



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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CITATION of Administrative Rules

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

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

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

Schedule for Rule Making 2008

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. 26 '07	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11 '08	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sept. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sept. 22
Mar. 21	Apr. 9	Apr. 29	May 14	***May 14***	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	***June 25***	July 16	Aug. 20	Nov. 17
May 14	June 4	June 24	July 9	July 11	July 30	Sept. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sept. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 25	July 16	Aug. 5	Aug. 20	***Aug. 20***	Sept. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sept. 3	Sept. 5	Sept. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sept. 2	Sept. 17	Sept. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sept. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
Aug. 20	Sept. 10	Sept. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sept. 5	Sept. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sept. 19	Oct. 8	Oct. 28	Nov. 12	***Nov. 12***	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	***Nov. 26***	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	***Dec. 10***	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	***Dec. 24***	Jan. 14 '09	Feb. 18 '09	May 18 '09
Nov. 12	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
Nov. 26	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
Dec. 10	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
Dec. 24	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 4, 2008	April 23, 2008
23	Friday, April 18, 2008	May 7, 2008
24	Friday, May 2, 2008	May 21, 2008

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold a special meeting on Friday, April 4, 2008, at 8 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

CORRECTIONS DEPARTMENT[201]

Jail inspections and operations, 50.1, 50.4(8)“b,” 50.7(2)“e” to “g,” 50.8(1)“c,” 50.8(5), 50.13(2)“c”(1), 50.13(2)“e”(4), 50.13(2)“f”(1) and (2), 50.15(6)“c” and “d,” 50.15(7)“b,” 50.21(4)“b”(14), Notice ARC 6641B 3/12/08

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Targeted industries division name change, 1.4(4), part V title, 101.1, 102.8(1), 103.11(1), 104.9(1), 105.8(1), 106.6(1), 107.6(1), 108.6(1), 109.7(1), Filed ARC 6655B 3/12/08
Targeted industries internship program—intern selection process, 104.10, Notice ARC 6657B, also Filed Emergency ARC 6658B 3/12/08
Allocation of Grow Iowa values fund, ch 165, Filed ARC 6656B 3/12/08

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
Time lines for appeals and board review of proposed decisions, 11.28(1), 11.28(2), Filed ARC 6636B 3/12/08
Licensure—applicants from foreign institutions, 14.104, Filed ARC 6639B 3/12/08
Licensure—administrators from out of state, 14.142(1)“c,” Filed ARC 6638B 3/12/08
School psychologist endorsement, 15.11(2), Notice ARC 6642B 3/12/08
Renewal of standard license—credit for mentoring, 17.5(1), Filed ARC 6634B 3/12/08
Renewal of master educator license—credit for mentoring, 17.6(1), Filed ARC 6635B 3/12/08
Professional conduct and ethics violations and reporting, 25.3(6)“o” to “r,” Filed ARC 6633B 3/12/08

ELDER AFFAIRS DEPARTMENT[321]

Waiver and contested case procedures for area agencies on aging; severability clause, 4.3(8), 4.6(1), 4.7, 4.9(3)“h,” 4.11(2), 4.14, Notice ARC 6672B 3/26/08
Area agency on aging planning and administration, 6.10(4), 6.15(1), 6.18, Notice ARC 6674B 3/26/08
Case management program for frail elders, 21.3 to 21.6, 21.7(1)“c,” 21.8, 21.9(3), 21.11, 21.12, 21.16(3), 21.17, Notice ARC 6673B 3/26/08

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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COMMERCE DEPARTMENT[181]“umbrella”
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HUMAN SERVICES DEPARTMENT[441]

Medicaid eligibility and benefits—forms and procedures, 75.1(35)“c”(2), 75.1(35)“f,” “i” and “j,” 75.1(35)“l”(2) and (3), 75.1(41)“a”(1), 75.1(41)“c”(1), 75.2, 75.2(1) to 75.2(5), 75.3, 75.4, 75.4(3)“d” and “e,” 75.4(4)“c,” 75.4(6), 75.20(2)“b,” 75.20(4), 75.20(5), 76.1, 76.1(4), 76.1(7), 76.2, 76.3(6), 76.4, 76.5(1)“d,” 76.7(1), 76.7(3), Filed Emergency After Notice ARC 6627B 3/12/08
Providers of medical and remedial care—incident reporting; restraints, restrictions, and behavioral interventions; personnel standards, 77.25(1), 77.25(3), 77.25(4), 77.30, 77.30(18) to 77.30(20), 77.33, 77.33(22) to 77.33(24), 77.34, 77.34(14) to 77.34(16), 77.37, 77.37(8), 77.37(33), 77.37(34), 77.39, 77.39(6), 77.39(31), 77.39(32), 77.41, 77.41(12) to 77.41(14), 77.46(1)“d” and “e,” 77.46(3)“a”(1), 77.46(4)“a”(2), Notice ARC 6669B 3/26/08
Medicaid coverage for varenicline; removal of obsolete reference, 78.2(4)“b”(4), 78.28(7), Notice ARC 6659B 3/26/08
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IOWA FINANCE AUTHORITY[265]

Low-income housing tax credit compliance manual, 12.3, 12.4, Notice ARC 6681B 3/26/08

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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Temporary pharmacist in charge, 8.35(6)“c,” Notice ARC 6664B 3/26/08

Automated medication distribution systems and telepharmacy services, ch 9, Filed ARC 6670B 3/26/08

Centralized prescription filling and processing, 18.1 to 18.3, 18.5, 18.10, 18.15, Filed ARC 6671B 3/26/08

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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PUBLIC HEALTH DEPARTMENT[641]

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PUBLIC SAFETY DEPARTMENT[661]

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RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

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REAL ESTATE COMMISSION[193E]

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

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TRANSPORTATION DEPARTMENT[761]

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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

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

Senator Michael Connolly
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Dubuque, Iowa 52001

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

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Representative David Jacoby
2308 North Ridge Drive
Coralville, Iowa 52241

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

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CORRECTIONS DEPARTMENT[201]		
Jail inspections and operations, amendments to ch 50 IAB 3/12/08 ARC 6641B	Second Floor Conference Room 510 E. 12th St. Des Moines, Iowa	April 1, 2008 1 to 3 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
School psychologist endorsement, 15.11(2) IAB 3/12/08 ARC 6642B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 2, 2008 1 p.m.
HUMAN SERVICES DEPARTMENT[281]		
HCBS programs, amendments to ch 77 IAB 3/26/08 ARC 6669B	Room 128 Iowa Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	April 17, 2008 2 to 4 p.m.
HCBS and waiver services, 78.27, 78.41(7), 78.43(4), 79.1, 79.3(2) IAB 3/26/08 ARC 6676B	Room 128 Iowa Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	April 17, 2008 2 to 4 p.m.
IOWA FINANCE AUTHORITY[265]		
Low-income housing tax credit compliance manual, 12.3, 12.4 IAB 3/26/08 ARC 6681B	2015 Grand Ave. Des Moines, Iowa	April 15, 2008 10 a.m. to noon
LOTTERY AUTHORITY, IOWA[531]		
Claiming prizes, 11.1(5), 11.4 IAB 3/12/08 ARC 6652B (See also ARC 6651B)	2323 Grand Ave. Des Moines, Iowa	April 2, 2008 10 a.m. (If requested)
PROFESSIONAL LICENSURE DIVISION[645]		
Occupational therapy screening, 206.1 IAB 3/26/08 ARC 6675B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	April 15, 2008 9 to 9:30 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Dual sensor smoke detectors, 5.807 to 5.810, 210.1, 210.2 IAB 3/26/08 ARC 6661B	First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 8:30 a.m.
Flammable and combustible liquids—temporary containers, 221.3(1) IAB 3/26/08 ARC 6662B	First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 9 a.m.
Certification of alarm system contractors and installers, ch 277 IAB 3/26/08 ARC 6667B (ICN Network)	ICN Room 122 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 17, 2008 3 to 5 p.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)

Room 22, Library Bldg. Iowa Lakes Comm. College 300 S. 18th St. Estherville, Iowa	April 17, 2008 3 to 5 p.m.
Room 24, Looft Hall Iowa Western Comm. College 2700 College Rd. Council Bluffs, Iowa	April 17, 2008 3 to 5 p.m.
Room 150, Administration Bldg. Cedar Rapids Comm. School District 346 2nd Ave. SW Cedar Rapids, Iowa	April 17, 2008 3 to 5 p.m.
Mount Pleasant Treatment Center 1200 E. Washington Mount Pleasant, Iowa	April 17, 2008 3 to 5 p.m.
First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 10 a.m.

RACING AND GAMING COMMISSION[491]

Licensing; harness racing; gambling games; accounting and cash control, 6.1, 6.2, 6.5(1), 9.4(11), 9.7, 11.4(5), 11.6, 11.7(4), 11.12(1), 12.11 IAB 3/26/08 ARC 6678B	Suite B, 717 E. Court Des Moines, Iowa	April 15, 2008 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Outdoor advertising, amendments to ch 117 IAB 3/12/08 ARC 6637B	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	April 3, 2008 11 a.m. (If requested)
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UTILITIES DIVISION[199]

Electric energy adjustment clause, 20.1(3), 20.9(2), 20.13(1), 20.17 IAB 2/27/08 ARC 6616B	350 Maple St. Des Moines, Iowa	April 8, 2008 10 a.m.
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Admissions procedure; personal needs allowance, 10.1, 10.3, 10.4, 10.6, 10.16(2), 10.19, 10.51 IAB 3/12/08 ARC 6644B	Ford Memorial Conference Room 1301 Summit Iowa Veterans Home Marshalltown, Iowa	April 2, 2008 9 a.m. (If requested)
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

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

ARC 6672B**ELDER AFFAIRS
DEPARTMENT[321]****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 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 4, “Department Planning Responsibilities,” Iowa Administrative Code.

The amendments clarify the waiver and contested case procedures for Area Agencies on Aging (AAA) and add a severability clause to the chapter.

Any interested person may make written suggestions or comments on these proposed amendments before 4:30 p.m. on April 16, 2008. Such written comments should be directed to the Department of Elder Affairs, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319; E-mailed to Danika.Rosales@iowa.gov; or faxed to (515)725-3300.

These amendments are intended to implement Iowa Code chapter 231.

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

The following amendments are proposed.

ITEM 1. Amend rule 321—4.3(231) by adopting the following **new** subrule:

4.3(8) Appeal.

a. Any applicant for designation as an AAA whose application is denied may appeal the decision pursuant to 321 IAC 13.

b. At the conclusion of the appeal under 321 IAC 13, if the AAA wishes to continue the appeal process, the final decision may be appealed in writing to the assistant secretary of the AOA within 30 calendar days of receipt of the decision.

ITEM 2. Amend subrule 4.6(1) as follows:

4.6(1) A multipurpose entity shall delegate all its authority and responsibility under the Act to a single organizational unit within the entity unless it applies for and receives a waiver of this requirement from the department *under the authority and applicable procedures of 321 IAC 11* as a part of the application approval process.

ITEM 3. Amend rule 321—4.7(231) as follows:

321—4.7(231) Request for waiver.

4.7(1) A waiver request seeks *seeking* waiver of the requirement to delegate all authority and responsibilities under the Act to a single organizational unit *shall be submitted pursuant to the requirements of 321 IAC 11.6(17A,231, ExecOrd11) and shall:*

~~**4.7(1)** An area agency shall submit a request on forms supplied by the department, and shall:~~

a. Describe methods for carrying out the AAA’s functions and responsibilities under the Act; and

b. Designate a component unit of the AAA to:

- (1) Plan and develop policies and programs for elders in the multiyear area plan;
- (2) Administer the area plan; and
- (3) Provide a visible focal point for advocacy and coordination for the PSA.

4.7(2) The commission may approve a request for waiver if it is determined that the AAA can effectively carry out its functions and responsibilities under the Act without being a single organizational unit.

ITEM 4. Amend subrule **4.9(3)** by striking paragraph “h” as follows:

~~h.—An applicant that is a multipurpose agency must include in its application a proposal for the delegation of all its authority and responsibility to a single organizational unit within its structure. An applicant that does not propose delegation must submit a waiver request as required by this chapter.~~

ITEM 5. Amend rule **321—4.11(231)** by rescinding subrule 4.11(2) and adopting the following **new** subrule in lieu thereof:

4.11(2) The department shall give written notice to the AAA of the right to appeal the designation withdrawal pursuant to 321 IAC 13.

ITEM 6. Amend 321—Chapter 4 by adopting the following **new** rule:

321—4.14(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

ARC 6674B**ELDER AFFAIRS
DEPARTMENT[321]****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 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 6, “Area Agency on Aging Planning and Administration,” Iowa Administrative Code.

The proposed amendments:

1. Require nonprofit contractors or subgrantees to comply with all requirements for nonprofit entities, which would include Iowa Code chapter 504;
2. Clarify the waiver requirements regarding funding and area plans; and
3. Add a severability clause to the chapter.

Any interested person may make written suggestions or comments on these proposed amendments before 4:30 p.m. on April 16, 2008. Written comments should be directed to the Department of Elder Affairs, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to Danika.Rosales@iowa.gov; or faxed to (515)725-3300.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

These amendments are intended to implement Iowa Code chapter 231.

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

The following amendments are proposed.

ITEM 1. Amend subrule 6.10(4) as follows:

6.10(4) Establishment of a request for proposal process that includes methods of selection of providers and methods for award of grants or contracts under the area plan, *including stipulations that all subcontractors or subgrantees comply with all applicable local, state and federal laws, rules or regulations, and, if applicable, all requirements for nonprofit entities;*

ITEM 2. Amend subrule 6.15(1) as follows:

6.15(1) An AAA shall request a waiver from the priority service expenditures in 321—subrule 5.3(3) if it does not propose sufficient funding to allow elders to have convenient access to a service. *The waiver request shall be submitted with the plan or plan amendment pursuant to applicable procedures under 321 IAC 11.*

ITEM 3. Amend 321—Chapter 6 by adopting the following **new** rule:

321—6.18(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

ARC 6673B

ELDER AFFAIRS DEPARTMENT[321]

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 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 21, “Case Management Program for Frail Elders,” Iowa Administrative Code.

The proposed amendments:

1. Replace the word “client” with the word “consumer” throughout the chapter;
2. Clarify the assessment, eligibility and service plan requirements for consumers;
3. Establish requirements for addressing conflicts of interest in the case management program for frail elders; and
4. Add a severability clause to the chapter.

Any interested person may make written suggestions or comments on these proposed amendments before 4:30 p.m. on April 16, 2008. Written comments should be directed to the Department of Elder Affairs, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to Danika.Rosales@iowa.gov; or faxed to (515)725-3300.

These amendments are intended to implement Iowa Code chapter 231.

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

The following amendments are proposed.

ITEM 1. Amend **321—Chapter 21** by striking the word “client” wherever it appears and inserting the word “consumer” in lieu thereof.

ITEM 2. Amend rule 321—21.3(231) as follows:

321—21.3(231) Definitions. Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise. The following definitions *definition* also *apply applies* to this chapter:

“Case management program for frail elders” or “CMPFE” means case management activities that assist an elder in gaining access to needed medical, social, and other appropriate services. Case management services are provided at the direction of the elder and include:

1. A comprehensive assessment of the individual's needs;
2. Development and implementation of a service plan to meet those needs;
3. Coordination and monitoring of service delivery;
4. Evaluation of outcomes;
5. Periodic reassessment and revision of the service plan as needed; and
6. Ongoing advocacy on behalf of the elder.

“Department of human services” or “DHS” means the department established in Iowa Code chapter 217.

ITEM 3. Rescind rule 321—21.4(231) and adopt the following **new** rule in lieu thereof:

321—21.4(231) Program administration.

21.4(1) Each AAA shall use the forms and data processing software systems specified by the department for all program requirements.

21.4(2) The department shall have complete access to all case management records maintained by the AAA.

21.4(3) Consumer-specific case management records shall be maintained by the department and the AAA as confidential information.

21.4(4) Appeals of decisions by the AAA shall follow the procedures given in 321 IAC 2.9(231).

ITEM 4. Amend rule 321—21.5(231) as follows:

321—21.5(231) Eligibility for CMPFE services.

21.5(1) A person meeting all the following criteria shall be eligible for CMPFE services:

- a 1. Resides in Iowa;
- b 2. Is aged 60 or older;
- c 3. Needs two or more services;
- d 4. Does not live in, or is within 30 days of discharge from, a nursing facility as defined in Iowa Code section 135C.1(13); and
- e 5. Is in need of case management services based on a standardized assessment of needs.

21.5(2) A person who qualifies for the DHS medical assistance elderly waiver shall also be eligible for CMPFE services.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

ITEM 5. Rescind rule 321—21.6(231) and adopt by the following **new** rule in lieu thereof:

321—21.6(231) Admission into the case management program. The date of admission into the case management program for consumers shall be the date of the assessment.

ITEM 6. Amend subrule **21.7(1)**, paragraph “c,” as follows:

c. The *client consumer* moves into a nursing facility and is expected to stay in the facility for more than 30 90 days;

ITEM 7. Amend rule 321—21.8(231) as follows:

321—21.8(231) Organizational requirements.

~~21.8(1) To address potential conflicts of interest, each~~ Each AAA shall develop and adhere to written procedures established by the department and issued under IAPI *regarding the prevention and management of conflicts of interest.* ~~Written procedures~~ Such procedures shall at a minimum include:

- a. The process for delegating case management responsibilities to a case manager;
- b. Identification of where conflicts do, or could, exist;
- c. Procedures to eliminate or minimize those conflicts;
- d. A process for conflict resolution with the *client's consumer's* best interest as the priority.; and
- e. ~~The process for documentation of conflict resolution which indicates the outcome is satisfactory to all parties.~~

~~21.8(2) Each AAA shall adhere to department requirements as issued under IAPI~~ Each AAA shall have a designated CMPFE coordinator responsible for administering and monitoring the program at the local level.

~~21.8(3) Each AAA shall implement the process established by the department for processing client appeals of CMPFE decisions, handling client complaints, and informing clients about their complaint and appeal rights.~~

21.8(4) (3) Each AAA shall ensure that all CMPFE staff complete mandatory reporter training requirements in accordance with Iowa Code chapter 235B.

ITEM 8. Amend subrule 21.9(3) as follows:

21.9(3) Training required during employment.

a. The case manager shall attend case management orientation established ~~required~~ by the department within six months of *beginning* employment with an AAA.

b. All case managers shall:

- (1) Receive formal training from the AAA CMPFE coordinator in completion of the CMPFE assessment tools; and
- (2) Attend six hours of department-approved long-term care or aging-related training per year.

b c. ~~The All CMPFE coordinator coordinators~~ shall attend case management coordinator training provided by the department within three months of *beginning* employment with an AAA.

e d. ~~The All case manager and the CMPFE coordinator coordinators~~ shall:

(1) Receive formal training from the department's CMPFE program manager in completion of the CMPFE assessment tool tools; and

(2) Attend six hours of department-approved long-term care or aging-related training per year.

ITEM 9. Amend rule 321—21.11(231) as follows:

321—21.11(231) Screening and assessment ~~Assessment of~~ **client consumer needs.** Screening and ~~The~~ assessment of *client consumer* needs shall be conducted in person and shall, at a minimum, consist of:

~~21.11(1) Scheduling the home visit.~~

~~21.11(2) (1) Obtaining the client's consumer's signature on a standard release of information form which documents the client's consumer's permission to share information for screening, assessment and case management.~~

~~21.11(3) Conducting the functional abilities screening evaluation (FASE) or similar screening tool as established by the department.~~

~~21.11(4) (2) Conducting a comprehensive assessment if:~~ *using the assessment tool designated by the department.*

a. ~~The client answers one or more of the screening tool mental health questions incorrectly; or~~

b. ~~The client is unable to perform two or more of the screening tool activities of daily living(ADL) items; or~~

c. ~~Professional judgment of the person completing the screening indicates that the client is in need of further assessment regardless of the results of the screening tool; or~~

d. ~~The client has applied for the elderly waiver under the medical assistance program.~~

~~21.11(5) (3) Contacting sources for additional information to complete the assessment tool as needed.~~

ITEM 10. Amend rule 321—21.12(231) as follows:

321—21.12(231) Service plan development.

~~21.12(1) During the home visit and upon~~ Upon completion of the *comprehensive* assessment *during the home visit*, the case manager shall develop an initial service plan with the *client consumer* which, at a minimum, shall take into consideration and address information identified during the assessment of the consumer's service needs, functioning level, strengths and available family or informal service providers and community resources. ~~and~~ The case manager shall provide the *client consumer* with a list of known service providers available in the *client's consumer's* community.

~~21.12(2) Following the initial plan, a more thorough, ongoing plan shall be developed.~~ The completed written service plan shall include at a minimum:

a. ~~Identification of the client's service needs, functioning level, strengths and available family or informal service providers and community resources;~~

b a. ~~Level A description of the level of care;~~

e b. ~~Goals to be obtained by the consumer;~~

d c. ~~Outcomes Expected outcomes;~~

e d. ~~Waiver service Services to be provided, providers of those services and the frequency and cost of services, if available, and;~~

f. ~~Nonwaiver services; and~~

g e. ~~Exit and contingency planning.~~

~~21.12(3) The case manager shall educate the client about service options and explain to the client consumer how to access assistance in situations of suspected dependent adult abuse.~~

~~21.12(4) The client consumer or the client's consumer's legal representative and the case manager shall sign the service plan.~~

~~21.12(5) The CMPFE coordinator shall review and sign the service plan~~ Each AAA shall have a written process in place to ensure that service plans meet all applicable standards.

~~21.12(6) For clients who are enrolled in the medical assistance elderly waiver, the service plan shall be transmitted to the DHS service worker for final approval.~~

ITEM 11. Amend subrule 21.16(3) as follows:

~~21.16(3) The following safeguards requirements shall be in place to ensure that service plan development is conducted in the best interest of the client consumer:~~

ELDER AFFAIRS DEPARTMENT[321](cont'd)

a. When assigning a *client consumer* to a case management entity under contract, the AAA shall attempt *make all reasonable efforts* to assign the *client consumer* to an agency not currently providing *direct* services to that particular *client* if the relationship is known prior to assignment and case management services are available from multiple providers *consumer in an effort to avoid potential conflicts of interest.*

b. ~~During the service plan development process, If the case managers manager is employed by an the same agency that also provides other direct waiver services to the consumer, the case manager shall inform discuss with the client consumer or the client's consumer's legal representative that such a relationship exists and of the specifics of the relationship such as name and services the issue of potential conflict of interest.~~ The case manager shall ~~emphasize to inform~~ the *client consumer* that the *client consumer* has free choice of providers and that selection of any particular provider will not influence the services provided by the case manager. The conversation and the *client's consumer's* response shall be documented in the case notes.

c. When explaining provider options, the case manager shall fully provide all known facts about the services and the service provider agencies to the client or the client's legal representative. The details presented shall include, at a minimum, the name, address, and telephone number of the potential provider agencies; the types of services provided; and the amount *frequency and units* of service the *client consumer* would be able to receive if there is a cost differential between providers of the same service.

d. ~~All service plans and updates shall be reviewed and approved by the AAA prior to implementation for nonwaiver clients and prior to transmittal to DHS for elderly waiver clients.~~

ITEM 12. Amend 321—Chapter 21 by adding the following **new** rule:

321—21.17(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

ARC 6669B**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 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

The proposed amendments affect the provider standards for home- and community-based habilitation services and for the seven home- and community-based services (HCBS) waivers (ill and handicapped, elderly, AIDS/HIV, mental retardation, brain injury, physical disability, and children's mental health). The Centers for Medicare and Medicaid Services (CMS) has approved amendments to Iowa's waivers to

require a process for incident reporting and policies on restraints, restrictions, and behavioral interventions for all HCBS programs. The changes are required by CMS and must be implemented for Iowa to continue to receive federal financial participation for HCBS waivers.

The amendments:

- Amend the incident reporting standards for habilitation providers and mental retardation, brain injury, and children's mental health waiver service providers.
- Add identical incident reporting standards for providers of ill and handicapped, elderly, AIDS/HIV, and physical disability waiver services. In all programs, the incident reporting standards apply to providers who have personal contact with members, not to providers of goods or equipment, etc.
- Amend the standards on restraints, restriction, and behavioral intervention for providers of habilitation services.
- Add identical standards on restraints, restriction, and behavioral intervention for all providers of HCBS waiver services.
- Move HCBS waiver services standards on personnel into a separate subrule to eliminate unnumbered paragraphs. There are no changes to personnel standards, except that a provision requiring providers of consumer-directed attendant care or interim medical monitoring and treatment to be at least 18 years of age was added to rules for the ill and handicapped, elderly, AIDS/HIV, and physical disability waivers to match the mental retardation and brain injury waivers.
- Change the qualification standards for providers of family and community support services and in-home family therapy under the children's mental health waiver to reference the qualifications for providers of remedial services instead of rehabilitative treatment services, since certification for rehabilitative treatment services is no longer available.

These amendments exempt some providers from incident reporting and, because of the nature of the service, from restraint policies but otherwise do not provide for waivers in specified situations because all providers with direct contact with members should be held to the same standards of protection. Providers may request a waiver of any rule under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 16, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on April 17, 2008, from 2 to 4 p.m. in Room 128, Iowa Medicaid Enterprise Building, 100 Army Post Road, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code section 249A.4.

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

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The following amendments are proposed.

ITEM 1. Amend subrule 77.25(1) as follows:

77.25(1) Definitions.

“Behavioral intervention” means regulation of the member’s behavior, including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

“Guardian” means a guardian appointed in probate or juvenile court.

“Incident” means an occurrence involving a member that:

~~1. Results in a physical injury to or by the member that requires a physician’s treatment or admission to a hospital;~~

~~2. Results in someone’s death;~~

~~3. Requires emergency intervention or mental health treatment for the member;~~

~~4. Requires the intervention of law enforcement;~~

~~5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or~~

~~6. Constitutes any prescription medication error.~~

“Major incident” means an occurrence involving a member during service provision that:

1. Results in a physical injury to or by the member that requires a physician’s treatment or admission to a hospital;

2. Results in the death of any person;

3. Requires emergency mental health treatment for the member;

4. Requires the intervention of law enforcement;

5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or

6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3.”

