



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 2007

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. 27 '06	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	***May 16***	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	***June 27***	July 18	Aug. 22	Nov. 19
May 16	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
June 27	July 18	Aug. 7	Aug. 22	***Aug. 22***	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
Aug. 22	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	***Nov. 14***	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	***Dec. 12***	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	***Dec. 26***	Jan. 16 '08	Feb. 20 '08	May 19 '08
Nov. 14	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
Dec. 12	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
Dec. 26	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 14, 2007	December 5, 2007
13	Friday, November 30, 2007	December 19, 2007
14	Wednesday, December 12, 2007	January 2, 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*****

SUBSCRIPTION INFORMATION

In 2008, mail subscriptions to the Iowa Administrative Bulletin and the Iowa Administrative Code will be discontinued, and Internet updating and printing options will be instituted through the Iowa General Assembly's Internet home page: www.legis.state.ia.us.

Iowa Administrative Bulletin

July 2007 through December 2007 \$169

Iowa Administrative Code Supplement

*July 2007 through December 2007 \$263

***Please note that if the Internet updating and printing options are not operational in January 2008, the above six-month subscriptions (July 2007 – December 2007) will be continued at no cost to the subscriber until the Internet updating and printing options become operational.**

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IAC Binders

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Generation Iowa commission, ch 400 IAB 10/24/07 ARC 6364B (See also ARC 6365B)	Main Conference Room, 2nd Floor 200 East Grand Ave. Des Moines, Iowa	November 13, 2007 2:30 to 4:30 p.m.
DENTAL BOARD[650]		
Dental assistants, 20.2, 20.4(2), 20.16“1,” 22.1 IAB 11/7/07 ARC 6408B	Board Conference Rm., Suite D 400 SW 8th St. Des Moines, Iowa	November 27, 2007 10 a.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Appeals and review, 11.28(1) IAB 11/7/07 ARC 6398B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 28, 2007 1 p.m.
Credit for mentoring of student teachers and practicum students, 17.5(1) IAB 11/7/07 ARC 6397B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 28, 2007 1 p.m.
Credit for mentoring of student teachers and practicum students, 17.6(1) IAB 11/7/07 ARC 6396B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 28, 2007 1 p.m.
Professional conduct and ethics— reporting requirements, 25.3(6) IAB 11/7/07 ARC 6395B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 28, 2007 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Surface water classification, 61.3(5) IAB 10/24/07 ARC 6351B	Municipal Utilities Conference Rm. 15 W. 3rd St. Atlantic, Iowa	November 15, 2007 9 a.m.
	Cherokee Community Center 530 W. Bluff St. Cherokee, Iowa	November 15, 2007 6 p.m.
	Clear Lake Community Meeting Rm. 15 N. 6th St. Clear Lake, Iowa	November 20, 2007 11 a.m.
	Wallace Bldg. Auditorium 502 E. 9th St. Des Moines, Iowa	November 27, 2007 9 a.m.
	Iowa City Public Library 123 Linn St. Iowa City, Iowa	November 29, 2007 4 p.m.
	Elkader Opera House 207 N. Main St. Elkader, Iowa	November 30, 2007 11 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)

Heavy metals—packaging and distributor liability, 213.3, 213.4(3), 213.5, 213.7(2) IAB 10/24/07 ARC 6355B	Conference Room 4 West Wallace State Office Bldg. Des Moines, Iowa	November 14, 2007 10:30 to 11:30 a.m.
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HISTORICAL DIVISION[223]

Historical society award programs, 21.2, 21.3 IAB 11/7/07 ARC 6400B	Tone Board Rm., 3rd Floor West Historical Bldg., 600 E. Locust Des Moines, Iowa	November 27, 2007 10 a.m.
Historic preservation and cultural and entertainment district tax credits, ch 48 IAB 11/7/07 ARC 6401B	Tone Board Rm., 3rd Floor West Historical Bldg., 600 E. Locust Des Moines, Iowa	November 27, 2007 10 a.m.

HUMAN SERVICES DEPARTMENT[441]

Medicaid reimbursement methodology, 78.9, 79.1 IAB 10/24/07 ARC 6346B	Conference Rooms 1 and 2 First Floor SE Hoover State Office Bldg. Des Moines, Iowa	November 19, 2007 1 p.m.
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INSURANCE DIVISION[191]

Cemetery merchandise, funeral merchandise and funeral services, chs 19, 100 to 106 IAB 10/24/07 ARC 6334B (See also ARC 6333B)	330 Maple St. Des Moines, Iowa	November 15, 2007 2 p.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Qualified domestic relations orders, 16.2 IAB 11/7/07 ARC 6407B	7401 Register Dr. Des Moines, Iowa	November 27, 2007 9 a.m.
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LABOR SERVICES DIVISION[875]

Elevator safety board—waivers, safety tests, 66.10(10), 66.15, 71.2(2) IAB 11/7/07 ARC 6394B	Stanley Rm. 1000 E. Grand Ave. Des Moines, Iowa	November 30, 2007 1 p.m. (If requested)
Numbering of elevator buttons, 72.1(6), 73.8(2) IAB 10/24/07 ARC 6357B	Capitol View Rm. 1000 E. Grand Ave. Des Moines, Iowa	November 15, 2007 9 a.m. (If requested)
Boilers and pressure vessels, amendments to chs 90 to 94, 96 IAB 10/24/07 ARC 6340B	Capitol View Rm. 1000 E. Grand Ave. Des Moines, Iowa	November 15, 2007 9 a.m. (If requested)

PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians, amendments to chs 40 to 45 IAB 11/7/07 ARC 6380B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 27, 2007 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Video surveillance and recording at gaming facilities, 141.1, 141.4, 141.5(9), 141.10 IAB 10/10/07 ARC 6282B	First Floor Conference Room 125 State Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	November 7, 2007 8:30 a.m.
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RACING AND GAMING COMMISSION[491]

Organization; contested cases; licensure; horse racing; gambling games, amendments to chs 1, 4 to 6, 9 to 11 IAB 11/7/07 ARC 6367B	Suite B 717 E. Court Des Moines, Iowa	November 27, 2007 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Address changes to reflect relocation of division offices, amendments to chs 410, 500, 505, 511, 513, 524, 529, 600, 607, 620, 634 to 636, 640 IAB 11/7/07 ARC 6388B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	November 29, 2007 10 a.m. (If requested)
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Veterans commemorative property, ch 15 IAB 10/24/07 ARC 6348B	Building A6A, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	November 13, 2007 3 to 4 p.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
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 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
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LIVESTOCK HEALTH ADVISORY COUNCIL[521]
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MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
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 Preserves, State Advisory Board for[575]
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NOTICE—CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of October 10, 2007, is approximately \$186,636.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 6408B

DENTAL BOARD[650]

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 Iowa Dental Board hereby gives Notice of Intended Action to amend Chapter 20, “Dental Assistants,” and Chapter 22, “Dental Assistant Radiography Qualification,” Iowa Administrative Code.

Item 1 changes the definition of “personal supervision” of a dental assistant trainee. The proposed definition requires a dentist to be physically present in the treatment room for all intraoral or chairside services of the dental assistant and a licensee or registrant to be physically present for all extraoral services of the dental assistant.

Items 2 and 4 authorize registered dental assistants to take dental radiographs under the general supervision of a dentist. General supervision means that a dentist has delegated the services to be provided by a dental assistant. The dentist need not be present in the facility while these services are being provided.

Item 3 clarifies that a dental assistant must either be currently certified by the Dental Assisting National Board or must have two years of clinical dental assisting experience as a registered dental assistant to qualify for expanded function training.

These amendments are subject to waiver or variance pursuant to 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendments on or before November 27, 2007. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on November 27, 2007, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hear-

ing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the October 12, 2007, meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code chapters 136C, 147, 153, and 272C.

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

The following amendments are proposed.

ITEM 1. Amend rule **650—20.2(153)**, definition of “personal supervision,” as follows:

“Personal supervision” means the dentist is physically present in the treatment room to oversee and direct ~~the~~ *all intraoral or chairside services of the dental assistant and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.*

ITEM 2. Amend subrule 20.4(2) as follows:

20.4(2) Registered dental assistant. A registered dental assistant may perform under general supervision ~~all extraoral duties dental radiography, and~~ *intraoral suctioning, and all extraoral duties* that are assigned by the dentist ~~that~~ *and* are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

ITEM 3. Amend rule **650—20.16(153)**, numbered paragraph “1,” as follows:

1. An initial assessment to determine the base entry level of all participants in the program. At a minimum, participants must be currently certified by the Dental Assisting National Board or must have two years of clinical dental assisting experience *as a registered dental assistant*;

ITEM 4. Amend rule 650—22.1(136C,153) as follows:

650—22.1(136C,153) Qualification required. A dental assistant shall not participate in dental radiography unless the assistant holds a current registration certificate and *an* active radiography qualification issued by the board, and a dentist provides ~~direct~~ *general* supervision.

ARC 6398B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of In-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

tended Action to amend Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The proposed amendment assists in meeting the Board's goal of resolving complaints within 180 days.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 28, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, November 30, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend subrules 11.28(1) and 11.28(2) as follows:

11.28(1) Appeal by party. Any adversely affected party may appeal a proposed decision to the board within 60 30 days after issuance of the proposed decision.

11.28(2) Review. The board may initiate review of a proposed decision on its own motion at any time within 60 30 days following the issuance of such a decision.

ARC 6397B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 17, "Renewal of Licenses," Iowa Administrative Code.

The following amendment to subrule 17.5(1) is being proposed as a strategy to reward practicing teachers for mentoring a student teacher or for mentoring practicum students.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 28, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, November 30, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend subrule 17.5(1) as follows:

17.5(1) Six units are needed for renewal. These units may be earned in any combination listed below.

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned for successful completion of the National Board for Professional Teaching Standards certification. This *certification* may be used one time for either the standard or the master educator license.

f. *One unit may be earned upon successful acquisition of three points from the following activities:*

(1) *Mentoring a full-semester student teacher (12 or more weeks) is worth two points.*

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) *Mentoring a half-semester student teacher (less than 12 weeks) is worth one point.*

(3) *Mentoring a practicum student or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.*

(4) *Attending (from start to finish) a cooperating teachers' workshop in conjunction with mentoring a student teacher or practicum student is worth one point.*

(5) *Serving as a multiyear member of a teacher education program's advisory committee is worth one point.*

ARC 6396B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 17, "Renewal of Licenses," Iowa Administrative Code.

The following amendment to subrule 17.6(1) is being proposed as a strategy to reward practicing teachers for mentoring a student teacher or for mentoring practicum students.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 28, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, November 30, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend subrule 17.6(1) as follows:

17.6(1) Four units are needed for renewal. These units may be earned in any combination listed below.

a. One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

b. One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

c. One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

d. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

e. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. If previously used to renew the standard license, this *certification* may not be used.

f. *One unit may be earned upon successful acquisition of three points from the following activities:*

(1) *Mentoring a full-semester student teacher (12 or more weeks) is worth two points.*

(2) *Mentoring a half-semester student teacher (less than 12 weeks) is worth one point.*

(3) *Mentoring a practicum or practicum students (early field experience) equivalent to 60 contact hours (hours may be accrued over several semesters) is worth one point.*

(4) *Attending (from start to finish) a cooperating teachers' workshop in conjunction with mentoring a student teacher or practicum student is worth one point.*

(5) *Serving as a multiyear member of a teacher education program's advisory committee is worth one point.*

ARC 6395B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

The following amendment to subrule 25.3(6) reflects changes made in legislation to Iowa Code section 272.15 as amended by 2007 Iowa Acts, Senate File 588, section 33, and 2007 Iowa Acts, Senate File 588, section 35. The statute has been amended to expand the scope of professional conduct and ethics. Teachers and administrators will now be required to report when there have been assignments that do

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

not match licensure and also when teachers are teaching without the appropriate endorsements.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, November 28, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, November 30, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code section 272.15 as amended by 2007 Iowa Acts, Senate File 588, section 33, and 2007 Iowa Acts, Senate File 588, section 35.

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 **25.3(6)** as follows:

Amend paragraph "**o**" as follows:

o. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared *or performing services without holding a valid license.*

Adopt **new** paragraphs "**p**," "**q**," and "**r**" as follows:

p. Falsifying, forging, or altering a license issued by the board.

q. Failure of the practitioner holding a contract under Iowa Code section 279.13 to disclose to the school official responsible for determining assignments a teaching assignment for which the practitioner is not properly licensed.

r. Failure of a school official responsible for assigning licensed practitioners holding contracts under Iowa Code section 279.13 to adjust an assignment if the practitioner discloses to the official that the practitioner is not properly licensed for an assignment.

ARC 6400B**HISTORICAL DIVISION[223]**

**Notice of Termination
and
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 303.1 and 303.1A, the Department of Cultural Affairs hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 5696B** on January 31, 2007, and gives Notice of Intended Action to amend Chapter 21, "Membership in the Society," Iowa Administrative Code.

The proposed amendments modify the award programs of the State Historical Society of Iowa. Specifically, the amendments rename the Throne/Aldrich Award to be the Mildred Throne/Charles Aldrich Award and expand that award to articles published in professional historical journals such as The Annals of Iowa; rename the Petersen/Harlan Award to be the William J. Petersen/Edgar Harlan Award; create a George Mills/Louise Noun Award for articles published in a popular history periodical; modify the composition of the award review committees; and clarify the processes for nomination, notification of award recipients and presentation of awards.

These amendments were originally published under Notice of Intended Action in the January 31, 2007, Iowa Administrative Bulletin as **ARC 5696B**. Pursuant to Iowa Code section 17A.4(1)"b," the original rule making is being terminated because of the passage of more than 180 days following the February 20, 2007, public hearing to address the January 31, 2007, Notice of Intended Action.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on November 27, 2007. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on November 27, 2007, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

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

These amendments are intended to implement Iowa Code chapter 303.

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.

HISTORICAL DIVISION[223](cont'd)

The following amendments are proposed.

ITEM 1. Amend rule 223—21.2(303) as follows:

223—21.2(303) Fees. Fees are charged for benefits and services provided to members. The membership program is administered by the Iowa Historical Foundation, ~~P.O. Box 6250 600 East Locust Street,~~ Des Moines, Iowa 50309 50319, telephone (515)281-8452 8823.

ITEM 2. Amend paragraph **21.3(2)“a”** as follows:

a. ~~William J. Petersen/Edgar Harlan award~~ *Award*. This award recognizes an individual, group, or organization that has made significant long-term or continuing contributions to Iowa history. No more than one award shall be given annually.

ITEM 3. Amend paragraph **21.3(2)“c”** as follows:

c. ~~Mildred Throne/Charles Aldrich award~~ *Award*. This award recognizes the author of the most significant article on Iowa history in a ~~society publication~~ *professional history journal* during the previous calendar year. ~~Two awards shall be given~~ *The board may give one award annually.*, ~~one for the Iowa Heritage Illustrated and one for the Annals of Iowa.~~ *Two Up to two* certificates of recognition may also be awarded ~~from each publication.~~

ITEM 4. Reletter paragraph **21.3(2)“d”** as **21.3(2)“e”** and adopt the following **new** paragraph **21.3(2)“d”**:

d. George Mills/Louise Noun Award. This award recognizes the author of the most significant illustrated article on an Iowa history topic published in a popular history periodical during the previous calendar year. The board may give one award annually. Up to two certificates of recognition may also be awarded.

ITEM 5. Amend relettered paragraph **21.3(2)“e”** as follows:

e. Benjamin F. Shambaugh ~~award~~ *Award*. This award recognizes the author of the most significant book published on Iowa history during the previous calendar year. ~~One award shall be given annually~~ *The board may give one award annually.* ~~Two~~ *Up to two* certificates of recognition may also be awarded.

ITEM 6. Amend paragraphs **21.3(3)“a”** and **21.3(3)“b”** as follows:

a. Committees. ~~Two committees shall be appointed by the~~ *The* chairperson of the society board of trustees ~~shall appoint awards committees~~ at the first meeting of the board held in each fiscal year. The nonvoting staff member on each committee shall be appointed by the administrator of the society to coincide with the other committee appointments. The term of office shall be one year.

(1) ~~William J. Petersen/Edgar Harlan and Loren Horton committee awards committees.~~ Nominations for these categories shall be reviewed by a ~~nominating an awards committee comprised of~~ *composed of, at a minimum, three voting members, including at least one member of the general public, five members of the society board of trustees, and. The committee shall also include one staff member of the society serving in a nonvoting capacity.*

(2) ~~Mildred Throne/Charles Aldrich, George Mills/Louise Noun and Benjamin F. Shambaugh committee awards committees.~~ Nominations for these categories shall be reviewed by a ~~nominating committee comprised of two faculty members from Iowa colleges, one member of the general public, one member of the professional staff of a county or local historical organization or museum, awards committees~~

composed of, at a minimum, three voting members, including at least one member of the society board of trustees, and. The committees shall also include one staff member of the society serving in a nonvoting capacity.

b. Period of eligibility. Awards in the *Mildred Throne/Charles Aldrich, George Mills/Louise Noun, Benjamin F. Shambaugh, and Loren Horton* categories shall be made for activities and publications produced during the calendar year prior to the nomination.

ITEM 7. Amend subparagraph **21.3(3)“c”(1)** as follows:

(1) ~~William J. Petersen/Edgar Harlan award~~ *Award*. The public may nominate entries for the *William J. Petersen/Edgar Harlan Award* by mail. Nominators shall submit the name and address of the nominee and a detailed description of significant long-term or continuing contributions to Iowa history. Nominations ~~shall must~~ be postmarked by February 1 and ~~shall must~~ be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. *Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.*

ITEM 8. Amend subparagraph **21.3(3)“c”(3)** as follows:

(3) ~~Mildred Throne/Charles Aldrich award~~ *Award*. ~~Articles published in society publications are automatically nominated for the Throne/Aldrich award. The public may nominate articles for the Mildred Throne/Charles Aldrich Award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.~~

ITEM 9. Reletter subparagraph **21.3(3)“c”(4)** as **21.3(3)“c”(5)** and adopt the following **new** subparagraph **21.3(3)“c”(4)**:

(4) George Mills/Louise Noun Award. The public may nominate articles for the George Mills/Louise Noun Award by mail. Nominators shall submit the title of the article, name of author, name and address of publication, and year of publication to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.

