of age as of the date of purchase of the policy or date of issuance of the certificate, an inflation protection feature may be included in the policy but is not required.

"*Long-term care partnership program*" means a qualified state long-term care insurance partnership as defined in Section 1917(b) of the Social Security Act, 42 U.S.C. 1396p; Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171; and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

"*Medicaid*" means the program of medical assistance operated by the Iowa department of human services under Title XIX of the federal Social Security Act, 42 U.S.C. 1396 et seq., and amendments thereto.

191—39.78(514H,83GA,HF723) Eligibility.

39.78(1) An individual who is a beneficiary of an Iowa long-term care partnership policy or certificate may be eligible for assistance under the state's Medicaid program using the asset disregard as provided under Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

39.78(2) An individual who is a beneficiary of a long-term care partnership policy or certificate issued in another state which grants reciprocity to an Iowan who moves to that state is eligible for benefits under Iowa's Medicaid program using the asset disregard as provided in Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723. For purposes of this subrule, "reciprocity" means the granting of all the benefits by one state to an individual who becomes a resident of that state but who purchased a long-term care partnership policy while residing in another state.

191—39.79(514H,83GA,HF723) Discontinuance of partnership program. If the Iowa long-term care partnership program established by this division and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723, is discontinued, any individual who purchased an Iowa long-term care partnership policy or certificate before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by Title VI, Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171.

191—39.80(514H,83GA,HF723) Required disclosures.

39.80(1) An insurer or a producer soliciting or offering to sell a partnership policy shall provide to each prospective applicant a Partnership Program Notice. The notice must be substantially similar to Appendix H of this chapter. The Partnership Program Notice shall be provided with the required outline of coverage.

39.80(2) An insurer or a producer soliciting or offering to sell a partnership policy shall provide to each prospective applicant a copy of the Iowa Long-Term Care Partnership Program Consumer Guide. The Iowa Long-Term Care Partnership Program Consumer Guide form may be found on the division's Web site, www.iid.state.ia.us.

39.80(3) A partnership policy or certificate issued or issued for delivery in Iowa shall be accompanied by a Partnership Status Disclosure Notice (Appendix I). A similar notice may be used if filed with and approved by the division.

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191—39.81(514H,83GA,HF723) Form filings.

39.81(1) A partnership policy shall not be issued or issued for delivery in Iowa unless filed with and approved by the division. Any policy submitted for certification as a partnership policy shall be accompanied by a Partnership Issuer Certification. The Partnership Issuer Certification form may be found on the division's Web site, www.iid.state.ia.us. Insurance companies required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division's requirements, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set forth on the SERFF Web site at www.serff.org.

39.81(2) Insurers may request to make use of a previously approved policy form as a qualified state long-term care partnership policy. Requests shall be filed electronically via SERFF and according to instructions on the SERFF Web site.

191—39.82(514H,83GA,HF723) Exchanges.

39.82(1) An insurer must offer, on a one-time basis, in writing, to all existing policyholders that were issued long-term care policies between February 1, 2003, and January 1, 2010, the option to exchange their existing long-term care policies for an Iowa long-term care partnership policy. The insurer must make this offer within 18 months of the date the insurer begins the first marketing efforts for any long-term care partnership insurance product.

39.82(2) Under an exchange program, an insurer must comply with all of the following:

a. The mandatory offer of an exchange shall apply only to products issued by the insurer that are comparable to the type of policy, such as group policies and individual policies, and to the policy series that the company has certified as partnership-qualified.

b. An insurer must provide the insured a minimum of 90 days from the date of mailing of the offer by the insurer to accept or reject the offer.

c. An insurer must make the offer on a nondiscriminatory basis without regard to the age or health status of the insured. However, the insurer may underwrite if the policy is amended to provide additional benefits or if the exchange would require the issuance of a new policy, except as described in paragraph 39.82(2) "d" below. Any portion of the policy that was issued prior to the exchange date shall be priced based on the policyholder's age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder's age at the time of the exchange.

d. If there is no change in coverage that is material to the risk, policies exchanged under this rule shall not be subject to any medical underwriting.

e. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the policy or certificate being replaced.

f. Any portion of the policy that was issued prior to the exchange date shall maintain the policy's original price based on the policyholder's age when the policy was originally issued. Any portion of the policy that is added as a result of the exchange may be priced based on the policyholder's age at the time of the exchange.

g. When the policy is issued to a group, the offer required in subrule 39.82(1) shall be made to the group policyholder.

h. Notwithstanding paragraphs 39.82(2) "a" and "c," an insurer is not required to offer an exchange to an individual who is eligible for benefits within an elimination period, who is or who has been in claim status, or who would not be eligible to apply for coverage due to issue age or plan design limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including plan design, underwriting, if applicable, and payment of the required premium.