“Minor incident” means an occurrence involving a member during service provision that is not a major incident and that:

1. Results in the application of basic first aid;

2. Results in bruising;

3. Results in seizure activity;

4. Results in injury to self, to others, or to property; or

5. Constitutes a prescription medication error.

“Restraint” means the use of any chemical, physical, or manual intervention to restrict movement of the member.

“Restraint” includes, but is not limited to, holding a member’s body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

“Restriction” means a limitation on the member’s access to home or community daily living activities.

ITEM 2. Rescind subrules 77.25(3) and 77.25(4) and adopt the following **new** subrules in lieu thereof:

77.25(3) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS habilitation service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule.

a. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

(1) The name of the member involved.

(2) The date and time the incident occurred.

(3) A description of the incident, including designation of the incident as a major or minor incident.

(4) The names of all provider staff and others who were present at the time of the incident or responded after becoming aware of the incident. The confidentiality of other members or nonmembers who were present must be maintained by the use of initials or other means.

(5) The action that the staff took to manage the incident.

(6) The resolution of or follow-up to the incident.

b. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the member or the member’s legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the member’s case manager and the department’s bureau of long-term care within 72 hours of the incident.

(3) To the member or the member’s guardian within 72 hours of the incident.

(4) To a centralized file with a notation in the member’s file.

c. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the member’s file.

77.25(4) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS habilitation service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. The provider must inform members and their legal guardians of the provider’s restraint, restriction and behavioral intervention policies and procedures:

(1) At the initiation of services; and

(2) As changes occur.

b. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual member and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that member. The program must:

(1) Be time-limited; and

(2) Be reviewed at least quarterly.

c. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the member’s restraint, restriction, and behavioral intervention program.

d. Restraints, restrictions, and behavioral interventions shall not be used:

(1) As punishment;

(2) For the convenience of the staff; or

(3) As a substitute for a nonaversive program.

e. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 3. Amend rule 441—77.30(249A) as follows:

Amend the introductory paragraph as follows:

441—77.30(249A) HCBS ill and handicapped waiver service providers. HCBS ill and handicapped waiver services shall be rendered by a person who is at least 16 years old (ex-

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cept as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A provider hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS ill and handicapped waiver program if they meet the standards in subrules 77.30(18), 77.30(19), and 77.30(20) and meet the standards set forth below for the service to be provided:

Adopt **new** subrules 77.30(18), 77.30(19), and 77.30(20) as follows:

77.30(18) Personnel.

a. Age. HCBS ill and handicapped waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).

(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.

(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

b. Relationship. HCBS ill and handicapped waiver services shall be rendered by a person who is not:

- (1) The spouse of the consumer served; or
- (2) The parent or stepparent of a consumer aged 17 or under.

77.30(19) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS ill and handicapped waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. **EXCEPTION:** The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option, home and vehicle modifications, home-delivered meals, or personal emergency response.

a. Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3.”

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
 2. Results in bruising;
 3. Results in seizure activity;
 4. Results in injury to self, to others, or to property; or
 5. Constitutes a prescription medication error.
- b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:
- (1) The name of the consumer involved.
 - (2) The date and time the incident occurred.
 - (3) A description of the incident, including designation of the incident as a major or minor incident.
 - (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
 - (5) The action that the staff took to manage the incident.
 - (6) The resolution of or follow-up to the incident.
- c. Reporting procedure for major incidents. When a major incident occurs or when staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer’s legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:
- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
 - (2) To the consumer’s case manager and the department’s bureau of long-term care within 72 hours of the incident.
 - (3) To the consumer or the consumer’s guardian within 72 hours of the incident.
 - (4) To a centralized file with a notation in the consumer’s file.
- d. Reporting procedure for minor incidents. When a minor incident occurs or when staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:
- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
 - (2) To a centralized file with a notation in the consumer’s file.
- 77.30(20) Restraint, restriction, and behavioral intervention.** As a condition of participation in the medical assistance program, HCBS ill and handicapped waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.
- a. For the purposes of this subrule:
- “Behavioral intervention” means regulation of the consumer’s behavior, including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.
- “Restraint” means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. “Restraint” includes, but is not limited to, holding a consumer’s body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.
- “Restriction” means a limitation on the consumer’s access to home or community daily living activities.

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b. The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

- (1) At the initiation of services; and
- (2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

- (1) Be time-limited; and
- (2) Be reviewed at least quarterly.

d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.

e. Restraints, restrictions, and behavioral interventions shall not be used:

- (1) As punishment;
- (2) For the convenience of the staff; or
- (3) As a substitute for a nonaversive program.

f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 4. Amend rule 441—77.33(249A) as follows:

Amend the introductory paragraph as follows:

441—77.33(249A) HCBS elderly waiver service providers. ~~HCBS elderly waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS elderly waiver program if they meet the standards in subrules 77.33(22), 77.33(23), and 77.33(24) and meet the standards set forth below for the service to be provided:~~

Adopt **new** subrules 77.33(22), 77.33(23), and 77.33(24) as follows:

77.33(22) Personnel.

a. Age. HCBS elderly waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).

(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.

(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

b. Relationship. HCBS elderly waiver services shall be rendered by a person who is not the spouse of the consumer served.

77.33(23) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS elderly waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3

regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of assistive devices, chore service, goods and services purchased under the consumer choices option, home and vehicle modifications, home-delivered meals, personal emergency response, or transportation.

a. Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3.”

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
 2. Results in bruising;
 3. Results in seizure activity;
 4. Results in injury to self, to others, or to property; or
 5. Constitutes a prescription medication error.
- b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
- (5) The action that the staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the consumer's case manager and the department's bureau of long-term care within 72 hours of the incident.
- (3) To the consumer or the consumer's guardian within 72 hours of the incident.
- (4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of

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a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

77.33(24) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS elderly waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. For the purposes of this subrule:

"Behavioral intervention" means regulation of the consumer's behavior including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

"Restraint" means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. "Restraint" includes, but is not limited to, holding a consumer's body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

"Restriction" means a limitation on the consumer's access to home or community daily living activities.

b. The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

- (1) At the initiation of services; and
- (2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

- (1) Be time-limited; and
- (2) Be reviewed at least quarterly.

d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.

e. Restraints, restrictions, and behavioral interventions shall not be used:

- (1) As punishment;
- (2) For the convenience of the staff; or
- (3) As a substitute for a nonaversive program.

f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 5. Amend rule 441—77.34(249A) as follows:

Amend the introductory paragraph as follows:

441—77.34(249A) HCBS AIDS/HIV waiver service providers. ~~HCBS AIDS/HIV waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medic-~~

~~aid HCBS AIDS/HIV waiver program if they meet the standards in subrules 77.34(14), 77.34(15), and 77.34(16) and meet the standards set forth below for the service to be provided:~~

~~Adopt **new** subrules 77.34(14), 77.34(15), and 77.34(16) as follows:~~

~~**77.34(14)** Personnel.~~

~~a. Age. HCBS AIDS/HIV waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).~~

~~(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.~~

~~(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.~~

~~b. Relationship. HCBS AIDS/HIV waiver services shall be rendered by a person who is not:~~

- ~~(1) The spouse of the consumer served; or~~
- ~~(2) The parent or stepparent of a consumer aged 17 or under.~~

~~**77.34(15)** Incident management and reporting. As a condition of participation in the medical assistance program, HCBS AIDS/HIV waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or home-delivered meals.~~

~~a. Definitions.~~

~~"Major incident" means an occurrence involving a consumer during service provision that:~~

- ~~1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;~~
- ~~2. Results in the death of any person;~~
- ~~3. Requires emergency mental health treatment for the consumer;~~
- ~~4. Requires the intervention of law enforcement;~~
- ~~5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or~~
- ~~6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph "1," "2," or "3."~~

~~"Minor incident" means an occurrence involving a consumer during service provision that is not a major incident and that:~~

- ~~1. Results in the application of basic first aid;~~
- ~~2. Results in bruising;~~
- ~~3. Results in seizure activity;~~
- ~~4. Results in injury to self, to others, or to property; or~~
- ~~5. Constitutes a prescription medication error.~~

~~b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:~~

- ~~(1) The name of the consumer involved.~~
- ~~(2) The date and time the incident occurred.~~

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(3) A description of the incident, including designation of the incident as a major or minor incident.

(4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

(5) The action that the staff took to manage the incident.

(6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 72 hours of the incident.

(3) To the consumer or the consumer's guardian within 72 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

77.34(16) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS AIDS/HIV waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. For the purposes of this subrule:

"Behavioral intervention" means regulation of the consumer's behavior including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

"Restraint" means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. "Restraint" includes, but is not limited to, holding a consumer's body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

"Restriction" means a limitation on the consumer's access to home or community daily living activities.

b. The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

(1) At the initiation of services; and

(2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

(1) Be time-limited; and

(2) Be reviewed at least quarterly.

d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive

behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.

e. Restraints, restrictions, and behavioral interventions shall not be used:

(1) As punishment;

(2) For the convenience of the staff; or

(3) As a substitute for a nonaversive program.

f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 6. Amend rule 441—77.37(249A) as follows:

Amend the introductory paragraph and the first and second unnumbered paragraphs as follows:

441—77.37(249A) HCBS MR waiver service providers. Providers shall be eligible to participate in the Medicaid HCBS mental retardation waiver program if they meet the general requirements in this rule and the requirements in the subrules applicable to the individual service.

1. The standards in subrule 77.37(1) apply only to providers of supported employment, respite providers certified according to subparagraph 77.37(15)"a"(8), and providers of supported community living services that are not residential-based.

2. The standards and certification processes in subrules 77.37(2) through 77.37(7) and 77.37(9) through 77.37(12) apply only to supported employment providers and non-residential-based supported community living providers.

3. The requirements in subrule 77.37(8) apply to all providers except providers of goods and services purchased under the consumer choices option, home and vehicle modifications, personal emergency response, and transportation.

4. The requirements in subrule subrules 77.37(13), 77.37(33), and 77.37(34) apply to all providers. EXCEPTION: A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider and is not subject to the review requirements in subrule 77.37(13). Also, services must be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

Rescind subrule 77.37(8) and adopt the following **new** subrule in lieu thereof:

77.37(8) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS mental retardation waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option, home and vehicle modifications, personal emergency response, and transportation.

a. Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

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1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph "1," "2," or "3."

"Minor incident" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
 2. Results in bruising;
 3. Results in seizure activity;
 4. Results in injury to self, to others, or to property; or
 5. Constitutes a prescription medication error.
- b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
- (5) The action that the staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the consumer's case manager and the department's bureau of long-term care within 72 hours of the incident.
- (3) To the consumer or the consumer's guardian within 72 hours of the incident.
- (4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To a centralized file with a notation in the consumer's file.

Adopt **new** subrules 77.37(33) and 77.37(34) as follows:
77.37(33) Personnel.

a. Age. HCBS mental retardation waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).

(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.

(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

b. Relationship. HCBS mental retardation waiver services shall be rendered by a person who is not:

- (1) The spouse of the consumer served; or
- (2) The parent or stepparent of a consumer aged 17 or under.

77.37(34) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS mental retardation waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. For the purposes of this subrule:

"Behavioral intervention" means regulation of the consumer's behavior including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

"Restraint" means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. "Restraint" includes, but is not limited to, holding a consumer's body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

"Restriction" means a limitation on the consumer's access to home or community daily living activities.

b. The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

- (1) At the initiation of services; and
- (2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

- (1) Be time-limited; and
- (2) Be reviewed at least quarterly.

d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.

e. Restraints, restrictions, and behavioral interventions shall not be used:

- (1) As punishment;
- (2) For the convenience of the staff; or
- (3) As a substitute for a nonaversive program.

f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 7. Amend rule 441—77.39(249A) as follows:

Amend the introductory paragraph and the first and second unnumbered paragraphs as follows:

441—77.39(249A) HCBS brain injury waiver service providers. Providers shall be eligible to participate in the Medicaid brain injury waiver program if they meet the *general* requirements in this rule and the *requirements in the* subrules applicable to the individual service. ~~Providers and each of their staff members involved in direct consumer service~~

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must have training regarding or experience with consumers who have a brain injury, with the exception of providers of home and vehicle modification, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.

1. Services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. All providers shall meet the requirements in subrules 77.39(6), 77.39(31), and 77.39(32).

2. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider and is not subject to review under subrule 77.39(11). Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

3. In addition, Providers of behavioral programming, supported community living, and supported employment providers shall also meet the outcome-based standards set forth below in subrules 77.39(1) and 77.39(2) evaluated according to subrules 77.39(8) to 77.39(10), and the requirements of subrules 77.39(3) to 77.39(5) and 77.39(7).

4. Respite providers shall also meet the standards in subrule 77.39(1).

Rescind subrule 77.39(6) and adopt the following **new** subrule in lieu thereof:

77.39(6) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS brain injury waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option, home and vehicle modifications, personal emergency response, and transportation.

a. Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3.”

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;

2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
- (5) The action that the staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer’s legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the consumer’s case manager and the department’s bureau of long-term care within 72 hours of the incident.
- (3) To the consumer or the consumer’s guardian within 72 hours of the incident.
- (4) To a centralized file with a notation in the consumer’s file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To a centralized file with a notation in the consumer’s file.

Adopt **new** subrules 77.39(31) and 77.39(32) as follows:

77.39(31) Personnel.

a. Age. HCBS brain injury waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).

(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.

(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

b. Relationship. HCBS brain injury waiver services shall be rendered by a person who is not:

- (1) The spouse of the consumer served; or
- (2) The parent or stepparent of a consumer aged 17 or under.

c. Training or experience. Providers and each of their staff members involved in direct consumer service must have training regarding or experience with consumers who have a

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brain injury. EXCEPTION: This paragraph does not apply to providers of home and vehicle modifications, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.

77.39(32) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS brain injury waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. For the purposes of this subrule:

“Behavioral intervention” means regulation of the consumer’s behavior including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

“Restraint” means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. “Restraint” includes, but is not limited to, holding a consumer’s body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

“Restriction” means a limitation on the consumer’s access to home or community daily living activities.

b. The provider must inform consumers and their legal guardians of the provider’s restraint, restriction and behavioral intervention policies and procedures:

- (1) At the initiation of services; and
- (2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

- (1) Be time-limited; and
- (2) Be reviewed at least quarterly.

d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer’s restraint, restriction, and behavioral intervention program.

e. Restraints, restrictions, and behavioral interventions shall not be used:

- (1) As punishment;
- (2) For the convenience of the staff; or
- (3) As a substitute for a nonaversive program.

f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 8. Amend rule 441—77.41(249A) as follows:

Amend the introductory paragraph and the first unnumbered paragraph as follows:

441—77.41(249A) HCBS physical disability waiver service providers. Providers shall be eligible to participate in the Medicaid physical disability waiver program if they meet the general requirements in this rule and the requirements in the subrules applicable to the individual service. Enrolled providers shall maintain the certification listed in the applicable subrules in order to remain eligible providers.

~~1. Services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or step-parent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices~~

~~option.—A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider and is not subject to the requirements of subrule 77.41(1).~~

~~2. All providers shall meet the requirements in subrules 77.41(12), 77.41(13), and 77.41(14).~~

Adopt **new** subrules 77.41(12), 77.41(13), and 77.41(14) as follows:

77.41(12) Personnel.

a. Age. HCBS physical disability waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule).

(1) People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider.

(2) Consumer-directed attendant care and interim medical monitoring and treatment providers must be at least 18 years of age.

b. Relationship. HCBS physical disability waiver services shall be rendered by a person who is not the spouse of the consumer served.

77.41(13) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS physical disability waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option, home and vehicle modifications, specialized medical equipment, personal emergency response, and transportation.

a. Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3; or

6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3.”

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on an incident report form approved by the department. The form shall be completed and signed by the provider staff who observed the incident or who first became aware

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of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

- (5) The action that the staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 72 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the consumer's case manager and the department's bureau of long-term care within 72 hours of the incident.
- (3) To the consumer or the consumer's guardian within 72 hours of the incident.
- (4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when provider staff becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To a centralized file with a notation in the consumer's file.

77.41(14) Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS physical disability waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this subrule.

a. For the purposes of this subrule:

"Behavioral intervention" means regulation of the consumer's behavior, including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

"Restraint" means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. "Restraint" includes, but is not limited to, holding a consumer's body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

"Restriction" means a limitation on the consumer's access to home or community daily living activities.

b. The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

- (1) At the initiation of services; and
- (2) As changes occur.

c. Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

- (1) Be time-limited; and
 - (2) Be reviewed at least quarterly.
- d. Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.
- e. Restraints, restrictions, and behavioral interventions shall not be used:
- (1) As punishment;
 - (2) For the convenience of the staff; or
 - (3) As a substitute for a nonaversive program.
- f. Corporal punishment and verbal or physical abuse are prohibited.

ITEM 9. Amend rule 441—77.46(249A) as follows:

Amend subrule **77.46(1)** as follows:

Amend paragraph "**d**" as follows:

d. Incident *management and reporting*. ~~The provider shall document major and minor incidents and make the incident reports and related documentation available to the department upon request. The provider shall ensure cooperation in providing pertinent information regarding incidents as requested by the department. As a condition of participation in the medical assistance program, HCBS children's mental health waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and must comply with the following incident management and reporting requirements. EXCEPTION: The conditions in this paragraph do not apply to providers of environmental modifications and adaptive devices.~~

(1) to (3) No change.

(4) Reporting procedure for major incidents. When a major incident occurs or when provider staff becomes aware of a major incident, the procedure shall be as follows:

~~1. Provider provider staff shall notify the supervisor immediately.~~

~~2. The supervisor shall immediately notify the consumer's case manager and the consumer's parents or legal guardian, unless the parent or legal guardian is suspected as the perpetrator. If a parent or legal guardian is suspected as the perpetrator, the supervisor shall follow the procedure for reporting child abuse according to Iowa Code section 232.69, within 72 hours of the incident and shall distribute the completed~~

~~3. Provider staff shall complete the incident report and forward the report:~~

~~1. To the supervisor of the provider staff involved within 24 hours of the incident.~~

~~2. Within 72 hours of the incident, the supervisor shall send a copy of the incident report to To the consumer's case manager, and the department's quality assurance staff, and bureau of long-term care within 72 hours of the incident.~~

~~3. To the consumer's parents or legal guardian within 72 hours of the incident.~~

~~4. To a centralized file with a notation in the consumer's file.~~

~~5. The provider shall file a copy of the incident report in a centralized location and make a notation in the consumer's case file.~~

(5) Reporting procedure for minor incidents. When a minor incident occurs: or when provider staff becomes aware of a minor incident,

~~1. Provider provider staff shall notify the consumer's parents or legal guardian immediately.~~

~~2. Provider staff shall complete an distribute the completed incident report and submit the report form as follows:~~

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1. ~~to~~ To the supervisor of the provider staff involved within 24 hours of the minor incident.

~~3~~ 2. ~~Provider staff shall make~~ To a centralized file with a notation in the consumer's case file.

~~4.~~ The supervisor shall file the incident report in a centralized location.

Adopt **new** paragraph "e" as follows:

e. Restraint, restriction, and behavioral intervention. As a condition of participation in the medical assistance program, HCBS children's mental health waiver service providers using restraints, restrictions, or behavioral intervention as defined below must comply with the requirements of this paragraph.

(1) For the purposes of this paragraph:

"Behavioral intervention" means regulation of the consumer's behavior, including coping with demands from others, making choices, controlling impulses, conforming conduct to laws, and displaying appropriate sociosexual behavior.

"Restraint" means the use of any chemical, physical, or manual intervention to restrict movement of the consumer. "Restraint" includes, but is not limited to, holding a consumer's body or limb contingent upon behavior or using any manual restraint that prevents or restricts movement for any amount of time.

"Restriction" means a limitation on the consumer's access to home or community daily living activities.

(2) The provider must inform consumers and their legal guardians of the provider's restraint, restriction and behavioral intervention policies and procedures:

1. At the initiation of services; and
2. As changes occur.

(3) Restraints, restrictions and behavioral interventions must be designed and implemented specific to an individual consumer and may be imposed only pursuant to a written restraint, restriction, and behavioral intervention program developed for that consumer. The program must:

1. Be time-limited; and
2. Be reviewed at least quarterly.

(4) Restraints, restrictions and behavioral interventions may be used only for reducing or eliminating maladaptive behaviors identified in the consumer's restraint, restriction, and behavioral intervention program.

(5) Restraints, restrictions, and behavioral interventions shall not be used:

1. As punishment;
2. For the convenience of the staff; or
3. As a substitute for a nonaversive program.

(6) Corporal punishment and verbal or physical abuse are prohibited.

Amend subrule **77.46(3)**, paragraph "a," subparagraph (1), as follows:

(1) ~~Rehabilitative treatment services skill development Remedial services providers certified in good standing qualified~~ under 441—185.10(234) 77.12(249A).

Amend subrule **77.46(4)**, paragraph "a," subparagraph (2), as follows:

(2) ~~Rehabilitative treatment services therapy and counseling Remedial services providers certified in good standing qualified~~ under 441—185.10(234) 77.12(249A).

ARC 6659B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

State legislation in 2005 Iowa Acts, chapter 175, section 9; 2006 Iowa Acts, chapter 1184, section 10; and 2007 Iowa Acts, chapter 218, section 11, has directed the Department to implement a program to reduce smoking among Medicaid members and expand coverage of smoking cessation drugs. These amendments allow coverage of the drug Chantix™ (varenicline) for smoking cessation with prior authorization. The Department has determined that it would be beneficial to Medicaid members who are attempting to become smoke-free to have access to another effective non-nicotine replacement therapy other than bupropion to assist them in quitting. Some members do not tolerate or respond to the products currently covered, and there are positive health benefits when a member quits smoking.

These amendments also remove a reference to prior authorization for rehabilitative treatment services that was inadvertently overlooked in **ARC 6098B**, published in the Iowa Administrative Bulletin on August 1, 2007, which rescinded the coverage rules for rehabilitative treatment services.

These amendments do not provide for waivers in specified situations because they expand Medicaid coverage for smoking cessation products. 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 April 16, 2008. 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 249A.4.

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

The following amendments are proposed.

ITEM 1. Amend subparagraph **78.2(4)"b"(4)** as follows:

(4) Drugs used to promote smoking cessation, except for varenicline with prior authorization as provided in paragraph "a" above and generic, sustained-release bupropion sustained-release products that are indicated for smoking cessation by the U.S. Food and Drug Administration.

ITEM 2. Rescind and reserve subrule **78.28(7)**.

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DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The proposed amendments:

- Add new components to supported employment services offered under Medicaid home- and community-based habilitation services and the mental retardation and physical disability services waivers and increase the reimbursement limits for these services.

- Add Medicaid reporting requirements for physical therapists, chiropractors, and audiologists and hearing aid dealers that were inadvertently omitted from rules Adopted and Filed and published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6566B**.

- Remove the prohibition from receiving Medicaid home- and community-based habilitation services and also receiving services under a home- and community-based services waiver. The federal requirement that the Department understood to prohibit this practice has been clarified.

- Update the home- and community-based habilitation services rules by removing obsolete provisions on assignment of service slots, clarifying the relationship between service plan approval and the beginning date of services, and clarifying that personal care and protective oversight and supervision may not be the only components received in home-based habilitation services.

- Update the upper payment limit for home- and community-based waiver respite services provided in a foster group care facility to refer to the amount paid for child welfare services instead of rehabilitative treatment and supportive services, which are no longer available.

Providers of supported employment services have contacted Iowa legislators requesting a change in reimbursement. Services to assist members in obtaining a job are not widely available due to inadequate reimbursement. These amendments create three components of "activities to obtain a job":

- Job development, which is directed at developing skills a person needs to obtain and keep a job and which is paid on the basis of a job placement that the person holds for 30 days or more.

- Employer development, which is directed at job analysis, support, accommodations, and technical assistance and which is paid on the basis of a job placement that the person holds for 30 days or more.

- Enhanced job search, which is available when a person has been unable to find a job after 30 days of job development services, has been laid off or fired, or seeks a new job based on personal choice and is paid using an hourly rate that

is retrospectively adjusted based on the actual cost of the service.

Activities to obtain employment have a prerequisite of completion of the form that Iowa Vocational Rehabilitation Services uses to identify the supported employment services appropriate to meet a person's employment needs. This requirement is intended to facilitate coordination with Iowa Vocational Rehabilitation Services and to assist in using funding sources appropriately. Services are available only to members who can reasonably be expected to obtain competitive employment within one year.

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

Any interested person may make written comments on the proposed amendments on or before April 16, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will hold a public hearing for the purpose of receiving comments on these amendments on April 17, 2008, from 2 to 4 p.m. in Room 128, Iowa Medicaid Enterprise Building, 100 Army Post Road, Des Moines. Comments may be offered at the hearing either orally or in writing. Anyone who intends to attend the hearing and has special requirements, such as hearing or vision impairments, should contact the Bureau of Policy Analysis and Appeals at (515)281-8440 and advise of specific needs.

These amendments are intended to implement Iowa Code section 249A.4.

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

The following amendments are proposed.

ITEM 1. Amend paragraph **78.27(2)"e"** by striking subparagraph (2) and renumbering subparagraphs (3) to (5) as (2) to (4), respectively.

ITEM 2. Amend paragraph **78.27(3)"a"** by striking subparagraph (2) and renumbering subparagraphs (3) and (4) as (2) and (3), respectively.

ITEM 3. Amend subrule **78.27(4)**, paragraph "e," as follows:

e. Plan approval. Services shall be entered into ISIS based on the comprehensive service plan. A service plan that has been validated and authorized through ISIS shall be considered approved by the department. Services must be authorized in ISIS ~~before the service implementation date.~~ *as specified in paragraph 78.27(2) "e."*

ITEM 4. Amend subrule **78.27(7)**, paragraph "b," by adopting new subparagraph (6) as follows:

(6) Personal care and protective oversight and supervision may be a component part of home-based habilitation services but may not comprise the entirety of the service.