ITEM 10. Amend relettered subparagraph **21.3(3)“c”(5)** as follows:

(5) Benjamin F. Shambaugh ~~award~~ *Award*. The public may nominate entries for the Shambaugh ~~award~~ *Award* by mail. Nominators shall submit the title of the book, name ~~and address of author, name and address of publisher, and year of publication to the Administrator Editor, The Annals of Iowa, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290~~ *402 Iowa Avenue, Iowa City, Iowa 52240-1806. Nominations may be submitted electronically to the E-mail address posted on the State Historical Society of Iowa Web page: www.iowahistory.org.*

ITEM 11. Amend paragraph **21.3(3)“d”** as follows:

d. Number of nominations. The ~~nominating committee awards committees~~ shall report no more than three nominations for each award program and category to the society board of trustees for final selection. ~~The awards committees shall transmit nominations shall be transmitted~~ to the board at least 10 days prior to the regularly scheduled meeting

HISTORICAL DIVISION[223](cont'd)

which permits the board to act 30 days prior to the *an annual membership awards meeting*.

ITEM 12. Amend paragraph **21.3(4)“a”** as follows:

a. *William J. Petersen/Edgar Harlan award Award*. Nominees shall have contributed a body of work advancing the preservation and interpretation of Iowa history. Each body of work shall be evaluated for significance, professionalism, and influence on Iowans' perceptions of themselves. These criteria shall be weighted equally.

ITEM 13. Amend paragraph **21.3(4)“c”** as follows:

c. *Mildred Throne/Charles Aldrich award Award*. Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 14. Reletter paragraph **21.3(4)“d”** as **21.3(4)“e”** and adopt the following **new** paragraph **21.3(4)“d”**:

d. *George Mills/Louise Noun Award*. Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 15. Amend relettered subparagraph **21.3(4)“e”** as follows:

e. *Benjamin F. Shambaugh award Award*. Each nominated book shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

ITEM 16. Amend subrules 21.3(5) and 21.3(6) as follows:

21.3(5) Notification. Award recipients shall be notified by mail from the administrator of the society at least 21 days prior to the *an annual membership awards meeting*.

21.3(6) Presentation. The award shall be presented by the chairperson a member of the board of trustees at the *an annual membership awards meeting*.

ARC 6401B

HISTORICAL DIVISION[223]

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 303.1A, the Director of the Department of Cultural Affairs hereby gives Notice of Intended Action to adopt Chapter 48, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

The purpose of these rules is to set forth the procedures by which the public may access the historic preservation and cultural and entertainment district tax credits.

These rules were Adopted and Filed Emergency as **ARC 6062B** and published in the July 18, 2007, Iowa Administrative Bulletin.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on November 27, 2007. In-

terested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on November 27, 2007, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

These rules are intended to implement Iowa Code chapter 303 and chapter 404A as amended by 2007 Iowa Acts, Senate File 566.

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 **223—Chapter 48** as follows:

CHAPTER 48

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

223—48.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereafter referred to as historic tax credit) for rehabilitation of eligible commercial property, residential property and barns located in this state is granted to approved projects, subject to availability of the credit, to apply against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432. Historic tax credits are restricted to rehabilitation projects for eligible properties in Iowa. Rehabilitation projects for eligible properties must be conducted in accordance with the federal Standards for Rehabilitation (36 CFR Part 67.7) as described in the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties (hereafter referred to as Standards).

223—48.2(303,404A) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply:

“Assessed value” means the amount of the most current property tax assessment.

“Commercial property” means a building with retail, office, or other business space.

“Historic tax credit(s)” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

“Mixed-use property” means a commercial property that includes three or more residential units in the same building.

“Qualified rehabilitation costs” means qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

“Reserved tax credit” means the amount of tax credits set aside from the available tax credit fund for an approved project.

HISTORICAL DIVISION[223](cont'd)

“Residential property” means a building with two or fewer residential units.

“Standards” means the Standards for Rehabilitation as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Tax basis” means the same as defined in department of revenue 701—subrule 42.15(3).

“Tax credit year” means the tax year in which a tax credit certificate holder is eligible to redeem a tax credit certificate based on the availability of tax credit funds for an eligible project.

223—48.3(303,404A) Eligible properties. The following properties are eligible for the historic tax credit:

1. Property verified as listed on the National Register of Historic Places or eligible for such listing through the state historic preservation office (SHPO);
2. Property designated as a building contributing to the historic significance of a district listed on the National Register of Historic Places or eligible for such designation by being located in an area previously surveyed and evaluated as eligible for listing on the National Register of Historic Places as a historic district;
3. A property or district designated as a local landmark by a city or county ordinance; or
4. A barn constructed prior to 1937.

223—48.4(303,404A) Qualified and nonqualified rehabilitation costs.

48.4(1) Qualified rehabilitation costs are as defined in Section 47, rehabilitation credit, of the Internal Revenue Code. To view Section 47 online, visit www.nps.gov/history/local-law/FHPL_RehabCredit%20.pdf.

48.4(2) Costs deducted as expenses in the tax year in which they are paid or incurred are nonqualified rehabilitation costs for determination of historic tax credits.

48.4(3) Architectural and engineering fees, site survey fees, legal fees, insurance premiums, development fees and other construction-related expenses are qualified rehabilitation costs for determination of historic tax credits to the extent they increase the tax basis of the eligible property.

48.4(4) Sidewalk, parking lot and landscaping expenses are nonqualified rehabilitation costs for determination of historic tax credits.

48.4(5) Only qualified rehabilitation costs incurred beginning two years prior to the project completion date and ending on the project completion date may be used for determination of historic tax credits.

a. Qualified rehabilitation costs incurred prior to approval by the SHPO of part two of the application (see rule 48.6(303,404A)) may be considered in the determination of historic tax credits.

b. Owners who undertake rehabilitation projects without prior approval from the SHPO do so at their own risk.

223—48.5(303,404A) Eligibility of projects, rehabilitation costs and amount of credit.

48.5(1) For commercial property, the amount of rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the land, prior to rehabilitation.

48.5(2) For residential property or for barns built before 1937, the amount of rehabilitation costs must equal at least \$25,000 or 25 percent of the assessed value of the property, excluding the land, prior to rehabilitation, whichever is less.

48.5(3) For mixed-use property, the amount of rehabilitation costs shall not exceed \$100,000 per residential unit plus the qualified rehabilitation costs for the commercial space.

48.5(4) The historic tax credit for a project shall equal 25 percent of the qualified rehabilitation costs.

223—48.6(303,404A) Application and review process.

48.6(1) All applications for historic tax credits shall be on forms and in accordance with instructions provided by the SHPO. Application forms are available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. Applications may also be downloaded from the following Web site: www.state.ia.us/government/dca/shsi/preservation/financial_assistance/state_tax_credit/ia_state_tax_credit.html.

a. Part one of the application identifies the eligibility of the property for the historic tax credit. Part one of the application must include all requested information. SHPO staff shall notify the applicant in writing if part one of the application is incomplete. Incomplete applications will not be processed.

b. Part two of the application provides a detailed description of the rehabilitation project. Part two of the application must include all requested information. SHPO staff shall notify the applicant in writing if part two of the application is incomplete. Incomplete applications will not be processed.

c. Part three of the application provides the information and documentation required to request certification of project completion and must include all requested information. SHPO staff shall notify the applicant in writing if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule 48.10(303,404A).

48.6(2) SHPO staff trained by the National Park Service for reviewing rehabilitation projects to ensure compliance with Standards will review part two and part three of each submitted application.

48.6(3) SHPO staff shall review and respond in writing to part two or part three of each completed application or to amendments to part two of an application (see rule 48.8(303,404A)) within 90 days of receipt.

a. If an applicant submits more than one part of an application simultaneously, SHPO staff shall review each part sequentially.

b. If an applicant submits more than one part of an application simultaneously, SHPO staff shall respond in writing to each complete application part sequentially, within 90 days of approval of the previous part of the application.

48.6(4) An application that mirrors a rehabilitation project which qualifies for the federal rehabilitation credit under Section 47 of the Internal Revenue Code shall automatically be approved for the state historic tax credit to the extent that all historic tax credits appropriated for the fiscal year have not already been awarded.

48.6(5) Response to application parts.

a. Review of part one of the application shall result in one of two responses:

- (1) The property is eligible for the historic tax credit; or
- (2) The property is not eligible for the historic tax credit.

b. Review of part two of the application shall result in one of three responses:

- (1) The rehabilitation described in the application is consistent with the historic character of the property or the district in which it is located, and the project meets the Standards. The initial review of part two is a preliminary determination only. A formal certification of rehabilitation shall be issued only after rehabilitation work is completed;

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(2) The rehabilitation or proposed rehabilitation described in part two of the application will meet the Standards if the stipulated conditions are met; or

(3) The rehabilitation described in part two of the application is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards.

(4) The SHPO shall provide a copy of the SHPO's response to the department of revenue.

c. Review of part three of the application shall result in one of two responses:

(1) The completed rehabilitation meets the Standards and is consistent with the historic character of the property or the district in which it is located. Effective on the date of approval of part two of the application, the project shall be designated a "certified rehabilitation"; or

(2) The rehabilitation is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards.

(3) The SHPO shall provide a copy of the SHPO's response to the department of revenue. Questions concerning specific tax consequences or interpretation of the state code should be addressed to the department of revenue.

d. An authorized representative of the SHPO, with due notice to the applicant, may inspect completed projects to determine if the work meets the Standards. The SHPO reserves the right to make inspections at any time up to five years after completion of the rehabilitation and to revoke certification if it is determined that the rehabilitation project was not undertaken as presented by the owner in the application and supporting documentation, or if the owner, upon obtaining certification, undertook unapproved further alterations as part of the rehabilitation project that are inconsistent with the Standards.

48.6(6) Approval of part one of the application. Upon approval of part one of the application, an applicant may proceed to submission of part two of the application. If the applicant submitted part two of the application simultaneously, the SHPO shall complete review of part one of the application before reviewing part two of the application.

48.6(7) Approval of part two of the application.

a. Upon approval of part two of the application with no conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year, and the applicant may proceed to implement the project.

b. Upon approval of part two of the application with conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year. The applicant may proceed to implement the project, and the applicant shall document compliance with the conditions.

48.6(8) Approval of part three of the application. Upon approval of part three of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the qualified rehabilitation costs as estimated in part two of the application for the tax credit year originally reserved for the project upon approval of part two of the application, unless the qualified rehabilitation costs in part three of the application differ from the estimated qualified rehabilitation costs in part two of the application.

a. If the qualified rehabilitation costs documented in part three of the application are less than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall return any unused tax credits to the available tax credit pool for other projects.

b. If the qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the documented qualified rehabilitation costs that exceed the qualified rehabilitation costs estimated in part two of the application for the next available tax credits.

223—48.7(303,404A) Funding queues.

48.7(1) The SHPO shall reserve 10 percent of available tax credits for any tax credit year in a small projects funding queue for single projects with estimated qualified rehabilitation costs totaling \$500,000 or less.

a. At the end of each state fiscal year, any funds in the small projects funding queue that have not been reserved for small projects shall be transferred to the statewide funding queue for other projects.

b. If the small projects funding queue is fully reserved before the end of a state fiscal year, any applications for small projects received after full reservation of the small projects funding queue may be eligible for the cultural and entertainment district (CED) funding queue or the statewide funding queue.

48.7(2) The SHPO shall reserve 40 percent of available tax credits for any tax credit year in a CED funding queue for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C.

a. At the end of each state fiscal year, any funds in the CED funding queue that have not been reserved for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C shall be transferred to the statewide funding queue for other projects.

b. If the CED funding queue is fully reserved before the end of a state fiscal year, any applications for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C received after full reservation of the CED funding queue shall be eligible for the statewide funding queue.

48.7(3) The SHPO shall reserve 50 percent of available tax credits in a statewide funding queue for any tax credit year, which is to be used for eligible projects throughout the state of Iowa.

223—48.8(303,404A) Sequencing of applications for review.

48.8(1) Order of review. The SHPO anticipates the receipt of a large number of applications for historic tax credits at the beginning of each state fiscal year. At the start of each state fiscal year, the SHPO will utilize a project review sequencing system to establish the order in which applications will be reviewed.

48.8(2) Filing window. Applications for historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed.

48.8(3) Initial sequencing process. An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category.

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a. Category A projects are comprised of a state historic tax credit application that includes the same scope of work previously submitted and approved, as documented by a signed part two of the federal tax credit application approved prior to the first business day of the state fiscal year. Applications eligible for this category must be received within the specified filing window and must include one of the following: a new part two of the application with part one of the application already on file; new parts one and two of the application; new parts one, two and three of the application; an amendment to part two of the state application; or part three of the application associated with a previously approved part two of the state application when actual qualified rehabilitation costs are in excess of the estimated qualified rehabilitation costs in part two of the application.

b. Category B projects are comprised of a state historic tax credit application without an approved part two of the federal tax credit application on file as of the first state business day of the filing window. Applications in this category must have part one of the application for historic tax credits on file prior to the first state business day of the filing window, and part two of the application must be received within the specified filing window.

c. Category C projects are comprised of an entirely new state historic tax credit application received within the specified filing window and consisting of parts one and two of the application or parts one, two and three of the application.

48.8(4) Secondary sequencing process. Using a random number generator, SHPO staff will assign unique, random numbers to all applications that are eligible for inclusion in the review sequencing system within each category of the initial sequencing system. Applications within each category shall then be placed in numeric order from lowest to highest. SHPO staff shall then create a master review sequence list, with category A applications reviewed first, category B applications reviewed next, and category C applications reviewed last.

48.8(5) Random number generator. SHPO staff shall use a random number generator utility found in Microsoft Excel 2003 or the current version of Microsoft Excel generally used by the department of cultural affairs.

48.8(6) Outside observer. The initial sequencing process, the secondary sequencing process, and the development of the master review sequence list will be observed and certified by an official state witness.

48.8(7) Subsequent applications. Applications for part two or amendments to part two of an application that are received by the SHPO between the tenth business day of the state fiscal year and the last business day of the state fiscal year shall be reviewed in order of receipt so long as tax credits are available for reservation.

223—48.9(303,404A) Reserved tax credits.

48.9(1) Upon written approval of part two of the project application, the SHPO shall reserve an estimated tax credit under the name of the applicant(s) in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year.

48.9(2) If the amount of estimated qualified rehabilitation costs changes during the course of project implementation, the applicant may file an amendment to part two of the application with the SHPO or may include those costs in part three of the application.

48.9(3) Upon written approval of an amendment to part two of an application, the SHPO shall reserve an estimated tax credit under the name of the applicant in an amount equal to 25 percent of the qualified rehabilitation costs estimated in

the amendment to part two for the next available tax credit year.

48.9(4) The SHPO shall not reserve tax credits for more than two state fiscal years beyond the current state fiscal year.

223—48.10(303,404A) Abandonment of tax credit reservation.

48.10(1) If there has been no contact with the SHPO by the applicant prior to the estimated project completion date shown on the approved part two of the application, the SHPO shall, by registered U.S. mail sent to the last-known address of the applicant, request that a status report be filed with the SHPO within 30 days of the date of the letter. The SHPO shall notify an applicant that the project will be considered abandoned and the SHPO will recapture the tax credit reservation unless the applicant submits a status report that documents actual construction on the project within 30 days of the date of the letter.

48.10(2) If the SHPO has not received a status report that documents actual construction on a project by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule 48.10(1) have not been met.

48.10(3) The SHPO shall return any recaptured tax credits to the pool of tax credits available for other rehabilitation projects.

48.10(4) This rule shall also apply to any project that received approval for part two of the application on or before June 30, 2007.

223—48.11(303,404A) Submission deadline.

48.11(1) No later than six months after the estimated project completion date on the approved part two of the application, or upon project completion, the applicant shall submit a complete part three of the state historic tax credit application to the SHPO.

48.11(2) If the SHPO has not received a complete part three of the state historic tax credit application by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule 48.11(1) have not been met.

48.11(3) The SHPO shall return any recaptured tax credits to the pool of tax credits available for other rehabilitation projects.

48.11(4) This rule shall also apply to any project that received approval for part two of the application on or before June 30, 2007.

223—48.12(303,404A) Transfer of tax credit certificate.

The applicant may transfer the tax credit certificate to one or more parties in accordance with department of revenue 701—subrule 42.15(6).

223—48.13(303,404A) Redemption of tax credit certificates.

The tax credit holder shall attach the tax credit certificate and a copy of the signed part three of the application to the taxpayer's state income tax return and submit these documents to the department of revenue in the tax year for which the tax credit certificate is valid.

223—48.14(303,404A) Tax credits in excess of tax liability.

48.14(1) An applicant whose tax credit exceeds the tax liability in the tax year for which the tax credit may be redeemed is entitled to a refund of the excess tax credit with interest under Iowa Code section 422.25. See also administrative rules of the department of revenue, particularly rules 701—42.15(422) and 701—52.18(422).

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48.14(2) In lieu of a refund, the applicant may have the excess tax credit applied to the tax liability for the following year.

223—48.15(303,404A) Application processing fees. A nonrefundable fee for application processing of parts two and three of an application will be charged for review of requests

for certification of a rehabilitation project for historic tax credits. An initial review fee will be due with the filing of part two of an application. An additional fee for review of completed rehabilitation work will be due with the filing of part three of an application. Fees will be based on the amount of qualified rehabilitation costs. The fee schedule is as follows:

Part 2 Review Fee	For projects with a qualified rehabilitation cost of:	
Residential (1-2 units) & barns built before 1937	Under \$50,000	No cost
Residential (1-2 units) & barns built before 1937	\$50,000 and over	\$250
Commercial or mixed-use properties (includes residential 3+ units)	Any amount	\$500
Part 3 Review Fee	For projects with a qualified rehabilitation cost of:	
Residential (1-2 units) & barns built before 1937	Under \$50,000	No cost
Residential (1-2 units) & barns built before 1937	\$50,000 and over	\$250
Commercial or mixed-use properties (includes residential 3+ units)	Under \$50,000	\$250
Commercial or mixed-use properties (includes residential 3+ units)	\$50,000 to \$1,000,000	.5 percent (.005) of qualified rehabilitation cost
Commercial or mixed-use properties (includes residential 3+ units)	Over \$1,000,000	\$5,000

223—48.16(303,404A) Appeals.

48.16(1) Applicants may appeal a decision of the SHPO on any of the following bases:

- a. Action was outside statutory authority;
- b. Decision was influenced by a conflict of interest;
- c. Action violated state law or administrative rules;
- d. Insufficient public notice was given; or
- e. Alteration of the review and certification process was detrimental to the applicant.