39.82(3) Policies issued pursuant to this rule shall be considered exchanges and not replacements and are not subject to rule 191—39.11(514D,514G).

39.82(4) A policy received in an exchange after January 1, 2010, is treated as newly issued and is eligible for long-term care partnership policy status. For purposes of applying the Medicaid rules relating

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to Iowa's long-term care partnership program, the addition of a rider, endorsement or change in schedule page for a policy may be treated as giving rise to an exchange.

39.82(5) An insurer or a producer offering an exchange shall provide to each prospective applicant a Partnership Program Notice, as required by subrule 39.80(1), and a copy of the Iowa Long-Term Care Partnership Program Consumer Guide, as required by subrule 39.80(2). An insurer issuing or issuing for delivery in Iowa an exchange shall provide the policyholder or certificate holder a Partnership Status Disclosure Notice, as required by subrule 39.80(3).

191—39.83(514H,83GA,HF723) Required policy terms and disclosures.

39.83(1) A policy or certificate designed or marketed as a long-term care insurance policy or certificate must prominently disclose on the schedule page the following statements:

“Some long-term care insurance [policies or certificates] may qualify under the state's Long-Term Care Partnership Program. Under this Program the [policyholder or certificate holder] may be able to protect some of the [policyholder's or certificate holder's] assets from Medicaid spend-down requirements through a feature known as ‘Asset Disregard.’ Nothing in this [policy or certificate] is a guarantee of Medicaid eligibility nor is it a guarantee of any ability to disregard assets for purposes of Medicaid eligibility. If you have questions about whether or not your policy currently qualifies under the Long-Term Care Partnership Program, please contact [the insurer at ###-###-####] and request a long-term care partnership program policy summary.”

39.83(2) If a policyholder or certificate holder or that person's representative requests a long-term care partnership program policy summary, as provided in subrule 39.83(1), the information the insurer shall provide and the format of the long-term care partnership program policy summary shall be as set forth in Appendix J. An insurer may submit a form substantially similar to Appendix J to the commissioner for approval to use as a substitute for Appendix J.

191—39.84(514H,83GA,HF723) Standards for marketing and suitability. The standards for marketing found in rule 191—39.15(514D,514G) and the suitability requirements of rule 191—39.16(514D,514G) shall apply to the marketing and sale of long-term care partnership policies.

191—39.85(514H,83GA,HF723) Required reports.

39.85(1) Each issuer of partnership-qualified long-term care insurance in this state shall provide regular reports to the Secretary of the United States Department of Health and Human Services in accordance with federal law and regulations and to the Iowa department of human services and the division as provided in Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171. The report shall include information as required by the United States Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Submission of the report to the Iowa department of human services or the division is not required if the issuer files the report through the Centers for Medicare and Medicaid Services filing system.

39.85(2) When a policyholder or certificate holder begins receiving any benefits under a policy, the issuer shall begin providing to the policyholder or certificate holder statements of benefits either monthly or within a reasonable time after benefits have been paid. The statements of benefits shall include, at a minimum, detailed information regarding benefits paid and dates of service.

ITEM 21. Amend **191—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 514D.9, and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694 and Iowa Code chapter 514H as amended by 2009 Iowa Acts, House File 723.

ITEM 22. Strike “agent” wherever it appears in **191—Chapter 39**, Appendices B, C and G, and insert “producer” in lieu thereof.

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ITEM 23. Adopt the following new Appendix H in **191—Chapter 39**:

APPENDIX H

Partnership Program Notice Important Consumer Information Regarding the Iowa Long-Term Care Partnership Program

Some long-term care insurance policies or certificates sold in Iowa may qualify for the Iowa Long-Term Care Partnership Program (the Partnership Program). The Partnership Program is a partnership between state government and private insurance companies to assist individuals in planning their long-term care needs. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meets certain state and federal requirements. Long-term care insurance policies or certificates that qualify as partnership policies or certificates may protect the policyholder's or certificate holder's assets through a feature known as "Asset Disregard" under Iowa's Medicaid program.