ITEM 5. Rescind subparagraph **78.27(10)"a"(1)** and adopt the following new subparagraph in lieu thereof:

(1) Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a member for whom competitive employment is reasonably expected

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within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habilitative goals. Three conditions must be met before services are provided. First, the member and the interdisciplinary team described in subrule 78.27(4) must complete the form that Iowa vocational rehabilitation services uses to identify the supported employment services appropriate to meet a person's employment needs. Then, the member's interdisciplinary team must determine that the identified services are necessary. Third, the Iowa Medicaid enterprise medical services unit must approve the services. Available components of activities to obtain a job are as follows:

1. Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the member holds for 30 consecutive calendar days or more. A member may receive two units of job development services during a 12-month period. The activities provided to the member may include job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow-up letters, and job search activities; job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy; and customized job development specific to the member.

2. Employer development services. The focus of employer development services is to support employers in hiring and retaining members in their workforce and to communicate expectations of the business with the interdisciplinary team described in subrule 78.27(4). Employer development services may be provided only to members who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the member holds for 30 consecutive calendar days or more. Payment for this service may be made only after the member holds the job for 30 days. A member may receive two units of employer development services during a 12-month period if the member is competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include: developing relationships with employers and providing leads for individual members when appropriate; job analysis for a specific job; development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities; identifying and arranging reasonable accommodations with the employer; providing disability awareness and training to the employer when it is deemed necessary; and providing technical assistance to the employer regarding the training progress as identified on the member's customized training plan.

3. Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided for a minimum of 30 days or with assisting the member in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the member's employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include: job opening identification with the member; assistance with applying for a job, including completion of applications or interviews; and work site assessment and job accommodation evaluation.

ITEM 6. Rescind paragraph **78.41(7)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a consumer for whom competitive employment is reasonably expected within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habilitative goals. Three conditions must be met before services are provided. First, the consumer and the interdisciplinary team described in 441—subrule 83.67(1) must complete the form that Iowa vocational rehabilitation services uses to identify the supported employment services appropriate to meet a person's employment needs. Then, the consumer's interdisciplinary team must determine that the identified services are necessary. Third, the consumer's case manager must approve the services. Available components of activities to obtain a job are as follows:

(1) Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the consumer holds for 30 consecutive calendar days or more. A consumer may receive two units of job development services during a 12-month period. The activities provided to the consumer may include:

1. Job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow-up letters, and job search activities.

2. Job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy.

3. Customized job development specific to the consumer.

(2) Employer development services. The focus of employer development services is to support employers in hiring and retaining consumers in their workforce and to communicate expectations of the business with the interdisciplinary team described in 441—subrule 83.67(1). Employer development services may be provided only to consumers who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the consumer holds for 30 consecutive calendar days or more. Payment for this service may be made only after the consumer holds the job for 30 days. A consumer may receive two units of employer development services during a 12-month period if the consumer is competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include:

1. Developing relationships with employers and providing leads for individual consumers when appropriate.

2. Job analysis for a specific job.

3. Development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities.

4. Identifying and arranging reasonable accommodations with the employer.

5. Providing disability awareness and training to the employer when it is deemed necessary.

6. Providing technical assistance to the employer regarding the training progress as identified on the consumer's customized training plan.

(3) Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided for a minimum of 30 days or with assisting the consumer in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa

HUMAN SERVICES DEPARTMENT[441](cont'd)

vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the consumer's employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include:

1. Job opening identification with the consumer.
2. Assistance with applying for a job, including completion of applications or interviews.
3. Work site assessment and job accommodation evaluation.

ITEM 7. Rescind paragraph **78.43(4)“a”** and adopt the following **new** paragraph in lieu thereof:

a. Activities to obtain a job. Covered services directed to obtaining a job must be provided to or on behalf of a consumer for whom competitive employment is reasonably expected within less than one year. Services must be focused on job placement, not on teaching generalized employment skills or habitative goals. Three conditions must be met before services are provided. First, the consumer and the interdisciplinary team described in rule 441—83.87(249A) must complete the form that Iowa vocational rehabilitation services uses to identify the supported employment services appropriate to meet the consumer's employment needs. Then, the consumer's interdisciplinary team must determine that the identified services are necessary. Third, the consumer's case manager must approve the services. Available components of activities to obtain a job are as follows:

(1) Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the consumer holds for 30 consecutive calendar days or more. A consumer may receive two units of job development services during a 12-month period. The activities provided to the consumer may include:

1. Job procurement training, including grooming and hygiene, application, résumé development, interviewing skills, follow-up letters, and job search activities.
2. Job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy.
3. Customized job development specific to the consumer.

ITEM 8. Amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(2)** as follows:

Amend provider category “HCBS waiver services providers” as follows:

Amend numbered paragraph “6,” “Facility care: foster group care,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Foster group care	Fee schedule	\$12.99 per hour not to exceed daily per diem rate for rehabilitative treatment and supportive <i>child welfare</i> services.

Amend numbered paragraph “19” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
19. Supported employment:		
Activities to obtain a job:		
<i>Job development</i>	Fee schedule	\$500 \$900 per unit not to exceed \$1,500 per calendar year (<i>job placement</i>).
<i>Employer development</i>	Fee schedule	\$900 per unit (<i>job placement</i>).
<i>Enhanced job search</i>	Retrospectively limited prospective rates. See 79.1(15)	Maximum of \$34.63 per hour and 26 units per 12 months.

(2) Employer development services. The focus of employer development services is to support employers in hiring and retaining consumers in their workforce and to communicate expectations of the business with the interdisciplinary team described in rule 441—83.87(249A). Employer development services may be provided only to consumers who are reasonably expected to work for no more than 10 hours per week. A unit of service is one job placement that the consumer holds for 30 consecutive calendar days or more. Payment for this service may be made only after the consumer holds the job for 30 days. A consumer may receive two units of employer development services during a 12-month period if the consumer is competitively employed for 30 or more consecutive calendar days and the other conditions for service approval are met. The services provided may include:

1. Developing relationships with employers and providing leads for individual consumers when appropriate.
2. Job analysis for a specific job.
3. Development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities.
4. Identifying and arranging reasonable accommodations with the employer.
5. Providing disability awareness and training to the employer when it is deemed necessary.
6. Providing technical assistance to the employer regarding the training progress as identified on the consumer's customized training plan.

(3) Enhanced job search activities. Enhanced job search activities are associated with obtaining initial employment after job development services have been provided for a minimum of 30 days or with assisting the consumer in changing jobs due to layoff, termination, or personal choice. The interdisciplinary team must review and update the Iowa vocational rehabilitation services supported employment readiness analysis form to determine if this service remains appropriate for the consumer's employment goals. A unit of service is an hour. A maximum of 26 units may be provided in a 12-month period. The services provided may include:

1. Job opening identification with the consumer.
2. Assistance with applying for a job, including completion of applications or interviews.
3. Work site assessment and job accommodation evaluation.

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<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	Maximum of \$34.63 per hour for all activities other than personal care and services in an enclave setting. Maximum of \$19.61 per hour for personal care. Maximum of \$6.13 per hour for services in an enclave setting. Total not to exceed \$2,855.16 per month. Maximum of 40 units per week.

Amend provider category "Home- and community-based habilitation services," numbered paragraph "5," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
5. Supported employment: Activities to obtain a job: <i>Job development</i>	Retrospective cost-related. See 79.1(24) <i>Fee schedule</i>	\$500 \$900 per job unit, not to exceed \$1,500 per calendar year (job placement).
<i>Employer development</i> <i>Enhanced job search</i>	<i>Fee schedule</i> Retrospectively limited prospective rates. See 79.1(15)	\$900 per unit (job placement). Maximum of two units per 12 months. Maximum of \$34.63 per hour and 26 units per 12 months.
Supports to maintain employment	Retrospective cost-related. See 79.1(24)	\$6.13 per hour for services in an enclave setting; \$19.61 per hour for personal care; and \$34.63 per hour for all other services. Total not to exceed \$2,855.16 per month. Maximum of 40 units per week.

Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; HCBS supported employment *enhanced job search activities*; HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency; HCBS respite when provided by nonfacility providers, camps, home care agencies, or providers of residential-based supported community living; and HCBS group respite provided by home health agencies.

ITEM 9. Amend subrule **79.3(2)**, paragraph "d," by adopting **new** subparagraphs **(36)**, **(37)**, and **(38)** as follows:

- (36) Physical therapist services:
1. Physician order for physical therapy.
 2. Initial physical therapy certification, recertifications, and treatment plans.
 3. Treatment notes and forms.
 4. Progress or status notes.
- (37) Chiropractor services:
1. Service or office notes or narratives.
 2. X-ray results.
- (38) Hearing aid dealer and audiologist services:
1. Physician examinations and audiological testing (Form 470-0361, Sections A, B, and C).
 2. Documentation of hearing aid evaluation and selection (Form 470-0828).
 3. Waiver of informed consent.
 4. Prior authorization documentation.
 5. Service or office notes or narratives.

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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.

The proposed amendments will change policy for the Child Care Assistance program by:

- Allowing parents who work at least six hours between the hours of 8 p.m. and 6 a.m. to have child care paid while they sleep during the daytime. Allowing sleep time as a qualifying need for service will provide a safer environment for children and will support employment for low-income parents.
- Requiring that parents cooperate with quality control reviews and eligibility investigations as a condition of eligibility. The Department will be doing quality control reviews to measure, calculate, and report improper payments related to federal child care development funds, in compliance with federal regulations. Cases with questionable circumstances are referred to the Department of Inspections and Appeals for investigation. Failure to cooperate will result in cancellation of assistance.
- Requiring the recoupment of Child Care Assistance overpayments that are caused by agency errors, consistent with policies in other assistance programs of the Department.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Adding definitions of “agency error” and “PROMISE JOBS.”

- Clarifying that vocational training includes postsecondary education.

- Exempting several more kinds of income from consideration in determining eligibility.

- Updating form references and terminology and improving rule organization and numbering.

These amendments do not provide for waivers in specified situations because parents and providers may request a waiver of any rule under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before April 16, 2008. Comments should be directed to Mary Ellen Imlau, Bureau 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.

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

The following amendments are proposed.

ITEM 1. Amend rule **441—170.1(237A)** as follows:

Amend the definition of “vocational training” as follows:

“Vocational training *or education*” means a training plan which includes a specific goal, that is, high school completion, improved English skills, *or* development of specific academic or vocational skills.

1. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, ~~and a~~ *or* postsecondary education, up to and including *an associate or baccalaureate degree program*.

~~2. Training may be approved for college programs which lead to an associate of arts degree.~~

3. Training shall be on a full-time basis. The training facility shall define what is considered as full time. Part-time plans may be approved only if the number of credit hours to complete training is less than full-time status, the required prerequisite credits or remedial course work is less than full-time status, or training is not offered on a full-time basis.

Adopt the following **new** definitions in alphabetical order: “Agency error” means child care assistance incorrectly paid for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Loss or misfiling of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.

5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the department.

6. Failure to make timely changes in assistance following amendments of policies that require the changes by a specific date.

“PROMISE JOBS” means the department’s training program, promoting independence and self-sufficiency through employment job opportunities and basic skills, as described in 441—Chapter 93, Division II.

ITEM 2. Amend rule 441—170.2(237A,239B) as follows:

Amend subrule **170.2(1)**, paragraph “**d**,” by adopting **new** subparagraphs (28) through (33) as follows:

(28) Payments from the Iowa individual assistance grant program (IIAGP).

(29) Payments from the transition to independence program (TIP).

(30) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program. EXCEPTION: This exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteer is serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 or the minimum wage under the laws of the state where the volunteer is serving, whichever is greater.

(31) Reimbursement from the employer for job-related expenses.

(32) Stipends from the preparation for adult living (PAL) program.

(33) Payments from the subsidized guardianship waiver program.

Amend subrule **170.2(2)** as follows:

Amend the introductory paragraph as follows:

170.2(2) General eligibility requirements. In addition to meeting financial requirements, the child needing services must meet age, *citizenship*, and residency requirements. ~~and each~~ *Each* parent in the household must have at least one need for service *and shall cooperate with the department’s quality control review and with investigations conducted by the department of inspections and appeals*.

Amend paragraph “**b**,” subparagraph (2), as follows:

(2) The parent is employed 28 or more hours per week, or an average of 28 or more hours per week during the month. Child care services may be provided for the hours of employment of a single parent or the coinciding hours of employment of both parents in a two-parent home, and for actual travel time between home, child care facility, and place of employment. *If the parent works a shift consisting of at least six hours of employment between the hours of 8 p.m. and 6 a.m. and needs to sleep during daytime hours, child care services may also be provided to allow the parent to sleep during daytime hours.*

Adopt **new** paragraph “**e**” as follows:

e. Cooperation. Parents shall cooperate with the department when the department selects the family’s case for quality control review to verify eligibility. Parents shall also cooperate with investigations conducted by the department of inspections and appeals to determine whether information supplied by the parent regarding eligibility for child care assistance is complete and correct. (See 481—Chapter 72.)

(1) Failure to cooperate shall serve as a basis for cancellation or denial of the family’s child care assistance.

(2) Once denied or canceled for failure to cooperate, the family may reapply but shall not be considered for approval until cooperation occurs.

Amend subrule 170.2(4) as follows:

170.2(4) Reporting changes. The parent must report any changes in circumstances affecting these eligibility requirements and changes in the choice of provider to the ~~county office~~ *department* worker or the ~~department’s designee~~ *PROMISE JOBS worker* within ten calendar days of the change.

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a. No change.

b. If the change is not timely reported, the effective date of the change shall be the date when the change is reported to the department's local *department* office or designee *PROMISE JOBS* office.

ITEM 3. Amend rule 441—170.3(237A) as follows:

Amend subrule **170.3(1)**, paragraph “a,” subparagraph (2), as follows:

(2) Form 470-0462 or ~~470-0466(S)~~ 470-0466, Health and Financial Support Application.

Amend subrule 170.3(3) as follows:

170.3(3) Application processing. The department shall approve or deny an application as soon as possible, but not later than 30 days following the date the application was received.

a. *The department worker or PROMISE JOBS worker shall determine the number of units of service authorized for each eligible family and inform the family and the family's provider through the notice of decision.*

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 order services, the court order provided by the court and the case plan provided by the department shall serve as written notification.

Amend subrule **170.3(5)**, paragraph “b,” as follows:

b. The department shall use information gathered on Form 470-4377 or ~~470-4377(S)~~, Child Care Assistance Review, to redetermine eligibility. The department shall issue a notice of expiration for the child care assistance certification period in Form 470-4377 or ~~470-4377(S)~~. If the family does not return ~~Form 470-4377~~ the review form to the department by the end of the certification period, the family must reapply for benefits.

ITEM 4. Amend rule 441—170.4(237A) as follows:

Amend subrule **170.4(3)**, paragraphs “e,” “f,” and “h,” as follows:

e. In-home care. The adult caretaker selected by the parent to provide care in the child's own home shall be sent the pamphlet *Comm. 95 or Comm. 95(S)*, Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or ~~470-2890(S)~~, Payment Application for Nonregistered Providers. *The provider shall sign* Form 470-2890 shall be signed by the provider or ~~470-2890(S)~~ and returned *return the form* to the department before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

(1) to (4) No change.

f. Nonregistered family child care home. The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet *Comm. 95 or Comm. 95(S)*, Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890 or ~~470-2890(S)~~, Payment Application for Nonregistered Providers. *The provider shall sign* Form 470-2890 shall be signed by the provider or ~~470-2890(S)~~ and returned *return the form* to the department before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

(1) to (4) No change.

h. Record checks for nonregistered family child care homes. If a nonregistered child care provider wishes to re-

ceive public funds as reimbursement for providing child care for eligible clients, the provider shall complete Form 470-0643, Request for Child Abuse Information, and Form 595-1489 or ~~595-1489(S)~~, Non-Law Enforcement Record Check Request, Form A, for the provider, for anyone having access to a child when the child is alone, and for anyone 14 years of age or older living in the home. The ~~county office~~ *department* worker or the PROMISE JOBS worker shall provide the necessary forms. The provider shall return the forms to the ~~county office~~ *department worker* or PROMISE JOBS worker.

(1) If any of these individuals has a record of founded child abuse, a criminal conviction, or placement on the sex offender registry, the department shall perform an evaluation following the process defined at 441—subrule 110.7(3) or ~~rule 441—110.31(237A)~~.

(2) If any of the individuals would be prohibited from registration, employment, or residence, the person shall not provide child care and is not eligible to receive public funds to do so. The department's designee shall notify the applicant, and shall forward a copy of that notification to the county attorney, the ~~county office~~ *department worker*, and the PROMISE JOBS worker, if applicable.

(3) A person who continues to provide child care in violation of this law is subject to penalty and injunction under Iowa Code chapter 237A.

Amend subrule 170.4(7) as follows:

Amend the introductory paragraph and first and second unnumbered paragraphs as follows:

170.4(7) Payment. The department shall make payment for child care provided to eligible families when the provider has a completed Form 470-3871, Child Care Assistance Provider Agreement, on file with the department. Both the child care provider and the ~~county office~~ *department worker* or PROMISE JOBS worker shall sign this form.

~~The county office worker or PROMISE JOBS worker shall determine the number of units of service authorized for each eligible family and inform the family and the family's provider through the notice of decision required in subrule 170.3(3).~~

~~The department shall issue payment when the provider submits correctly completed documentation of attendance and charges. Providers shall submit either (1) Form 470-0020, Purchase of Services Provider Invoice, or Form 470-4466, Child Care Provider Claim, accompanied by Form 470-3872, Child Care Assistance Attendance Sheet, signed by the parent; or (2) Form 470-3896, PROMISE JOBS Child Care Attendance and Invoice.~~

Adopt **new** paragraph “g” as follows:

g. Submission of claims. The department shall issue payment when the provider submits correctly completed documentation of attendance and charges. The department shall pay only for the number of units of service authorized in the notice of decision issued pursuant to subrule 170.3(3). Providers shall submit either:

(1) Form 470-0020, Purchase of Services Provider Invoice, or Form 470-4466 or ~~470-4466(S)~~, Child Care Provider Claim, accompanied by Form 470-3872, Child Care Assistance Attendance Sheet, signed by the parent; or

(2) Form 470-3896, PROMISE JOBS Child Care Attendance and Invoice.

ITEM 5. Amend rule 441—170.5(237A) as follows:

Amend subrule **170.5(1)** by amending paragraph “b” and adopting **new** paragraph “c” as follows:

b. The provider has submitted claims for payment for which the provider is not entitled; or

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c. *The provider fails to cooperate with an investigation conducted by the department of inspections and appeals to determine whether information the provider supplied to the department regarding payment for child care services is complete and correct. Once the agreement is revoked for failure to cooperate, the department shall not enter into a new agreement with the provider until cooperation occurs.*

Amend subrule 170.5(2) as follows:

170.5(2) Denial. Child care assistance shall be denied when the department determines that:

- a. to d. No change.
- e. Funding is not available; ; or
- f. *The client refuses or fails to supply documentation of eligibility as to need or income; or*
- g. *The client fails to cooperate with a quality control review or with an investigation conducted by the department of inspections and appeals.*

Amend subrule 170.5(3) as follows:

170.5(3) Termination. Child care assistance may be terminated when the department determines that:

- a. and b. No change.
- c. *The client refuses or fails to allow supply documentation of eligibility as to need and income; or*
- d. and e. No change.
- f. Funding is not available; ; or
- g. *The client fails to cooperate with a quality control review or with an investigation conducted by the department of inspections and appeals.*

ITEM 6. Amend rule 441—170.9(237A) as follows:

441—170.9(237A) Child care assistance overpayments. All client or provider child care assistance overpayments shall be subject to recoupment.

170.9(1) Notification and appeals. All clients or providers shall be notified by the department of inspections and appeals, as described at 441—subrule 7.5(9) 170.9(6), when it is determined that an overpayment exists. Notification shall include the amount, date and reason for the overpayment. The county office department shall provide additional information regarding the computation of the overpayment upon the client's or provider's request. The client or provider may appeal the computation of the overpayment and any action to recover the overpayment in accordance with 441—subrule 7.5(9).

170.9(2) Determination of overpayments. All overpayments due to client, or provider, or agency error or due to benefits or payments issued pending an appeal decision shall be recouped. Overpayments shall be computed as if the information had been acted upon timely.

170.9(3) and **170.9(4)** No change.

170.9(5) ~~Source of recoupment~~ *Payment agreement.* The client or provider may choose to make a lump-sum payment or make periodic installment payments as agreed to on ~~Form 470-3627 or Form 470-3628~~ *the notification form issued pursuant to subrule 170.9(6).* Failure to negotiate an approved payment agreement may result in further collection action as outlined in 441—Chapter 11.

170.9(6) Procedures for recoupment.

a. ~~Referral.~~ When the county office department determines that an overpayment exists, *the department shall refer the case shall be referred* to the department of inspections and appeals for investigation, recoupment, or referral for possible prosecution.

b. *The department of inspections and appeals shall initiate recoupment by notifying the debtor of the overpayment using one of the following forms:*

(1) *Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance; or*

(2) *Form 470-3628, Demand Letter for Child Care Assistance Agency Error Overissuance; or*

(3) *Form 470-3807, Demand Letter for Child Care Assistance Client Error Benefit Overissuance.*

c. When financial circumstances change, the department of inspections and appeals has the authority to revise the recoupment plan.

e d. Recoupment for ~~client error~~ overpayments *due to client error or due to an agency error that affected eligibility* shall be made from the parent, ~~or the person who serves in the capacity of the parent,~~ who received child care assistance at the time the overpayment occurred. When both *two* parents were in the home at the time the overpayment occurred, both parents are equally responsible for repayment of the overpayment.

e. *Recoupment for overpayments due to provider error or due to an agency error that affected benefits shall be made from the provider.*

170.9(7) No change.

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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 section 17A.3(1)“b” and Iowa Code Supplement section 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments update and replace the current low-income housing tax credit compliance manual with an updated compliance manual, which is incorporated by reference in rule 12.3(16).

Copies of the updated compliance manual, dated March 5, 2008, are available upon request from the Authority and are available electronically on the Authority's Web site at www.ifahome.com. It is the Authority's intent to incorporate the updated compliance manual by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers. The compliance manual is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on April 15, 2008. Comments may be addressed to Roger Brown, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Roger Brown at (515)725-4901 or E-mailed to roger.brown@iowa.gov.

The Authority will hold a public hearing on April 15, 2008, to receive public comments on these amendments. The public hearing will be held from 10 a.m. to noon at the Au-

IOWA FINANCE AUTHORITY[265](cont'd)

thority's offices at 2015 Grand Avenue, Des Moines, Iowa; telephone (515)725-4900.

The Authority anticipates that it may make changes to the updated compliance manual based on comments received from the public.

These amendments are intended to implement Iowa Code sections 16.4(3), 16.52, 17A.12, and 17A.16 and IRC Section 42.

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

The following amendments are proposed.

ITEM 1. Amend rule 265—12.3(16) as follows:

265—12.3(16) Compliance manual. The compliance manual for all low-income housing tax credit projects monitored by the authority for compliance with IRC Section 42, effective ~~December 6, 2000~~ *March 5, 2008*, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—12.4(16) as follows:

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of ~~December 6, 2000~~ *March 5, 2008*. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

ARC 6664B

PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment was approved at the March 4, 2008, regular meeting of the Board of Pharmacy.

The proposed amendment provides for the identification of a temporary pharmacist in charge for a period not to exceed 90 days following vacancy of the pharmacist in charge position in a pharmacy. Written notification of appointment of a temporary pharmacist in charge shall be submitted to the Board within 10 days of the vacancy, without fee or license application. Upon identification of a permanent pharmacist in charge, a new license application and fee shall be submitted to the Board.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on April 15, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

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

The following amendment is proposed.

Amend subrule **8.35(6)**, paragraph "c," as follows:

c. A change of pharmacist in charge shall require completion and submission of the application and fee for new pharmacy license ~~within 90 days following the vacancy.~~ *If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary pharmacist in charge, signed by the pharmacy owner or corporate officer and the temporary pharmacist in charge, shall be submitted to the board within 10 days following the vacancy. Within 90 days following the vacancy, a permanent pharmacist in charge shall be identified, and an application for pharmacy license, including the license fee as provided in subrule 8.35(4), shall be submitted to the board office.*

ARC 6675B

PROFESSIONAL LICENSURE
DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to amend Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

The proposed amendment would update requirements for occupational therapy screening.

Any interested person may make written comments on the proposed amendment no later than April 15, 2008, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail jmanning@idph.state.ia.us.

A public hearing will be held on April 15, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 148B and 272C.

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

The following amendment is proposed.

Amend rule **645—206.1(147)**, definition of "occupational therapy screening," as follows:

"Occupational therapy screening" means a brief process which is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and which includes:

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual's caregivers; or
3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions, not to exceed four months, to children prior to an evaluation, in accordance with state and federal educational policy.

ARC 6684B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 82, "Office of Multicultural Health," Iowa Administrative Code.

The proposed rules in Chapter 82 describe the purpose and responsibilities of the Office of Multicultural Health. The rules further describe the membership, duties, and meeting procedures of the Multicultural Health Advisory Council.

Any interested person may make written comments or suggestions on the proposed rules on or before April 15, 2008. Such written comments should be directed to Janice Edmunds-Wells, MSW, Office of Multicultural Health, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. E-mail may be sent to jwells@idph.state.ia.us.

These rules are intended to implement Iowa Code section 135.12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 82**OFFICE OF MULTICULTURAL HEALTH**

641—82.1(135) Purpose. The office of multicultural health exists to actively promote and facilitate health equity for Iowa's multicultural communities.

641—82.2(135) Definitions. For purposes of this chapter, the following definitions apply:

"Community" is defined as a group of people living in the same locality and under the same government or a group viewed as forming a distinct segment of society.

"Continual cultural competency" is defined as a set of congruent behaviors, attitudes and policies that come together as a system or an agency or among professionals and that enable that system or agency or those professionals to work effectively in cross-cultural situations.

"Department" means the Iowa department of public health.

"Director" means the director of the department of public health.

"Disparity" is defined as the condition or fact of being unequal.