48.16(2) Appeals in writing shall be delivered to the director of the department of cultural affairs within 30 days of the decision giving rise to the appeal. All appeals shall be directed to the Director, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319; telephone (515) 281-7471.

48.16(3) All appeals shall contain:

- a. The facts of the case;
- b. Argument(s) in support of the appeal; and
- c. The remedy sought.

48.16(4) The director of the department of cultural affairs shall consider and rule on an appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. The decision of the director of the department of cultural affairs shall be final except as provided in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code chapters 303 and 404A.

rescind Chapter 87, "Medicaid Provider Audits," Iowa Administrative Code.

These amendments address documentation requirements for Medicaid providers. The proposed amendments:

- Clarify documentation requirements for all Medicaid providers, including specific lists of documentation required for each type of service, which will be included on a checklist that the Iowa Medicaid Enterprise Surveillance and Utilization Review Services Unit will attach to records requests;
- Explain what is acceptable when making a correction to a medical record;
- Update and move rules formerly in Chapter 87 to rule 441—79.4(249A);
- Set deadlines for the submission of records in response to an audit or review request;
- Clarify the statistical sampling techniques that may be used for audits or reviews and the requirements for challenging the Department's sampling results;
- Add a reevaluation process which affords a provider that has received a preliminary overpayment finding an opportunity to submit clarifying information and supplemental documentation to justify the provider's charges; and
- Provide that documents not submitted in response to the original request or as part of a reevaluation request shall not be considered in an appeal proceeding.

These amendments are intended to help providers understand what documentation is required to support charges to the Medicaid program in an effort to streamline review processes and eliminate unnecessary appeals. Current rules on documentation are directed primarily to providers of non-traditional Medicaid services. The amendments clarify requirements for all provider groups.

These amendments provide that maintenance and submission of a particular item of documentation that is normally required may be waived if the item:

- Is not routinely received or created in connection with a particular service or activity, and
- Is not required in order to document the reason for performing the service or activity, the medical necessity of the service or activity, or the level of care associated with the service or activity.

Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before November 28, 2007.

ARC 6391B

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 7, "Appeals and Hearings," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and to

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 rule **441—7.1(17A)**, definition of “aggrieved person,” numbered paragraph “7,” as follows:

7. For providers, a person or entity:

- Whose license, certification, registration, approval, or accreditation has been denied or revoked or has not been acted on in a timely manner.

- Whose claim for payment as a provider or whose request for prior authorization of payment has been denied in whole or in part and who states that the denial was not made according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology.

- Whose contract as a Medicaid patient manager has been terminated.

- ~~That has been notified that an~~ Who has been subject to the withholding of a payment to recover a prior overpayment has been established and repayment is requested, or who has received an order to repay an overpayment pursuant to 441—paragraph 79.4(4) “c.”

- ~~That~~ Who has been notified that the managed care reconsideration process has been exhausted and that who remains dissatisfied with the outcome.

- ~~Whose claim for payment was not paid according to department policy. Providers of Medicaid services must accept reimbursement based on the department's methodology without making any additional charges to the recipient.~~

- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department's quality rating decision, or whose certificate of quality rating has been revoked.

ITEM 2. Amend subrule **79.2(2)** by rescinding paragraph “u.”

ITEM 3. Amend rule **441—79.3(249A)** as follows:

Amend subrule 79.3(2) as follows:

Amend the introductory paragraph as follows:

79.3(2) Medical (clinical) records. A provider of service shall maintain complete and legible medical records for each service for which a charge is made to the medical assistance program, ~~except as provided in paragraph 79.3(2)“d.”~~ Required records shall include any records required to maintain the provider's license in good standing.

Amend paragraph “c” as follows:

Rescind subparagraph (1) and adopt the following **new** subparagraph in lieu thereof:

(1) Identification. Each page or separate electronic document of the medical record shall contain the member's first and last name. In the case of electronic documents, the member's first and last name must appear on each screen when

viewed electronically and on each page when printed. As part of the medical record, the medical assistance identification number and the date of birth must also be identified and associated with the member's first and last name.

Amend subparagraph (2) as follows:

(2) Basis for service—*general rule. General requirements for all services are listed herein. For the application of these requirements to specific services, see paragraph 79.3(2)“d.”* The medical record shall reflect the reason for performing the service or activity, *substantiate medical necessity, and demonstrate the level of care associated with the service.* ~~Documentation may~~ The medical record shall include ~~one or more of the following, as applicable to the service being provided unless not routinely received or created in connection with a particular service or activity and not required to document the reason for performing the service or activity, the medical necessity of the service or activity, or the level of care associated with the service or activity:~~

1. The member's complaint, ~~or~~ symptoms, and diagnosis.

2. The member's medical or social history.

3. Examination findings.

4. Diagnostic test reports, laboratory test results, or X-ray reports.

5. Goals or needs identified in the member's plan of care.

6. Physician orders and any prior authorizations required for Medicaid payment.

7. Medication records, pharmacy records for prescriptions, or providers' orders.

8. Related professional consultation reports.

9. Progress or status notes for the services or activities provided.

10. All forms required by the department as a condition of payment for the services provided.

11. Any treatment plan, care plan, service plan, individual health plan, behavioral intervention plan, or individualized education program.

- 6 12. The ~~observer's~~ provider's assessment, clinical impression, ~~or~~ diagnosis, or narrative, including the complete date of the observation thereof and the identity of the ~~observer~~ person performing the assessment, clinical impression, diagnosis, or narrative.

13. Any additional documentation necessary to demonstrate the medical necessity of the service provided or otherwise required for Medicaid payment.

Amend subparagraph (3) as follows:

(3) Service documentation. The record for each service ~~encounter~~ provided shall include information necessary to ~~support each item of~~ substantiate that the service reported on the medical assistance claim form. ~~The documentation was provided and shall identify~~ include the following:

1. The specific procedures or treatments performed.

2. The complete date and time of the service, including the beginning and ending date and time when the service was provided.

3. The location where the service was provided.

4. The name, dosage, and route of administration of any medication dispensed or administered.

5. Medications or other supplies dispensed.

6. The first and last name and ~~title~~ credentials of the person providing the service.

7. The signature of the person providing the service, or the initials of the person providing the service if a signature log indicates the person's identity.

HUMAN SERVICES DEPARTMENT[441](cont'd)

8. For 24-hour care, documentation for every shift of the services provided, the member's response to the services provided, and the person who provided the service.

Rescind paragraphs "d" and "e" and adopt the following **new** paragraphs in lieu thereof:

d. Basis for service requirements for specific services. The medical record for the following services must include, but is not limited to, the items specified below (unless the listed item is not routinely received or created in connection with the particular service or activity and is not required to document the reason for performing the service or activity, its medical necessity, or the level of care associated with it). These items will be specified on Form 470-4479, Documentation Checklist, when the Iowa Medicaid enterprise surveillance and utilization review services unit requests providers to submit records for review. (See paragraph 79.4(2)"b.")

- (1) Physician (MD and DO) services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
- (2) Pharmacy services:
 1. Prescriptions.
 2. Nursing facility physician order.
 3. Telephone order.
 4. Pharmacy notes.
 5. Prior authorization documentation.
- (3) Dentist services:
 1. Treatment notes.
 2. Anesthesia notes and records.
 3. Prescriptions.
- (4) Podiatrist services:
 1. Service or office notes or narratives.
 2. Certifying physician statement.
 3. Prescription or order form.
- (5) Certified registered nurse anesthetist services:
 1. Service notes or narratives.
 2. Preanesthesia physical examination report.
 3. Operative report.
 4. Anesthesia record.
 5. Prescriptions.
- (6) Other advanced registered nurse practitioner services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
- (7) Optometrist and optician services:
 1. Notes or narratives supporting eye examinations, medical services, and auxiliary procedures.
 2. Original prescription or updated prescriptions for corrective lenses or contact lenses.
 3. Prior authorization documentation.
- (8) Psychologist services:
 1. Service or office psychotherapy notes or narratives.
 2. Psychological examination report and notes.
- (9) Clinic services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Nurses' notes.
 4. Prescriptions.
 5. Medication administration records.
- (10) Services provided by rural health clinics or federally qualified health centers:
 1. Service or office notes or narratives.
 2. Form 470-2942, Prenatal Risk Assessment.
 3. Procedure, laboratory, or test orders and results.
 4. Immunization records.
- (11) Services provided by community mental health centers:
 1. Service referral documentation.

2. Initial evaluation.
3. Individual treatment plan.
4. Service or office notes or narratives.
5. Narratives related to the peer review process and peer review activities related to a member's treatment.
6. Written plan for accessing emergency services.
- (12) Screening center services:
 1. Service or office notes or narratives.
 2. Immunization records.
 3. Laboratory reports.
 4. Results of health, vision, or hearing screenings.
- (13) Family planning services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Nurses' notes.
 4. Immunization records.
 5. Consent forms.
 6. Prescriptions.
 7. Medication administration records.
- (14) Maternal health center services:
 1. Service or office notes or narratives.
 2. Procedure, laboratory, or test orders and results.
 3. Form 470-2942, Prenatal Risk Assessment.
- (15) Birthing center services:
 1. Service or office notes or narratives.
 2. Form 470-2942, Prenatal Risk Assessment.
- (16) Ambulatory surgical center services:
 1. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
 2. Physician orders.
 3. Consent forms.
 4. Anesthesia records.
 5. Pathology reports.
 6. Laboratory and X-ray reports.
- (17) Hospital services:
 1. Physician orders.
 2. Service notes or narratives (history and physical, consultation, operative report, discharge summary).
 3. Progress or status notes.
 4. Diagnostic procedures, including laboratory and X-ray reports.
 5. Pathology reports.
 6. Anesthesia records.
 7. Medication administration records.
- (18) State mental hospital services:
 1. Service referral documentation.
 2. Resident assessment and initial evaluation.
 3. Individual comprehensive treatment plan.
 4. Service notes or narratives (history and physical, therapy records, discharge summary).
 5. Form 470-0042, Case Activity Report.
 6. Medication administration records.
- (19) Services provided by skilled nursing facilities, nursing facilities, and nursing facilities for persons with mental illness:
 1. Physician orders.
 2. Progress or status notes.
 3. Service notes or narratives.
 4. Procedure, laboratory, or test orders and results.
 5. Nurses' notes.
 6. Physical therapy, occupational therapy, and speech therapy notes.
 7. Medication administration records.
 8. Form 470-0042, Case Activity Report.
- (20) Services provided by intermediate care facilities for persons with mental retardation:

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1. Physician orders.
 2. Progress or status notes.
 3. Resident assessment and initial evaluation.
 4. Individual program plan.
 5. Form 470-0374, Resident Care Agreement.
 6. Service notes.
 7. Medication administration records.
 8. Nurses' notes.
 9. Form 470-0042, Case Activity Report.
 - (21) Services provided by psychiatric medical institutions for children:
 1. Physician orders or court orders.
 2. Independent assessment.
 3. Individual treatment plan.
 4. Service notes or narratives (history and physical, therapy records, discharge summary).
 5. Form 470-0042, Case Activity Report.
 6. Medication administration records.
 - (22) Hospice services:
 1. Physician certifications for hospice care.
 2. Form 470-2618, Election of Medicaid Hospice Benefit.
 3. Form 470-2619, Revocation of Medicaid Hospice Benefit.
 4. Plan of care.
 5. Physician orders.
 6. Progress or status notes.
 7. Service notes or narratives.
 8. Medication administration records.
 9. Prescriptions.
 - (23) Services provided by rehabilitation agencies:
 1. Physician orders.
 2. Initial certification, recertifications, and treatment plans.
 3. Narratives from treatment sessions.
 4. Treatment and daily progress or status notes and forms.
 - (24) Home- and community-based habilitation services:
 1. Notice of decision for service authorization.
 2. Service plan (initial and subsequent).
 3. Service notes or narratives.
 - (25) Remedial services and rehabilitation services for adults with a chronic mental illness:
 1. Order for services.
 2. Comprehensive treatment or service plan (initial and subsequent).
 3. Service notes or narratives.
 - (26) Services provided by area education agencies and local education agencies:
 1. Service notes or narratives.
 2. Individualized education program (IEP).
 3. Individual health plan (IHP).
 4. Behavioral intervention plan.
 - (27) Home health agency services:
 1. Plan of care or plan of treatment.
 2. Certifications and recertifications.
 3. Service notes or narratives.
 4. Physician orders or medical orders.
 - (28) Services provided by independent laboratories:
 1. Laboratory reports.
 2. Physician order for each laboratory test.
 - (29) Ambulance services:
 1. Documentation on the claim or run report supporting medical necessity of the transport.
 2. Documentation supporting mileage billed.
 - (30) Services of lead investigation agencies:
 1. Service notes or narratives.
 2. Child's lead level logs (including laboratory results).
 3. Written investigation reports to family, owner of building, child's medical provider, and local childhood lead poisoning prevention program.
 4. Health education notes, including follow-up notes.
 - (31) Medical supplies:
 1. Prescriptions.
 2. Certificate of medical necessity.
 3. Prior authorization documentation.
 4. Medical equipment invoice or receipt.
 - (32) Orthopedic shoe dealer services:
 1. Service notes or narratives.
 2. Prescriptions.
 3. Certifying physician's statement.
 - (33) Case manager services:
 1. Form 470-3956, MR/CMI/DD Case Management Service Authorization Request.
 2. Notice of decision for service authorization.
 3. Service notes or narratives.
 4. Social history.
 5. Individual treatment plan.
 6. Reassessment of member needs.
 - (34) Early access service coordinator services:
 1. Individualized family service plan (IFSP).
 2. Service notes or narratives.
 - (35) Home- and community-based waiver services:
 1. Notice of decision for service authorization.
 2. Service plan.
 3. Service logs, notes, or narratives.
 4. Mileage and transportation logs.
 5. Log of meal delivery.
 6. Invoices or receipts.
 7. Forms 470-3372, HCBS Consumer-Directed Attendant Care Agreement, and 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record.
 - e. Corrections. A provider may correct the medical record before submitting a claim for reimbursement.
 - (1) Corrections must be made only by the person who provided the service or by a person who has first-hand knowledge of the service.
 - (2) A correction to a medical record must not be written over or otherwise obliterate the original entry. A single line may be drawn through erroneous information, keeping the original entry legible. In the case of electronic records, the original information and the correction must be shown on both the electronic version and any hard copy.
 - (3) Any correction must indicate the person making the change, must be dated and signed by the person making the change, must indicate the reason for the correction, and must be clearly connected with the original entry in the record.
- Rescind and reserve subrule **79.3(4)**.
- ITEM 4. Rescind rule 441—79.4(249A) and adopt the following **new** rule in lieu thereof:
- 441—79.4(249A) Reviews and audits.**
- 79.4(1) Definitions.**
- “Authorized representative,” within the context of this rule, means the person appointed to carry out audit or review procedures, including assigned auditors, reviewers or agents contracted for specific audits, reviews, or audit or review procedures.
- “Claim” means each record received by the department or the Iowa Medicaid enterprise that states the amount of requested payment and the service rendered by a specific and particular Medicaid provider to an eligible member.

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“Clinical record” means a legible electronic or hard-copy history that documents the criteria established for medical records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a clinical record.

“Confidence level” means the statistical reliability of the sampling parameters used to estimate the proportion of payment errors (overpayment and underpayment) in the universe under review.

“Customary and prevailing fee” means a fee that is both (1) the most consistent charge by a Medicaid provider for a given service and (2) within the range of usual charges for a given service billed by most providers with similar training and experience in the state of Iowa.

“Extrapolation” means that the total amount of overpayment or underpayment will be determined by using sample data meeting the confidence level requirement.

“Fiscal record” means a legible electronic or hard-copy history that documents the criteria established for fiscal records as set forth in rule 441—79.3(249A). A claim form or billing statement does not constitute a fiscal record.

“Overpayment” means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to the Medicaid program and that results in a payment greater than that to which the provider is entitled.

“Procedure code” means the identifier that describes medical or remedial services performed or the supplies, drugs, or equipment provided.

“Random sample” means a statistically valid random sample for which the probability of selection for every item in the universe is known.

“Underpayment” means any payment or portion of a payment not made to a provider for services delivered to eligible members according to the laws and rules applicable to the Medicaid program and to which the provider is entitled.

“Universe” means all items or claims under review or audit during the period specified by the audit or review.

79.4(2) Audit or review of clinical and fiscal records by the department. Any Medicaid provider may be audited or reviewed at any time at the discretion of the department.

a. Authorized representatives of the department shall have the right, upon proper identification, to audit or review the clinical and fiscal records of the provider to determine whether:

(1) The department has correctly paid claims for goods or services.

(2) The provider has furnished the services to Medicaid members.

(3) The provider has retained clinical and fiscal records that substantiate claims submitted for payment.

(4) The goods or services provided were in accordance with Iowa Medicaid policy.

b. Requests for provider records by the Iowa Medicaid enterprise surveillance and utilization review services unit shall include Form 470-4479, Documentation Checklist, which is available at www.ime.state.ia.us/Providers/Forms.html, listing the specific records that must be provided for the audit or review pursuant to paragraph 79.3(2)“d” to document the basis for services or activities provided, in the following format:

Iowa Department of Human Services
Iowa Medicaid Enterprise Surveillance and Utilization Review Services
Documentation Checklist

Date of Request: _____
 Reviewer Name & Phone Number: _____
 Provider Name: _____
 Provider Number: _____
 Provider Type: _____

Please sign this form and return it with the information requested.

Follow the checklist to ensure that all documents requested for each patient have been copied and enclosed with this request. The documentation must support the validity of the claim that was paid by the Medicaid program.

Please send copies. Do not send original records.

If you have any questions about this request or checklist, please contact the reviewer listed above.

	[specific documentation required]
	[Note: number of specific documents required varies by provider type]
	Any additional documentation that demonstrates the medical necessity of the service provided or otherwise required for Medicaid payment. List additional documentation below if needed.

The person signing this form is certifying that all documentation that supports the Medicaid billed rates, units, and services is enclosed.

Signature	Title	Telephone Number
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470-4479 (4/08)

c. Records generated and maintained by the department may be used by auditors or reviewers and in all proceedings of the department.

79.4(3) Audit or review procedures. The department will select the method of conducting an audit or review and will protect the confidential nature of the records being audited or

reviewed. The provider may be required to furnish records to the department. Unless the department specifies otherwise, the provider may select the method of delivering any requested records to the department.

a. Upon a written request for records, the provider must submit all responsive records to the department or its autho-

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rized agent within 30 calendar days of the mailing date of the request, except as provided in paragraph “b.”

b. Extension of time limit for submission.