Asset Disregard means that an amount of the policyholder's or certificate holder's assets equal to the amount of long-term care insurance benefits received under a qualified partnership policy or certificate will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified partnership policy or certificate without affecting the person's eligibility for Medicaid.

All other Medicaid eligibility criteria will apply, and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy or certificate that is not a partnership policy or certificate. Therefore, you should consider if Asset Disregard is important to you and whether a partnership policy or certificate meets your needs. The purchase of a partnership policy or certificate does not automatically qualify you for Medicaid. There are other eligibility requirements you must meet, including resource and income requirements.

What Are the Requirements for a Partnership Policy or Certificate?

In order for a policy or certificate to qualify as a partnership policy or certificate, it must, among other requirements:

- Be issued to an individual on or after January 1, 2010;
- Be issued to an individual who is an Iowa resident when coverage first becomes effective under the policy;
- Be a tax-qualified policy under Section 7702B(b) of the Internal Revenue Code of 1986;
- Meet the following inflation protection requirements:
 - For a person less than 61 years of age – provides compound annual inflation protection
 - For a person at least 61 but less than 76 years of age – provides 3 percent inflation protection
 - For a person at least 76 years of age – inflation protection may be offered but is not required

If you apply and are approved for long-term care insurance coverage, [carrier name] will provide you with written documentation as to whether or not your policy or certificate qualifies as a partnership policy or certificate.

What Could Disqualify a Policy or Certificate as a Partnership Policy or Certificate?

Certain types of changes to a partnership policy or certificate could affect whether or not such policy or certificate continues to be a partnership policy or certificate. If you purchase a partnership policy or certificate and later decide to make *any* changes, you should first consult with your insurance producer or insurance company to determine the effect of a proposed change. If you move to a state that does not have a Partnership Program or does not recognize your policy or certificate as a partnership policy or certificate, you would not receive beneficial treatment of your policy or certificate under the Medicaid program of that state. The information contained in this disclosure is based on current Iowa and federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your policy or certificate under Iowa's Medicaid program.

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Additional Information

If you have questions regarding the long-term care insurance policies or certificates, please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Iowa Department of Human Services (Sally Oudekerk, Medicaid Policy Specialist, Bureau of Medical Support, telephone number (515)281-3709, E-mail address soudeke@dhs.state.ia.us).

ITEM 24. Adopt the following new Appendix I in **191—Chapter 39**:

APPENDIX I

Partnership Status Disclosure Notice
Important Information Regarding Your Policy's or Certificate's
Long-Term Care Partnership Status

This disclosure notice is issued in conjunction with your long-term care policy.

Some long-term care insurance policies or certificates sold in Iowa qualify for the Iowa Long-Term Care Partnership Program. Long-term care insurance policies or certificates that qualify as partnership policies or certificates may be entitled to special treatment, in particular as "Asset Disregard" under Iowa's Medicaid program.

Asset Disregard means that an amount of the policyholder's or certificate holder's assets equal to the amount of long-term care insurance benefits received under a qualified partnership policy or certificate will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified partnership policy or certificate without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply, and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy or certificate that is not a partnership policy or certificate. The purchase of a partnership policy or certificate does not automatically qualify you for Medicaid. There are other eligibility requirements you must meet, including resource and income requirements.

Partnership Policy or Certificate Status

Your long-term care insurance policy or certificate is intended to qualify as a partnership policy or certificate under the Iowa Long-Term Care Partnership Program as of your policy's or certificate's effective date.

What Could Disqualify a Policy or Certificate as a Partnership Policy or Certificate?

Certain types of changes to a partnership policy or certificate could affect whether or not such policy or certificate continues to be a partnership policy or certificate. If you purchase a partnership policy or certificate and later decide to make *any* changes, you should first consult with your insurance producer or your insurance company to determine the effect of a proposed change. If you move to a state that does not maintain a Partnership Program or does not recognize your policy or certificate as a partnership policy or certificate, you would not receive beneficial treatment of your policy or certificate under the Medicaid program of that state. The information contained in this disclosure is based on current Iowa and federal laws. These laws may be subject to change. Any change on law could reduce or eliminate the beneficial treatment of your policy or certificate under Iowa's Medicaid program.