"Diverse" is defined as made up of distinct characteristics, qualities or elements.

"Immigrant" is defined as a person who leaves one country to settle permanently in another.

"Minority" is defined as a part of a population differing from others in one or more characteristics and often subjected to differential treatment. Racial and ethnic minorities are classified as people of African descent (African-American/Black), Hispanic/Latino descent, Asian/Pacific Islander descent, Native American descent, and refugees and immigrants.

"Multicultural" is inclusive of communities of racial, ethnic or linguistic diversity.

"Refugee" is defined as one who flees in search of refuge, as in times of war, political oppression, or religious persecution.

641—82.3(135) Responsibilities of the office of multicultural health. The office of multicultural health shall provide public health leadership regarding existing or potential issues or practices that can or could affect the health status of racial, ethnic, and linguistic multicultural individuals and families, immigrants and refugees. The office shall provide this leadership through the core functions of (1) education; (2) advocacy; (3) data management; (4) technical assistance and consultation; and (5) training and development. The office is responsible for the following:

82.3(1) Promoting continuous cultural competency in health care practice and education throughout Iowa's public health care sector;

82.3(2) Collecting and providing valid empirical information on the health status of multicultural groups in Iowa;

82.3(3) Advocating for the development of policies and programs that improve the health of Iowa's racially, ethnically and linguistically diverse populations and addressing health disparities that exist within these populations;

82.3(4) Providing technical planning assistance to communities and counties throughout the state;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

82.3(5) Advocating for Iowa's racial, ethnic, and linguistic multicultural communities;

82.3(6) Creating and promoting a climate of inclusiveness in the public health sector on state, regional and local levels by partnering with its racial, ethnic, and linguistic multicultural constituents in Iowa to help them improve their collective health status; and

82.3(7) Promoting the Iowa public health standards and providing technical assistance and consultation regarding state and local criteria relating to disparate populations and delivery of culturally appropriate services.

641—82.4(135) Advisory council. A multicultural health advisory council shall be established within the department.

82.4(1) Membership. The council shall be composed of no more than 15 voting members appointed by the director.

a. Membership shall include the following:

(1) One representative from each of the six local public health service regions;

(2) One representative from the Meskwaki Settlement;

(3) Public-sector representatives such as legislators and state commissioners;

(4) Service-sector representatives such as representatives from the department of human services, local councils, education, and health care;

(5) Private-sector representatives such as business leaders, representatives from grassroots, nonprofit, faith-based and volunteer organizations, and community leaders.

b. A term of appointment is three years, with no more than three consecutive terms. An exception for individual reappointment from organizations represented shall be determined by the director.

c. The advisory council shall elect a chairperson.

d. In the case of a vacancy, the chairperson shall notify the department of the need to appoint another representative. Vacancies shall be filled in the same manner as original appointments.

e. The advisory council may designate one or more subcommittees to have such powers and perform such duties as may be deemed necessary by the council.

82.4(2) Duties. The advisory council shall perform the following duties:

a. Provide advice and make recommendations on diverse racial, ethnic, and linguistic health issues to the department, the office of multicultural health, and policy makers;

b. Provide advice and make recommendations on public policies and practices that affect multicultural communities; and

c. Provide advice and make recommendations on funding that supports the activities of the office of multicultural health.

82.4(3) Meetings. The advisory council shall meet at least four times a year to conduct its business. Meetings may be scheduled more frequently as business requires.

a. Notice of meetings and agenda shall be made available to council members a minimum of five working days prior to the meeting.

b. The operation of council meetings shall be governed by the following rules of procedure:

(1) A majority of the members of the council shall constitute a quorum.

(2) Action can be taken by a vote of the majority of the members of the council.

(3) Robert's Rules of Order shall govern at all meetings.

c. All meetings are open to the public in accordance with the open meetings law, found at Iowa Code chapter 21.

82.4(4) Absences. Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the advisory council member and to appoint another. The chairperson of the advisory council is charged with providing notification of absences.

82.4(5) Minutes. The advisory council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

a. The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

b. The minutes shall be provided to the members of the advisory council prior to the next scheduled meeting.

c. The minutes shall be available at the office of multicultural health for inspection Monday through Friday from 8:30 a.m. to 4:30 p.m. with the exception of holidays.

82.4(6) Expenses of the council. The following may be considered necessary expenses for reimbursement of advisory council members when incurred on behalf of advisory council business and are subject to established state reimbursement rates:

a. Reimbursement for travel in a private car.

b. Actual lodging and meal expenses, including sales tax on lodging and meals.

c. Actual expenses for public transportation.

These rules are intended to implement Iowa Code section 135.12.

ARC 6680B**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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 131, "Emergency Medical Services Provider Education/Training/Certification," Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. These proposed amendments clarify the certification testing process and fees, adopt a clear process for those wishing to move to a lower level of certification, set a time frame for notification of address changes, establish a renewal process for those meeting National Registry of EMT reregistration requirements, update the authorization standards for EMS training programs, and update disciplinary rules for providers and training programs.

Any interested person may make written comments or suggestions on the proposed amendments on or before April 15, 2008. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments are intended to implement Iowa Code chapter 147A.

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

The following amendments are proposed.

ITEM 1. Amend rule **641—131.1(147A)** as follows:

Amend the definition of "certification status" as follows: "Certification status" means a condition placed on an individual certificate for identification as active, deceased, denied, dropped, endorsement, expired, failed, hold, idle, inactive, incomplete, pending, probation, retired, revoked, surrendered, suspended, or temporary.

Adopt the following **new** definition in alphabetical order: "NREMT" means National Registry of Emergency Medical Technicians.

ITEM 2. Amend subrule **131.4(1)**, paragraph "**k**," as follows:

k. The fee for certification as an emergency medical care provider is \$30, payable to the Iowa Department of Public Health. This nonrefundable fee shall be paid prior to a ~~candidate's attempting the written portion of the certification examination~~ *candidate receiving certification*.

ITEM 3. Amend subrule **131.4(2)**, paragraph "**b**," subparagraph **(1)**, as follows:

(1) Complete all applicable continuing education requirements for the lower level during the certification period and submit a ~~written request for the lower level change of status request, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems)~~.

ITEM 4. Amend subrule **131.4(4)**, paragraph "**g**," as follows:

g. Certificate holders must notify the department *within 30 days* of a change in address.

ITEM 5. Amend subrule **131.4(8)**, paragraph "**a**," as follows:

a. FR, EMT-B, EMT-I, EMT-P, and PS ~~written examination/certification fee—\$20~~ **\$30**.

ITEM 6. Amend rule 641—131.4(147A) by adopting the following **new** subrule:

131.4(11) National registration in lieu of continuing education.

a. An individual who is certified in Iowa and is registered with the NREMT may renew the individual's certification by meeting the NREMT reregistration requirements.

b. The individual shall submit the NREMT Registration in Lieu of Continuing Education Application, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems), to the department, with proof of NREMT registration exceeding the current certification expiration date, within 90 days prior to the expiration date.

ITEM 7. Amend subrule **131.5(10)**, paragraph "**c**," as follows:

c. Applications shall be reviewed in accordance with the ~~current Essentials and Guidelines of an Accredited Education Program for the Emergency Medical Technician-Paramedic 2005 Standards and Guidelines for the Accred-~~

itation of Educational Programs in the Emergency Medical Services Professions, published by the Commission on Accreditation ~~and of Allied Health Programs~~. *Failure to comply with the standards may lead to disciplinary action as described in rule 641—131.8(152C)*.

ITEM 8. Amend subrule **131.5(10)** by adopting **new** paragraph "**1**" as follows:

1. Training program applications and on-site inspection reports are public information.

ITEM 9. Amend subrule 131.7(2), introductory paragraph, as follows:

131.7(2) The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including ~~specialty certifications~~ *endorsement*, or place on probation, or issue a citation and warning, or suspend or revoke the certificate when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

ITEM 10. Amend subrule **131.8(2)** by adopting **new** paragraph "**q**" as follows:

q. Failure to comply with the 2005 Standards and Guidelines for the Accreditation of Educational Programs in the Emergency Medical Services Professions, published by the Commission on Accreditation of Allied Health Programs.

ARC 6661B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 100.18, the Iowa Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 5, "Fire Marshal Administration," and Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.18 charges the State Fire Marshal with establishing requirements for smoke detectors in residential buildings. These requirements have been in effect since 1981. Smoke detectors are an effective method of preventing fatalities resulting from residential fires. Technological developments have improved the effectiveness of these devices. The amendments proposed herein would amend Chapter 210, which sets out requirements for smoke detectors, to require the use of dual sensor smoke detectors. Also included is a provision to rescind rules 661—5.807(100) to 661—5.810(100) regarding smoke detectors. This rescission was inadvertently omitted when Chapter 210 was originally adopted in 2006.

A public hearing on these proposed amendments will be held on April 23, 2008, at 8:30 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presenta-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

tions at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, Des Moines, Iowa 50319 by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on April 22, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone by 4:30 p.m. on April 22, 2008.

These amendments are intended to implement Iowa Code section 100.18.

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

The following amendments are proposed.

ITEM 1. Rescind rules **661—5.807(100)** through **661—5.810(100)**.

ITEM 2. Amend rule 661—210.1(100) as follows:

661—210.1(100) Definition Definitions. The following definition applies definitions apply to rules 661—210.1(100) through 661—210.4(100):

~~“Approved” means acceptable to the state fire marshal. Any that the equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed has been approved for a specific use by an independent testing laboratory or organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in this chapter, shall be deemed acceptable to the state fire marshal.~~

“Dual sensor smoke detector” means a smoke detector which contains both an ionization sensor and a photoelectric sensor and which is designed to detect and trigger an alarm in response to smoke detected through either sensing device.

ITEM 3. Amend subrule 210.2(1) as follows:

210.2(1) Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205. *Any single station smoke detector installed on or after [insert effective date of amendment] in compliance with this subrule, including a replacement of an existing detector, shall be a dual sensor smoke detector.*

ITEM 4. Amend subrule 210.2(3) as follows:

210.2(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. *Any smoke detector installed on or after [insert effective date of amendment] in compliance with this subrule, including a replacement of an existing detector, shall be a dual sensor smoke detector.*

ARC 6662B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 221, “Flammable and Combustible Liquids,” Iowa Administrative Code.

Iowa Code section 101.1 authorizes and requires the State Fire Marshal to adopt administrative rules establishing reasonable requirements for the safe transportation, storage, handling, and use of flammable liquids. Recently, a temporary storage container for gasoline has been advertised. This container consists of a soft plastic bladder contained in cardboard. The State Fire Marshal finds that use of such a container presents a threat to the safety of the public and therefore its use should be barred. The amendment proposed here-in would bar the use of any temporary or disposable container for flammable or combustible liquids and would require that any container used for flammable or combustible liquids be made of metal or hard plastic.

A public hearing on this proposed amendment will be held on April 23, 2008, at 9 a.m. in the First Floor Public Conference Room (Room 125) in the State Department of Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Department of Public Safety Headquarters Building, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on April 22, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on April 22, 2008.

This amendment is intended to implement Iowa Code chapter 101.

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

The following amendment is proposed.

Amend subrule **221.3(1)** by adding the following **new** paragraph **“i”**:

i. Delete section 3404.3.1.1 and insert in lieu thereof the following:

3404.3.1.1 Approved containers. Only approved containers and portable tanks shall be used. No flammable or com-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

bustible liquid shall be placed into, stored in, or carried in any container other than one which is metal or hard plastic. No flammable or combustible liquid shall be placed into, stored in, or carried in any temporary or disposable container.

ARC 6667B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 100C.7, the State Fire Marshal hereby gives Notice of Intended Action to adopt a new Chapter 277, "Certification of Alarm System Contractors and Installers," Iowa Administrative Code.

The Iowa General Assembly enacted statutory language in 2007 Iowa Acts, chapter 197, which authorizes and requires the State Fire Marshal to establish a certification program for alarm system contractors and installers. The existing Fire Extinguishing System Contractors Advisory Board was charged with advising the State Fire Marshal on the development of the alarm system certification program. Additional members were added to the Advisory Board, bringing its voting membership to 11 and its total membership to 13, and the Board was renamed the Fire Extinguishing System Contractors and Alarm Systems Advisory Board.

The rules proposed herein were recommended to the State Fire Marshal by the Advisory Board. The proposed rules would establish categories of certification, indicated by endorsements on the certificates issued. The endorsements represent variations in the level of work authorized and specify the types of alarm systems on which certificate holders are authorized to work. The proposed rules also provide for administrative procedures for the program, definitions of terms used in the rules, criteria for responsible managing employees of certified alarm system contractors, certification requirements for contractors, contractor application procedures and fees, installer certification requirements, installer application processes and fees, complaints and discipline against certificate holders, and civil penalties.

A public hearing on this proposed amendment will be held on April 17, 2008, from 3 to 5 p.m. This hearing will originate from the ICN Room (Room 122) in the State Public Safety Headquarters Building and will be accessible over the Iowa Communications Network (ICN) from the following additional locations:

- Room 22, Library Building, Iowa Lakes Community College, 300 South 18th Street, Estherville
- Room 024, Loofthall, Iowa Western Community College, 2700 College Road, Council Bluffs
- Room 150, Administration Building, Cedar Rapids Community School District, 346 2nd Avenue SW, Cedar Rapids
- Mount Pleasant Treatment Center, 1200 East Washington, Mount Pleasant

A second public hearing on this proposed amendment will be held on April 23, 2008, at 10 a.m. in the First Floor Public

Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines.

Persons may present their views orally or in writing at the public hearings. Persons who wish to make oral presentations at the public hearings should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515) 725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on April 22, 2008, or submitted at the public hearings. Persons who wish to convey their views orally other than at the public hearings may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on April 22, 2008.

These rules are intended to implement Iowa Code Supplement chapter 100C.

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

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 277 CERTIFICATION OF ALARM SYSTEM CONTRACTORS AND INSTALLERS

661—277.1(100C) Establishment of program. There is established within the fire marshal division an alarm system contractor and installer certification program. The program is established pursuant to Iowa Code Supplement chapter 100C.

277.1(1) Certification required.

a. No person shall act as an alarm system contractor without being currently certified as an alarm system contractor by the fire marshal, except as provided in paragraph 277.1(1)"b." No person shall act as an alarm system installer without being currently certified by the fire marshal as an alarm system contractor or alarm system installer unless the person is engaged in the installation of alarm system components only, is currently licensed pursuant to Iowa Code chapter 103, and is exempt from requirements for certification by the fire marshal as an alarm system installer pursuant to Iowa Code chapter 103.

EXCEPTION: A person may pull cable for an alarm system under the direct supervision of a certified contractor, certified installer, or person licensed pursuant to Iowa Code chapter 103 who is working as an installer without certification pursuant to Iowa Code chapter 103.

b. On or after July 1, 2008, and before October 1, 2008, a person may operate as a contractor or installer subject to this chapter only if the contractor or installer has applied for certification under this chapter. A contractor or installer operating under this paragraph may perform work only within the scope of certification for which the contractor or installer has applied.

277.1(2) Endorsement.

a. The certification of each contractor or installer shall carry an endorsement for one or more of the following:

- (1) Alarm system contractor.
 1. Fire alarm system contractor (1a).
 2. Medical alarm system contractor (1b).
 3. Security alarm system contractor (1c).

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4. Alarm system maintenance inspection contractor (1d).
5. Dwelling unit alarm system contractor (1e).
- (2) Alarm system installer.
 1. Fire alarm system installer (2a).
 2. Medical alarm system installer (2b).
 3. Security alarm system installer (2c).
 4. Alarm system maintenance inspection installer (2d).
 5. Dwelling unit alarm system installer (2e).
 6. Alarm system component installer (2f).
- b. Any person acting as an alarm system contractor or installer, other than a person who is not required to be certified for such work by the fire marshal, shall do so only in relation to systems covered by the endorsements on the contractor's or installer's certification.

277.1(3) Length of certification. Certification shall normally be for three years and shall expire on September 30 of the third year after the certification has been issued. A certification which is effective on a date other than October 1 shall be effective on the date on which the certification is issued and shall expire on the next September 30, after two years have passed from the date on which the certification was issued.

277.1(4) Inquiries. Inquiries regarding the alarm system contractor and installer certification program may be addressed to:

Alarm System Contractor and Installer
 Certification Program
 Fire Marshal Division
 Iowa Department of Public Safety
 215 East 7th Street
 Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to alarminfo@dps.state.ia.us, or by telephone to (515)725-6145.

661—277.2(100C) Definitions. The following definitions apply to rules 661—277.1(100C) through 661—277.7(100C):

“Alarm system” means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm, security alarm, or medical alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

“Alarm system component installer” means an employee of an alarm system contractor who is engaged in a portion of alarm system installation limited to mounting alarm system raceways, boxes or system devices, and pulling of system cable.

“Alarm system contractor” or “contractor” means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

“Alarm system installer” means an employee of an alarm system contractor who is engaged in the layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems.

“Alarm system maintenance inspection installer” means an employee of an alarm system contractor who is engaged in maintenance inspection of alarm systems.

“Fire alarm system” means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals that serves the general fire alarm needs of a building or buildings and that provides fire department or occupant notification or both. A fire alarm

system does not mean single-station or multiple-station alarms installed in dwelling units.

“Installation” means hanging electrical conduits, raceways or boxes; mounting system devices; pulling system cable; activating system-initiating devices and system control units or verifying system operations to meet specifications; and performing system acceptance testing.

“Layout” means drawings, calculations and component specifications to achieve the specified system design installation. “Layout” does not include design.

“Listed” means equipment, materials, or services included in a list published by a nationally recognized independent testing organization that is concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“Maintenance inspection” means periodic inspection and certification completed by an alarm system contractor or installer. For purposes of this chapter, “maintenance inspection” does not include an inspection completed by a building official or fire inspector when acting in an official capacity, or an insurance inspector employed by an insurance company licensed to do business in Iowa.

“Medical alarm (nurse call) system” means a nurse call system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a nurse call system or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a facility required to be licensed or certified by the state pursuant to Iowa Code chapter 125, 135B, 135C, 135G, 135H, 135J, 231C, or 231D, or installed in a facility operating pursuant to Iowa Code chapter 218, 219, 223, 225, 233A, or 233B, to initiate response of on-site medical care providers.

“NBFAA” means the National Burglar and Fire Alarm Association, 2300 Valley View Lane, Suite 230, Irving, Texas 75062.

“NICET” means the National Institute for Certification in Engineering Technologies, 1420 King Street, Alexandria, Virginia 22314-2794.

“Responsible managing employee” means an owner, partner, officer, or manager employed full-time by an alarm system contractor who is designated as a responsible managing employee for an alarm system contractor and who meets the requirements for a responsible managing employee established in rule 661—277.3(100C).

“Security alarm system” means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a security alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals, installed in a building or facility to detect unauthorized entry into a building or portion of a building and to notify security personnel or building occupants or both.

661—277.3(100C) Responsible managing employee. Each alarm system contractor shall designate a responsible managing employee and may designate one or more alternate responsible managing employees. A contractor may designate more than one responsible managing employee in order to satisfy the requirements for more than one endorsement as provided in subrule 277.1(2). If more than one responsible managing employee is designated, the contractor shall indi-

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cate for which responsible managing employee each designated alternate managing employee serves as an alternate.

277.3(1) The responsible managing employee or employees shall be designated in the application for certification; and, if a responsible managing employee is no longer acting in that role, the contractor shall so notify the fire marshal, in writing, within 30 calendar days, on a form designated by the fire marshal.

277.3(2) If a responsible managing employee is no longer acting in the role of responsible managing employee and the contractor has designated an alternate responsible managing employee, the alternate responsible managing employee shall become the responsible managing employee and the contractor shall so notify the fire marshal, in writing, within 30 calendar days of the date on which the preceding responsible managing employee ceased to act in that role. If the contractor has designated more than one alternate responsible managing employee, the notice to the fire marshal shall indicate which alternate responsible managing employee has assumed the position of responsible managing employee.

277.3(3) If a responsible managing employee designated by an alarm system contractor is no longer acting in the role of responsible managing employee and the contractor has not designated an alternate responsible managing employee, the contractor shall designate a new responsible managing employee and shall notify the fire marshal, in writing, of the designation within six months of the date on which the former responsible managing employee ceased to act in that capacity, on a form designated by the fire marshal. If the fire marshal has not been notified of the appointment of a new responsible managing employee within six months of the date on which a responsible managing employee ceased serving in that capacity, the fire marshal shall suspend the certification of the alarm system contractor.

277.3(4) A responsible managing employee or an alternate responsible managing employee shall meet one of the following requirements:

a. Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.

b. For fire alarm system endorsement, current certification by NICET at level III or higher as a fire alarm systems technician.

c. For medical alarm system endorsement, current certification by a nurse call system manufacturer or current NICET level II certification or higher in fire alarm systems or audio systems.

d. For security alarm system endorsement, current certification by NBF AA as an advanced alarm technician or higher or NICET level II certification or higher in fire alarm systems.

e. For alarm system maintenance inspection endorsement, current certification by NBF AA as an advanced alarm technician or higher, or NICET level II certification or higher in fire alarm systems.

f. For dwelling unit alarm system endorsement, current certification by NBF AA as an alarm technician or higher, or NICET level I certification or higher in fire alarm systems.

g. For any endorsement, completion of any third-party training or certification approved by the fire marshal for that endorsement.

EXCEPTION: Prior to October 1, 2010, an alarm system contractor may receive provisional certification if the person designated as the contractor's responsible managing employee provides documentation that procedures have been initiated for obtaining required qualifications for the en-

dorsement requested. Provisional certification shall not be recognized on or after October 1, 2011.

277.3(5) In any case in which training or testing that is offered to satisfy the requirements of this rule is required to be approved by the fire marshal, such approval is required prior to acceptance of the training or testing to meet certification requirements. Approval by the fire marshal of any training or testing to meet these requirements may be sought by the individual, firm, or organization providing the testing or training or initiated by the fire marshal. Any individual, firm or organization seeking to obtain such approval may apply to the fire marshal. An application form for approval of a testing or training program may be obtained by contacting the alarm system contractor and installer certification program as specified in subrule 277.1(4).

277.3(6) Work performed by a contractor subject to these rules shall be limited to areas of competence indicated by the specific certification or certifications or other training requirements met by the responsible managing employee.

277.3(7) Nothing in this rule shall be interpreted to conflict with or diminish any requirement for training or certification for anyone installing or servicing an alarm system set forth in any rule of the fire marshal or local fire ordinance or standard adopted by reference therein.

661—277.4(100C) Contractor certification requirements. An alarm system contractor shall meet all of the following requirements in order to receive certification from the fire marshal and shall continue to meet all requirements throughout the period of certification. The contractor shall notify the fire marshal, in writing, on a form designated by the fire marshal, within 30 calendar days if the contractor fails to meet any requirement for certification.

277.4(1) The contractor shall designate one or more responsible managing employees as provided in rule 661—277.3(100C).

277.4(2) The contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic alarm systems in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The contractor shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A contractor shall not initiate any installation of an alarm system which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the contractor has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

277.4(3) The contractor shall maintain current registration as a contractor with the labor services division of the Iowa workforce development department in compliance with Iowa Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

EXCEPTION: A contractor shall not be required to maintain registration with the labor services division of the Iowa workforce development department if the contractor does not meet the definition of "contractor" for purposes of Iowa

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Code chapter 91C and 875—Chapter 150, Iowa Administrative Code.

277.4(4) The contractor shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the contractor is performing work.

661—277.5(100C) Contractor application and fees.

277.5(1) Application. Any contractor seeking certification as an alarm system contractor shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires. An application form may be obtained from the fire marshal or from the Web site of the alarm system contractor and installer certification program. The application form shall be submitted with all required attachments and the required application fee established in subrule 277.5(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

277.5(2) Certification fee. The certification fee for alarm system contractors shall be \$300. If an application is denied, all except \$100 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application. If an application for certification provides for more than one responsible managing employee pursuant to rule 661—277.3(100C), there shall be an additional fee of \$50 for each responsible managing employee beyond the first. If an application for certification provides for more than one endorsement as provided in subrule 277.1(2), there shall be an additional fee of \$50 for each endorsement beyond the first.

277.5(3) Payment. The certification fee shall be submitted by draft, check, or money order in the applicable amount payable to the Department of Public Safety. The memo portion of the check, if the payment is by check, shall be completed as follows: Alarm System Contractor and Installer Certification Program.

277.5(4) Amended certification fee. The fee for issuance of an amended certification is \$100. The fee shall be submitted with the request for an amended certification.

a. A contractor shall request and the fire marshal shall issue an amended certificate for any of the following:

- (1) A change in the designation of a responsible managing employee;
- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application.

b. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

277.5(5) Attachments. Required attachments to the application for certification include, but are not limited to, the following:

a. Documentation verifying that the contractor has in force the insurance coverage required by subrule 277.4(2). The documentation shall include an acknowledgment that the contractor's insurance coverage extends to any work per-

formed by the contractor within the scope of certification pursuant to this chapter. The documentation may consist of a letter from the insurance carrier or a copy of the insurance certificate with an endorsement showing the required information.

b. Documentation verifying that the person designated as the responsible managing employee and any persons designated as alternate responsible managing employees have met the applicable certification requirements.

661—277.6(100C) Installer certification requirements.

An applicant for alarm system installer certification shall meet all of the following requirements which are applicable to the endorsements for which the applicant is applying in order to receive certification from the fire marshal and shall continue to meet all such requirements throughout the period of certification. The installer shall notify the fire marshal, in writing, on a form designated by the fire marshal, within 30 calendar days if the installer fails to meet any applicable requirement for certification.