(1) The department may grant an extension to the required submission date of up to 15 calendar days upon written request from the provider or the provider’s designee. The request must:

1. Establish good cause for the delay in submitting the records; and

2. Be received by the department before the date the records are due to be submitted.

(2) Under exceptional circumstances, a provider may request one additional 15-calendar-day extension. The provider or the provider’s designee shall submit a written request that:

1. Establishes exceptional circumstances for the delay in submitting records; and

2. Is received by the department before the expiration of the initial 15-day extension period.

(3) The department may grant a request for an extension of the time limit for submitting records at its discretion. The department shall issue a written notice of its decision.

(4) The provider may appeal the department’s denial of a request to extend the time limit for submission of requested records according to the procedures in 441—Chapter 7.

c. The department may elect to conduct announced or unannounced on-site reviews or audits. Records must be provided upon request and before the end of the on-site review or audit.

(1) For an announced on-site review or audit, the department’s employee or authorized agent may give as little as one day’s advance notice of the review or audit and the records and supporting documentation to be reviewed.

(2) Notice is not required for unannounced on-site reviews and audits.

(3) In an on-site review or audit, the conclusion of that review or audit shall be considered the end of the period within which to produce records.

d. Audit or review procedures may include, but are not limited to, the following:

(1) Comparing clinical and fiscal records with each claim.

(2) Interviewing members who received goods or services and employees of providers.

(3) Examining third-party payment records.

(4) Comparing Medicaid charges with private-patient charges to determine that the charge to Medicaid is not more than the customary and prevailing fee.

(5) Examining all documents related to the services for which Medicaid was billed.

e. Use of statistical sampling techniques. The department’s procedures for auditing or reviewing Medicaid providers may include the use of random sampling and extrapolation.

(1) A statistically valid random sample will be selected from the universe of records to be audited or reviewed. The sample size shall be selected using accepted sample size estimation methods. The confidence level of the sample size calculation shall not be less than 95 percent.

(2) Following the sample audit or review, the statistical margin of error of the sample will be computed, and a confidence interval will be determined. The estimated error rate will be extrapolated to the universe from which the sample was drawn within the computed margin of error of the sampling process.

(3) Commonly accepted statistical analysis programs may be used to estimate the sample size and calculate the

confidence interval, consistent with the sampling parameters.

(4) The audit or review findings generated through statistical sampling procedures shall constitute prima facie evidence in all department proceedings regarding the number and amount of overpayments or underpayments received by the provider.

79.4(4) Preliminary report of audit or review findings. If the department concludes from an audit or review that an overpayment has occurred, the department will issue a preliminary finding of a tentative overpayment and inform the provider of the opportunity to request a reevaluation.

79.4(5) Disagreement with audit or review findings. If a provider disagrees with the preliminary finding of a tentative overpayment, the provider may request a reevaluation by the department and may present clarifying information and supplemental documentation.

a. Reevaluation request. A request for reevaluation must be submitted in writing within 15 calendar days of the date of the notice of the preliminary finding of a tentative overpayment. The request must specify the reason or the specific issues of disagreement.

(1) If the audit or review is being performed by the Iowa Medicaid enterprise surveillance and utilization review services unit, the request should be addressed to: Iowa Medicaid Enterprise, Surveillance and Utilization Review Services Unit, P.O. Box 36390, Des Moines, Iowa 50315.

(2) If the audit or review is being performed by any other departmental entity, the request should be addressed to: Iowa Department of Human Services, Attention: Fiscal Management Division, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

b. Additional information. A provider that has made a reevaluation request pursuant to paragraph “a” of this subrule may submit clarifying information or supplemental documentation that was not previously provided. This information must be received at the applicable address within 30 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider, except as provided in paragraph “c” of this subrule.

c. Disagreement with sampling results. When the department’s audit or review findings have been generated through sampling and extrapolation and the provider disagrees with the findings, the burden of proof of compliance rests with the provider. The provider may present evidence to show that the sample was invalid. The evidence may include a 100 percent audit or review of the universe of provider records used by the department in the drawing of the department’s sample. Any such audit or review must:

(1) Be arranged and paid for by the provider.

(2) Be conducted by an individual or organization with expertise in coding, medical services, and Iowa Medicaid policy if the issues relate to clinical records.

(3) Be conducted by a certified public accountant if the issues relate to fiscal records.

(4) Demonstrate that bills and records that were not audited or reviewed in the department’s sample are in compliance with program regulations.

(5) Be submitted to the department with all supporting documentation within 60 calendar days of the mailing of the preliminary finding of a tentative overpayment to the provider.

79.4(6) Finding and order for repayment. Upon completion of a requested reevaluation or upon expiration of the time to request reevaluation, the department shall issue a finding and order for repayment of any overpayment and

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may immediately begin withholding payments on other claims to recover any overpayment.

79.4(7) Appeal by provider of care. A provider may appeal the finding and order of repayment and withholding of payments pursuant to 441—Chapter 7. However, an appeal shall not stay the withholding of payments or other action to collect the overpayment. Documentation not received by the department pursuant to the requirements in paragraph 79.4(3)“a,” paragraph 79.4(3)“b,” or subrule 79.4(5) shall not be considered on appeal.

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

ITEM 5. Rescind and reserve **441—Chapter 87**.

ARC 6371B**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 11, “Overpayments,” Iowa Administrative Code.

These amendments restructure Chapter 11 to accommodate the collection of debts due to trafficking in Food Assistance benefits. “Trafficking” is the buying or selling of electronic benefits transfer (EBT) cards or trading benefits for firearms, ammunition, explosives, controlled substances, or any consideration other than eligible food. The value of the trafficked benefits is not an overpayment, since the benefits were correctly issued to an eligible household, but is a federal debt that the state is required to collect. This debt is treated as an intentional program violation for collection purposes.

These amendments change the title of the chapter to “Collection of Public Assistance Debts,” substitute the term “debt” for “overpayment,” and redefine the term “debtor” to include persons found guilty of trafficking. Language is added to clarify procedure on establishment of a claim and when a claim is subject to collection action. The amendments also update the definition of “public assistance” to include the IowaCare program and update form titles and program names.

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). However, the Department does not have the authority to waive federal requirements.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6370B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before November 28, 2007. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be

sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 217.34, 234.6(4), 239B.14, and 249A.5.

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

ARC 6390B**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 236.6(4), the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

This amendment implements a mini-simplified food stamp program, which allows Iowa to take advantage of an option allowed under federal food stamp regulations that will help the state meet the federal work participation rate requirements for Temporary Assistance to Needy Families (TANF) funding for Iowa’s Family Investment Program.

Under the mini-simplified food stamp program, the state has the option to replace one or more Food Assistance work rules with TANF work rules. Iowa has obtained federal approval to combine the value of the household’s monthly Food Assistance benefits with its monthly Family Investment Program benefit amount to determine the maximum number of hours the Department can require a household member under the Family Investment Program to participate in an unpaid work activity that is subject to the federal Fair Labor Standards Act. Although this will result in a higher number of hours required, TANF regulations provide that when this method is used, working that number of hours is deemed to satisfy federal work participation requirements (20 hours per week for a single-parent family or 30 hours per week for a two-parent family).

For example, under current policy, a single parent who receives \$361 per month in Family Investment Program benefits and \$125 per month in Food Assistance benefits can be required to participate in unpaid work activity for only 13 hours per week and could not meet the Family Investment Program 20-hour work requirement without adding other activities. Under the mini-simplified food stamp program, this parent could be required to participate in unpaid work activity for 18 hours per week, and this level of participation would be deemed to meet the 20-hour requirement.

The Department has chosen to include in the mini-simplified food stamp program only Family Investment Program households that include a parent who is exempt from Food Assistance work registration requirements due to caring for a child under the age of six. This exemption ensures that the person’s Food Assistance benefits would not be negatively affected by failure to meet the Family Investment

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Program work requirement. Therefore, implementation of the program will not reduce Food Assistance benefits and may lower the effective work participation requirement for receipt of Family Investment Program benefits.

This amendment does not provide for waivers in specified situations because the rule has no negative effect on Food Assistance benefits and the Department has no authority to waive requirements set in federal regulations.

Any interested person may make written comments on the proposed amendment on or before November 28, 2007. 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.

This amendment is intended to implement Iowa Code section 234.12.

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 amendment is proposed.

Rescind subrule 65.28(19) and adopt the following **new** subrule in lieu thereof:

65.28(19) Mini-simplified food stamp program.

a. Scope. The department operates a mini-simplified food stamp program for households that:

(1) Also receive benefits under the family investment program; and

(2) Include a parent who is exempt from food assistance requirements for work registration due to caring for a child under the age of six.

b. Effect. The mini-simplified food stamp program allows replacement of certain food stamp program work rules with work rules of the Temporary Assistance to Needy Families program. The value of the household's monthly food assistance benefits shall be combined with its monthly family investment program benefit amount to determine the maximum number of hours the department can require a household member under the family investment program to participate in an unpaid work activity that is subject to the federal Fair Labor Standards Act. Maximum required hours of participation for a month are determined by dividing the total amount of benefits by the state or federal minimum wage, whichever is higher.

ARC 6378B

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.

The proposed amendments simplify and clarify policies on Medicaid coverage of prescribed outpatient drugs. Coverage requirements for prescription and nonprescription drugs are reorganized and moved from the physicians' services rule, 441—78.1(249A), into the rule currently titled retail pharmacies, 441—78.2(249A). Changes have been made as follows:

- The list of covered nonprescription drugs is expanded to include nonprescription drugs designated as preferred drugs.

- The limit on the quantity of prescription drugs dispensed is increased from a 30-day supply to a 31-day supply to accommodate longer months.

- The provision setting prior authorization at 24 months is removed.

- Language is added to clarify that a prescription is a condition for Medicaid payment of all drugs, whether on not a prescription would otherwise be required under Iowa law, and that prescriptions must be available for audit by the Department.

- The legal citations governing prescriptions are updated.

- Provisions in current rule 441—78.2(249A) relating to medical supplies and equipment are removed, since they are outside the scope of the new rule and are already included in the coverage rule for medical equipment and supplies, 441—78.10(249A).

- References to “recipient” are changed to the term “member” as defined in rule 441—75.25(249A).

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 November 28, 2007. 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 subrule 78.1(2) as follows:

Amend the introductory paragraph as follows:

78.1(2) ~~Payment will be made for drugs~~ *Drugs* and supplies ~~may be covered~~ when prescribed by a legally qualified practitioner (physician, dentist, podiatrist, therapeutically certified optometrist, physician assistant, or advanced registered nurse practitioner) as provided in this rule.

Rescind paragraph “a” and adopt the following **new** paragraph in lieu thereof:

a. Drugs are covered as provided by rule 441—78.2(249A).

Amend paragraph “b,” introductory paragraph, as follows:

b. Medical supplies are payable when ordered by a legally qualified practitioner for a specific rather than incidental

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use, *subject to the conditions specified in rule 441—78.10(249A)*. When a member is receiving care in a nursing facility or residential care facility, payment will be approved only for the following supplies when prescribed by a legally qualified practitioner:

Amend paragraph “c” as follows:

c. Prescription records are required for all drugs as specified in Iowa Code sections ~~455.33 124.308, 455.34 155A.27 and 204.308 155A.29~~. For the purposes of the medical assistance program, prescriptions for medical supplies are required and shall be subject to the same provisions.

Rescind and reserve paragraphs “d” and “f.”

ITEM 2. Strike the word “recipient” or “recipients” wherever the word appears in paragraphs **78.1(2)**“e,” **78.1(13)**“c,” and **78.1(13)**“d,” and subrules **78.1(21)**, **78.1(22)**, and **78.1(23)** and insert the word “member” or “members” in lieu thereof.

ITEM 3. Rescind rule 441—78.2(249A) and adopt the following **new** rule in lieu thereof:

441—78.2(249A) Prescribed outpatient drugs. Payment will be made for “covered outpatient drugs” as defined in 42 U.S.C. Section 1396r-8(k)(2)-(4) subject to the conditions and limitations specified in this rule.

78.2(1) Qualified prescriber. All drugs are covered only if prescribed by a legally qualified practitioner (physician, dentist, podiatrist, therapeutically certified optometrist, physician assistant, or advanced registered nurse practitioner).

78.2(2) Prescription required. As a condition of payment for all drugs, including “nonprescription” or “over-the-counter” drugs that may otherwise be dispensed without a prescription, a prescription shall be transmitted as specified in Iowa Code sections 124.308 and 155A.27, subject to the provisions of Iowa Code section 155A.29 regarding refills. All prescriptions shall be available for audit by the department.

78.2(3) Qualified source. All drugs are covered only if marketed by manufacturers that have signed a Medicaid rebate agreement with the Secretary of Health and Human Services in accordance with Public Law 101-508 (Omnibus Budget Reconciliation Act of 1990).

78.2(4) Prescription drugs. Drugs that may be dispensed only upon a prescription are covered subject to the following limitations.

a. Prior authorization is required as specified in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A. For drugs requiring prior authorization, reimbursement will be made for a 72-hour supply dispensed in an emergency when a prior authorization request cannot be submitted.

b. Payment is not made for:

(1) Drugs whose prescribed use is not for a medically accepted indication as defined by Section 1927(k)(6) of the Social Security Act.

(2) Drugs used to cause anorexia, weight gain, or weight loss, except for lipase inhibitor drugs prescribed for weight loss with prior authorization as provided in paragraph “a.”

(3) Drugs used for cosmetic purposes or hair growth.

(4) Drugs used to promote smoking cessation, except for generic bupropion sustained-release products that are indicated for smoking cessation by the U.S. Food and Drug Administration.

(5) Otherwise covered outpatient drugs if the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or the manufacturer’s designee.

(6) Drugs described in Section 107(c)(3) of the Drug Amendments of 1962 and identical, similar, or related drugs (within the meaning of Section 310.6(b)(1) of Title 21 of the Code of Federal Regulations (drugs identified through the Drug Efficacy Study Implementation (DESI) review)).

(7) “Covered Part D drugs” as defined by 42 U.S.C. Section 1395w-102(e)(1)-(2) for any “Part D eligible individual” as defined by 42 U.S.C. Section 1395w-101(a)(3)(A), including a member who is not enrolled in a Medicare Part D plan.

(8) Drugs prescribed for fertility purposes, except when prescribed for a medically accepted indication other than infertility, as defined in subparagraph (1).

(9) Drugs used for the treatment of sexual or erectile dysfunction, except when used to treat a condition other than sexual or erectile dysfunction for which the drug has been approved by the U.S. Food and Drug Administration.

(10) Prescription drugs for which the prescription was executed in written (and nonelectronic) form unless the prescription was executed on a tamper-resistant pad, as required by Section 1903(i)(23) of the Social Security Act (42 U.S.C. Section 1396b(i)(23)).

78.2(5) Nonprescription drugs. The following drugs that may otherwise be dispensed without a prescription are covered subject to the prior authorization requirements stated below and as specified in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A:

Acetaminophen tablets 325 mg, 500 mg
 Acetaminophen elixir 160 mg/5 ml
 Acetaminophen solution 100 mg/ml
 Acetaminophen suppositories 120 mg
 Artificial tears ophthalmic solution
 Artificial tears ophthalmic ointment
 Aspirin tablets 325 mg, 650 mg, 81 mg (chewable)
 Aspirin tablets, enteric coated 325 mg, 650 mg, 81 mg
 Aspirin tablets, buffered 325 mg
 Bacitracin ointment 500 units/gm
 Benzoyl peroxide 5%, gel, lotion
 Benzoyl peroxide 10%, gel, lotion, wash
 Calcium carbonate chewable tablets 1250 mg (500 mg elemental calcium)
 Calcium carbonate suspension 1250 mg/5 ml
 Calcium carbonate tablets 600 mg
 Calcium carbonate-vitamin D tablets 500 mg-200 units
 Calcium carbonate-vitamin D tablets 600 mg-200 units
 Calcium citrate tablets 950 mg (200 mg elemental calcium)
 Calcium gluconate tablets 650 mg
 Calcium lactate tablets 650 mg
 Chlorpheniramine maleate tablets 4 mg
 Clotrimazole vaginal cream 1%
 Diphenhydramine hydrochloride capsules 25 mg
 Diphenhydramine hydrochloride elixir, liquid, and syrup 12.5 mg/5 ml
 Ferrous sulfate tablets 300 mg, 325 mg
 Ferrous sulfate elixir 220 mg/5 ml
 Ferrous sulfate drops 75 mg/0.6 ml
 Ferrous gluconate tablets 300 mg, 325 mg
 Ferrous fumarate tablets 325 mg
 Guaifenesin 100 mg/5 ml with dextromethorphan 10 mg/5 ml liquid
 Ibuprofen suspension 100 mg/5 ml
 Ibuprofen tablets 200 mg
 Insulin
 Lactic acid (ammonium lactate) lotion 12%
 Loperamide hydrochloride liquid 1 mg/5 ml

HUMAN SERVICES DEPARTMENT[441](cont'd)

Loperamide hydrochloride tablets 2 mg
 Loratadine tablets 10 mg
 Magnesium hydroxide suspension 400 mg/5 ml
 Magnesium oxide capsule 140 mg (85 mg elemental magnesium)
 Magnesium oxide tablets 400 mg
 Meclizine hydrochloride tablets 12.5 mg, 25 mg oral and chewable
 Miconazole nitrate cream 2% topical and vaginal
 Miconazole nitrate vaginal suppositories, 100 mg
 Multiple vitamin and mineral products with prior authorization
 Neomycin-bacitracin-polymyxin ointment
 Niacin (nicotinic acid) tablets 25 mg, 50 mg, 100 mg, 250 mg, 500 mg
 Nicotine gum 2 mg, 4 mg
 Nicotine patch 7 mg/day, 14 mg/day and 21 mg/day
 Omeprazole magnesium delayed-release tablets 20 mg (base equivalent)
 Pediatric oral electrolyte solutions
 Permethrin liquid 1%
 Pseudoephedrine hydrochloride tablets 30 mg, 60 mg
 Pseudoephedrine hydrochloride liquid 30 mg/5 ml
 Pseudoephedrine/dextromethorphan 15 mg/7.5 mg/5 mL liquid
 Pseudoephedrine/dextromethorphan 20 mg/10 mg/5 mL liquid
 Pseudoephedrine/dextromethorphan 30 mg/15 mg/5 mL liquid
 Pseudoephedrine/dextromethorphan 20 mg/10 mg/5 mL elixir
 Pseudoephedrine/dextromethorphan 15 mg/5 mg/5 mL syrup
 Pseudoephedrine/dextromethorphan 15 mg/7.5 mg/5 mL syrup
 Pseudoephedrine/dextromethorphan 30 mg/15 mg/5 mL syrup
 Pseudoephedrine/dextromethorphan 7.5 mg/2.5 mg/0.8 mL solution
 Pyrethrins-piperonyl butoxide liquid 0.33-4%
 Pyrethrins-piperonyl butoxide shampoo 0.3-3%
 Pyrethrins-piperonyl butoxide shampoo 0.33-4%
 Salicylic acid liquid 17%
 Senna tablets 187 mg
 Sennosides-docusate sodium tablets 8.6 mg-50 mg
 Sennosides granules 15 mg/5 ml
 Sennosides tablets 187 mg
 Sodium bicarbonate tablets 325 mg
 Sodium bicarbonate tablets 650 mg
 Sodium chloride hypertonic ophthalmic ointment 5%
 Sodium chloride hypertonic ophthalmic solution 5%
 Sodium chloride solution 0.9% for inhalation with metered dispensing valve 90 ml, 240 ml
 Tolnaftate 1% cream, solution, powder
 Other nonprescription drugs listed as preferred in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A.