Additional Information

If you have questions regarding the long-term care insurance policies or certificates, please contact [carrier name]. If you have questions regarding current laws governing Medicaid eligibility, you should contact the Iowa Department of Human Services (Sally Oudekerk, Medicaid Policy Specialist, Bureau of Medical Support, telephone number (515)281-3709, E-mail address soudeke@dhs.state.ia.us).

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ITEM 25. Adopt the following new Appendix J in **191—Chapter 39**:

APPENDIX J

Long-Time Care Partnership Program Policy Summary

1. Name of insured _____
2. Policy/certificate number _____
3. Effective date of coverage _____
4. The policy/certificate was issued in the state of _____
5. Issue age of the insured at the time the coverage was issued _____
6. The policy/certificate was issued With inflation protection coverage
 Without inflation protection coverage
7. The inflation protection coverage is Simple Inflation Compound Inflation None
8. The inflation protection coverage is currently in effect on the coverage Yes No
If no, the date inflation protection coverage ceased _____
9. The policy is intended to meet the standards of a tax-qualified long-term care policy
 Yes No
10. The cumulative dollar amount of insurance benefits paid \$ _____
(NOTE: The indicated amount does not include any payments for cash surrender, return of premium death benefits, or waiver of premium, and if joint coverage, the amount is for the indicated insured only.)
11. The total dollar amount of insurance benefits remaining available under the policy \$ _____
12. This information is correct as of the date this form was completed, which date was _____
13. The name, telephone number and E-mail address of the person completing this form

Name

Telephone Number

E-mail Address

ITEM 26. Amend rule 191—72.2(249G) as follows:

191—72.2(249G) Applicability and scope. The requirements of this chapter apply to any long-term care insurance policy or certificate authorized for sale by the division of insurance as qualifying under the Iowa long-term care asset preservation program under Iowa Code chapter 249G. No long-term care insurance policy or certificate which has been approved by the division of insurance as a certified long-term care insurance policy or certificate under this chapter may be advertised, solicited, or issued for delivery in this state after December 31, 2009.

[Filed 10/16/09, effective 12/9/09]

[Published 11/4/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8266B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the Low-Income Housing Tax Credit program with the 2010 Qualified Allocation Plan, which is incorporated by reference in rule 265—12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority’s Web site at www.iowafinanceauthority.gov. The 2010 Qualified Allocation Plan is incorporated by reference, consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8071B**. The Authority received public comment and made certain changes to the qualified allocation plan based thereon.

The Iowa Finance Authority adopted these amendments on October 7, 2009.

These amendments will become effective on December 9, 2009.

These amendments are intended to implement Iowa Code sections 16.5(1)“r,” 16.52, 17A.12, and 17A.16 and IRC Section 42.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2009 Second Amended~~ 2010 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of ~~2009~~ 2010 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to ~~September 3, 2008~~ October 7, 2009.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 3, 2008~~ October 7, 2009. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site.

[Filed 10/16/09, effective 12/9/09]

[Published 11/4/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/4/09.

ARC 8252B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

Chapter 94 gives the regulations for nonresident deer hunting and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. The amendments allow this chapter to conform with Iowa Code section 483A.24(10), which requires the Commission to adopt rules to implement the license provisions.

Iowa Code section 483A.24(10) specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness may obtain a special license to hunt deer during any season in any zone. A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident deer hunting license and pay the wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least 18 years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee. The person requesting the special license must apply on a form which requires that the person's attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2009, as **ARC 8016B**. A public hearing was held on August 18, 2009. There were no comments received at the hearing or in writing. There have been no changes made to the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8 and 483A.24.

These amendments shall become effective December 9, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 94.1(5):

94.1(5) Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 94**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, and 483A.8 and 483A.24.

[Filed 10/14/09, effective 12/9/09]

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ARC 8253B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 98, "Wild Turkey Spring Hunting," Iowa Administrative Code.

Chapter 98 regulates hunting wild turkeys during the spring and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements. The amendments allow this chapter to conform with Iowa Code section 483A.24(10), which requires the Commission to adopt rules to implement the license provisions. The amendments also update the implementation sentence for Chapter 98.