277.6(1) The alarm system installer shall meet one of the following requirements:

a. Current licensure as a professional engineer by the Iowa engineering and land surveying examining board, with competence in alarm system design.

b. For fire alarm system endorsement, current certification by NICET at level II or higher in fire alarm systems.

c. For medical alarm system endorsement, current certification by a nurse call system manufacturer, documented training by the certified medical alarm contractor employer, current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code chapter 103.

d. For security alarm system endorsement, current certification by NBFAA as an advanced alarm technician or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.

e. For alarm system component installer endorsement, current certification by NBFAA as an advanced alarm technician or higher, current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code chapter 103.

f. For alarm system maintenance inspection endorsement, current certification by NBFAA as an alarm system technician or higher, or current NICET level I certification or higher in fire alarm systems or audio systems.

g. For dwelling unit alarm system endorsement, current certification by NBFAA as an alarm technician or higher, or current NICET level I certification or higher in fire alarm systems or audio systems, or current licensure as a master electrician or journeyman electrician by the electrical examining board, pursuant to Iowa Code chapter 103.

h. For any endorsement, completion of any third-party training or certification approved by the state fire marshal.

277.6(2) The installer shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and of any political subdivision in which the installer is performing work.

661—277.7(100C) Installer application and fees.

277.7(1) Application. Any installer seeking certification as an alarm system installer shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires.

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An application form may be obtained from the fire marshal or from the Web site of the alarm system contractor and installer certification program. The application form shall be submitted with all required attachments and the required application fee established in subrule 277.7(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

277.7(2) Certification fee. The certification fee for alarm system installers shall be \$150 for three years. If an application is denied, all except \$50 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the certification fee shall be made if the certification is revoked or if the denial of the certification is based on the applicant's knowingly including false or misleading information on the application. There shall be an additional fee of \$25 for each endorsement beyond the first.

277.7(3) Payment. The certification fee shall be submitted by draft, check, or money order in the applicable amount payable to the Department of Public Safety, with the memo portion of the check completed as follows: Alarm System Contractor and Installer Certification Program.

277.7(4) Amended certification fee.

a. The fee for issuance of an amended certification is \$50. The fee shall be submitted with the request for an amended certification. An installer shall request and the fire marshal shall issue an amended certificate for a change in any material information included in or with the initial or renewal application.

b. Other changes in the information required in the application form shall be reported to the fire marshal but shall not require issuance of an amended certification or payment of the amended certification fee.

277.7(5) Attachments. Required attachments to the application for certification include, but are not limited to, documentation of required certifications, licenses or training.

661—277.8(100C) Complaints. Complaints regarding the performance of any certified contractor or installer, failure of a certified contractor or installer to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as an alarm system contractor or installer without certification may be filed with the fire marshal. Complaints should be addressed as follows:

Alarm System Contractor and Installer
Certification Program

Fire Marshal Division
Iowa Department of Public Safety
215 East 7th Street
Des Moines, Iowa 50319

Complaints may be submitted by electronic mail to alarminfo@dps.state.ia.us or by facsimile to (515)725-6172.

Complaints should be as specific as possible and shall clearly identify the contractor or installer against whom the complaint is filed. A form which may be used to file complaints is available on the Web site of the alarm system contractor and installer certification program. Complaints may be filed without using the complaint form provided, but shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

NOTE: The Web site for the alarm system contractor and installer certification program is: <http://www.dps.state.ia.us/fm/alarm/index.shtml>.

661—277.9(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals. The fire marshal may deny, suspend or revoke the certification of a contractor or installer or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or installer is violated.

277.9(1) Denial. The fire marshal may deny an application for certification:

a. If the applicant makes a false statement on the application form or in any other submission of information required for certification. "False statement" means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for certification established in this chapter.

c. If the applicant is currently barred for cause from acting as an alarm system contractor or installer in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or installer and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or installer. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or installer in another jurisdiction and is no longer barred from doing so, the fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

e. If either the applicant or the designated responsible managing employee, if the application is for certification as a contractor, has been convicted of a crime which reflects upon the integrity of the applicant in operating as an alarm system contractor or installer, the fire marshal shall evaluate that record with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

277.9(2) Suspension. A suspension of a certification may be imposed by the fire marshal for any violation of these rules or Iowa Code chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or installer in this state. Failure to provide any notice to the fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the certification even after the period of the suspension.

277.9(3) Revocation. A revocation is a termination of a certification. A certification may be revoked by the fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or installer or when information comes to the attention of the fire marshal which, if known to the fire marshal when the application was being considered, would have resulted in denial of the certification.

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A new application for certification from a contractor or installer whose certification had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The fire marshal may specify in the revocation order a longer period than one year before a new application for certification may be considered. When a new application for certification from a contractor or installer whose certification was previously revoked is being considered, the applicant may be denied certification based upon the same information which was the basis for revocation even after any such period established by the fire marshal has expired.

277.9(4) Civil penalties. The fire marshal may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

277.9(5) Suspension or revocation for nonpayment of child support. The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the certified contractor or installer by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor or installer may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of certification of a contractor or installer, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor or installer.

c. Contractors or installers shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the contractor or installer before a certificate will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a certification or has suspended or revoked a certification pursuant to Iowa Code chapter 252J.

e. In the event a contractor or installer files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the certification, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule 277.9(5) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a certification program, such as the one established in this chapter, and pro-

vide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

277.9(6) Appeals. Any denial, suspension, or revocation of a certification, or any civil penalty imposed upon a certified contractor or installer under this rule, other than one imposed pursuant to subrule 277.9(5), may be appealed by the contractor or installer within 14 days of receipt of the notice. Appeals of actions taken by the fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

These rules are intended to implement Iowa Code Supplement chapter 100C.

ARC 6678B**RACING AND GAMING
COMMISSION[491]****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 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 6, “Occupational and Vendor Licensing,” Chapter 9, “Harness Racing,” Chapter 11, “Gambling Games,” and Chapter 12, “Accounting and Cash Control,” Iowa Administrative Code.

Item 1 adds a definition for “occupation.”

Items 2 and 3 replace the words “categories” and “class” with “occupations” and “occupation,” respectively.

Item 4 changes the list of offenses that are automatic disqualifiers for an occupational license.

Items 5 to 8 update existing rules to correspond with the national uniform rules of racing.

Item 9 allows the Administrator or a Commission representative to require additional testing on a gambling game.

Item 10 removes the reference to a contest.

Item 11 allows a player in a game of twenty-one to handle the cards consistent with rules of other table games.

Items 12 and 13 implement changes to conform the rules to industry standards.

Any person may make written suggestions or comments on the proposed amendments on or before April 15, 2008. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on April 15, 2008, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

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available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **491—6.1(99D,99F)** by adding the following **new** definition in alphabetical order:

“Occupation” means a license category listed on the commission’s occupational license application form.

ITEM 2. Amend subrule **6.2(1)**, paragraph “**p**,” as follows:

p. A license may not be issued to applicants who have not previously been licensed in the following categories *occupations* except upon recommendation by the commission representative: trainers, assistant trainers, jockeys, apprentice jockeys, exercise persons, and other occupations the commission may designate. The commission representative may, for the purpose of determining a recommendation under this subrule, consult a representative of the facility, horsemen, or jockeys.

ITEM 3. Amend subrule **6.2(3)**, paragraph “**a**,” as follows:

a. A person may work outside the licensed occupation as long as the person is licensed in an equal or higher *class occupation*.

ITEM 4. Amend subrule **6.5(1)** by rescinding paragraph “**d**” and inserting in lieu thereof the following **new** paragraph:

d. A license shall be denied if, within the last five years, an applicant has had a felony conviction, including a conviction involving the entry of a deferred judgment and adjudications of delinquency. If the felony conviction did not occur within the last five years, a license shall not be issued unless the commission representative determines that sufficient evidence of rehabilitation exists.

ITEM 5. Amend subrule **9.4(11)**, paragraph “**g**,” as follows:

g. A horse placed on the veterinarian’s list, bleeders exempt, may be allowed to enter only after it has been removed from the list by the *commission* veterinarian. Requests for the removal of any horse from the veterinarian’s list will be accepted only after three calendar days have elapsed from the placing of the horse on the veterinarian’s list. Removal from the list will be at the discretion of the commission veterinarian who may require satisfactory workouts or examinations to adequately demonstrate that the problem that caused the horse to be placed on the list has been rectified. *Horses that are entered to race and then placed on the veterinarian’s list for any reason will not be allowed to enter a race for a minimum of three calendar days beginning the day after the horse was scheduled to race.*

Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and shall be ineligible to race for the following time periods:

- (1) *First incident – 14 days.*
- (2) *Second incident within 365-day period – 30 days.*
- (3) *Third incident within 365-day period – 180 days.*
- (4) *Fourth incident within 365-day period – barred for racing lifetime.*

For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility specified in subparagraph (1). A horse may be removed from the

bleeder list only upon the direction of the official veterinarian who shall certify in writing to the stewards the recommendation for removal. A horse which has been placed on a bleeder list in another jurisdiction pursuant to these rules shall be placed on a bleeder list in this jurisdiction.

ITEM 6. Amend subrule **9.7(1)** by adding the following **new** paragraphs “**h**” to “**k**”:

h. The possession or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

- (1) Erythropoietin;
- (2) Darbepoetin;
- (3) Oxyglobin®; and
- (4) Hemopure®.

i. The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

(1) Any treated horse shall not be permitted to race for a minimum of ten days following treatment;

(2) The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians licensed to practice by the commission;

(3) Any extracorporeal shock wave therapy or radial pulse wave therapy machines on the association grounds must be registered with and approved by the commission or its designee before use;

(4) All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

j. The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or designee.

k. Non-steroidal anti-inflammatory drugs (NSAIDs).

(1) The use of one of three approved NSAIDs shall be permitted under the following conditions:

1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – 10 nanograms per milliliter.

2. The NSAIDs listed in numbered paragraph “1” or any other NSAIDs are prohibited from being administered within the 24 hours before post time for the race in which the horse is entered.

3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below 1 microgram per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) Any horse to which an NSAID has been administered shall be subject to having a blood sample(s), urine sample(s) or both taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s).

RACING AND GAMING COMMISSION[491](cont'd)

ITEM 7. Amend subrule **9.7(4)**, paragraphs “c” and “d,” as follows:

c. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all *procedures*, medications and other substances which the veterinarian prescribed, administered, or dispensed for racing animals registered at the current race meeting as provided in Iowa Code section 99D.25(10). Reports shall be submitted not later than noon the day following the treatments’ being reported. Reports shall include the racing animal, trainer, *procedure*, medication or other substance, dosage or quantity, route of administration, date and time administered, dispensed, or prescribed. *Reports shall be signed by the practicing veterinarian.*

d. Within 20 minutes following the administration of furosemide, the veterinarian must deliver to the commission veterinarian or commission representative a signed affidavit certifying information regarding the treatment of the horse. The statement must include, at a minimum, the name of the practicing veterinarian, the tattoo number or freeze brand number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the furosemide was administered. This affidavit must be signed by the trainer or trainer’s designee who witnessed the administration of furosemide. The veterinarian shall not administer the furosemide if a witness is not present. Furosemide shall only be administered *(by a single intravenous injection)* in a dose level of ~~250 milligrams~~ *allowed by Iowa Code section 99D.25A, subsection 7.*

ITEM 8. Amend subrule **9.7(4)** by adding the following **new** paragraph “h”:

h. Unless approved by the commission veterinarian, veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide.

ITEM 9. Amend subrule 11.4(5) as follows:

11.4(5) Operation. Each gambling game shall operate and play in accordance with the representation made to the commission and the public at all times. The administrator or commission representative may order the withdrawal of any gambling game suspected of malfunction or misrepresentation, until all deficiencies are corrected. *The administrator or commission representative may require additional testing by an independent testing facility at the expense of the licensee or distributor for the purpose of complying with this subrule.*

ITEM 10. Amend rule 491—11.6(99F) as follows:

491—11.6(99F) Gambling game-based tournaments and contests.

11.6(1) Proposals. Proposals for terms, game rules, entry fees, prizes, dates, and procedures must be submitted in writing and approved by a commission representative before a facility conducts any tournament ~~or contest~~. Any changes to approved tournaments ~~and contests~~ must be submitted to the commission representative for review and approval prior to being implemented. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

11.6(2) Limits. Tournaments ~~and contests~~ must be based on gambling games authorized by the commission. Entry fees, less prizes paid, are subject to the wagering tax pursuant to Iowa Code section 99F.11. In determining adjusted gross receipts, to the extent that prizes paid out exceed entry fees received, the facility shall be deemed to have paid the fees for the participants.

ITEM 11. Amend subrule **11.7(4)**, paragraph “b,” as follows:

b. At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in a prescribed order and in such a way that they can be readily arranged to indicate each player’s hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to the far right and moving counterclockwise around the table. The dealer’s hand will be the last hand collected. The cards will then be placed on top of the discard pile. No player or spectator shall ~~handle~~, remove, or alter any cards used to game at twenty-one or be permitted to do so by a casino employee.

ITEM 12. Amend subrule 11.12(1) as follows:

11.12(1) Meter required. A progressive machine is a slot machine game with a ~~jackpot payout~~ *an award amount* that increases *as based on a function of credits bet on the slot machine is played*. A progressive slot machine or group of linked progressive slot machines must have a meter showing the progressive jackpot payout.

ITEM 13. Rescind rule 491—12.11(99F) and insert in lieu thereof the following **new** rule:

491—12.11(99F) Slot machines—keys.

12.11(1) Each slot machine shall have a container(s) that is housed in a locked compartment(s) separate from any other compartment of the slot machine. Facilities shall ensure:

a. Keys to each compartment securing a container are maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.

b. Each container is identified at time of removal by a number corresponding to the casino number of the slot machine from which the container is removed.

12.11(2) With the exception of the keys to the compartment housing the container, keys to each slot machine or any device connected thereto which may affect the operation of the slot machine shall be maintained in a secure place and controlled by the slot department.

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REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax,” and Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Iowa Administrative Code.

These amendments are proposed as a result of 2006 Iowa Acts, House Files 2754 and 2759 (2006 Iowa Acts, chapters 1142 and 1175).

Item 1 amends subrule 42.16(3) for individual income tax to provide that, beginning January 1, 2009, the ethanol blended gasoline tax credit is replaced by the ethanol promotion tax credit.

REVENUE DEPARTMENT[701](cont'd)

Item 2 amends rule 701—42.31(422) for individual income tax to provide that the E-85 gasoline promotion tax credit may be claimed even if a taxpayer also claims the ethanol promotion tax credit.

Item 3 adopts new rule 701—42.37(422) to provide for the ethanol promotion tax credit for individual income tax beginning January 1, 2009.

Item 4 amends subrule 52.19(3) for corporation income tax to provide that, beginning January 1, 2009, the ethanol blended gasoline tax credit is replaced by the ethanol promotion tax credit. This change is similar to the change in Item 1.

Item 5 amends rule 701—52.30(422) for corporation income tax to provide that the E-85 gasoline promotion tax credit may be claimed even if a taxpayer also claims the ethanol promotion tax credit. This change is similar to the change in Item 2.

Item 6 adopts new rule 701—52.36(422) to provide for the ethanol promotion tax credit for corporation income tax beginning January 1, 2009. This change is similar to the change in Item 3.

These proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than April 28, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 15, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by April 18, 2008.

These amendments are intended to implement Iowa Code Supplement sections 422.11N and 422.33.

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

The following amendments are proposed.

ITEM 1. Amend subrule 42.16(3), introductory paragraph, as follows:

42.16(3) Repeal of ethanol blended gasoline tax credit. The ethanol blended gasoline tax credit is repealed on Janu-

ary 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer's fiscal year until December 31, 2008. *The ethanol promotion tax credit described in rule 42.37(422) is available beginning January 1, 2009, for retail dealers of gasoline.*

ITEM 2. Amend rule **701—42.31(422)**, first unnumbered paragraph, as follows:

A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 42.16(422) *for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 42.37(422) for gallons sold on or after January 1, 2009*, for the same tax year for the same ethanol gallons.

ITEM 3. Amend 701—Chapter 42 by adopting the following **new** rule:

701—42.37(422) Ethanol promotion tax credit. Effective for tax years beginning on or after January 1, 2009, a retail dealer of gasoline may claim an ethanol promotion tax credit. For purposes of this rule, tank wagon sales are considered retail sales. The ethanol promotion tax credit is computed on Form IA137.

42.37(1) Definitions. The following definitions are applicable to this rule:

“Biodiesel gallonage” means the total number of gallons of biodiesel which the retail dealer sells from motor fuel pumps during a determination period. For example, 5,000 gallons of biodiesel blended fuel with a 2 percent by volume of biodiesel sold during a determination period results in a biodiesel gallonage of 100 (5,000 times 2%).

“Biofuel distribution percentage” means the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage.

“Biofuel threshold percentage” is dependent on the aggregate number of gallons of motor fuel sold by a retail dealer during a determination period, as set forth below:

Determination Period	More than 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2009	10%	6%
2010	11%	6%
2011	12%	10%
2012	13%	11%
2013	14%	12%
2014	15%	13%
2015	17%	14%
2016	19%	15%
2017	21%	17%
2018	23%	19%
2019	25%	21%
2020	25%	25%

“Biofuel threshold percentage disparity” means the positive percentage difference between the retail dealer's biofuel

REVENUE DEPARTMENT[701](cont'd)

threshold percentage and the retail dealer's biofuel distribution percentage. For example, if a retail dealer that sells more than 200,000 gallons of motor fuel in 2009 has a biofuel distribution percentage of 8 percent, the biofuel threshold percentage disparity equals 2 percent (10% minus 2%).

"Determination period" means any 12-month period beginning on January 1 and ending on December 31.

"Ethanol gallonage" means the total number of gallons of ethanol which the retail dealer sells from motor fuel pumps during a determination period. For example, 10,000 gallons of ethanol blended gasoline formulated with a 10 percent by volume of ethanol sold during a determination period results in an ethanol gallonage of 1,000 (10,000 gallons times 10%).

"Gasoline gallonage" means the total number of gallons of gasoline sold by the retail dealer during a determination period.

42.37(2) Calculation of tax credit.

a. The tax credit is calculated by multiplying the retail dealer's total ethanol gallonage by the tax credit rate, which is adjusted based upon the retail dealer's biofuel threshold percentage disparity. The tax credit rate is set forth below:

Biofuel Threshold Percentage Disparity	Tax Credit Rate Per Gallon
0%	6.5 cents
0.01% to 2.00%	4.5 cents
2.01% to 4.00%	2.5 cents
4.01% or more	0 cents

b. For use in calculating the retail dealer's total ethanol gallonage, the department is required to establish a schedule regarding the average amount of ethanol contained in E-85 gasoline.

c. A taxpayer may claim the ethanol promotion tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 42.31(422) for the same tax year for the same ethanol gallons.

d. The tax credit must be calculated separately for each retail motor fuel site operated by the taxpayer. The biofuel threshold percentage disparity of the taxpayer is computed on a statewide basis based on the total ethanol gallonage sold in Iowa. The taxpayer must determine the ethanol gallonage sold at each retail motor fuel site and multiply this ethanol gallonage by the applicable tax credit rate based on the biofuel threshold percentage disparity to calculate the ethanol promotion tax credit.

e. Any tax credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

42.37(3) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in subrule 42.37(2), paragraph "a." Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for the total ethanol gallonage sold through December 31, 2020. For a taxpayer whose tax year is not on a calendar year basis and that did not claim the ethanol promotion tax credit on the previous return, the taxpayer may claim the tax credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

42.37(4) Allocation of tax credit to owners of a business entity. If a taxpayer claiming the ethanol promotion tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

42.37(5) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline gallonage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This results in an ethanol promotion tax credit of 6.5 cents times 11,950, or \$776.75.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or \$1,000.

EXAMPLE 2: A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons. This consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2010 60,000 gallons of diesel fuel of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is .53%. This results in an ethanol promotion tax credit of 4.5 cents times 30,900, or \$1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or \$2,000.

EXAMPLE 3: A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell

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any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

Site A – 70,000 times 10% equals	7,000
Site B – 70,000 times 10% equals	7,000
Site C – 60,000 times 10% equals	6,000
Site C – 10,000 times 79% equals	<u>7,900</u>
Total	27,900

The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals \$1,813.50, as shown below:

Site A – 7,000 times 6.5 cents equals	\$455.00
Site B – 7,000 times 6.5 cents equals	455.00
Site C – 13,900 times 6.5 cents equals	<u>903.50</u>
Total	\$1,813.50

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or \$1,000.

EXAMPLE 4: A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of \$2,310 for the fiscal year ending March 31, 2011, as shown below:

30,000 times 6.5 cents equals	\$1,950
8,000 times 4.5 cents equals	<u>360</u>
Total	\$2,310

EXAMPLE 5: A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of \$1,250 (50,000 gallons times 2.5 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010, including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case,

the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.

This rule is intended to implement Iowa Code Supplement section 422.11N.

ITEM 4. Amend subrule 52.19(3), introductory paragraph, as follows:

52.19(3) Repeal of ethanol blended gasoline tax credit. The ethanol blended gasoline tax credit is repealed on January 1, 2009. However, the tax credit is available for taxpayers whose fiscal year ends after December 31, 2008, for those ethanol gallons sold beginning on the first day of the taxpayer's fiscal year until December 31, 2008. *The ethanol promotion tax credit described in rule 52.36(422) is available beginning January 1, 2009, for retail dealers of gasoline.*

ITEM 5. Amend rule **701—52.30(422)**, first unnumbered paragraph, as follows:

A taxpayer may claim the E-85 gasoline promotion tax credit even if the taxpayer also claims the ethanol blended gasoline tax credit provided in rule 52.19(422) for gallons sold prior to January 1, 2009, or the ethanol promotion tax credit provided in rule 52.36(422) for gallons sold on or after January 1, 2009, for the same tax year for the same ethanol gallons.

ITEM 6. Amend 701—Chapter 52 by adopting the following **new** rule:

701—52.36(422) Ethanol promotion tax credit. Effective for tax years beginning on or after January 1, 2009, a retail dealer of gasoline may claim an ethanol promotion tax credit. For purposes of this rule, tank wagon sales are considered retail sales. The ethanol promotion tax credit is computed on Form IA137.

52.36(1) Definitions. The following definitions are applicable to this rule:

“Biodiesel gallonage” means the total number of gallons of biodiesel which the retail dealer sells from motor fuel pumps during a determination period. For example, 5,000 gallons of biodiesel blended fuel with a 2 percent by volume of biodiesel sold during a determination period results in a biodiesel gallonage of 100 (5,000 times 2%).

“Biofuel distribution percentage” means the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage.

“Biofuel threshold percentage” is dependent on the aggregate number of gallons of motor fuel sold by a retail dealer during a determination period, as set forth below:

Determination Period	More than 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2009	10%	6%
2010	11%	6%
2011	12%	10%
2012	13%	11%
2013	14%	12%
2014	15%	13%
2015	17%	14%

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Determination Period	More than 200,000 Gallons Sold by Retail Dealer	200,000 Gallons or Less Sold by Retail Dealer
2016	19%	15%
2017	21%	17%
2018	23%	19%
2019	25%	21%
2020	25%	25%

“Biofuel threshold percentage disparity” means the positive percentage difference between the retail dealer’s biofuel threshold percentage and the retail dealer’s biofuel distribution percentage. For example, if a retail dealer that sells more than 200,000 gallons of motor fuel in 2009 has a biofuel distribution percentage of 8 percent, the biofuel threshold percentage disparity equals 2 percent (10% minus 2%).

“Determination period” means any 12-month period beginning on January 1 and ending on December 31.

“Ethanol gallonage” means the total number of gallons of ethanol which the retail dealer sells from motor fuel pumps during a determination period. For example, 10,000 gallons of ethanol blended gasoline formulated with a 10 percent by volume of ethanol sold during a determination period results in an ethanol gallonage of 1,000 (10,000 gallons times 10%).

“Gasoline gallonage” means the total number of gallons of gasoline sold by the retail dealer during a determination period.

52.36(2) Calculation of tax credit.

a. The tax credit is calculated by multiplying the retail dealer’s total ethanol gallonage by the tax credit rate, which is adjusted based upon the retail dealer’s biofuel threshold percentage disparity. The tax credit rate is set forth below:

Biofuel Threshold Percentage Disparity	Tax Credit Rate Per Gallon
0%	6.5 cents
0.01% to 2.00%	4.5 cents
2.01% to 4.00%	2.5 cents
4.01% or more	0 cents

b. For use in calculating the retail dealer’s total ethanol gallonage, the department is required to establish a schedule regarding the average amount of ethanol contained in E-85 gasoline.

c. A taxpayer may claim the ethanol promotion tax credit even if the taxpayer also claims the E-85 gasoline promotion tax credit provided in rule 52.30(422) for the same tax year for the same ethanol gallons.

d. The tax credit must be calculated separately for each retail motor fuel site operated by the taxpayer. The biofuel threshold percentage disparity of the taxpayer is computed on a statewide basis based on the total ethanol gallonage sold in Iowa. The taxpayer must determine the ethanol gallonage sold at each retail motor fuel site and multiply this ethanol gallonage by the applicable tax credit rate based on the biofuel threshold percentage disparity to calculate the ethanol promotion tax credit.

e. Any tax credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

52.36(3) Fiscal year filers. For taxpayers whose tax year is not on a calendar year basis, the taxpayer may compute the ethanol promotion tax credit on the total ethanol gallonage sold during the year using the designated tax credit rates as shown in subrule 52.36(2), paragraph “a.” Because the tax credit is repealed on January 1, 2021, a taxpayer whose tax year ends prior to December 31, 2020, may continue to claim the tax credit in the following tax year for the total ethanol gallonage sold through December 31, 2020. For a taxpayer whose tax year is not on a calendar year basis and that did not claim the ethanol promotion tax credit on the previous return, the taxpayer may claim the tax credit for the current tax year for the period beginning on January 1 of the previous tax year until the last day of the previous tax year.

52.36(4) Allocation of tax credit to owners of a business entity. If a taxpayer claiming the ethanol promotion tax credit is a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by the individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, limited liability company, S corporation, estate, or trust.

52.36(5) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2009 equals 100,000 gallons. This consisted of 5,000 gallons of E-85 gasoline, 80,000 gallons of E-10 (10% ethanol blended gasoline) and 15,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2009 15,000 gallons of diesel fuel of which 5,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 11,950 (5,000 E-85 gallons times 79% equals 3,950; 80,000 E-10 gallons times 10% equals 8,000; and thus 3,950 plus 8,000 equals 11,950). The biodiesel gallonage sold is 100, or 5,000 times 2%. The sum of 11,950 and 100, or 12,050, is divided by the total gasoline gallonage of 100,000 to arrive at a biofuel distribution percentage of 12.05%. Since this exceeds the biofuel threshold percentage of 6% for a retail dealer selling 200,000 gallons or less, the biofuel threshold disparity percentage is 0%. This results in an ethanol promotion tax credit of 6.5 cents times 11,950, or \$776.75.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or \$1,000.