78.2(6) Quantity prescribed and dispensed.

a. When it is not therapeutically contraindicated, the legally qualified practitioner shall prescribe a quantity of prescription medication sufficient for up to a 31-day supply. Oral contraceptives may be prescribed in 90-day quantities.

b. Oral solid forms of covered nonprescription items shall be prescribed and dispensed in a minimum quantity of 100 units per prescription or the currently available consum-

er package size except when dispensed via a unit-dose system.

78.2(7) Lowest cost item. The pharmacist shall dispense the lowest cost item in stock that meets the requirements of the practitioner as shown on the prescription.

78.2(8) Consultation. In accordance with Public Law 101-508 (Omnibus Budget Reconciliation Act of 1990), a pharmacist shall offer to discuss information regarding the use of the medication with each Medicaid member or the caregiver of a member presenting a prescription. The consultation is not required if the person refuses the consultation. Standards for the content of the consultation shall be found in rules of the Iowa board of pharmacy.

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

ITEM 4. Amend subrule **78.28(1)**, paragraph “a,” as follows:

a. Drugs require prior approval *authorization* as specified in the preferred drug list published by the department pursuant to Iowa Code section 249A.20A. ~~Prior authorization will be granted for 12-month periods unless otherwise specified in the preferred drug list.~~ For drugs requiring prior authorization, reimbursement will be made for a 72-hour supply dispensed in an emergency when a prior authorization request cannot be submitted and a response received within 24 hours, such as after working hours or on weekends.

ARC 6369B**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 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This amendment increases the Medicaid upper payment limit for inpatient services in a psychiatric medical institution for children from \$160.71 per day to \$165.53 per day effective July 1, 2007, as directed by 2007 Iowa Acts, House File 909, section 31(1), paragraph “h.”

The amendment does not provide for waivers in specified situations because the Department has no authority to waive a limit set by legislation.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6368B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before November 28, 2007. 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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment is intended to implement Iowa Code section 249A.4 and 2007 Iowa Acts, House File 909, section 31(1).

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

ARC 6407B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

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 97B.4 and 97B.15, the Iowa Public Employees' Retirement System hereby gives Notice of Intended Action to amend Chapter 16, “Assignments,” Iowa Administrative Code.

IPERS proposes the amendments to clarify IPERS' implementation of orders drafted using its model documents, to improve fairness and predictability, and to increase efficiency in the administration of qualified domestic relations orders.

There are no waiver provisions included in the proposed amendments.

Any person may make written suggestions or comments on the proposed amendments on or before November 27, 2007. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator, IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to info@ipers.org.

A public hearing will be held on November 27, 2007, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

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 **495—Chapter 16**, title, as follows:

CHAPTER 16 QUALIFIED DOMESTIC RELATIONS ORDERS AND OTHER ASSIGNMENTS

ITEM 2. Amend paragraph **16.2(2)“c”** by adding the following **new** subparagraph **(5)**:

(5) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member.

ITEM 3. Amend subrule **16.2(3)** as follows:

Rescind paragraph **“b,”** reletter paragraphs **“c”** to **“m”** as **“d”** to **“n,”** and adopt **new** paragraphs **“b”** and **“c”** as follows:

b. The alternate payee shall not be entitled to any share of the member's death benefits except to the extent such entitlement is recognized in a qualified domestic relations order or in a beneficiary designation filed subsequent to the dissolution.

c. If a qualified domestic relations order directs the member to name the alternate payee under the order as a designated beneficiary, and the member fails to do so, the provisions of the qualified domestic relations order awarding the alternate payee a share of the member's death benefit shall be deemed, except as revoked or modified in a subsequent qualified domestic relations order, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member's death benefits. Death benefits remaining after payments required by the qualified domestic relations order, to the extent possible, shall then be made according to the terms of the member's most recent beneficiary designation.

Amend relettered paragraphs **“h,” “k,” “l”** and **“m”** as follows:

h. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. *If the order is determined to be qualified after the current month's benefit is certified for payment, the alternate payee's portion of the member's benefit shall begin with the next month's benefit paid to the member without credit for the prior month's payment.* If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the following one-year period, IPERS shall release the hold.

k. If an alternate payee's application is received ~~less than two weeks before~~ *after* the member's first or ~~next monthly payment~~ *current month's benefit is to be made certified for payment,* ~~payments to the alternate payee~~ *payee's portion of the member's benefit shall begin with the next following month's benefit paid to the member without credit for the prior month's payment.*

l. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received ~~not less than two weeks in advance of the alternate payee's first payment,~~ *before the first or current month's benefit is certified for payment* or IPERS will use the applicable default tax withholding elections.

m. If an order that is determined to be a qualified domestic relations order divides a member's account using a service

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

factor formula *and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary*, IPERS shall limit the number of quarters used in the numerator *and the denominator* of the service fraction to the number of quarters actually used in the calculation of IPERS benefits.

ARC 6394B**LABOR SERVICES DIVISION[875]****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 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 66, "Waivers or Variances from Administrative Rules by the Elevator Safety Board," and Chapter 71, "Administration," Iowa Administrative Code.

The Board proposes to change the requirements for using a waiver as a defense to an enforcement action, and to create an additional requirement that waivers be permanently and conspicuously posted. The Board also proposes a technical change relating to the safety tests.

The purpose of these amendments is to facilitate the automatic transfer of variances from one building owner to the next while still protecting the safety of the public and to implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on November 29, 2007, a public hearing will be held on November 30, 2007, at 1 p.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than November 30, 2007, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

These amendments are intended to implement Iowa Code chapter 89A.

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 875—66.10(17A,89A) by adopting **new** subrule 66.10(10) as follows:

66.10(10) Posting of orders granting waivers. The order or a copy of the order granting a waiver shall be conspicuously and permanently posted in the machine room correspond-

ing to the conveyance. The order or a copy of the order granting a waiver that relates to a conveyance that does not have a machine room shall be posted in a protective sleeve attached to the inside of the controller cabinet door corresponding to the conveyance.

ITEM 2. Amend rule 875—66.15(17A,89A) as follows:

875—66.15(17A,89A) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the ~~person to whom~~ *specific conveyance to which* the order pertains in any proceeding in which the rule in question is sought to be invoked.

ITEM 3. Amend paragraph **71.2(2)"c,"** introductory paragraph, as follows:

c. Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own facilities. All tests shall be in accordance with ASME A17.1-2004, A17.1a-2005 and A17.1S-2005, part 8 (except for rule 8.11.1.1), *and or* A18.1 (2003), part 10, *as applicable*. Safety tests shall be in a format approved by the commissioner. The firm or person conducting the tests shall:

ARC 6380B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 40, "Administrative and Regulatory Authority for the Board of Chiropractic Examiners," Chapter 41, "Licensure of Chiropractic Physicians," Chapter 42, "Colleges for Chiropractic Physicians," Chapter 43, "Practice of Chiropractic Physicians," Chapter 44, "Continuing Education for Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

These proposed amendments add references to the continuing education standards in the license reactivation rules, adopt new standards for record-keeping and billing procedures, rescind language that is not supported by statute, and implement changes necessitated by the passage of 2007 Iowa Acts, Senate File 74.

Any interested person may make written comments on the proposed amendments no later than November 27, 2007, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on November 27, 2007, 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,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

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

The following amendments are proposed.

ITEM 1. Amend **645—Chapter 40** through **645—Chapter 45** by striking the term “board of chiropractic examiners” wherever it appears and inserting the term “board of chiropractic” in lieu thereof.

ITEM 2. Amend subparagraph **41.14(3)“a”(2)** as follows:

(2) Verification of completion of 60 hours of continuing education *that comply with standards defined in 645—44.3(151,272C)* within two years of the application for reactivation.

ITEM 3. Amend subparagraph **41.14(3)“b”(2)** as follows:

(2) Verification of completion of 60 hours of continuing education *that comply with standards defined in 645—44.3(151,272C)* within two years of application for reactivation; and

ITEM 4. Rescind and reserve subrule **41.5(6)**.

ITEM 5. Adopt **new** rule 645—43.9(151) as follows:

645—43.9(151) Record keeping.

43.9(1) Chiropractic physicians shall maintain clinical records in a manner consistent with the protection of the welfare of the patient. Records shall be timely, dated, chronological, accurate, signed or initialed, legible, and easily understandable. Record-keeping rules apply to all patient records whether handwritten, typed or maintained electronically. Electronic signatures are acceptable when the record has been reviewed by the physician whose signature appears on the record.

43.9(2) Chiropractic physicians shall maintain clinical records for each patient. The clinical records shall, at a minimum, include all of the following:

a. Personal data.

- (1) Name;
- (2) Date of birth;
- (3) Address; and
- (4) Name of parent or guardian if a patient is a minor.

b. Health history. Records shall include information from the patient or the patient's parent or guardian regarding the patient's health history.

c. Patient's reason for visit. When a patient presents with a chief complaint, clinical records shall include the patient's stated health concerns.

d. Clinical examination progress notes. Records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, a summary of all pertinent diagnoses, and updated health assessments;
- (2) Plan of intended treatment, including description of treatment, frequency and duration;
- (3) Services rendered and any treatment complications;
- (4) All testing ordered or performed;

(5) Diagnostic imaging report if imaging procedure is ordered or performed;

(6) Sufficient data to support the recommended treatment plan.

e. Clinical record. Each page of the clinical record shall include the patient's name, the date information was recorded and the doctor's name or facility's name.

43.9(3) Retention of records. A chiropractic physician shall maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements.

43.9(4) Electronic record keeping. When electronic records are utilized, a chiropractic physician shall maintain either a duplicate hard-copy record or a backup electronic record.

43.9(5) Correction of written records. Notations shall be legible, written in ink, and contain no erasures or whiteouts. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.9(6) Correction of electronic records. Any alterations made after the date of service shall be visibly recorded. All alterations shall include a notation setting forth the date of alteration and identification of the author. Entries recorded at a time other than the date of the patient encounter must include the date of the entry and the initials of the author.

43.9(7) Abbreviations shall be standard and common to all health care disciplines. Nonstandard abbreviations shall be referenced with a key that is included in the record when the record is requested.

43.9(8) Confidentiality and transfer of records. Chiropractic physicians shall preserve the confidentiality of patient records. Upon signed request of the patient, the chiropractic physician shall furnish such records or copies of the records as directed by the patient within 30 days. A notation indicating the items transferred, date and method of transfer shall be maintained in the patient record. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees. In certain instances a summary of the record may be more beneficial for the future treatment of the patient; however, if a third party requests copies of the original documentation, that request must be honored.

43.9(9) Retirement or discontinuance of practice. A licensee, upon retirement, discontinuance of the practice of chiropractic, leaving a practice, or moving from a community, shall:

a. Notify all active patients, in writing and by publication, once a week for three consecutive weeks in a newspaper of general circulation in the community. The notification shall include the following information:

(1) That the licensee intends to discontinue the practice of chiropractic in the community and that patients are encouraged to seek the services of another licensee; and

(2) How patients can obtain their records, including the name and contact information of the records custodian.

b. Make reasonable arrangements with active patients for the transfer of patient records, or copies of those records, to the succeeding licensee.

c. For the purposes of this subrule, “active patient” means a person whom the licensee has examined, treated,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

cared for, or otherwise consulted with during the one-year period prior to retirement, discontinuation of the practice of chiropractic, leaving a practice, or moving from a community.

43.9(10) Record-keeping procedures and standards shall be utilized for all individuals who receive treatment from a chiropractic physician in all sites where care is provided.

43.9(11) A chiropractic physician who offers a prepayment plan for chiropractic services shall:

a. Have a written prepayment policy statement that is maintained in the office and available to patients upon request. The policy statement, at a minimum, shall include provisions that:

(1) Prepaid funds will not be expended until services are provided; and

(2) The patient shall receive a prompt refund of any unused funds upon request. The refund shall be calculated based on a defined method, which shall be clearly set forth in the written prepayment policy statement.

b. Require the patient to sign and date a prepayment document that incorporates the conditions and descriptions of the written prepayment policy statement.

c. Maintain the signed and dated written prepayment policy statement in the patient's record.

ITEM 6. Adopt **new** rule 645—43.10(151) as follows:

645—43.10(151) Billing procedures.

43.10(1) Chiropractic physicians shall maintain accurate billing records for each patient. Records may be stored on paper or electronically. The records shall contain all of the following:

- a. Name, date of birth and address.
- b. Diagnosis indicated with description or ICD code.
- c. Services provided with description or CPT code.
- d. Dates of services provided.
- e. Charges for each service provided.
- f. Payments made for each service and indication of the party providing payment.
- g. Dates payments are made.
- h. Balance due for any outstanding charges.

43.10(2) Chiropractic physicians shall preserve the confidentiality of billing records.

43.10(3) Upon signed request of the patient, the chiropractic physician shall furnish billing records or copies of the records as directed by the patient within 30 days. The chiropractic physician may charge a reasonable fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

43.10(4) Each chiropractic physician is responsible for the accuracy and validity of billings submitted under the chiropractic physician's name.

43.10(5) Chiropractic physicians:

a. Who are owners, operators, members, partners, shareholders, officers, directors, or managers of a chiropractic clinic will be responsible for the policies, procedures and billings generated by the clinic.

b. Who provide clinical services are required to familiarize themselves with the clinic's billing practices to ensure that the services rendered are accurately reflected in the billings generated. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by an employer, agent or any other individual or business entity responsible for such error.

43.10(6) A chiropractic physician has a right to review and correct all billings submitted under the chiropractic physician's name or identifying number(s). Signature stamps or electronically generated signatures shall be utilized only with the authorization of the chiropractic physician whose name or signature is designated. Such authorization may be revoked at any time in writing by the chiropractic physician.

43.10(7) Chiropractic physicians shall not knowingly:

a. Increase charges when a patient utilizes a third-party payment program.

b. Report incorrect dates or types of service on any billing documents.

c. Submit charges for services not rendered.

d. Submit charges for services rendered which are not documented in a patient's record.

e. Bill patients or make claims under a third-party payer contract for chiropractic services that have not been performed.

f. Bill patients or make claims under a third-party payer contract in a manner which misrepresents the nature of the chiropractic services that have been performed.

43.10(8) For cases not involving third-party payers, nothing in this rule shall prevent a chiropractic physician from providing a fee reduction for reasonable time of service or substantiated hardship cases. The chiropractic physician shall document time of service or hardship case fee reduction provisions in the patient record.

43.10(9) The chiropractic physician shall not enter into an agreement to waive, abrogate, or rebate the deductible and/or copayment amounts of any third-party payer contract by forgiving any or all of any patient's obligation for payment thereunder, except in substantiated hardship cases, unless the third-party payer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in accordance with the third-party payer contract. The chiropractic physician shall document any hardship case fee reduction provisions in the patient record.

ITEM 7. Amend subrule **44.3(2)**, paragraph "**b**," as follows:

Amend subparagraphs (2) and (4) as follows:

(2) Completing electronically transmitted programs/activities or independent study programs/activities that have a certificate of completion *that meets criteria in 645—44.3(151,272C)*.

(4) Completing continuing education that meets criteria in 645—44.3(151,272C) or a program provided by a CCE-accredited chiropractic college in the United States, the Iowa Chiropractic Society, American Chiropractic Association or International Chiropractic Chiropractors Association.

Renumber subparagraph (5) as (6) and adopt **new** subparagraph (5) as follows:

(5) Completing continuing education courses/programs that are certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB).

ARC 6367B**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 1, "Organization and Operation," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," Chapter 9, "Harness Racing," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

Items 1 to 11 and 13 to 17 are due to legislative changes, correction of typographical error, relocation of a rule to another chapter, or correction of Iowa Rules of Civil Procedure references.

Item 12 changes when the weekly and monthly numbers are due to the Commission.

Items 18 to 33 update existing rules to correspond with the national uniform rules of racing.

Item 34 allows for the use of more than one independent testing facility for the testing of gambling games or implements of gambling.

Item 35 makes the cash payout of a prize to be at least 75 percent of the fair market value of the merchandise or thing of value offered as a prize.

Item 36 changes the theoretical payout percentage to an actual aggregate payout percentage.

Item 37 requires a progressive jackpot that has been removed from the floor to be transferred to another progressive slot machine at the same facility within 30 days of removal.

Any person may make written suggestions or comments on the proposed amendments on or before November 27, 2007. 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 November 27, 2007, 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 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 1.5(1) as follows:

1.5(1) Racing, *gambling structure*, or excursion gambling boat license application. This form shall contain at a minimum the full name of the applicant, all ownership interests,

balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee to offset the commission's cost for processing the application in the amount of \$25,000. The fee shall be \$5,000 for each subsequent application involving the same operator and the same qualified sponsoring organization. Additionally, the applicant shall remit an investigative fee of \$30,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.