Iowa Code section 483A.24(10) specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness may obtain a special license to hunt turkey during any season in any zone. A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident turkey hunting license and pay the wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least 18 years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee. The person requesting the special license must apply on a form which requires that the person's attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2009, as **ARC 8017B**. A public hearing was held on August 18, 2009. There were no comments received at the meeting or in writing. There have been no changes to the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

These amendments shall become effective December 9, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 98.9(5):

98.9(5) Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, and 483A.7 and 483A.24.

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ARC 8254B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

The amendments allow Chapter 99 to conform with Iowa Code section 483A.24(10), which specifies that nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness may obtain a special license to hunt turkey during any season in any zone. Iowa Code section 483A.24(10)"e" requires the Commission to adopt rules to implement the license provisions.

A nonresident who receives a special license pursuant to this section must purchase a hunting license and the nonresident turkey hunting license and pay the wildlife habitat fee but is not required to complete the hunter safety and ethics education course if the nonresident licensee is accompanied and aided by a person who is at least 18 years of age. The accompanying adult must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee. The applicant requesting the special license must apply on a form which requires that the applicant's attending physician sign the form declaring that the applicant has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2009, as **ARC 8018B**. A public hearing was held on August 18, 2009. There were no comments received at the hearing or in writing. There have been no changes made to the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

These amendments shall become effective December 9, 2009.

The following amendments are adopted.

ITEM 1. Amend **571—Chapter 99**, title, as follows:

WILD TURKEY FALL HUNTING BY RESIDENTS

ITEM 2. Amend rule 571—99.1(481A) as follows:

571—99.1(481A) General. When hunting wild turkey, all hunters must have in possession a fall wild turkey hunting license valid for the current year, the unused transportation tag issued with that license, a hunting license, and evidence of having paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person shall carry or have in possession a fall wild turkey hunting license or transportation tag issued to another person while hunting wild turkey. No one who is issued a wild turkey hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey. Licenses for the fall turkey season will only be issued to Iowa residents except as specified in subrule 99.2(4).

ITEM 3. Adopt the following **new** subrule 99.2(4):

99.2(4) Special licenses. The commission shall issue licenses in conformance with Iowa Code section 483A.24(10) to nonresidents 21 years of age or younger who have a severe physical disability or who have been diagnosed with a terminal illness. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant has a severe physical disability or a terminal illness using the criteria listed in 571—Chapter 15. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Amend **571—Chapter 99**, implementation sentence, as follows:
These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, ~~and~~ 483A.7 and 483A.24.

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ARC 8255B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

The amendments allow this chapter to conform to 2009 Iowa Acts, Senate File 187 [new Iowa Code section 483A.8C]. 2009 Iowa Acts, Senate File 187, specifies that a nonambulatory person who is a resident may be issued one any sex deer license which is valid and may be used to hunt deer with a shotgun or muzzleloading rifle during any established deer season. This license is in addition to any other deer license for which the person is eligible. The person must purchase this deer license and is required to have a hunting license but is not required to pay the habitat fee. The legislation requires the Commission to adopt rules to implement the new Iowa Code section.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 29, 2009, as **ARC 8015B**. A public hearing was held on August 18, 2009. There were no comments received at the hearing or in writing. There have been no changes made to the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, and 483A.24B and 2009 Iowa Acts, Senate File 187.

These amendments shall become effective December 9, 2009.

The following amendments are adopted.

ITEM 1. Adopt the following new subrule 106.1(9):

106.1(9) Nonambulatory deer hunting licenses. The commission shall issue licenses in conformance with 2009 Iowa Acts, Senate File 187. A person applying for this license must provide a completed form obtained from the department of natural resources. The application shall be certified by the applicant's attending physician with an original signature and declare that the applicant is nonambulatory using the criteria listed in 2009 Iowa Acts, Senate File 187. A medical statement from the applicant's attending physician that specifies criteria met shall be on 8½" × 11" letterhead stationery. The attending physician shall be a currently practicing doctor of medicine, doctor of osteopathy, physician assistant or nurse practitioner.

ITEM 2. Amend **571—Chapter 106**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, and ~~483A.24B, and 483A.24C~~ and 2009 Iowa Acts, Senate File 187.

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