EXAMPLE 2: A taxpayer that is a retail dealer of gasoline operates only one motor fuel site in Iowa. The number of gallons of gasoline sold at this site in 2010 equals 300,000 gallons. This consisted of 10,000 gallons of E-85 gasoline, 230,000 gallons of E-10 (10% ethanol blended gasoline) and 60,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The taxpayer also sold at this site during 2010 60,000 gallons of diesel fuel of which 25,000 gallons was B-2 (2% biodiesel). The ethanol gallonage is 30,900 (10,000 E-85 gallons times 79% equals 7,900; 230,000 E-10 gallons times 10% equals 23,000; and thus 7,900 plus 23,000 equals 30,900). The biodiesel gallonage sold is 500, or 25,000 times 2%. The sum of 30,900 and 500, or 31,400, is divided by the total gasoline gallonage of 300,000 to arrive at a biofuel distribution percentage of 10.47%. Since this is less than the biofuel threshold percentage of 11% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity percentage is

REVENUE DEPARTMENT[701](cont'd)

.53%. This results in an ethanol promotion tax credit of 4.5 cents times 30,900, or \$1,390.50.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 10,000 gallons, or \$2,000.

EXAMPLE 3: A taxpayer that is a retail dealer of gasoline operates three motor fuel sites in Iowa during 2009, and each site sold 80,000 gallons of gasoline. Sites A and B each sold 70,000 gallons of E-10 (10% ethanol blended gasoline) and 10,000 gallons not containing ethanol. Site C sold 60,000 gallons of E-10, 10,000 gallons of E-85, and 10,000 gallons not containing ethanol. The average ethanol content of E-85 gasoline is assumed to be 79%. The retail dealer did not sell any diesel fuel at any of the motor fuel sites. The ethanol gallonage is 27,900, as shown below:

Site A – 70,000 times 10% equals	7,000
Site B – 70,000 times 10% equals	7,000
Site C – 60,000 times 10% equals	6,000
Site C – 10,000 times 79% equals	<u>7,900</u>
Total	27,900

The ethanol gallonage of 27,900 is divided by the gasoline gallonage of 240,000 to arrive at a biofuel distribution percentage of 11.63%. Since this exceeds the biofuel threshold percentage of 10% for a retail dealer selling more than 200,000 gallons, the biofuel threshold disparity is 0%. The credit is computed separately for each motor fuel site, and the ethanol promotion credit equals \$1,813.50, as shown below:

Site A – 7,000 times 6.5 cents equals	\$455.00
Site B – 7,000 times 6.5 cents equals	455.00
Site C – 13,900 times 6.5 cents equals	<u>903.50</u>
Total	\$1,813.50

Since the biofuel distribution percentage and the biofuel threshold percentage disparity are computed on a statewide basis for all gallons sold in Iowa, the 6.5 cent tax credit rate is applied to the total ethanol gallonage, even if Sites A and B did not meet the biofuel threshold percentage of 10% for 2009.

In addition, the taxpayer is entitled to claim the E-85 gasoline promotion tax credit equal to 20 cents multiplied by 5,000 gallons, or \$1,000.

EXAMPLE 4: A taxpayer that is a retail dealer of gasoline has a fiscal year ending March 31, 2011, and operates one motor fuel site in Iowa. The taxpayer sold more than 200,000 gallons of gasoline during the 2010 calendar year and expects to sell more than 200,000 gallons of gasoline during the 2011 calendar year. The ethanol gallonage is 30,000 for the period from April 1, 2010, through December 31, 2010, and the ethanol gallonage is 8,000 for the period from January 1, 2011, through March 31, 2011. The biofuel distribution percentage is 11.5% for the period from April 1, 2010, through December 31, 2010, and the biofuel distribution percentage is 11.8% for the period from January 1, 2011, through March 31, 2011. This results in a biofuel threshold percentage disparity of 0% (11.0 minus 11.5) for the period from April 1, 2010, through December 31, 2010, and a biofuel threshold percentage disparity of .2% (12.0 minus 11.8) for the period from January 1, 2011, through March 31, 2011. The taxpayer is entitled to an ethanol promotion tax credit of \$2,310 for the fiscal year ending March 31, 2011, as shown below:

30,000 times 6.5 cents equals	\$1,950
8,000 times 4.5 cents equals	<u>360</u>
Total	\$2,310

EXAMPLE 5: A taxpayer that is a retail dealer of gasoline has a fiscal year ending April 30, 2009, and operates one motor fuel site in Iowa. The taxpayer expects to sell more than 200,000 gallons of gasoline during the 2009 calendar year. The ethanol gallonage is 50,000 gallons for the period from January 1, 2009, through April 30, 2009. The biofuel distribution percentage is 7.7% for the period from January 1, 2009, through April 30, 2009, which results in a biofuel threshold percentage disparity of 2.3% (10.0 minus 7.7). The taxpayer is entitled to claim an ethanol promotion tax credit of \$1,250 (50,000 gallons times 2.5 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2009.

In lieu of claiming the credit on the return for the period ending April 30, 2009, the taxpayer may claim the ethanol promotion tax credit on the tax return for the period ending April 30, 2010, including the ethanol gallonage for the period from January 1, 2009, through April 30, 2010. In this case, the taxpayer will compute the biofuel distribution percentage for the period from January 1, 2009, through December 31, 2009, to determine the proper tax credit rate to be applied to the ethanol gallonage for the period from January 1, 2009, through December 31, 2009.

This rule is intended to implement Iowa Code Supplement section 422.33.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 5.75%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants Maximum 6.0%
- 74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

New official state interest rates, effective March 11, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.65%
32-89 days	Minimum 2.05%
90-179 days	Minimum 2.05%
180-364 days	Minimum 2.25%
One year to 397 days	Minimum 2.20%
More than 397 days	Minimum 2.35%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

NOTICE—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:

April 1, 2007 — April 30, 2007	6.75%
May 1, 2007 — May 31, 2007	6.50%
June 1, 2007 — June 30, 2007	6.75%
July 1, 2007 — July 31, 2007	6.75%
August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%
March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%

ARC 6679B

IOWA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM[495]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," and Chapter 11, "Application for, Modification of, and Termination of Benefits," Iowa Administrative Code.

These amendments implement changes resulting from a recent, extensive redesign of the IPERS computer system; implement new contribution rates for special service members; modify IPERS coverage for temporary employees; and clarify IPERS coverage for part-time appointed board or commission members.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 2, 2008, as **ARC 6514B**. A public hearing was held on January 22, 2008. No one attended the public hearing, and no written comments were received.

Subsequent to the public hearing, comments were received from IPERS staff and those involved in the preliminary testing of new computer applications. Based on the recommendations of the testing staff and users of the applications, the dates for implementation of the changes provided in subrules 4.3(1), 4.3(2), 4.3(6) and 4.3(8) and in rules 4.4(97B) and 4.7(97B) have been changed. In the subrules and rules specified above, all references to the month of April have been changed to July and all references to May have been changed to August. Extension of the implementation dates will benefit the users by giving IPERS more time to adequately test new computer applications and thus avoid unnecessary errors. Employers will also have more time to learn about and prepare for the changes.

There are no waiver provisions included in the amendments.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

These amendments will become effective April 30, 2008. The following amendments are adopted.

ITEM 1. Amend subrule **4.1(1)**, paragraph "**d**," second unnumbered paragraph, as follows:

~~Any employing unit~~ *An entity* not already reporting to IPERS which ~~fulfills~~ *meets* the conditions with respect to for becoming an *IPERS covered* employer shall immediately ~~give notice to contact IPERS of that fact. Such to provide notice shall set forth which includes~~ the name and address of the ~~employing unit, entity and such other information as may be required by IPERS in its status determination form.~~ If, after review of this information, IPERS determines that the ~~applicant~~ *entity* should be ~~treated~~ *enrolled* as a covered employer, IPERS will ~~contact~~ *notify* the ~~employer entity~~ and provide it with a ~~unique~~ *an IPERS* account number ~~for the entity to use when submitting information to IPERS.~~ IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the ~~effective date on for which IPERS actually receives such notice approves the entity for coverage,~~ unless the employer agrees to pay the full actuarial cost of providing such benefits.

ITEM 2. Amend subrules **4.1(2)**, **4.1(3)**, **4.1(5)**, and **4.2(1)** by striking the words "employer unit," "employing unit," "reporting unit," and "unit" wherever they appear and inserting the word "employer" in lieu thereof.

ITEM 3. Amend subrule 4.1(4) as follows:

4.1(4) Reports of dissolved or absorbed employers. An ~~employing unit employer~~ that has been dissolved or entirely absorbed by another ~~employing unit employer~~ is required to file a ~~quarterly or monthly~~ report with IPERS through the ~~last effective date on which it legally existed was dissolved or absorbed.~~ Any wages paid after the ~~legal this~~ date of ~~dissolution~~ are reported under the account number assigned to the new or successor ~~employing unit employer~~, if any.

ITEM 4. Amend subrule 4.1(6) as follows:

4.1(6) For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible ~~for forwarding reports and~~ for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

ITEM 5. Amend subrule **4.2(3)**, paragraph "**a**," as follows:

a. Each ~~employing unit employer~~ shall make reports as IPERS may require and shall comply with the instructions ~~printed upon any report form issued by IPERS pertaining to the preparation and return of the report provided by IPERS for the reports.~~

ITEM 6. Amend subrule 4.2(4) as follows:

4.2(4) Fees. IPERS may assess to the employer a fee ~~based on IPERS' actual cost incurred in correcting an employer's errors if an employer fails to file required documents and remittances accurately for administrative costs as described in subrule 4.3(6).~~

ITEM 7. Rescind subrule 4.3(1) and adopt the following ~~new~~ subrule in lieu thereof:

4.3(1) Payment of contributions. For wages paid on or after July 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS covered employer, the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective August 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

ITEM 8. Rescind subrule 4.3(2) and adopt the following ~~new~~ subrule in lieu thereof:

4.3(2) Wage reports. For wages paid on or after July 1, 2008, all IPERS covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all em-

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ployees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via the IPERS' employer self service Web application, on compact discs, or as a paper report. However, for those employers submitting reports on compact discs or on paper, IPERS shall charge a fee as described in subrule 4.3(6).

ITEM 9. Rescind subrule 4.3(3) and adopt the following **new** subrule in lieu thereof:

4.3(3) Deadlines for payment of contributions.

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or holiday, the contribution is due on the next regularly scheduled business day.

b. For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

ITEM 10. Amend subrule 4.3(4), introductory paragraph, as follows:

4.3(4) Request for time extension. A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if ~~presented a request is made~~ before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to ~~submit the wage report or pay the contribution~~ on or before the end of the extension period, ~~the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted.~~ If the fifteenth day falls on a weekend or holiday, the ~~remittance contribution~~ or report is due on the next regularly scheduled ~~workday business day~~.

ITEM 11. Amend subrule 4.3(5) as follows:

4.3(5) No reportable wages. When an employer has no reportable wages ~~or no wages to report~~ during the applicable reporting period, the wage reporting document ~~should~~ *shall* be marked "no reportable wages" or "no wages" and returned ~~to IPERS filed according to subrule 4.3(2).~~ Even if there are no reportable wages, the ~~employing unit's employer's~~ account is considered delinquent for the reporting period *and is subject to a fee* until the report is filed. *However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.*

ITEM 12. Rescind subrule 4.3(6) and adopt the following **new** subrule in lieu thereof:

4.3(6) Fees for noncompliance. IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer self service Web application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of \$20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS' employer self service Web application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is

assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code section 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or holiday, the due date shall be the next regularly scheduled business day.

ITEM 13. Rescind subrules 4.3(7) and 4.3(8) and adopt the following **new** subrules in lieu thereof:

4.3(7) Erroneously reported wages for employees not covered under IPERS. Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer's monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

4.3(8) Contributions paid on wages in excess of the annual covered wage maximum. For wages paid on or after July 1, 2008, whenever IPERS determines that an employee's wages will exceed the annual maximum established under Section 401(a)(17) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee's share of excess contributions and making the applicable tax corrections.

ITEM 14. Rescind subrules **4.3(9)** and **4.3(10)** and renumber subrules **4.3(11)** and **4.3(12)** as **4.3(9)** and **4.3(10)**.

ITEM 15. Rescind rule 495—4.4(97B) and adopt the following **new** rule in lieu thereof:

495—4.4(97B) Accrual of interest and application of employer payments. Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective August 1, 2008, employers that remit late contributions shall be charged a minimum of \$20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

ITEM 16. Rescind and reserve rule **495—4.5(97B)**.

ITEM 17. Amend subrules 4.6(2) and 4.6(3) as follows:

4.6(2) Sheriffs and deputy sheriffs, effective July 1, 2007 2008.

a. Member's rate—~~7.70~~ 7.52%.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

b. Employer's rate—~~7.70~~ 7.52%.

4.6(3) Members employed in a protection occupation, effective July 1, 2007 2008.

a. Member's rate—~~5.64~~ 5.63%.

b. Employer's rate—~~8.47~~ 8.45%.

ITEM 18. Amend subrule 4.6(7) as follows:

4.6(7) Prior special rates are as follows:

Effective July 1, 2006 2007, through June 30, 2007 2008:

a. Sheriffs and deputy sheriffs:

(1) Member's rate—~~8.37~~ 7.70%.

(2) Employer's rate—~~8.37~~ 7.70%.

b. Protection occupation:

(1) Member's rate—~~6.08~~ 5.64%.

(2) Employer's rate—~~9.12~~ 8.47%.

ITEM 19. Amend rule 495—4.7(97B) as follows:

495—4.7(97B) Enrollment of new employees *Employee information to be provided by covered employers.* Effective September 1, 2002, covered ~~Covered~~ employers shall be required to enroll new employees prior to reporting wages for the new employees. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, *date of hire, occupation code, gender, and mailing address, termination date and last check date, when appropriate,* and employer identification number.

~~Employers may~~ For new employee enrollments submitted on or after August 1, 2008, employers shall submit enrollment the required information for new employees on paper, but are encouraged to use magnetic media or Internet enrollment when available. A wage report filed by an employer through the Internet when IPERS makes the option available shall be rejected if the report contains new employees who have not yet been enrolled in the IPERS system. using IPERS' employer self service Web application, on compact discs, or on paper. However, those employers submitting information on compact discs or on paper will be charged a fee as described in subrule 4.3(6).

ITEM 20. Amend **495—Chapter 4**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, and 97B.70.

ITEM 21. Amend subrule 5.2(13), introductory paragraph and paragraph "a," as follows:

5.2(13) Temporary Effective July 1, 2008, temporary employees shall not be covered provided that they have not established an ongoing relationship with an IPERS covered employer. Effective January 1, 1993, an ongoing relationship with an IPERS covered employer is established when:

a. The employee is paid covered wages of \$300 \$1,000 or more per quarter in two consecutive quarters; or

ITEM 22. Amend **495—Chapter 5**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 97B sections 97B.1A, 97B.4, 97B.11, 97B.42, 97B.42A, 97B.49B, 97B.49C, and 97B.49G.

ITEM 23. Amend rule 495—6.4(97B), introductory paragraph, as follows:

495—6.4(97B) Quarter Month for which wages are to be reported. Wages are reportable in for the quarter month in which they are actually paid to the employee, except when

employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, *receive lump sum payments of extra duty pay, or request wage restorations* following EMRH, and similar situations authorized under Iowa Code chapter 97B, in which case the *involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages.* The employer shall file wage adjustment reporting forms with IPERS allocating said ~~the~~ wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

ITEM 24. Amend subrule 6.4(1) as follows:

6.4(1) Actual and constructive receipt. An employer cannot report wages as having been paid to employees as of a quarterly ~~monthly~~ reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as second quarter ~~June~~ wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as third quarter ~~July~~ wages.

ITEM 25. Amend subrule **6.4(2)**, paragraph "c," as follows:

c. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by all covered employers shall be included in determining the annual covered wage maximum limit established under Section 401(a)(17) of the Internal Revenue Code. If the amount of wages paid to a member by several employers during a calendar year any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. IPERS shall not accept excess wages and applicable contributions from employers and shall return excess contributions as provided in 495—subrule 4.3(8).

ITEM 26. Amend **495—Chapter 6**, implementation clause, as follows:

These rules are intended to implement Iowa Code section sections 97B.1A(26), 97B.9, 97B.11, 97B.14 and 97B.14A.

ITEM 27. Rescind subrule 7.1(2) and adopt the following new subrule in lieu thereof:

7.1(2) Service credit for persons employed by institutions operating on a nine-month basis. An employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for the third quarter when covered wages are reported in the second and fourth quarters. A member who was on an approved leave of absence in the second quarter, but who has service credit for that quarter, whether by operation of law or through a service purchase, and who returns to work in the fourth quarter immediately following shall also receive credit for the missing third quarter. In order for the member to receive this service credit, the quarters before and after the third quarter must be reported for the same occupation class code.

ITEM 28. Rescind subrule 7.2(7) and adopt the following new subrule in lieu thereof:

7.2(7) Prior service credit for school year. A public school teacher who worked full-time the entire school year shall be given a full year of prior service credit.

a. Effective July 1, 1990, an employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

the third quarter when no covered wages are reported in that quarter in the same manner as provided under subrule 7.1(2).

b. Prior to July 1, 1990, school employees may have received less than a full year's credit if they had reportable wages in fewer than four quarters.

ITEM 29. Amend rule 495—11.5(97B) by adopting the following **new** subrule:

11.5(4) Part-time appointed members of boards or commissions receiving minimal noncovered wages. Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1)“a” for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1)“a” were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/26/08.

ARC 6668B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby rescinds Chapter 3, “Pharmacy Technicians,” and adopts a new Chapter 3 with the same title, and amends Chapter 36, “Discipline,” Iowa Administrative Code.

The amendments rescind current Chapter 3 and adopt new rules implementing provisions of 2007 Iowa Acts, Senate File 75, (Iowa Code Supplement sections 155A.6 and 155A.6A) regarding the registration and national certification of pharmacy technicians. The rules define terms used within the chapter and identify individuals required to maintain registration as a pharmacy technician. Authorized and prohibited duties of a pharmacy technician are identified, and a pharmacist's responsibilities for supervision of pharmacy technicians are established.

The rules in new Chapter 3 establish requirements for national certification of pharmacy technicians by July 1, 2010, provide for registration as a pharmacy technician trainee for individuals in the process of certification, and approve national certification programs. Application requirements are established, including application forms, fees, terms, renewals, and penalties for late registration or renewal. The rules also identify unethical conduct or practice and provide for the denial of an application for registration and for discipline of a pharmacy technician.

The amendments to subrule 36.1(4) delete “examiners” from the name of the board pursuant to 2007 Iowa Acts, Senate File 74, and change references to pharmacy technician registration requirements as a result of new Chapter 3.

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

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6483B**. The Board received numerous written comments regarding the proposed amendments. The adopted amendments differ from those published under Notice as follows:

Definitions of “ExCPT” and “ICPT” are added, and the definitions of “certified pharmacy technician” and “pharmacy technician certification” are revised to recognize the program offered by the Institute for Certification of Pharmacy Technicians (ICPT). The definition of “supportive personnel” is revised to eliminate confusion regarding who is a pharmacy support person, and “delivery” is defined. “Nuclear pharmacy technician” is defined as a specialized pharmacy technician practice subject to regulation pursuant to nuclear pharmacy practice rules.

Subrule 3.5(1) is revised to recognize ICPT's ExCPT exam and certification program as an alternate national certification program to the PTCB certification. The subrule is further revised to direct a pharmacy technician who practices exclusively in a nuclear pharmacy to certification requirements in 657—Chapter 16 relating to nuclear pharmacy practice.

Rule 3.22(155A) is revised to clarify that a pharmacy technician, if so authorized by the technician's supervising pharmacist, may enter prescription and patient information into the pharmacy's computerized record system.

These amendments were approved during the March 4, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on April 30, 2008.

These amendments are intended to implement Iowa Code sections 147.72, 155A.23, 155A.33, and 155A.39, Iowa Code Supplement sections 155A.6 and 155A.6A, and 2007 Iowa Acts, Senate File 74.

The following amendments are adopted.

ITEM 1. Rescind 657—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3

PHARMACY TECHNICIANS

657—3.1(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Board” means the Iowa board of pharmacy.

“Cashier” means a person whose duties within the pharmacy are limited to accessing finished, packaged prescription orders and processing payments for and delivering such orders to the patient or the patient's representative.

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“Certified pharmacy technician” or “certified technician” means an individual who holds a valid current national certification from the ICPT or the PTCB and who has registered with the board as a certified pharmacy technician.

“Delivery” means the transport and conveyance of a finished, securely packaged prescription order to the patient or the patient’s caregiver.

“ExCPT” means the Exam for the Certification of Pharmacy Technicians developed and administered by the ICPT.

“ICPT” means the Institute for the Certification of Pharmacy Technicians.

“Nuclear pharmacy technician” means a person who is employed in Iowa by a licensed nuclear pharmacy under the responsibility of an Iowa-licensed qualified nuclear pharmacist to assist in the technical functions of the practice of pharmacy pursuant to 657—Chapter 16.

“Pharmacy technician” or “technician” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in rules 3.22(155A) through 3.24(155A).

“Pharmacy technician certification” or “national certification” means a certificate issued by a national pharmacy technician certification authority approved by the board attesting that the technician has successfully completed the requirements of the certification program. The term includes evidence of renewal of the national certification. “National certification,” as that term relates to a nuclear pharmacy technician working exclusively in an Iowa-licensed nuclear pharmacy, shall be as defined in rule 657—16.2(155A).

“Pharmacy technician trainee” or “technician trainee” means an individual who is in training to become a pharmacy technician and who is in the process of acquiring national certification as a pharmacy technician as provided in rule 3.5(155A).

“Pharmacy technician training” or “technician training” means education or experience acquired for the purpose of qualifying for and preparing for national certification.

“PTCB” means the Pharmacy Technician Certification Board.

“Supervising pharmacist” means an Iowa-licensed pharmacist who is on duty in an Iowa-licensed pharmacy and who is responsible for the actions of a pharmacy technician or other supportive personnel.

“Supportive personnel” means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by the pharmacist under the pharmacist’s supervision, including delivery, billing, cashier, and clerical functions.

657—3.2(155A) Purpose of registration. A registration program for pharmacy technicians is established for the purposes of determining the competency of a pharmacy technician or of an applicant for registration as a pharmacy technician, a certified technician, or a pharmacy technician trainee and for the purposes of identification, tracking, and disciplinary action for violations of federal or state pharmacy or drug laws or regulations.

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

accepting employment as a pharmacy technician or technician trainee in Iowa who fails to register as a pharmacy technician, certified technician, or technician trainee as provided by these rules may be subject to disciplinary sanctions.

3.3(1) Licensed health care provider. Except as provided in this rule, a licensed health care provider whose registration or license is in good standing with and not subject to current disciplinary sanctions or practice restrictions imposed by the licensee’s professional licensing board and who assists in the technical functions of the practice of pharmacy shall be required to register as a pharmacy technician, certified technician, or technician trainee pursuant to these rules.

3.3(2) Original application required. Any person not currently registered with the board as a pharmacy technician or certified technician shall complete an application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 30-day period.

3.3(3) Technician training. A person who is enrolled in a college-based or American Society of Hospital-System Pharmacists (ASHP)-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration within 30 days of the commencement of pharmacy technician training.

3.3(4) Registration number. Each pharmacy technician, certified technician, and technician trainee registered with the board will be assigned a unique registration number.

657—3.4 Reserved.

657—3.5(155A) Certification of pharmacy technicians. Prior to July 1, 2010, the certification and recertification of pharmacy technicians shall be voluntary and not mandatory. Beginning July 1, 2010, the certification of pharmacy technicians shall be required as provided by this rule. National certification does not supplant the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules.

3.5(1) Approved pharmacy technician certification. The board hereby approves the PTCB pharmacy technician certification program and examination, the successful completion of which fulfills the requirement for national certification. The board also approves the ICPT certification program and ExCPT, the successful completion of which fulfills the requirement for national certification. National certification of a nuclear pharmacy technician employed solely in the practice of nuclear pharmacy shall be pursuant to certification requirements identified in 657—Chapter 16.

3.5(2) Pharmacy technician trainee. Beginning July 1, 2009, a person who is in the process of acquiring national certification as a pharmacy technician shall register with the board as a pharmacy technician trainee. The registration shall be issued for a period of one year and shall not be renewed.

3.5(3) Certified pharmacy technician. Beginning July 1, 2010, all applicants for a new pharmacy technician registration, except as provided by subrule 3.5(2), and all applicants for renewal of a pharmacy technician registration shall provide proof of current national pharmacy technician certification and shall complete the application for certified pharmacy technician registration.

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657—3.6 and 3.7 Reserved.

657—3.8(155A) Application form.

3.8(1) Required information. The application for a pharmacy technician registration, certified technician registration, or pharmacy technician trainee registration shall include the following:

- a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
- b. Educational background;
- c. Work experience;
- d. Current place or places of employment;
- e. Any other information deemed necessary by the board and as provided by this rule.

3.8(2) Declaration of current impairment or limitations. The applicant shall declare any current use of drugs, alcohol, or other chemical substances that in any way impairs or limits the applicant's ability to perform the duties of a pharmacy technician with reasonable skill and safety.

3.8(3) History of felony or misdemeanor crimes. The applicant shall declare any history of being charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100).

3.8(4) History of disciplinary actions. The applicant shall declare any history of disciplinary actions or practice restrictions imposed by a state health care professional or technician licensure or registration authority.