ITEM 2. Amend subrule 1.5(3) as follows:

1.5(3) Renewal application for excursion gambling boat or *gambling structure* license. This form shall contain, at a minimum, the full name of the applicant, annual fee, distribution to qualified sponsoring organizations, table of organization, internal controls, operating agreement, hours of operation, casino operations, Iowa resources, contracts, guarantee bond, notarized certification of truthfulness, and gambling treatment program. The form may include other information the commission deems necessary to make a decision on the license application. An annual fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew. *For a gambling structure, the annual license fee shall be based on the capacity of the gambling structure.* The fee shall be \$5 per person capacity and accompany this application.

ITEM 3. Amend subrule 1.7(11) as follows:

1.7(11) Character and reputation. The commission will consider whether there is substantial evidence that the officers, directors, partners, or shareholders of the applicant are not of good repute and moral character. Any evidence concerning an officer's, director's, partner's, or shareholder's current or past conduct, dealings, habits, or associations relevant to that individual's character and reputation may be considered. The commission may consider all relevant facts surrounding alleged criminal or wrongful conduct resulting in the filing of criminal charges, a conviction, nolo contendere, no contest or Alford pleas entered by the applicant or operator in any court or administrative proceedings. A criminal conviction of an individual shall be conclusive evidence that the individual committed the offense for which the individual was convicted, but this does not preclude the commission from considering evidence that the individual committed additional offenses. The commission shall decide what weight and effect evidence about an officer, director, partner, or shareholder should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Officers, directors, partners, and shareholders who have a significant interest in the management, ownership, operation, or success of an *application applicant* may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role in such matters.

ITEM 4. Amend rule **491—4.2(17A)**, definitions of "gaming board" and "gaming representative," as follows:

"Gaming board" means a board established by the administrator to review conduct by occupational, excursion gam-

RACING AND GAMING COMMISSION[491](cont'd)

bling boat, *gambling structure*, and gambling game licensees that may constitute violations of the rules and statutes relating to gaming. The administrator may serve as a board of one.

“Gaming representative” means an employee of the commission assigned by the administrator to a licensed pari-mutuel racetrack, ~~or~~ excursion gambling boat, *or gambling structure* to perform the supervisory and regulatory duties of the commission.

ITEM 5. Amend subrule 4.4(2), introductory paragraph, as follows:

4.4(2) The gaming representative shall monitor, supervise, and regulate the activities of occupational, pari-mutuel racetrack, gambling game, ~~and~~ excursion gambling boat, *and gambling structure* licensees. A gaming representative may investigate any questionable conduct by a licensee for any violation of the rules or statutes. A gaming representative may refer an investigation to the gaming board upon suspicion that a licensee or nonlicensee has committed a violation of the rules or statutes.

ITEM 6. Amend subrule 4.4(5) as follows:

4.4(5) A gaming representative may eject and exclude any person from the premises of a pari-mutuel racetrack, ~~or~~ excursion gambling boat, *or gambling structure* for any reason justified by the rules or statutes. The gaming representative may provide notice of ejection or exclusion orally or in writing. The gaming representative may define the scope of the exclusion to any degree necessary to protect the integrity of racing and gaming in Iowa. The gaming representative may exclude the person for a certain or an indefinite period of time.

ITEM 7. Amend subrule 4.6(6) as follows:

4.6(6) A steward may eject and exclude any person from the premises of a pari-mutuel racetrack, ~~or~~ excursion gambling boat, *or gambling structure* for any reason justified by the rules or statutes. The steward may provide notice of ejection or exclusion orally or in writing. The steward may define the scope of the exclusion to any degree necessary to protect the integrity of racing and gaming in Iowa. The steward may exclude the person for a certain or indefinite period of time.

ITEM 8. Amend subrule 4.31(5), first paragraph, as follows:

4.31(5) Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure ~~237~~ *1.981* and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

ITEM 9. Amend subrule 4.38(6) as follows:

4.38(6) “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ *1.977*.

ITEM 10. Amend the title of ~~491—~~**Chapter 5** as follows:

CHAPTER 5

TRACK, GAMBLING STRUCTURE, AND EXCURSION
GAMBLING BOAT LICENSEES’ RESPONSIBILITIES

ITEM 11. Amend subrule **5.4(5)**, paragraph “**d**,” last unnumbered paragraph, as follows:

The commission may exclude any person ejected by a licensee from any or all pari-mutuel facilities, *gambling structures*, or excursion gambling boats controlled by any licensee upon a finding that attendance of the person would be adverse to the public interest.

ITEM 12. Amend subrule **5.4(10)**, paragraph “**b**,” as follows:

b. Submission of taxes and fees. All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. A week shall begin on Monday and end on Sunday. The reporting form must be received in the commission office by ~~3 p.m.~~ *noon* on Wednesday following the week’s end. The moneys owed, according to the reporting form, must be received in the treasurer’s office by 11 a.m. on the Thursday following the week’s end. Additionally, each licensee shall file a monthly report indicating adjusted gross receipts received from gambling games, total number of admissions, and amount of regulatory fees paid. These reports shall be by calendar month and filed by ~~close of noon on the third business day~~ *first Wednesday* following the end of the month *unless the end of the month is a Monday or Tuesday, in which case the reports shall be filed by noon on the second Wednesday following the end of the month.*

ITEM 13. Amend subrule 5.4(16) as follows:

5.4(16) Officers, agents, and employees. Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative reserves the right to impose penalties against the license holder or its officer, agent, employee, or both as the commission or commission representative determines appropriate. In addition, the licensee shall be responsible for the conduct of non-licensed persons in nonpublic areas of the excursion gambling boat, *gambling structure*, or racetrack enclosure.

ITEM 14. Amend subrule **5.6(1)**, paragraph “**c**,” as follows:

c. Moored barge. “Barge” means any ~~man-made~~ stationary structure approved by the commission, where the entire gaming floor is ~~at all times~~ located on or ~~within~~ *near* a body of water as defined under Iowa Code section 99F.7, subsection 1, ~~as amended by 2004 Iowa Acts, House File 23-2, section 41,~~ and which facility is subject to land-based building codes rather than maritime or Iowa department of natural resources inspection laws and regulations.

ITEM 15. Amend rule ~~491—~~**6.1(99D,99F)**, definition of “licensee,” as follows:

“Licensee” means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license for a person to work in the pari-mutuel, *gambling structure*, or excursion gambling boat industry in Iowa.

ITEM 16. Amend subrule 6.12(1) as follows:

6.12(1) Upon the commission’s receipt of a certificate of noncompliance, a commission representative shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to an individual. A notice of intended action shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure ~~56.4~~ *1.305*.

ITEM 17. Rescind subrule **6.23(2)**, paragraph “**d**.”

ITEM 18. Amend subrule **9.4(9)** by adding the following new paragraph “**c**”:

RACING AND GAMING COMMISSION[491](cont'd)

c. Starter's list. The official starter shall school horses as may be necessary and shall prepare a list of horses not qualified to start, which shall be delivered to the stewards and the racing secretary and entered on the starter's list. The starter's list shall be posted in the racing secretary's office. No horse on the starter's list shall be eligible to declare until removed from the list.

ITEM 19. Amend subrule **9.5(2)** by adding the following **new** paragraph "**d**":

d. Fine, suspension or both. A fine, suspension or both may be applied to any driver for:

- (1) Delaying the start;
- (2) Failure to obey the starter's instructions;
- (3) Rushing ahead of the inside or outside wing of the gate;
- (4) Coming to the starting gate out of position;
- (5) Crossing over before reaching the starting point;
- (6) Interference with another horse or driver during the start or during the running of the race; or
- (7) Failure to come up into position and remain in position.

ITEM 20. Amend subrule **9.6(19)**, paragraph "**a**," subparagraph (**11**), by adding the following **new** numbered paragraph "**6**":

6. A horse comes to the starting gate out of position.

ITEM 21. Rescind subrule 9.6(23) and insert in lieu thereof the following **new** subrule:

9.6(23) Heat number and saddle pads; entry number. Each competing horse shall be equipped with numbers of style, type, and design approved by the commission or its representatives. Numbers shall be so arranged that coupled entries may be distinguished.

ITEM 22. Amend rule **491—10.1(99D)**, definition of "objection," as follows:

"Objection" means:

1. A written complaint made to the stewards concerning a horse entered in a race and filed not later than ~~two hours~~ *one hour* prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or
2. A verbal claim of foul in a race lodged by the horse's jockey, trainer, owner, or the owner's authorized agent before the race is declared official.

ITEM 23. Amend subrule **10.4(4)** by adding the following **new** paragraph "**e**":

e. Cancel wagering. The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races if such action is necessary to protect the integrity of pari-mutuel wagering.

ITEM 24. Rescind subrule **10.4(5)**, paragraph "**f**," and insert in lieu thereof the following **new** paragraph:

f. Daily program. The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

- (1) The sequence of races to be run and post time for the first race;
- (2) The purse, conditions and distance for each race, and current track record for such distance;
- (3) The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;
- (4) The name of the trainer and the name of the jockey named for each horse together with the weight to be carried;

(5) The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

(6) The identification of each horse by name, color, sex, age, sire and dam; and

(7) Such other information as may be requested by the association or the commission.

ITEM 25. Amend subrule **10.4(11)**, paragraph "**c**," as follows:

c. Ensure all jockeys are in the correct colors *and wearing the correct arm number* before leaving the jockey room to prepare for mounting their horses;

ITEM 26. Amend subrule **10.5(2)**, paragraph "**v**," subparagraph (**4**), numbered paragraph "**4**," as follows:

4. A day in which a jockey participated in one designated race while on suspension shall count as a suspension day. *If a jockey rides in more than one designated race on a race card while on suspension, the day shall not count as a suspension day.* Designated trials for a stake shall be considered one race.

ITEM 27. Renumber subrule **10.5(3)** as **10.5(4)** and adopt the following **new** subrule 10.5(3):

10.5(3) Apprentice jockey. Upon completion of licensing requirements, the stewards may issue an apprentice jockey certificate allowing the holder to claim this allowance only in overnight races.

a. An apprentice jockey shall ride with a five-pound weight allowance beginning with the first mount and for one full year from the date of the jockey's fifth winning mount.

b. If, after riding one full year from the date of the fifth winning mount, the apprentice jockey has not ridden 40 winners, the applicable weight allowance shall continue for one more year or until the fortieth winner, whichever comes first. In no event shall a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted.

c. The steward may extend the weight allowance of an apprentice jockey when, in the discretion of the steward, the apprentice provides proof of incapacitation for a period of seven or more consecutive days. The allowance may be claimed for a period not to exceed the period such apprentice was unable to ride.

d. The apprentice jockey must have the apprentice certificate with the jockey at all times and must keep an updated record of the first 40 winners. Prior to riding, the jockey must submit the certificate to the clerk of scales, who will record the apprentice's winning mounts.

ITEM 28. Amend subrule **10.6(2)**, paragraph "**c**," subparagraph (**1**), as follows:

(1) Entry coupling. When one owner or lessee enters more than one horse in the same race *or a horse trained by a trainer who owns or leases any interest in any of the other horses in the race*, the horses shall be coupled as an entry, *except that entries may be uncoupled in stakes races.* Horses shall be regarded as having a common owner when an owner of one horse, either as an individual, a licensed member of a partnership, or a licensed shareholder of a corporation, has an aggregate commonality of ownership of 5 percent interest in another horse, either as an individual, a licensed member of a partnership, or a licensed shareholder of a corporation.

ITEM 29. Rescind subrule **10.6(2)**, paragraph "**d**," and insert in lieu thereof the following **new** paragraph:

- d. Split or divided races.

RACING AND GAMING COMMISSION[491](cont'd)

(1) In the event a race is canceled or declared off, the facility may split any overnight race for which post positions have not been drawn.

(2) Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split race.

ITEM 30. Rescind and reserve subrule **10.6(2)**, paragraph “f.”

ITEM 31. Amend subrule **10.6(2)** by adding the following **new** paragraph “f”:

1. Naming/engaging of riders. Riders must be named at the time of entry. Before naming any rider, the trainer, owner, or other person authorized must first engage the services of the rider and state on the entry or to the person taking the entry whether it is a first or second call. Riders properly engaged must fulfill their engagements as required in 10.5(2)“1.”

ITEM 32. Amend subrule **10.6(8)**, paragraph “c,” as follows:

c. Limitation on scratches. No horse shall be permitted to be scratched from a race if the horses remaining in the race number fewer than ~~ten~~ *eight*, unless the stewards permit a lesser number. When the number of requests to scratch would, if granted, leave a field of fewer than ~~ten~~ *eight*, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race.

ITEM 33. Amend subrule **10.6(17)**, paragraph “b,” as follows:

b. Touching and dismounting prohibited. After the horses enter the track, jockeys may not dismount or entrust their horse to the care of an attendant unless due to an accident occurring to the jockey, the horse, or the equipment, and then only with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the hands of the jockey, the starter, the assistant starter, the commission veterinarian, an outrider on a lead pony, or persons approved by the stewards may touch the horse before the start of the race. *If a horse throws its jockey on the way from the paddock to the post, the horse must be returned to the point where the jockey was thrown, where the horse shall be remounted and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.*

ITEM 34. Amend subrule 11.4(1) as follows:

11.4(1) Approval. Prior to distribution, a distributor shall request that the administrator inspect, investigate, and approve a gambling game or implement of gambling for compliance with commission rules ~~or~~ *and* the standards required by a commission ~~contract with an~~ *-designated* independent testing facility. The distributor, at its own expense, must provide the administrator *and independent testing facility* with information and product sufficient to determine the integrity and security of the product, including independent testing conducted ~~or contracted by the commission by a designated testing facility.~~ *The commission shall designate up to two independent testing facilities for the purpose of certifying electronic gambling games or implements of gambling.*

ITEM 35. Amend subrule **11.9(3)**, paragraph “d,” as follows:

d. A display on the front of the slot machine that clearly represents its rules of play, character combinations requiring

payouts, and the amount of the related payouts. In addition, a facility shall display on the slot machine a clear description of any merchandise or thing of value offered as a payout including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the facility establishes a time limit upon initially offering the merchandise or thing of value, and the availability or unavailability to the patron of the optional cash equivalent value. *A cash equivalent value shall be at least 75 percent of the fair market value of the merchandise or thing of value offered.*

ITEM 36. Rescind subrule 11.9(5) and insert in lieu thereof the following **new** subrule:

11.9(5) Posting of the actual aggregate payout percentage. The actual aggregate payout percentage to the nearest one-tenth (0.1) percent of all slot machine games in operation during the preceding three calendar months shall be posted at the main casino entrance, cashier cages, and slot booths by the fifteenth day of each calendar month. For the purpose of this calculation, the actual aggregate payout percentage shall be the slot revenue reported to the commission during the preceding three calendar months divided by the slot coin-in reported to the commission during the preceding three calendar months subtracted from 100 percent.

ITEM 37. Rescind subrule 11.12(4) and insert in lieu thereof the following **new** subrule:

11.12(4) Transfer of jackpots. In the event of malfunction, replacement, or other reason approved by the commission, a progressive jackpot that is removed shall be transferred to another progressive slot machine at the same facility within 30 days from the removal date. A commission representative shall be notified in writing prior to a removal or transfer.

ARC 6405B**SECRETARY OF STATE[721]****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 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

2007 Iowa Acts, House File 653, provides a new process for persons who wish to register to vote on election day. These amendments revise existing rules regarding acceptable identification documents for voters to submit at the polls. The identification documents required for election day registration are different from the documents required by the existing rules. The amendment to subrules 21.3(1) and 21.3(2) distinguishes between the two types of identification documents and defines “current and valid,” a phrase used to describe appropriate forms of identification. New rule 721—21.9(48A) is added to prescribe the form of notice to be sent to election day registrants if the U.S. Postal Service returns their acknowledgment notices.

SECRETARY OF STATE[721](cont'd)

Any interested person may make written suggestions or comments on these proposed amendments through 4:30 p.m. on November 27, 2007. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who wish to convey their views orally should contact the Secretary of State's office at (515)281-5823 or at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on November 27, 2007.

These amendments are intended to implement Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2.

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 721—21.3(49), parenthetical implementation statute, as follows:
721—21.3(49,48A)

ITEM 2. Amend subrules 21.3(1) and 21.3(2) as follows:

21.3(1) Optional identification. A precinct election official may require identification from any person whom the official does not know.

21.3(2) Required identification. Precinct election officials shall require identification under the following circumstances:

a. From any person offering to vote whose name does not appear on the election register as an active voter.

b. From any person whose name appears on the election register as an inactive voter.

c. From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.

d. From any person who applies to register to vote on election day, pursuant to Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2.

ITEM 3. Rescind subrule 21.3(3) and adopt in lieu thereof the following **new** subrule:

21.3(3) Identification documents for persons other than election day registrants. Unless the person is registering to vote at the polls on election day, the precinct election officials shall accept the following identification documents from any person who is asked to present ID:

a. Current and valid photo identification card; or

b. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Dear [name of voter],

You have registered and voted under Iowa's Election Day registration law. On [date], this office mailed an acknowledgment to you at the address you used on the voter registration form. The United States Postal Service has returned that acknowledgment to us as undeliverable.

Please return the enclosed response form no later than [date]. If we do not receive your response by [date], your voter registration record will be made inactive and we will notify the county attorney and the State Registrar of Voters.

Please note that voter registration fraud is a felony under Iowa law. Registration fraud includes submitting a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.

ITEM 4. Renumber subrule **21.3(4)** as **21.3(6)** and adopt **new** subrules 21.3(4) and 21.3(5) as follows:

21.3(4) Identification for election day registrants.

a. A person who applies to register to vote on election day shall provide appropriate identification documents as required by Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2.

b. A registered voter, precinct election official, or poll-watcher may attest for no more than one person applying to register to vote at the polls on election day, if the attester is a registered voter of that precinct.

21.3(5) Current and valid identification. "Current and valid" or "ID," for the purposes of this rule, means identification that meets the following criteria:

a. The expiration date on the ID has not passed. An ID is still valid on the expiration date. An ID document that is included on the list of acceptable documents in Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2, and indicates that the ID does not expire, shall be considered current and valid.

b. The ID has not been revoked or suspended.

A current and valid ID may include a former address.

ITEM 5. Amend renumbered subrule 21.3(6) as follows:

21.3(6) ID not provided. A person who has been requested to provide identification and does not provide it shall vote only by ~~special~~ *provisional* ballot pursuant to Iowa Code section 49.81. *However, a person who is registering to vote on election day, pursuant to Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2, may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct.*

ITEM 6. Amend rule **721—21.3(49,48A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 49.77, and section 48A.7A as amended by 2007 Iowa Acts, House File 653, and P.L. 107-252, Section 303.

ITEM 7. Amend subrule **21.4(1)**, paragraph "c," as follows:

c. Present proof of identity as required by ~~rule 21.3(49)~~ *subrule 21.3(3)*.

ITEM 8. Amend 721—Chapter 21 by adding the following **new** rule:

721—21.9(48A) Notice to election day registrant. The commissioner shall send to each person who registers to vote on election day, pursuant to Iowa Code section 48A.7A as amended by 2007 Iowa Acts, House File 653, section 2, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be in substantially the following form:

County Auditor and Commissioner of Elections

Date: _____

SECRETARY OF STATE[721](cont'd)

Response Form

Please confirm your residence at: _____

[address on registration] _____

OR

Explain why the Postal Service does not deliver your mail to that address. _____

There appears to be an error in recording my address. My correct address is: _____

I receive mail at a different address. My mailing address is: _____

My address has changed since election day. My current address is: _____

The Postal Service made a mistake. I do reside at [list registration address]: _____

Other, please explain: _____

Signature of registrant _____

Date: _____

ARC 6388B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 410, "Special Mobile Equipment," Chapter 500, "Interstate Registration and Operation of Vehicles," Chapter 505, "Interstate Motor Vehicle Fuel Licenses and Permits," Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Chapter 513, "Compacted Rubbish Vehicle Permits," Chapter 524, "For-Hire Intrastate Motor Carrier Authority," Chapter 529, "For-Hire Interstate Motor Carrier Authority," Chapter 600, "General Information," Chapter 607, "Commercial Driver Licensing," Chapter 620, "OWI and Implied Consent," Chapter 634, "Driver Education," Chapter 635, "Motorcycle Rider Education (MRE)," Chapter 636, "Motorized Bicycle Rider Education," and Chapter 640, "Financial Responsibility," Iowa Administrative Code.

These amendments reflect the relocation of offices within the Department's Motor Vehicle Division from Park Fair

Mall in Des Moines, Iowa, to 6310 SE Convenience Blvd. in Ankeny, Iowa.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than November 27, 2007.

A meeting to hear requested oral presentations is scheduled for Thursday, November 29, 2007, at 10 a.m. at the Department's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

TRANSPORTATION DEPARTMENT[761](cont'd)

These amendments are intended to implement Iowa Code chapter 307.

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.

Proposed rule-making actions:

ITEM 1. Amend subrule 410.1(3) as follows:

410.1(3) Questions regarding special mobile equipment may be directed by mail to the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa*; or by telephone at (515) 237-3264.

ITEM 2. Amend subrule 500.2(1) as follows:

500.2(1) Information and location. Applications, forms and information on interstate registration and operation of vehicles are available *by mail* from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa*; by telephone at (515) 237-3268; or by facsimile at (515)237-3225.

ITEM 3. Amend subrule 505.2(1) as follows:

505.2(1) ~~Location~~ *Information and location.* Applications, forms and information on interstate motor vehicle fuel permits and licenses are available by mail from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa*; by telephone at (515)237-3264 3224; or by facsimile at (515)237-3257 3354.

ITEM 4. Amend subrule **505.4(6)**, paragraph “b,” as follows:

b. All reports and remittances shall be ~~addressed to: either mailed to the Office of Motor Carrier Services,~~ *either mailed to the Office of Motor Carrier Services,* Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; ~~delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.~~

ITEM 5. Amend subrule 511.2(1) as follows:

511.2(1) Applications, forms, instructions and restrictions are available by mail from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa*; by telephone at (515)237-3264; or by facsimile at (515)237-3257. Permits may be obtained electronically upon making application to the office of motor carrier services.

ITEM 6. Amend rule 761—513.3(321), introductory paragraph, as follows:

761—513.3(321) Application. Forms for an annual special permit for compacted rubbish vehicles ~~may be obtained~~ *are available by mail* from the Office of Motor Carrier Services, Iowa Department of Transportation, ~~Park Fair Mall, 100 Euclid Avenue,~~ P.O. Box 10382, Des Moines, Iowa 50306-0382; *in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3264; or by facsimile at (515)*

237-3257. Completed applications shall include the following:

ITEM 7. Amend subrule 524.2(1) as follows:

524.2(1) Information and location. Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at its location in ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa*; by telephone at (515)237-3224; or by ~~fax~~ *facsimile* at (515)237-3354.

ITEM 8. Amend subrule 524.11(2) as follows:

524.11(2) Availability. The department shall provide an approved safety education seminar periodically. Information on the seminar schedule ~~shall be~~ *is* available ~~by mail~~ from the Office of Motor Vehicle Enforcement, ~~100 Euclid Avenue~~ *Iowa Department of Transportation, P.O. Box 10473,* Des Moines, Iowa 50306-0473; *in person at 6310 SE Convenience Blvd., Ankeny, Iowa; or by telephone at (800)925-6469.*

ITEM 9. Amend rule 761—529.2(327B) as follows:

761—529.2(327B) Registering interstate authority in Iowa. Registration for interstate exempt and nonexempt authority shall be ~~submitted~~ *either mailed* to the Office of Motor Carrier Services, Iowa Department of Transportation, ~~Park Fair Mall, 100 Euclid Avenue,~~ P.O. Box 10382, Des Moines, Iowa 50306-0382; *delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3257.*

ITEM 10. Amend rule 761—600.2(17A) as follows:

761—600.2(17A) Information and location. Applications, forms and information concerning driver's licensing are available at any driver's license examination station. Assistance is also available by mail from: ~~the~~ *the* Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, ~~or; in person at its location in~~ *in person at its location in* ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa* 50313; by telephone at ~~1-800-~~ *(800)532-1121; or by facsimile at (515)237-3071.*

This rule is intended to implement Iowa Code section 17A.3.

ITEM 11. Amend subrule 607.2(1) as follows:

607.2(1) Address Information and location. Applications, forms and information about the commercial driver's license (CDL) are available at any driver's license examination station. ~~Information~~ *Assistance* is also available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, ~~or; in person at its location in~~ *in person at its location in* ~~Park Fair Mall, 100 Euclid Avenue, Des Moines~~ *6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 1-800-* *(800)532-1121 or (515)244-8725; or by facsimile at (515)237-3071.*

ITEM 12. Amend rule 761—620.2(321J) as follows:

761—620.2(321J) Information and location. ~~Information~~ *Applications, forms, information, requests for assistance, and answers to questions relating to this chapter of rules may be obtained* ~~are available by mail~~ from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, ~~or; in person at its location in~~ *in person at its location in* ~~Park Fair Mall, 100 Euclid Ave., Des Moines~~ *6310 SE Conve-*

TRANSPORTATION DEPARTMENT[761](cont'd)

nience Blvd., Ankeny, Iowa; by telephone at 1-800-(800)532-1121; or by facsimile at (515)237-3071.

ITEM 13. Amend rule 761—634.1(321) as follows:

761—634.1(321) Information and forms location. Information and Applications, forms and information regarding this chapter may be obtained are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, or ; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

ITEM 14. Amend rule 761—635.6(321) as follows:

761—635.6(321) Information and forms location. Information and Applications, forms and information regarding this chapter may be obtained are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, or ; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

ITEM 15. Amend rule 761—636.1(321) as follows:

761—636.1(321) Information and forms location. Information and Applications, forms and information regarding this chapter may be obtained are available by mail from the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204, or ; in person at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3153; or by facsimile at (515)237-3071.

ITEM 16. Amend subrule 640.1(3) as follows:

640.1(3) Information and location ~~Submissions and information. Requests for information about the financial responsibility law and all~~ All required submissions shall be addressed to: ~~either mailed to the~~ Office of Driver Services, Iowa Department of Transportation, P.O. Box 9235, Des Moines, Iowa 50306-9235; ~~delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3071. The office is located in Park Fair Mall, 100 Euclid Ave., Des Moines; Information about the financial responsibility law is available from these sources or by telephone at 1-800-(800)532-1121.~~

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:

November 1, 2006 — November 30, 2006	6.75%
December 1, 2006 — December 31, 2006	6.75%
January 1, 2007 — January 31, 2007	6.50%
February 1, 2007 — February 28, 2007	6.50%
March 1, 2007 — March 31, 2007	6.75%
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%

ARC 6385B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code chapter 203C, the Department of Agriculture and Land Stewardship hereby amends Chapter 90, "State Licensed Warehouses and Warehouse Operators," Iowa Administrative Code.

This amendment allows the Department to issue a license for temporary storage space that exceeds the amount of permanent storage space by more than 50 percent.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable. Notice and public participation would result in needless delays.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit on the public because it allows for appropriate storage of a large harvest.

No specific waiver provision is included in this amendment; this amendment is subject to the Department's general waiver provision.

This amendment became effective October 17, 2007.

This amendment is intended to implement Iowa Code chapter 203C.

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 adopted.

Amend rule 21—90.26(203C) as follows:

21—90.26(203C) Temporary grain storage facilities. A temporary grain storage facility may, in the discretion of the department, be approved and licensed on the following bases:

90.26(1) License period. A license for a temporary storage facility may be issued at any time but shall be effective for the storage of grain only from August 1 to May 1 of the following year. A temporary storage facility license shall terminate each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.26(2).

90.26(2) Extensions. An extension of 90 days may be granted if all of the following requirements are satisfied:

a. The licensee has requested an original extension or an additional extension no later than 45 days prior to the expiration of the licensing period or extension then in effect.

b. The bureau has completed an examination of the licensee's temporary storage facility.

c. The licensee has paid the bureau for the cost of the examination of its temporary storage facility. The payment shall include the labor cost, the equipment cost, the sampling cost and any additional costs incurred by the bureau in examining a licensee's temporary storage facilities. Payment shall be made and received by the bureau before any extension may be granted.

d. Every temporary storage facility for which the department has granted an extension shall continue to meet all of the other requirements of rule 90.26(203C). Before an extension is granted, the bureau chief may require the filing of a

bond or irrevocable letter of credit in an amount to be determined by the department.

90.26(3) Restrictions on extensions. The licensing period for a temporary storage facility may be extended beyond August 1. However, the extension of a licensing period for a temporary storage facility shall not result in the granting of a new August 1 to May 1 licensing period. As a result, a licensee shall be required to request additional extensions at least 45 days prior to the expiration of the extension then in effect.

90.26(4) Expiration. The warehouse operator shall either purchase the grain stored in the temporary storage facility or remove the grain from the temporary storage facility prior to May 1 or prior to the expiration of a granted extension.

90.26(5) Specifications for temporary storage facilities. Every temporary storage facility shall comply with the following specifications:

a. Each storage unit shall contain aeration equipment to provide at least .13 cubic feet of air per bushel per minute.

b. Each storage unit shall have an asphalt base, concrete base, pozzolanic base, or a compacted limestone base which meets the following minimum specifications:

(1) Base shall be of a depth and compaction to permit trucks or other equipment, used in loading or unloading the pad, to move around over the base without breaking through or unduly scuffing the surface.

(2) Depth of limestone top shall not be less than four inches.

(3) Adequate slope and drainage away from the base shall be provided to prevent any water from standing or backing up under the grain. Base shall be at least six inches above surrounding area.

c. The angle of repose of the stored grain shall be maintained to provide sufficient drainage.

d. The storage unit shall be covered. The cover shall be of sufficient strength to resist tearing under normal expected conditions and to allow a person to walk on the cover without penetrating it.

e. All storage units shall have rigid sidewalls.

90.26(6) Inspection for licensing. Every temporary storage facility to be included under a warehouse operator license shall be inspected and licensed before any products to be stored are placed in the facility.

90.26(7) Limitation. Temporary licensed storage capacity may not exceed 50 percent of permanent licensed storage capacity. *However, the department may issue a license for temporary storage capacity exceeding the temporary capacity limit of 50 percent for a licensing period ending on or before May 1.*

90.26(8) Removal from license. The bureau chief or examiner shall issue written notice to the warehouse operator for any temporary storage facility which no longer meets the requirements of this rule. Failure of the warehouse operator to place the facility in a suitable condition within a reasonable length of time shall result in the elimination of the facility from coverage under the warehouse operator license. Any facility which has deteriorated to the extent that it is unsuitable for storage shall be immediately removed from the warehouse operator license until the time that the facility meets the requirements of this rule and has been reinspected.

90.26(9) Moisture and quality. Corn containing more than 14 percent moisture or soybeans containing more than 13 percent moisture shall not be stored in temporary facilities. Corn and soybeans which do not grade No. 2 or better using the Official United States Standards for Grain shall not be stored in a temporary storage facility.

90.26(10) Periodic maintenance. The warehouse operator will make observations of grain temperature, aeration

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

outlet temperature and odor, condition of the cover and drainage as necessary to ensure the safe storage of the grain in a temporary storage facility. These observations shall be made at regular intervals.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

[Filed Emergency 10/17/07, effective 10/17/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6393B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts new Chapter 35, "Regional Tourism Marketing Grant Program," Iowa Administrative Code.

The rules implement a new grant program. The source of funding for this new program is 2007 Iowa Acts, Senate File 302. Funds shall be used for purposes of regional tourism marketing. The rules describe the application requirements, the review process, and contract administration requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6216B**.

The Department held a public hearing on Monday, October 8, 2007, to receive comments on these rules. Several comments were received. All who attended the public hearing were supportive of this new initiative and hoped that more funding would be available.

Commenters suggested that the Department consider expanding the definition of "out-of-state market" to include niche market publications that originate from states not identified in the proposed definition. This revision is not included in the final rule. At the public hearing, Department staff clarified that the rules would allow grant funds to be used to purchase advertising aimed at niche markets as long as the advertising is for the regional, not national, versions of the publications.

It was also suggested that funding for these marketing efforts be offered at other times of the year, not just for the spring advertisement cycle. Individuals involved with winter tourism activities, such as skiing, place most of their advertising from November to January. This suggestion may be implemented next fiscal year if funding is available. The funding source for this program is a percentage of gaming revenues; thus, the amount available for this grant program may increase over time. The final rules are identical to the proposed rules.

The Iowa Economic Development Board adopted these rules on October 18, 2007.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and the rules should be made effective upon filing with the Administrative Rules Coordinator on October 18, 2007. Having rules in effect by October 22, 2007, the date of the 2007 State Tourism Conference, allows the Department to distribute information about the new grant

program to a wide audience and allows potential applicants sufficient time to submit applications in time for spring advertising.

These rules are intended to implement 2007 Iowa Acts, Senate File 302.

These rules became effective October 18, 2007.

The following amendment is adopted.

Adopt the following **new** chapter:

CHAPTER 35 REGIONAL TOURISM MARKETING GRANT PROGRAM

261—35.1(82GA,SF302) Purpose. The purpose of the regional tourism marketing grant program is to establish the procedures and guidelines for the distribution of department funding for out-of-state cooperative advertising grants.

261—35.2(82GA,SF302) Definitions.

"Cooperative advertising" means advertising placement that will appear in an out-of-state market targeted by the office of tourism of the Iowa department of economic development.

"Department" means the Iowa department of economic development.

"Eligible applicant" means a public or private member in a county in good standing in one of the three tourism regions.

"Match" means the local cash provided by the eligible applicant for advertising placement.

"Out-of-state market" means Illinois, Kansas, Minnesota, Missouri, Nebraska, South Dakota, or Wisconsin.

"Review committee" means a panel of members appointed by each tourism region (two per region) and a member of the department's advertising agency of record to read and score submitted applications.

"Tourism regions" means the following three tourism regions: Western Iowa Tourism Region (WITR), Central Iowa Tourism Region (CITR), and Eastern Iowa Tourism Association (EITA).

261—35.3(82GA,SF302) Eligible applicants.

35.3(1) Only members of tourism regions in good standing with the department are eligible to receive funding under this grant program.

35.3(2) The county in which the applicant is located must also be in good standing with its tourism region.

35.3(3) An organization may only submit one application for out-of-state advertising, either individually or as a partner in a joint advertising project. All partners in a joint advertising project must meet the eligible applicant criteria.

261—35.4(82GA,SF302) Use of funds.

35.4(1) Grant funds shall only be used to place advertising in out-of-state markets targeted by the department's office of tourism. Grant funds shall not be used to pay for production costs. Grant funds may be used to place advertising in newspapers, magazines, radio, television, billboards or online advertising.

35.4(2) Grant funds shall be used to pay for up to 50 percent of the advertising placement costs. The match for the advertising placement must be cash.

261—35.5(82GA,SF302) Application procedures and content.

35.5(1) Applications must be completed and submitted to the department.

35.5(2) Application materials may be obtained from the western (www.traveliowa.org), central (www.iowatourism.com),

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

or eastern (www.easterniowatourism.org) Iowa tourism regions.

35.5(3) The source of funding for this grant program is a portion of gaming revenues that is allotted to the department quarterly. The grant application materials will indicate how much funding is available for the fiscal year and the maximum grant amount available.

35.5(4) An application shall include, at a minimum, the following:

- a. The applicant's name, mailing address, E-mail address, telephone number, contact person and federal employer identification number.
- b. A description of the advertising to be placed including the market targeted, the date or dates on which the advertising will appear, and the size or length of the advertising.
- c. An advertising plan and budget for the advertising including source of match dollars.
- d. A timetable for the advertising.
- e. The advertising goals.
- f. The proposed method for tracking and measuring the effectiveness of the advertising and the return on investment.

261—35.6(82GA,SF302) Application review and approval procedures.

35.6(1) The review committee shall read and score all applications.

35.6(2) The review committee shall review applications to ensure that the following program eligibility requirements are met: the application is from an eligible applicant; the advertising will be placed out of state in a market targeted by the office of tourism; a 50 percent match in cash is available; an advertising plan has been developed; and a method to measure the effectiveness of the advertising has been developed.

35.6(3) The review committee shall recommend to the department the applications to be approved for funding.

261—35.7(82GA,SF302) Funding of grants; contracting.

35.7(1) Funding amount. For fiscal year 2008, \$100,000 is available to the department for regional tourism marketing. The amount of funding available in subsequent years is contingent upon the amount allotted to the department pursuant to 2007 Iowa Acts, Senate File 302.

35.7(2) Contracts with tourism regions. The department will enter into a contract with a tourism region to provide funding for those applicants located in that tourism region that were approved by the department to receive grant funds.

35.7(3) Notice of approval. Successful applicants will be notified by their tourism region in writing of the approval of a grant, including any conditions and terms of the approval.