3.8(5) Additional information. The following additional information shall be required from an applicant for the specified registration.

a. Technician trainee. The applicant for technician trainee registration shall identify the source of technician training, the anticipated date of completion of training, and the anticipated date of national certification.

b. Certified pharmacy technician. The applicant for certified technician registration shall provide proof of current pharmacy technician certification. The applicant shall also identify all current pharmacy employers including pharmacy name, license number, address, and average hours worked per week.

c. Licensed health care provider. In addition to the additional information required by paragraph "a" or "b" as applicable, a licensed health care provider shall provide evidence that the licensee's professional license or registration is current and in good standing and is not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing authority.

3.8(6) Sworn signature. The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate fees pursuant to rule 3.10(155A).

657—3.9(155A) Registration term and renewal. Prior to July 1, 2008, a pharmacy technician registration shall expire on the second last day of the birth month following initial registration, with the exception that a new pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration. A pharmacy technician registration issued between July 1, 2008, and July 1, 2009, except as provided in subrule 3.9(1), shall expire no later than June 30, 2010. Registration shall not require continuing education for renewal.

3.9(1) Certified pharmacy technician registration. A certified pharmacy technician registration shall expire on the second last day of the birth month following initial registra-

tion, with the exception that a new certified pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration.

3.9(2) Pharmacy technician trainee registration. Beginning July 1, 2009, a registration for a pharmacy technician who is in the process of acquiring national certification (technician trainee) shall expire on the last day of the registration month 12 months following the date of registration or 12 months following the date registration was required pursuant to subrule 3.3(3).

a. National certification completed. When the registered technician trainee completes national certification, and no later than the date of expiration of the technician trainee registration, the pharmacy technician trainee shall complete and submit an application for certified pharmacy technician registration. A successful application shall result in issuance of a new certified pharmacy technician registration as provided in subrule 3.9(1).

b. Voluntary cancellation of registration. A registered technician trainee who fails to complete national certification prior to expiration of the technician trainee registration shall notify the board that the pharmacy technician trainee registration should be canceled and that the individual has ceased practice as a pharmacy technician.

c. Failure to notify the board. If a pharmacy technician trainee fails to notify the board prior to the expiration date of the technician trainee registration regarding the individual's intentions as provided in paragraph "a" or "b," the technician trainee registration shall be canceled and the individual shall cease practice as a pharmacy technician.

657—3.10(155A) Registration fee. The following fees for initial registration and registration renewal shall apply to the specified registration applications filed within the following time frames. The appropriate fee shall be submitted with the registration application in the form of a personal check, certified check or cashier's check, or a money order payable to the Iowa Board of Pharmacy.

3.10(1) Registration prior to July 1, 2009. The fee for obtaining an initial technician registration, for obtaining an initial certified pharmacy technician registration, or for renewal of a technician or certified technician registration prior to July 1, 2009, shall be \$40 plus applicable surcharge pursuant to rule 657—30.8(155A).

3.10(2) Registration effective July 1, 2009. The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration beginning July 1, 2009, shall be \$50 plus applicable surcharge pursuant to rule 657—30.8(155A).

3.10(3) Technician trainee registration effective July 1, 2009. The fee for a one-year pharmacy technician trainee registration shall be \$20 plus applicable surcharge pursuant to rule 657—30.8(155A).

657—3.11(155A) Late applications and fees.

3.11(1) Initial registration. An application for initial registration that is not received within the applicable period specified in subrule 3.3(2) or 3.3(3) shall be delinquent, and the applicant shall be assessed a late payment fee. The late payment fee shall be equal to the amount of the fee for initial registration. A delinquent initial registration shall include payment of the initial registration fee, applicable surcharge pursuant to rule 657—30.8(155A), and late payment fee.

3.11(2) Registration renewal. A technician registration that is not renewed before its expiration date shall be delinquent, and the registrant shall not continue employment as a pharmacy technician until the registration is reactivated. An

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individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

a. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, plus the applicable surcharge pursuant to rule 657—30.8(155A).

b. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the second month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, the applicable surcharge pursuant to rule 657—30.8(155A), plus an additional penalty fee of \$10 for each additional month, not to exceed three additional months, that the registration is delinquent. The maximum combined fee payment for reactivation of a delinquent registration shall not exceed an amount equal to twice the renewal fee plus \$30 plus the applicable surcharge pursuant to rule 657—30.8(155A).

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

657—3.13(155A) Notifications to the board. A pharmacy technician, certified pharmacy technician, or technician trainee shall report to the board within ten days a change of the technician's name, address, or pharmacy employment status.

657—3.14 to 3.16 Reserved.

657—3.17(155A) Training and utilization of pharmacy technicians. All Iowa-licensed pharmacies utilizing pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy. Pharmacy policies shall specify the frequency of review. Technician training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of technician training shall be available for inspection and copying by the board or an agent of the board.

657—3.18(147,155A) Identification of pharmacy technician.

3.18(1) Identification badge. A pharmacy technician shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacy technician and that includes at least the technician's first name.

3.18(2) Misrepresentation prohibited. A pharmacy technician shall not represent himself or herself in any manner as a pharmacist or pharmacist-intern. A pharmacy technician shall not represent himself or herself in any manner as a certified pharmacy technician unless the technician has attained national pharmacy technician certification. A technician trainee shall not represent himself or herself in any manner as

a certified pharmacy technician, as a pharmacist-intern, or as a pharmacist.

657—3.19 Reserved.

657—3.20(155A) Responsibility of supervising pharmacist. The ultimate responsibility for the actions of a pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee shall remain with the supervising pharmacist.

657—3.21(155A) Delegation of technical functions. A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9. The pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

657—3.22(155A) Technical functions. At the discretion of the supervising pharmacist, technical functions which may be delegated to a pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee include, but are not limited to, the following:

1. Performing packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.

2. Accepting prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's office.

3. Contacting prescribers to obtain prescription refill authorizations.

4. Collecting pertinent patient information.

5. Entering prescription and patient information into the pharmacy computer system.

6. Inspecting drug supplies provided and controlled by an Iowa-licensed pharmacy, including but not limited to drug supplies maintained in an ambulance or other emergency medical service vehicle, a long-term care facility, a hospital nursing unit, or a hospice facility.

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee shall not:

1. Provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;

2. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A);

3. Provide patient counseling, consultation, or patient-specific drug information, tender an offer of patient counseling on behalf of a pharmacist, or accept a refusal of patient counseling from a patient or patient's agent;

4. Make decisions that require a pharmacist's professional judgment, such as interpreting prescription drug orders or applying information;

5. Transfer a prescription drug order to another pharmacy or receive the transfer of a prescription drug order from another pharmacy;

6. Delegate technical functions to supportive personnel.

657—3.24(155A) New prescription drug orders or medication orders. At the discretion of the supervising pharmacist, a pharmacy technician or a certified pharmacy tech-

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nician may be allowed to accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent if the pharmacy technician or certified pharmacy technician has received appropriate training pursuant to the pharmacy's policies and procedures. The supervising pharmacist shall remain responsible for ensuring the accuracy, validity, and completeness of the information received by the pharmacy technician or certified technician. The pharmacist shall contact the prescriber to resolve any questions, inconsistencies, or other issues relating to the information received by the pharmacy technician or certified technician that involve a pharmacist's professional judgment.

657—3.25(155A) Delegation of nontechnical functions. A pharmacist may delegate nontechnical functions to supportive personnel only if the pharmacist is on site when delegated nontechnical functions are performed. A pharmacy technician shall not delegate technical functions to supportive personnel.

657—3.26 and 3.27 Reserved.

657—3.28(147,155A) Unethical conduct or practice. Violation by a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule 3.30(155A).

3.28(1) Misrepresentative deeds. A pharmacy technician, certified technician, or technician trainee shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

3.28(2) Confidentiality. In the absence of express written authorization from the patient or written order or direction of a court, except where the best interests of the patient require, a pharmacy technician, certified technician, or technician trainee shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, a licensed pharmacist, a person duly authorized by law to receive such information, or as otherwise provided in rule 657—8.16(124,155A), any of the following:

- a. A patient's name, address, social security number, or any information that could be used to identify a patient;
- b. The contents of any prescription drug order or medication order or the therapeutic effect thereof, or the nature of professional pharmaceutical services rendered to a patient;
- c. The nature, extent, or degree of illness suffered by any patient; or
- d. Any medical information furnished by the prescriber or the patient.

3.28(3) Discrimination. It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or mental disability, or disease state when providing pharmaceutical services.

3.28(4) Unethical conduct or behavior. A pharmacy technician, certified technician, or technician trainee shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior shall include, but is not limited to, the following acts: verbal or physical abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

657—3.29(155A) Denial of registration. The executive director or designee may deny an application for registration as a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

657—3.30(155A) Discipline of pharmacy technicians.

3.30(1) Violations. The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

3.30(2) Sanctions. The board may impose the following disciplinary sanctions:

- a. Revocation of a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee registration.
- b. Suspension of a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee registration until further order of the board or for a specified period.
- c. Nonrenewal of a pharmacy technician or certified pharmacy technician registration.
- d. Prohibition, permanently, until further order of the board, or for a specified period, from engaging in specified procedures, methods, or acts.
- e. Probation.
- f. The ordering of a physical or mental examination.
- g. The imposition of civil penalties not to exceed \$25,000.
- h. Issuance of a citation and warning.
- i. Such other sanctions allowed by law as may be appropriate.

These rules are intended to implement Iowa Code sections 147.72, 155A.23, 155A.33, and 155A.39 and Iowa Code Supplement sections 155A.6 and 155A.6A.

ITEM 2. Amend subrule **36.1(4)**, paragraphs "i," "v," and "aa," as follows:

i. Willful or repeated violations of the provisions of Iowa Code chapter 147 or Iowa Code chapter 272C. Willful or repeated violations of these Acts include, but are not limited to, a pharmacist's, pharmacist-intern's, or pharmacy technician's intentionally or repeatedly violating a lawful rule or regulation promulgated by the board of pharmacy examiners or the state department of public health, violating a lawful order of the board in a disciplinary hearing, or violating the provisions of Title IV (Public Health) of the Code of Iowa as amended.

v. Practicing pharmacy without an active and current Iowa pharmacist license, operating a pharmacy without a current pharmacy license, operating a prescription drug wholesale facility without a current wholesale drug license, practicing as a pharmacist-intern without a current pharmacist-intern registration, or assisting a pharmacist with technical functions associated with the practice of pharmacy without a current pharmacy technician registration except as provided in 657—subrule 3.3(1) or rule 657—3.4(155A) 657—3.3(155A), introductory paragraph.

aa. Employing or continuing to employ as a practicing pharmacist any person whose Iowa pharmacist license is not

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current and active, or employing or continuing to employ a person to assist a pharmacist with technical functions associated with the practice of pharmacy who is not currently registered as a pharmacy technician except as provided in ~~657—subrule 3.3(1) or rule 657—3.4(155A)~~ 657—3.3(155A), *introductory paragraph*.

[Filed 3/5/08, effective 4/30/08]

[Published 3/26/08]

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ARC 6665B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Chapter 7, "Hospital Pharmacy Practice," and Chapter 20, "Pharmacy Compounding Practices," Iowa Administrative Code.

The amendments delete incorrect references to previously rescinded rule 657—8.30(126,155A) and correct those references to 657—Chapter 13. Chapter 13 was previously adopted in place of the rescinded rule.

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

Notice of Intended Action was published in the December 5, 2007, Iowa Administrative Bulletin as **ARC 6438B**. The Board received no comments regarding the amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the March 4, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on April 30, 2008.

These amendments are intended to implement Iowa Code sections 126.10, 155A.13, and 155A.28.

The following amendments are adopted.

ITEM 1. Amend subrule 6.10(2) as follows:

6.10(2) Exceptions. The requirements of subrule 6.10(1) do not apply to unit dose dispensing systems, 657—22.1(155A); sterile products, ~~657—8.30(126,155A)~~ 657—Chapter 13; and patient med paks, 657—22.5(126,155A).

ITEM 2. Amend subrule **7.8(1)**, paragraph "**b**," as follows:

b. Pharmacy personnel shall, except as specified in policies and procedures, prepare all sterile products in conformance with ~~rule 657—8.30(126,155A)~~ 657—Chapter 13.

ITEM 3. Amend subrule 20.6(1) as follows:

20.6(1) Sterile products. If sterile products are being compounded, the requirements of ~~657—8.30(126,155A)~~ 657—Chapter 13, in addition to the requirements of this chapter, shall be met.

ITEM 4. Amend subrule 20.8(1) as follows:

20.8(1) Equipment maintenance. Equipment and utensils used for compounding shall be cleaned and sanitized prior to use to prevent contamination that would alter the safety, identity, strength, quality, or purity of the drug product beyond that desired. In the case of equipment, utensils, and

containers or closures used in the compounding of sterile drug products, cleaning, sterilization, and maintenance procedures as set forth in ~~657—8.30(126,155A)~~ 657—Chapter 13 shall be followed.

ITEM 5. Amend subrule 20.9(2) as follows:

20.9(2) Sterile product containers and closures. Drug product containers and closures intended for use in the compounding of sterile products shall be handled, sterilized, and stored in compliance with the requirements of ~~657—8.30(126,155A)~~ 657—Chapter 13. Procedures shall be written, implemented, and followed for cleaning, sterilizing, and processing drug product containers and closures to remove pyrogenic properties.

ITEM 6. Amend subrule 20.10(6), introductory paragraph, as follows:

20.10(6) Label information required. The label affixed to or on the dispensing container of any compounded drug product dispensed by a pharmacy pursuant to a prescription drug order, excluding a sterile product compounded pursuant to ~~657—8.30(126,155A)~~ 657—Chapter 13, shall bear the following:

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[Published 3/26/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/26/08.

ARC 6666B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 7, "Hospital Pharmacy Practice," and Chapter 23, "Long-Term Care Pharmacy Practice," Iowa Administrative Code.

The amendments provide that a pharmacy contracting with a hospital pharmacy to provide remote pharmacist pre-view and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed may include, as a part of those contracted services, pharmacist order entry of the medication order. The amendments also provide that a written or verbal patient-specific medication order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to a physician-approved hospital or facility policy and following patient assessment for contraindications. Administration of the vaccine shall be recorded in the patient's medical record, and a long-term care facility shall submit to the provider pharmacy a list of those residents or staff members to whom the vaccine has been administered.

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

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6485B**. The Board received no comments regarding the amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the March 4, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on April 30, 2008.

PHARMACY BOARD[657](cont'd)

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

The following amendments are adopted.

ITEM 1. Amend rule 657—7.7(155A), introductory paragraph, as follows:

657—7.7(155A) Verification by pharmacist when pharmacy is closed. A hospital pharmacy may contract with another pharmacy for remote pharmacist preview and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed. *Contracted services may include pharmacist order entry pursuant to subrule 7.8(3).* Pharmacies entering into a contract or agreement pursuant to this rule shall comply with the following requirements:

ITEM 2. Amend subrule 7.8(3) as follows:

7.8(3) Medication orders. *Except as provided in subrule 7.8(14),* a pharmacist shall receive a copy of the original medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who then enters the order into an electronic medical record system. If an individual other than the prescriber enters a medication order into an electronic medical record system, the pharmacist shall review and verify the entry against the original order before the drug is dispensed except for emergency use, when the pharmacy is closed, or when the original order is a verbal order from the prescriber to the registered nurse or pharmacist, or as provided in rule 7.7(155A). When the pharmacy is closed, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and a pharmacist shall verify the entry against the original medication order as soon as practicable. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee.

ITEM 3. Amend rule 657—7.8(124,126,155A) by adding the following **new** subrule:

7.8(14) Influenza and pneumococcal vaccines. As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved hospital policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's medical record.

ITEM 4. Amend rule 657—23.9(124,155A) by adding the following **new** subrule:

23.9(4) Influenza and pneumococcal vaccines. As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's record. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have been immunized utilizing vaccine from each vial supplied by the provider pharmacy.

ITEM 5. Amend subrule 23.11(2) as follows:

23.11(2) Medication order required. Dispensing of all drugs to the facility shall be pursuant to a medication order for an individual resident except as provided in rules 23.5(124,155A) and 23.14(124,155A) *and in subrule 23.9(4).*

[Filed 3/5/08, effective 4/30/08]

[Published 3/26/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/26/08.

ARC 6670B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby rescinds Chapter 9, "Automated Medication Distribution Systems," and adopts new Chapter 9, "Automated Medication Distribution Systems and Telepharmacy Services," Iowa Administrative Code.

The Board is rescinding current Chapter 9 and adopting a new Chapter 9 that will incorporate the provisions of the rescinded chapter relating to the use of automated medication distribution systems (AMDS) in the practice of pharmacy with new provisions relating to telepharmacy systems and remote dispensing locations. The rules define terms used within the chapter, identify duties of the pharmacist and responsibilities of the pharmacist in charge, and identify responsibilities and requirements of the managing pharmacy and the remote dispensing site engaged in telepharmacy. The rules identify criteria for determining the need for a remote dispensing site providing telepharmacy services, establish the requirements for applying to the Board for authority to operate a remote dispensing site, and require either that a contract be established between the managing pharmacy and the remote dispensing site or that the two facilities share ownership. The rules require control and verification by the pharmacist at the managing pharmacy before the certified pharmacy technician dispenses any drugs to patients at a remote dispensing site and require the pharmacist at the managing pharmacy to counsel each patient via audiovisual link between the remote site and the managing pharmacy.

Requirements for quality assurance and performance improvement programs are identified, and policy and procedure requirements are enumerated. The rules also address drug, facility, and system security and control procedures and establish record-keeping requirements. The rules establish criteria and requirements for AMDS components within a pharmacy or within a remote dispensing site and components utilized outside the pharmacy but within an institution and define requirements for monitoring and reporting of dispensing errors attributable to the AMDS.

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

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6482B**. The Board received written comments regarding the proposed rules from one individual and one association representing pharmacies. The adopted rules differ from those published under Notice. Rule 9.10(147,155A) has been revised by add-

PHARMACY BOARD[657](cont'd)

ing the introductory paragraph to clarify the applicability of the rule to any AMDS, whether utilized in retail pharmacy, hospital pharmacy, or telepharmacy, and the introductory paragraphs in subrules 9.10(1) and 9.10(2) have been revised to further clarify the applicability of those subrules to specific uses of AMDS. The introductory paragraphs of rule 9.10 (147,155A) and subrules 9.10(1) and 9.10(2) now read as follows:

“657—9.10(147,155A) Quality assurance and performance improvement. The goal of any AMDS is the accurate dispensing of drugs. In all dispensing activities, the pharmacy shall strive for 100 percent accuracy. Quality assurance data shall be utilized to monitor and improve systems.”

“9.10(1) AMDS. Pharmacies utilizing an AMDS shall develop a written quality assurance and monitoring plan prior to implementation of the AMDS. The quality assurance plan shall target the preparation, delivery, and verification of AMDS unit contents during fill and refill processes and shall include, but not be limited to, the following:”

“9.10(2) Telepharmacy. In addition to the requirements of subrule 9.10(1), a managing pharmacy that provides telepharmacy services at a remote dispensing site shall operate according to a written program for quality assurance that includes, but is not limited to, the following:”

These rules were approved during the March 4, 2008, meeting of the Board of Pharmacy.

These rules will become effective on April 30, 2008.

These rules are intended to implement Iowa Code sections 147.107, 155A.13, and 155A.33.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 9] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 6482B**, IAB 12/19/07.

[Filed 3/5/08, effective 4/30/08]
[Published 3/26/08]

[For replacement pages for IAC, see IAC Supplement 3/26/08.]

ARC 6671B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 18, “Centralized Prescription Filling and Processing,” Iowa Administrative Code.

The amendments differentiate between a central fill pharmacy and a central processing pharmacy and establish requirements specifically relating to a central fill pharmacy, a central processing pharmacy, and an originating pharmacy. The amendments define “centralized prescription drug order processing,” “central fill pharmacy,” “central processing pharmacy,” and “medication therapy management,” and amend the definitions of “originating pharmacy” and of “dispense” as used in this chapter. The amendments also provide for patient notification relating to centralized filling and processing of the patient’s prescriptions and a patient’s refusal of centralized services.

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

Notice of Intended Action was published in the December 19, 2007, Iowa Administrative Bulletin as **ARC 6484B**. The Board received written comments regarding the proposed amendments from one association representing pharmacies. The adopted amendments differ from those published under Notice. The definition of “centralized prescription drug order processing” has been amended by deleting item number 4, performing therapeutic interventions, from the list of processing functions.

The amendments were approved during the March 4, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on April 30, 2008.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 124.308, 155A.13, and 155A.28.

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 [18.1 to 18.3, 18.5, 18.10, 18.15] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6484B**, IAB 12/19/07.

[Filed 3/6/08, effective 4/30/08]
[Published 3/26/08]

[For replacement pages for IAC, see IAC Supplement 3/26/08.]

ARC 6663B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Massage Therapy hereby amends Chapter 131, “Licensure of Massage Therapists,” Iowa Administrative Code.

These amendments include the Massage and Bodywork Licensing Examination (MBLEx) as an examination option for licensure applicants and a two-year active practice option in lieu of examination that must occur immediately prior to application for reactivation of licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 26, 2007, as **ARC 6262B**. A public hearing was held on October 16, 2007, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice of intended Action.

The amendments were adopted by the Board of Massage Therapy on March 4, 2008.

These amendments will become effective April 30, 2008.

These amendments are intended to implement Iowa Code chapters 17A, 147, 152C and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule 131.2(7) as follows:

131.2(7) The applicant shall provide proof of passing any National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) examination *or the Massage and*

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Bodywork Licensing Examination (MBLEx). Proof of passing shall be sent directly from the testing service to the board of massage therapy. The applicant may submit a copy of the official notification from the testing service of the applicant's passing the NCBTMB ~~written a board-approved examination~~. The copy of the applicant's official notification may be used by the board as proof of passage of the NCBTMB ~~a board-approved examination~~ until the official proof of passage is received directly from the NCBTMB ~~testing service~~. Submission of the applicant's copy of the official notification from the testing service shall not be allowed in lieu of the applicant's arranging for and the board's receiving the official record of proof of passage sent directly from the NCBTMB ~~testing service~~. The examination score must be received from the NCBTMB ~~testing service~~ within 60 days of issuance of the license. The passing score on the written examination shall be the passing point criterion established by the national testing authority at the time the test was administered.

ITEM 2. Amend subrule **131.5(1)**, paragraph "**d**," as follows:

d. Provide proof of passing any NCBTMB examination *or the Massage and Bodywork Licensing Examination (MBLEx)*, to be sent directly from the NCBTMB ~~testing service~~ to the board office, if applicable;

ITEM 3. Amend subrule 131.5(3) as follows:

131.5(3) The applicant shall be issued a permanent license upon receipt of a transcript of completion from a board-approved school sent directly from the school, and proof of passing any NCBTMB ~~board-approved examination~~ sent directly from the NCBTMB ~~testing service~~ to the board office.

ITEM 4. Amend subparagraph **131.14(3)"b"(3)** as follows:

(3) Verification of passing one of the following examinations offered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); *or the Federation of State Massage Therapy Boards (FSMTB) within two years immediately prior to the submission of the completed reactivation application. If the applicant can provide proof of two years of active practice in another state as a licensed massage therapist, the applicant is not required to provide proof of passing one of these examinations. The two years of active practice must have occurred immediately prior to the submission of the completed reactivation application.*

1. The National Certification Examination for Therapeutic Massage (NCETM); or
2. The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB); or
3. The National Examination for States Licensing (NELS) option; *or*

4. *The Massage and Bodywork Licensing Examination (MBLEx)*.

[Filed 3/4/08, effective 4/30/08]

[Published 3/26/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/26/08.

ARC 6660B**REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9, 543B.18, and 543B.46, the Real Estate Commission hereby amends Chapter 2, "Definitions," and Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code.

The amendment to rule 2.1(543B) adds the definition of "electronic format"; the amendment to subrule 13.2(2) strikes language that has been added to rule 13.5(543B) for clarification; language in rule 13.5(543B) provides that records may be retained in an electronic format; the amendment to rule 13.5(543B) identifies the records required to be maintained; new subrule 13.5(1) requires that contracts and documents must be legible; new subrule 13.5(2) provides that an unreadable copy is not acceptable as a true copy of the original regardless of the medium; and new subrule 13.5(3) establishes the minimum requirements for electronic storage of required records.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 6490B** on December 19, 2007. A public hearing was held on January 8, 2008. No one attended the hearing, and no written comments were received. These amendments are identical to those published under Notice of Intended Action.

The Real Estate Commission adopted these amendments on February 14, 2008.

These amendments will become effective April 30, 2008.

These amendments are intended to implement Iowa Code sections 543B.9, 543B.18, and 543B.46.

The following amendments are adopted.

ITEM 1. Amend rule **193E—2.1(543B)** by adopting the following **new** definition in alphabetical order:

"Electronic format" means a record generated, communicated, received, or stored by electronic means. Such electronic record must be in a format that has the continued capability to be retrieved and legibly printed upon request.

ITEM 2. Amend subrule 13.2(2) as follows:

13.2(2) The broker shall retain all trust account records and a complete file ~~on each transaction for a period of at least five years after the date of the closing, which shall include one copy of the listing, any offers to purchase, all correspondence pertinent to the transaction, and the closing statement. but not be limited to the records required by 13.5(543B), on each transaction for a period of at least five years after the date of the closing. Records required by this rule may be retained as an electronic record as provided by 13.5(543B).~~

ITEM 3. Amend rule 193E—13.5(543B) as follows:

Amend the introductory paragraph as follows:

193E—13.5(543B) File record keeping. Every broker shall retain for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; *the*

REAL ESTATE COMMISSION[193E](cont'd)

listing; any offers to purchase; and all correspondence relating to each real estate transaction that the broker has handled and each property managed. The records shall be made available for reproduction and inspection by the commission, staff, and its commission-authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records shall be made available for reproduction and inspection by the commission, staff, and its commission-authorized representatives upon request.

Adopt the following **new** subrules:

13.5(1) Contracts and other documents that have been changed or altered to the point where the language is unreadable and faxed contracts and documents in which the language is unreadable are not acceptable records and must be redrafted and signed by the parties.

13.5(2) Copies of unreadable documents are not acceptable as true copies of the originals regardless of the medium.

13.5(3) Electronic records. The files, records, and other documents required by this chapter may be stored in electronic format for convenience and efficiency in a system for electronic record storage, analysis, and retrieval.

a. A record required by this chapter may be retained as an electronic record only if the record storage medium can be easily accessed and the records can be readily retrieved and transferred to a legible printed form upon request.

b. The scanning or electronic generation of a record must be monitored to ensure that the copy is clear, legible and true before the original is shredded.

c. Once the original record is transferred to the appropriate electronic storage medium consistent with this rule, the commission will no longer require the retention of the record in its original medium. For the purposes of this chapter, electronic records shall be considered the same as originals.

[Filed 2/26/08, effective 4/30/08]

[Published 3/26/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/26/08.

ARC 6683B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 38, "Administration," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," Chapter 43, "Assessments and Refunds," Chapter 46, "Withholding," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 55, "Assessments, Refunds, Appeals," Chapter 56, "Estimated Tax for Corporations," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Chapter 59, "Determination of Net Income," and Chapter 60, "Assessments, Refunds, Appeals," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXX; No. 16, p. 1258, on January 30, 2008, as **ARC 6585B**.

Item 1 amends the implementation clause for rule 701—10.4(421) to correct a cross reference to an Iowa Code section.

Items 2 and 3 amend subrules 38.14(1) and 38.14(2) to provide that information returns are now required for interest from state and municipal bonds issued for any political subdivision of Iowa.

Item 4 amends rule 701—38.15(422) regarding Iowa innocent spouse relief to remove obsolete provisions and add new provisions which are needed to ensure that the Iowa innocent spouse provisions are the same as the federal innocent spouse provisions.

Item 5 amends rule 701—40.6(422) to remove obsolete provisions relating to interest from "All-Savers Certificates" for tax years beginning prior to January 1, 1984.

Item 6 amends rule 701—40.9(422) to update the applicable dates for the work opportunity tax credit and to remove obsolete provisions relating to this credit for periods prior to September 30, 1996.

Item 7 amends subrule 40.16(4) to clarify that income derived from activities other than the sale of tangible personal property is attributed to Iowa to the extent the recipient of the service receives the benefit of the service in Iowa. This change is consistent with 701—subrule 54.6(1).

Item 8 amends rule 701—40.20(422) to remove an obsolete provision regarding the statute of limitations for refund for tax periods ending prior to January 1, 1979.

Item 10 amends rule 701—40.30(422) to remove obsolete provisions regarding the amount of percentage depletion to be added to net income for tax years beginning before January 1, 1987.

Item 11 amends rule 701—40.31(422) to remove obsolete provisions regarding the deduction from net income for away-from-home expenses for state legislators for tax years beginning before January 1, 1987.

Item 12 amends subrule 40.38(8) to clarify an example regarding the sale of assets of a partnership as the sale relates to the Iowa capital gains deduction.

Item 13 amends rule 701—40.45(422) to reflect a change in federal law which provides that distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner.

Item 14 rescinds and reserves subrule 41.4(1), which is an obsolete subrule regarding a direct charitable deduction that is no longer allowed for tax years beginning after 1986.

Item 15 amends subrule 41.5(2) to update the applicable dates for the itemized deduction for state sales and use tax in lieu of state income tax.

Item 16 amends subrule 41.5(3) to remove obsolete provisions regarding the deduction for adoption expenses for tax years beginning prior to January 1, 1987.

Items 17 and 18 rescind and reserve subrules 41.7(1) and 41.8(1) to remove obsolete provisions regarding itemized deductions for part-year residents and nonresidents of Iowa for tax years beginning before January 1, 1982.

Item 19 rescinds and reserves subrule 41.11(2), which is an obsolete subrule regarding a reduction in itemized deductions for certain high-income taxpayers for the 1992 through 1994 tax years.

Item 20 amends rule 701—41.12(422) to remove obsolete provisions regarding the reduced state deduction for home mortgage interest for tax years beginning before January 1, 1996.

REVENUE DEPARTMENT[701](cont'd)

Item 21 amends subrule 42.4(3) by eliminating an obsolete provision regarding the out-of-state tax credit for tax years beginning before January 1, 1983.

Item 22 rescinds rule 701—43.5(422) and adopts new rule 701—43.5(421) regarding the abatement of individual income tax.

Item 23 amends subrule 46.3(3) to change the time period for which employers must keep copies of W-2 forms from three years to four years.

Item 24 amends subrule 46.4(6) to update the Department's E-mail address.

Item 25 amends rule 701—46.10(403) to provide examples regarding the targeted jobs withholding tax credit.

Item 26 amends subrule 52.1(1) to remove an obsolete provision regarding the definition of "doing business" for tax periods after December 31, 1988.

Item 27 amends subrule 52.1(5) to adjust the method for computing the federal tax deduction and adding back Iowa income tax for certain S corporations subject to Iowa corporation income tax for tax years beginning on or after January 1, 2008.

Item 28 amends subrule 52.1(6) to remove an obsolete provision regarding tax on unrelated business income for certain exempt organizations for tax periods beginning prior to January 1, 1988.

Item 29 amends subrule 53.2(3) to provide additional clarification regarding the net operating loss provisions for farm corporations for tax years beginning on or after January 1, 1998.

Item 31 rescinds rule 701—55.4(422) and adopts new rule 701—55.4(421) regarding the abatement of corporation income tax.

Item 32 amends subrule 56.2(1) to correct a mailing address for corporation income tax estimated payments.

Item 33 amends subrule 56.2(2) to reflect the correct name of the Department of Revenue.

Item 34 amends subrule 58.2(1) to correct a mailing address for franchise tax returns.

Item 35 amends rule 701—59.9(422) to reflect the correct name of the work opportunity tax credit which is allowed as a deduction for franchise tax purposes.

Item 36 rescinds rule 701—60.4(422) and adopts new rule 701—60.4(421) regarding the abatement of franchise tax.

Two items have been added since the Notice of Intended Action. Item 9 amends the introductory paragraph of subrule 40.21(4), and Item 30 amends the introductory paragraph of subrule 53.11(4). Both subrules have been revised to change the term "targeted jobs tax credit" to "work opportunity tax credit," a change similar to that made in Item 6 to rule 40.9(422). In addition, the implementation sentence for rule 40.6(422) has been updated in Item 5.

These amendments will become effective April 30, 2008, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 422.

The following amendments are adopted.

ITEM 1. Amend the implementation clause for rule **701—10.4(421)** as follows:

This rule is intended to implement Iowa Code section ~~421.7~~ 421.8.

ITEM 2. Amend subrule 38.14(1) as follows:

38.14(1) Incomes to be included in information returns. The entities described in rule 701—38.14(422) are required to file information returns to the department of revenue on income payments of interest (other than interest coupons pay-

able to the bearer), rents, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, unemployment compensation, royalties, patronage dividends, or other fixed or determinable annual or periodic gains, profits, and income to the extent that the amount of income is great enough so that an information return on the income is required to be filed with the Internal Revenue Service (IRS) under provisions of the Internal Revenue Code. However, no reporting is required for state or municipal bonds issued for any political subdivision of this state or for payments of deferred compensation, pensions, and annuities to nonresidents of Iowa. In addition, no reporting is required for any type of income payment where information on the income payment is available to the department from the Internal Revenue Service.

ITEM 3. Amend subrule **38.14(2)**, paragraph "i," as follows:

- i. 1099-INT.
 1. Interest.
 2. Tax withheld.
 3. Savings bonds.
 4. Interest forfeiture.
 5. *Tax-exempt interest.*

ITEM 4. Amend rule 701—38.15(422), introductory paragraph and numbered paragraph "1," as follows:

701—38.15(422) Relief of innocent spouse for substantial understatement of tax attributable to other spouse. A husband and wife are generally jointly and severally liable for the total tax, penalty, and interest from a joint return or from a return where they file separately on the combined return form. However, effective for tax years beginning on or after January 1, 1994, a married person who meets the criteria for an innocent spouse established in Section 6015 of the Internal Revenue Code may be relieved of liability for a substantial understatement of tax that is attributable to grossly erroneous items of the other spouse. For purposes of determining if an individual is an innocent spouse for state income tax purposes, the provisions in Section 6015 of the Internal Revenue Code will be followed as well as federal court cases, letter rulings, and revenue rulings which deal with innocent spouse. *In addition, for tax years beginning on or after January 1, 2002, the provisions of Sections 6015(c) and 6015(f) of the Internal Revenue Code regarding relief for separation of liabilities and equitable relief, respectively, are applicable for Iowa income tax purposes.* The following are the criteria that must be considered for purposes of determining if an individual is an innocent spouse for Iowa income tax purposes:

1. ~~Substantial understatement~~ *Understatement* of tax attributable to grossly erroneous items of the other spouse. An understatement of the tax is the excess of the tax required to be shown over the tax actually shown on the return. ~~The understatement of tax must be greater than \$500 to be substantial and the understatement must be entirely attributable to grossly erroneous items of one spouse in order for the other spouse to be eligible for status as an innocent spouse. As an innocent spouse, the individual will not be liable for the substantial understatement of tax of the other spouse. However, if the understatement of tax is less than \$500 on the Iowa return, and the understatement is attributable to grossly erroneous items of one spouse, the other spouse may be an innocent spouse for Iowa income tax purposes only if that spouse was considered to be an innocent spouse for federal tax purposes. The tax liability attributable to the understatement is computed by adding penalties and interest that accrued by the date of the deficiency notice. Grossly erroneous items may include any omission from gross income such as income~~

REVENUE DEPARTMENT[701](cont'd)

from embezzled funds. Grossly erroneous items may also include deductions or Iowa tax credits that are without factual or legal foundation.

ITEM 5. Amend rule 701—40.6(422) as follows:

701—40.6(422) Interest and dividend income. ~~The following~~ This rule applies to interest and dividends from foreign securities, ~~and securities of state and other political subdivisions, and for tax years beginning on or after January 1, 1981, and before January 1, 1984, interest excluded from federal adjusted gross income under Section 128 of the Internal Revenue Code.~~ Interest and dividends from foreign securities, ~~and from securities of state and their other political subdivisions, and interest excluded from federal adjusted gross income under Section 128 of the Internal Revenue Code, also known as “All-Savers Certificate” interest,~~ are to be included in Iowa taxable income. Certain types of interest and dividends, because of specific exemption, are not included in income for federal tax purposes. To the extent such income has been excluded for federal income tax purposes, unless the term of income is specifically exempted from state taxation by the laws or constitutions of Iowa or of the United States, it must be added to Iowa taxable income.

This rule is intended to implement Iowa Code section 422.7 ~~and 1982 Iowa Acts, chapter 1023, section 5.~~

ITEM 6. Amend rule 701—40.9(422) as follows:

701—40.9(422) Targeted jobs tax credit, work opportunity tax credit, and alcohol fuel credit. Where an individual claims the ~~targeted jobs tax credit or the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol fuel credit under Section 40 of the Internal Revenue Code,~~ the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. ~~The adjustment for the targeted jobs tax credit is applicable for the tax years beginning on or after January 1, 1977, and before January 1, 1996. The work opportunity tax credit applies to eligible individuals who begin work after September 30, 1996, and before January 1, 2006 September 1, 2011. The adjustment for the alcohol fuel credit is applicable for tax years beginning on or after January 1, 1980.~~

This rule is intended to implement Iowa Code section 422.7 as amended by 1998 Iowa Acts, Senate File 2357.

ITEM 7. Amend subrule 40.16(4), paragraph “c,” as follows:

c. Income derived from business other than the manufacture or sale of tangible personal property shall be attributed to Iowa in that portion which the Iowa gross receipts bear to the total gross receipts. Gross receipts are attributable to this state in the portion which the ~~income-producing activity which gave rise to the receipts is performed within this state~~ recipient of the service receives benefit of the service in this state.

ITEM 8. Amend rule 701—40.20(422) as follows:

701—40.20(422) Adjustments to prior years. When Iowa requests for refunds are filed, they shall be allowed only if filed within three years after the tax payment upon which a refund or credit became due, or one year after the tax payment was made, whichever time is the later. ~~For tax years ending prior to January 1, 1979, the period of time was five years.~~ Even though a refund may be barred by the statute of limitations, a loss shall be carried back and applied against income

on a previous year to determine the correct amount of loss carryforward.

This rule is intended to implement Iowa Code section 422.73.

ITEM 9. Amend subrule 40.21(4), introductory paragraph, as follows:

40.21(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the targeted jobs *work opportunity* tax credit under Section 51 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

ITEM 10. Amend rule **701—40.30(422)** by striking the first unnumbered paragraph.

ITEM 11. Amend rule **701—40.31(422)** by striking the first unnumbered paragraph.

ITEM 12. Amend subrule **40.38(8)**, Example 5, as follows:

EXAMPLE 5. Joe and Ray Johnson were partners in a farm partnership that they had owned for 12 years in 1998 when the *assets of the partnership* was *were* sold to Ray’s son Charles. Joe Johnson had materially participated in the partnership for the whole time that the business was in operation, so he could exclude the capital gain he had received from the sale of his interest in the partnership *assets*. Although Ray Johnson had not materially participated in the farm business, he could exclude the capital gain he received from the sale of the *assets of the partnership* because the sale of the partnership *assets* was to his son, a lineal descendant.

ITEM 13. Amend rule 701—40.45(422), introductory paragraph, as follows:

701—40.45(422) Exemption for distributions from pensions, annuities, individual retirement accounts, and or deferred compensation plans received by nonresidents of Iowa. For tax years beginning on or after January 1, 1994, a distribution from a pension plan, annuity, individual retirement account, ~~and or~~ deferred compensation plan which is received by a nonresident of Iowa is exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the pensioner, annuitant, owner of individual retirement account, or participant in a deferred compensation arrangement. *For tax years beginning on or after January 1, 1996, distributions of nonqualified retirement benefits which are paid by a partnership to its retired partners and which are received by a nonresident of Iowa are exempt from Iowa income tax to the extent the distribution is directly related to the documented retirement of the partner.* In a situation where the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies before the date of documented retirement, any distribution from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to the beneficiary receiving the distributions, if the beneficiary is a nonresident of Iowa. If the pensioner, annuitant, owner of the individual retirement account, or participant of a deferred compensation arrangement dies after the date of documented retirement, any distributions from the pension, annuity, individual retirement account, or deferred compensation arrangement will not be taxable to a beneficiary receiving distributions if the beneficiary is a nonresident of Iowa.

ITEM 14. Rescind and reserve subrule **41.4(1)**.

REVENUE DEPARTMENT[701](cont'd)

ITEM 15. Amend subrule 41.5(2), introductory paragraph, as follows:

41.5(2) For the tax years beginning on or after January 1, 2004, and before January 1, ~~2006~~ 2008, the itemized deduction for state sales and use taxes is allowed on the Iowa return only if the taxpayer elected to deduct state sales and use taxes as an itemized deduction in lieu of the deduction for state income taxes on the federal return under Section 164 of the Internal Revenue Code.

ITEM 16. Amend subrule 41.5(3) as follows:

41.5(3) Adoption expense deduction.

a. ~~Reduce federal itemized deductions by any amounts of adoption expenses allowed under Section 222 of the Internal Revenue Code. This deduction is applicable for tax years beginning on or after January 1, 1981, but before January 1, 1987.~~

b. Unreimbursed amounts paid by the taxpayer in the adoption of a child if placed by a licensed agency under Iowa Code chapter 238, by an agency that meets the ~~provision~~ provisions of the interstate compact in Iowa Code section 232.158 or by a person making an independent placement under Iowa Code chapter 600, which exceed 3 percent of the taxpayer's net income, or the combined net income of a husband and wife in the case of married taxpayers filing a joint return, will be allowed as a deduction in the year paid. Qualifying expenses include all medical, hospital, legal fees, welfare agency fees, and all other costs relating to the adoption of a child. Those expenses claimed for adoption purposes may not be claimed elsewhere on the individual income tax return. ~~Adoption expenses paid or incurred prior to January 1, 1977, in connection with the adoption of a child, which exceed 3 percent of the taxpayer's net income, will be allowed only if the child was placed by a licensed agency under Iowa Code chapter 238 or by an agency that meets the provisions of the interstate compact in Iowa Code section 232.158.~~

ITEM 17. Rescind and reserve subrule **41.7(1)**.

ITEM 18. Rescind and reserve subrule **41.8(1)**.

ITEM 19. Rescind and reserve subrule **41.11(2)**.

ITEM 20. Amend rule 701—41.12(422) as follows:

701—41.12(422) Reduced state deduction Deduction for home mortgage interest for taxpayers with mortgage interest credit. For tax years beginning before January 1, 1996, taxpayers who qualified for the mortgage interest credit on their federal return which reduced their deduction for home mortgage interest are subject to the same reduced deduction for mortgage interest for Iowa income tax purposes. The mortgage interest credit is provided in Section 25 of the Internal Revenue Code. For example, a taxpayer paid \$6,000 in home mortgage interest in the tax year and qualified for a mortgage interest credit of \$900. Thus, the taxpayer had a federal mortgage interest deduction in the tax year of \$5,100. The Iowa mortgage interest deduction for the tax year is also \$5,100 instead of \$6,000. For tax years beginning on or after January 1, 1996, any taxpayer who had the mortgage interest credit on the federal return can claim a deduction on the Schedule A of the IA 1040 for all the mortgage interest paid in the tax year, including the mortgage interest that was not deducted on the federal return due to the mortgage interest credit.

This rule is intended to implement Iowa Code sections 422.3 and 422.9 as amended by 1997 Iowa Acts, Senate File 129.

ITEM 21. Amend subrule **42.4(3)** by rescinding paragraph "a" and relettering paragraphs "b" and "c" as "a" and "b."

ITEM 22. Rescind rule 701—43.5(422) and adopt the following **new** rule in lieu thereof:

701—43.5(421) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

ITEM 23. Amend subrule **46.3(3)**, paragraph "d," subparagraph (2), as follows:

(2) Form of statement. The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as "combined W-2." Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department. Employers should keep copies of the combined W-2 for ~~three~~ four years from the end of the year for which the combined W-2 applies.

ITEM 24. Amend subrule **46.4(6)**, paragraph "b," fourth unnumbered paragraph, as follows:

The listing, magnetic tape or other electronic submission should be sent to the following address: Iowa Department of Revenue, Compliance Division, Examination Section, Hoover State Office Building, P.O. Box 10456, Des Moines, Iowa 50306; idir@idrf.state.ia.us idir@iowa.gov.

ITEM 25. Amend rule 701—46.10(403) as follows:

701—46.10(403) Targeted jobs withholding tax credit. For employers that created targeted jobs in an urban renewal area and that enter into a withholding agreement with pilot project cities approved by the Iowa department of economic development, a credit equal to 3 percent of the gross wages paid to employees under the withholding agreement can be taken on the Iowa withholding tax return. The employer shall remit the amount of the credit to the pilot project city. The administrative rules for the targeted jobs withholding tax credit program administered by the Iowa department of economic development may be found in 261—Chapter 71.

If the amount of withholding by the employer is less than 3 percent of the wages paid to the employees covered under the withholding agreement, the employer can take the remaining credit against Iowa tax withheld for other employees or may carry the credit forward for up to ten years or until depleted, whichever is the earlier.

If an employer also has a new job credit from withholding provided in rule 701—46.8(260E) or the supplemental new jobs credit from withholding provided in subrule 46.9(1), these credits shall be collected and disbursed prior to the collection and disbursement of the targeted jobs withholding tax credit.

The following nonexclusive examples illustrate how this rule applies:

EXAMPLE 1: Company A does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company A enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 4 percent of the wages paid. Company A will be allowed a credit on the Iowa

REVENUE DEPARTMENT[701](cont'd)

withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement, since the targeted jobs withholding tax credit cannot exceed 3 percent.

EXAMPLE 2: Company B does not have a withholding credit under Iowa Code chapter 260E or a supplemental new jobs credit under Iowa Code chapter 15E. Company B enters into a withholding agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company B will be allowed a credit on the Iowa withholding return equal to 3 percent of the wages paid to each employee covered under the withholding agreement. The extra withholding credit equal to 0.5 percent may be used to offset withholding tax for Company B's employees not covered under the withholding agreement.

EXAMPLE 3: Company C has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company C also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under these agreements is 5 percent of the wages paid. Company C will be allowed a credit on the Iowa withholding return equal to 5 percent of the wages paid to each employee covered under these agreements. Since the community college receives disbursement of the credit before the pilot project city, the community college will receive 3 percent of the wages paid to each employee covered under the agreements, and the pilot project city will receive the remaining 2 percent of the wages paid to each employee covered under the agreements.

EXAMPLE 4: Company D has a withholding credit under Iowa Code chapter 260E of 1.5 percent of the wages paid to new employees and a supplemental new jobs credit under Iowa Code chapter 15E of 1.5 percent of the wages paid to new employees. Company D also enters into a withholding agreement for the same employees covered under the 260E agreement and supplemental new jobs credit agreement, and the withholding rate for employees covered under the agreement is 2.5 percent of the wages paid. Company D will be allowed a credit on the Iowa withholding tax return equal to 6 percent of the wages paid to each employee covered under these agreements. The extra withholding credit equal to 3.5 percent may be used to offset withholding tax for Company D's employees not covered under these agreements.

46.10(1) and **46.10(2)** No change.

This rule is intended to implement 2006 Iowa Acts, chapter 1141 Iowa Code Supplement section 403.19A.

ITEM 26. Amend subrule **52.1(1)**, paragraph “a,” as follows:

a. Doing business. The term “doing business” is used in a comprehensive sense and includes all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be “doing business.” In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

For the period from July 1, 1986, through December 31, 1988, the term “doing business” does not include placing of liquor in bailment pursuant to 1986 Iowa Acts, chapter 1246, section 603, if this is the corporation's sole activity within Iowa. Any activities by corporate officers or employees in

Iowa in addition to bailment are “doing business” and will subject the corporation to corporation income tax.

ITEM 27. Amend subrule **52.1(5)**, paragraph “b,” as follows:

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation for tax years beginning prior to January 1, 2008. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders for tax years beginning prior to January 1, 2008. For tax years beginning on or after January 1, 2008, an adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation.

ITEM 28. Amend subrule **52.1(6)** by striking paragraph “d” and relettering existing paragraphs “e” and “f” as “d” and “e.”

ITEM 29. Amend subrule **53.2(3)**, paragraph “d,” introductory paragraph, as follows:

d. For tax years beginning on or after January 1, 1998, for a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss. However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) of the Internal Revenue Code for the two-year or three-year carryback in lieu of the five-year carryback must be attached to the Iowa return or the Form IA 1139 Farm, Application for Refund Due to the Carryback of Corporate Farming Losses, to show why the carryback was two years or three years instead of five years. If the taxpayer has elected for federal income tax purposes to carry a net operating loss from the trade or business of farming back two years, the taxpayer must carry the Iowa net operating loss from the trade or business of farming back two years. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa.

ITEM 30. Amend subrule 53.11(4), introductory paragraph, as follows:

53.11(4) If a newly hired employee has been certified as either a vocational rehabilitation referral or an economically disadvantaged ex-convict for purposes of qualification for the targeted jobs work opportunity tax credit under Section 51 of the Internal Revenue Code, that employee shall be considered to have met the qualifications for the additional wage deduction.

ITEM 31. Rescind rule 701—55.4(422) and adopt the following **new** rule in lieu thereof:

REVENUE DEPARTMENT[701](cont'd)

701—55.4(421) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

ITEM 32. Amend subrule **56.2(1)**, paragraph “a,” as follows:

a. General rule. The date for filing the first estimated tax payment is on or before the last day of the fourth month of the tax year. The estimated tax form is to be filed with Corporate Estimate Processing, P.O. Box 40468 10466, Des Moines, Iowa 50306.

ITEM 33. Amend subrule **56.2(2)**, paragraph “d,” as follows:

d. Electronic transfer payments. For installments due on or after April 1, 1990, for tax years beginning on or after January 1, 1990, installments shall be made electronically in a format and by means specified by the department of revenue and finance when total corporate tax liability for the tax year prior to the tax year just completed exceeds \$80,000. Estimated tax declaration forms are not required to be filed when electronic transmission of installments is done in the prescribed format by specified means. Installments transmitted electronically are considered to have been made on the date that the deposit or remittance is added to the bank account designated by the treasurer of the state of Iowa.

ITEM 34. Amend subrule 58.2(1) as follows:

58.2(1) Returns of financial institutions. A return of income for all financial institutions must be filed on or before the delinquency date. The delinquency date for all financial institutions is the day following the last day of the fourth month following the close of the taxpayer’s taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the day following the last day of the

period covered by an extension of time granted by the director. When the last day prior to the delinquency date falls on a Saturday, Sunday or a legal holiday, the return will be timely if it is filed on the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the delinquency date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Franchise Tax Processing, Hoover State Office Building P.O. Box 10413, Des Moines, Iowa 50319 50306.

ITEM 35. Amend rule 701—59.9(422) as follows:

701—59.9(422) Jobs Work opportunity tax credit. Where a financial institution claims the federal work opportunity tax credit as provided in Section 51 of the Internal Revenue Code, the amount of credit allowable shall be a deduction from Iowa taxable income to the extent the credit increased federal taxable income.

This rule is intended to implement Iowa Code sections 422.35 and 422.61.

ITEM 36. Rescind rule 701—60.4(422) and adopt the following **new** rule in lieu thereof:

701—60.4(421) Abatement of tax. For notices of assessment issued on or after January 1, 1995, if the statutory period for appeal has expired, the director may abate any portion of unpaid tax, penalties or interest which the director determines to be erroneous, illegal, or excessive. See rule 701—7.31(421) for procedures on requesting abatement of tax.

This rule is intended to implement Iowa Code section 421.60.

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AGENCY

Public Safety Department[661]

RULE

141.1, 141.4(1), 141.4(3),
141.5(9)“d,” 141.10, 141.10(1)
[IAB 2/13/08, **ARC 6591B**]

DELAY

Effective date of April 1, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 7, 2008.
[Pursuant to §17A.4(6)]

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Department of Administrative Services
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