35.7(4) Contracts. Each successful applicant shall contract with its respective tourism region (WITR, CITR, EITA) for cooperative advertising funding approved by the department. The tourism region shall prepare an agreement that includes, but is not limited to, a description of the advertising placement, terms and conditions to receipt of grant funds, and the repayment requirements or other penalties imposed in the event the grant recipient does not fulfill its obligations in the agreement.

35.7(5) Evaluation. Each successful applicant shall submit to its tourism region within 60 days of the placement of advertising a written evaluation summarizing the results of the out-of-state marketing grant.

35.7(6) Records. Each tourism region shall maintain adequate records to document and verify that grant funds were spent in accordance with the terms of the agreement.

These rules are intended to implement 2007 Iowa Acts, Senate File 302.

[Filed Emergency After Notice 10/18/07, effective 10/18/07]
[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6370B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2007 Iowa Acts, House File 909, section 8(6), the Department of Human Services amends Chapter 11, "Overpayments," Iowa Administrative Code.

These amendments restructure Chapter 11 to accommodate the collection of debts due to trafficking in Food Assistance benefits. "Trafficking" is the buying or selling of electronic benefits transfer (EBT) cards or trading benefits for firearms, ammunition, explosives, controlled substances, or any consideration other than eligible food. The value of the trafficked benefits is not an overpayment, since the benefits were correctly issued to an eligible household, but is a federal debt that the state is required to collect. This debt is treated as an intentional program violation for collection purposes.

These amendments change the title of the chapter to "Collection of Public Assistance Debts," substitute the term "debt" for "overpayment," and redefine the term "debtor" to include persons found guilty of trafficking. Language is added to clarify procedure on establishment of a claim and when a claim is subject to collection action. The amendments also update the definition of "public assistance" to include the IowaCare program and update form titles and program names.

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). However, the Department does not have the authority to waive federal requirements.

The Council on Human Services adopted these amendments on October 10, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because 2007 Iowa Acts, House File 909, section 8(6), authorizes the Department to adopt emergency rules for the Food Assistance program when necessary to comply with federal requirements. The Department has already adopted the federal regulations by reference. These amendments are necessary to implement the collection process.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived, as authorized by 2007 Iowa Acts, House File 909, section 8(6).

These amendments are also published herein under Notice of Intended Action as **ARC 6371B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 217.34, 234.6(4), 239B.14, and 249A.5.

These amendments became effective November 1, 2007.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 11**, title and preamble, as follows:

CHAPTER 11
OVERPAYMENTS
COLLECTION OF PUBLIC ASSISTANCE DEBTS

PREAMBLE

These rules define the department's policies regarding the collection of ~~overpayments~~ *public assistance debts*. These rules outline what information must be maintained for each claim for an overpayment *or other debt owed the department* and how the payments are to be applied. These rules also outline the criteria for withholding part or all of federal or state refunds or other state payments owed to the debtor and how they are applied to the debtor's claim for *payment of the overpayment debt*.

ITEM 2. Amend rule **441—11.1(217)** as follows:

Rescind the definitions of "eligible overpayment" and "overpayment."

Amend the following definitions:

"Debtor" shall mean a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular ~~overpayment debt~~. For food stamps assistance, "debtor" shall include all adult members of the food stamp assistance household participating at the time the *food assistance overpayment or program violation* occurred and shall include *nonrecipients found guilty of violating food assistance program rules by committing an act such as, but not limited to, trafficking*. For child care assistance, "debtor" may include the current or former provider or current or former recipient of child care assistance.

"Public assistance" shall mean family investment program, food stamps assistance, Medicaid, state supplementary assistance, PROMISE JOBS, child care assistance, refugee cash assistance, IowaCare, and HAWK-I program.

"Repayment agreement" shall mean an agreement entered into voluntarily between the department and the debtor for the repayment of ~~overpayments debts~~. Agreements shall be made on: ~~1. Form 470-0495, Repayment Contract; Agreement to Pay a Debt, or on a notice of debt listed in subrule 11.2(2).~~

~~2. Form 470-0338, Demand Letter for Food Stamp Agency Error Overissuance;~~

~~3. Form 470-3486, Demand Letter for Food Stamp Intentional Program Violation Overissuance;~~

~~4. Form 470-3487, Demand Letter for Food Stamp Inadvertent Household Error Overissuance;~~

~~5. Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance;~~

~~6. Form 470-3489, Demand Letter for FIP/RCA Intentional Program Violation Overissuance;~~

~~7. Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance;~~

~~8. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance;~~

~~9. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance;~~

~~10. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance;~~

~~11. Form 470-2891, Demand Letter for Medicaid or State Supplementary Assistance Overpayment;~~

~~12. Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance;~~

~~13. Form 470-3628, Demand Letter for Child Care Assistance Client Error Benefit Overissuance;~~

~~14. Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.~~

"Written notification" shall refer to mean the written notification sent to a current or former recipient of public assistance *debtor* by the department on Form 470-1668, Notice of Setoff of an Iowa Income Tax Refund for Debts Owed the Department of Human Services, Form 427-0538, Notice of Income Offset Against State Warrants for Debts Owed the Department of Human Services, and Form 427-0539, Notice of Income (Payroll) Offset Against State Warrants for Debts Owed the Department of Human Services.

ITEM 3. Amend rule 441—11.2(217) as follows:

441—11.2(217) Accounts Establishment of claim.

11.2(1) Accounts. The department shall maintain an account for each ~~overpayment debt~~ that has occurred. The account shall contain the following:

11.2(1) a. A debtor name and account number.

11.2(2) b. Program in which the ~~overpayment debt~~ occurred.

11.2(3) c. Date ~~overpayment the debt~~ was discovered.

11.2(4) d. Inclusive dates of the ~~overpayment debt~~.

11.2(5) e. Total dollar amount of each ~~overpayment debt~~.

11.2(6) f. Primary cause of the ~~overpayment debt~~.

11.2(7) g. Any transaction applied to this ~~overpayment debt~~.

11.2(2) Notice of debt. A claim is established when the first notice of the debt is issued to the household on one of the following forms:

a. Form 470-0338, Demand Letter for Food Assistance Agency Error Overissuance.

b. Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance.

c. Form 470-2891, Demand Letter Notice of Medical Assistance Overpayment.

d. Form 470-3486, Demand Letter for Food Assistance Intentional Program Violation Overissuance.

e. Form 470-3487, Demand Letter for Food Assistance Inadvertent Household Error Overissuance.

f. Form 470-3489, Demand Letter for FIP/RCA Intentional Program Violation Overissuance.

g. Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance.

h. Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance.

i. Form 470-3628, Demand Letter for Child Care Assistance Client Error Benefit Overissuance.

j. Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.

k. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance.

l. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance.

m. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance.

HUMAN SERVICES DEPARTMENT[441](cont'd)

n. Form 470-4179, Notice of Food Assistance Trafficking Debt.

11.2(3) Change in debt. *An additional notice of debt shall be issued if a change occurs in the amount or period of the debt.*

11.2(4) Collection action. *No collection action shall be initiated on:*

a. A debt for which no notice of debt has been issued to the household.

b. A debt that is in appeal status.

ITEM 4. Amend rule 441—11.3(217) as follows:

441—11.3(217) Application of payment. ~~The department shall apply any payment received to the debtor's overpayment(s) as follows: Payment shall be applied only to debts subject to collection pursuant to subrule 11.2(4).~~

11.3(1) Application of payment to single program area. ~~Payment shall be applied only to eligible overpayments.~~

a. If there is more than one eligible overpayment debt in a program, payment shall be applied first:

(1) First to all overpayments debts which have an agreement in chronological order of discovery, and then

(2) Then to overpayments debts which do not have an agreement in chronological order of discovery until all overpayments debts have been paid in full or the full payment amount has been exhausted.

b. For food stamps assistance, payment shall also be applied first to all overpayments debts with an agreement and then to overpayments debts without an agreement. Within those two groupings, payment shall be applied first in the following order:

(1) First to state-only overpayments debts in chronological order of discovery, then

(2) Then to intentional program violation (IPV) overpayments debts in chronological order of discovery, then

(3) Then to inadvertent household error (IHE) overpayments debts in chronological order of discovery, and then

(4) Then to agency error overpayments debts in chronological order of discovery.

11.3(2) Application of payment to multiple program areas. ~~If there are overpayments debts in more than one program area of public assistance, payments received shall be applied to those program areas as indicated by the mode of repayment (food stamp coupons assistance benefits, FIP benefits) or as indicated by the client at the time of payment.~~

11.3(3) Application of undesignated cash payment. ~~If an undesignated cash payment is received, it shall be applied to each program area proportionally based on the percentage to the cumulative balance of all overpayments debts in all program areas combined.~~

Rescind and reserve subrule **11.3(4)**.

ITEM 5. Amend subrules **11.4(1)**, **11.4(2)**, **11.4(3)**, **11.4(5)**, **11.4(7)**, **11.5(1)**, and **11.5(6)** by striking the terms "overpayment" and "overpayments" wherever the terms appear and inserting the terms "debt" or "debts" in lieu thereof.

ITEM 6. Amend subrules **11.5(1)** and **11.5(6)** by striking the term "food stamp" wherever it appears and inserting the term "food assistance" in lieu thereof and by striking the term "overissuance" wherever it appears and inserting the term "debt" in lieu thereof.

ITEM 7. Amend **441—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section sections 217.34, as amended by 2003 Iowa Acts, House File 534, section 209 234.12, 239B.14, and 249A.5.

[Filed Emergency 10/10/07, effective 11/1/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6372B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

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

These amendments make the following changes to eligibility policy for Medicaid coverage for working persons with disabilities:

- The requirement for a review of eligibility and reassessment of the premium amount every six months is eliminated. Eligibility and premium amount will be determined once a year.

- A member's premium amount will be set for the entire 12-month enrollment period and will not be changed during that period unless the member verifies a reduction in income sufficient to qualify for a lower premium amount.

- Policy changes to both premium amounts and federal poverty level increments used to assess premiums will be implemented annually on April 1.

- The requirement that eligibility is conditional on payment of the premium assessed for the month of coverage is clarified.

- The limit on the number of times that eligibility may be reinstated following a late premium payment is removed.

No other Medicaid coverage group for disabled persons requires a six-month review. This change will align review policy with that of other coverage groups and remove a burdensome requirement on members.

Setting a single premium for the entire enrollment period and aligning changes due to insurance rates and poverty levels on a single date will eliminate confusion and streamline procedures. Under previous policies, a member's premium could change as many as three times a year, due to the semi-annual review, the annual changes in the premium amounts in January, and the annual changes in the poverty level increments in the spring. Frequent changes increase the expense of member notification and of producing program information materials and often require correction of premiums that have been paid in advance at an incorrect amount.

Removing the limit on reinstatements when the member pays the premium in the month after the month of coverage will reduce the procedural burdens for the member and for Department staff for filing and processing new applications and will ensure more timely delivery of benefits to the member.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because all members should be subject to the same premium responsibilities. However, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 29, 2007, as **ARC 6183B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 10, 2007.

The Department finds that these amendments confer a benefit by simplifying eligibility requirements and eliminating frequent changes in premiums. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments became effective on November 1, 2007.

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

The following amendments are adopted.

Amend subrule **75.1(39)**, paragraph "**b**," as follows:

Amend the introductory paragraph and the two unnumbered paragraphs as follows:

b. ~~A monthly premium shall be assessed when Eligibility for a person whose gross income of the eligible individual is greater than 150 percent of the federal poverty level for an individual is conditional upon payment of a premium. Gross income includes all earned and unearned income of the conditionally eligible individual person. A monthly premium shall be assessed at the time of application and at the annual review. The premium amounts and the federal poverty level increments used to assess premiums will be adjusted annually on April 1.~~

(1) Beginning with the month of application, the monthly premium amount shall be established for a ~~six-month~~ 12-month period based on projected average monthly income for the ~~six-month~~ 12-month period. The monthly premium established for a ~~six-month~~ period shall not be increased ~~due to an increase in income for any reason~~ during the ~~six-month~~ 12-month period. *The premium shall not be reduced due to a change in the federal poverty level but may be reduced or eliminated prospectively during the 12-month period if a reduction in projected average monthly income is documented verified.*

(2) Eligible persons are required to complete and return Form 470-3118 or 470-3118(S), Medicaid Review, with income information during the ~~sixth~~ twelfth month of the annual ~~review~~ enrollment period to determine *the premium amount to be assessed for the next 12-month enrollment period.*

Renumber subparagraphs (1) through (9) as subparagraphs (3) through (11), respectively.

Amend renumbered subparagraph (4) as follows:

(4) Eligibility is contingent upon the payment of any assessed premiums. Medical assistance eligibility shall not be made effective for a month until the premium *assessed* for the month is ~~received~~ *paid*. The premium must be paid with-

in three months of the month of coverage or of the month of initial billing, whichever is later, for the person to be eligible for the month.

Amend renumbered subparagraph (7) as follows:

(7) An individual's case may be reopened ~~no more than once every six months~~ when Medicaid eligibility is canceled for nonpayment of premium. However, the premium must be paid in full within the calendar month following the month the payment was due for reopening.

[Filed Emergency After Notice 10/10/07, effective 11/1/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6368B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2007 Iowa Acts, House File 909, section 31(13), the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment increases the Medicaid upper payment limit for inpatient services in a psychiatric medical institution for children from \$160.71 per day to \$165.53 per day effective July 1, 2007, as directed by 2007 Iowa Acts, House File 909, section 31(1), paragraph "h."

The amendment does not provide for waivers in specified situations because the Department has no authority to waive a limit set by legislation.

The Council on Human Services adopted this amendment on October 10, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because this amendment implements 2007 Iowa Acts, House File 909, section 31, which authorizes the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of this amendment should be waived, as authorized by 2007 Iowa Acts, House File 909, sections 31(13) and 35.

This amendment is also published herein under Notice of Intended Action as **ARC 6369B** to allow for public comment.

This amendment is intended to implement Iowa Code section 249A.4 and 2007 Iowa Acts, House File 909, section 31(1).

This amendment became effective October 10, 2007.

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 adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend subrule **79.1(2)**, “psychiatric medical institutions for children” provider category, as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Psychiatric medical institutions for children		
1. (Inpatient)	Prospective reimbursement	<i>Effective July 1, 2007, Reimbursement rate for provider based on per diem rates for actual costs on 6/30/06 6/30/07, not to exceed a maximum of \$160.71 \$165.53 per day.</i>
2. (Outpatient day treatment)	No change.	No change.

[Filed Emergency 10/10/07, effective 10/10/07]
[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6379B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 35A.5 as amended by 2007 Iowa Acts, House File 817, section 4, and 2007 Iowa Acts, House File 909, section 4, subsection 4, the Department of Veterans Affairs hereby rescinds Chapter 12, “County Grant Program for Veterans,” Iowa Administrative Code, and adopts a new Chapter 12 with the same title.

The rules in Chapter 12 are revised in response to public comment, to improve the existing grant program, and to reflect current legislation that includes changes to the appropriations for the grant program. Revisions include updating references to the enacting legislation and the removal of specific dates and appropriation amounts that are no longer accurate. Furthermore, these rules provide that, beginning with the fiscal year 2009 grant program, funding will be awarded only for the provision of increased services to veterans over and above the services provided in the previous fiscal year. In addition, these rules establish an application time line, a process for emergency applications, and a process for applications received after appropriated funding is expended. The rules also clarify that, beginning with the fiscal year 2008 grant, distributed funds must be expended in the fiscal year in which they are appropriated. Finally, these rules provide clarification on reporting requirements to the Department and change the final reporting date for counties to 30 days following the end of the fiscal year from the specific date and year previously required. This change was made to expedite the application and award processes for future fiscal years.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are contrary to the public interest because of the need to establish the fiscal year 2008 grant program. The revised rules establish processes and guidelines that were not present in the original

rules and make changes to the enacting language that will allow the program to proceed in the new fiscal year.

The Department finds that these rules confer a benefit upon grant applicants by clarifying reporting requirements and expediting the grant application and reporting processes. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

No fiscal impact is anticipated.

These rules are intended to implement 2007 Iowa Acts, House File 909, section 4, subsection 4.

These rules became effective on October 12, 2007.

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 adopted.

Rescind 801—Chapter 12 and adopt the following **new** chapter in lieu thereof:

CHAPTER 12**COUNTY GRANT PROGRAM FOR VETERANS**

801—12.1(82GA,HF909) Purpose. 2007 Iowa Acts, House File 909, section 4, subsection 4, enacts the county grant program for veterans. The purpose and legislative intent of this grant program is to improve delivery of services by the various county commissions of veteran affairs to veterans in their respective counties. Grants will be awarded annually to counties pursuant to an appropriation by the general assembly to the Iowa department of veterans affairs to fund this program.

801—12.2(82GA,HF909) Grant amounts. The Iowa department of veterans affairs shall award grants in amounts up to a maximum of \$10,000 to each county submitting an application that is approved by the department. In order to qualify for a grant, a county must agree to expend an amount of county funds equal to the amount of the approved grant. Beginning with the fiscal year 2009 grant program, grant funding will be awarded only for the provision of increased services to veterans over and above the services provided in the previous fiscal year.

801—12.3(82GA,HF909) Application procedure. Counties that wish to apply for a grant shall submit an application provided by the department to the Iowa Department of Veterans Affairs, Camp Dodge, Building A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131. Applications will be accepted up to May 15 of each year for a June 1 approval. Applications received after May 15 will be approved strictly on an emergency basis in cases in which the applying county has an identified need and distributed funds will be expended before the end of the fiscal year. Once the grant funding appropriated by the general assembly has been expended, the department will compile a list of grant applications, based on the date of receipt, for future approval if supplemental funding is provided. The application shall contain the following:

12.3(1) Application summary. The application summary shall consist of a brief description of the proposed project and the signatures of a member of the board of supervisors and a member of the county veteran affairs commission.

12.3(2) Narrative. The narrative shall explain the proposed project for which the funds will be used. The narrative must address the assessment factors listed in rule 801—12.4(82GA,HF909). The assessment factors may be addressed in any sequence that is logical for the proposed proj-

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

ect, but all factors should be identified and addressed. Any factors that are not addressed in the application may result in a reduced opportunity for funding of the project.

12.3(3) Proposed budget. The budget for the project shall be developed for the fiscal year in which the grant will be received. Funds carried forward from the fiscal year 2007 grant program shall be included in the fiscal year 2008 proposed budget. Beginning with the fiscal year 2008 grant program, recipients must expend grant funds during the fiscal year in which the grant was received. Funding for subsequent years shall be dependent upon future legislative appropriations.

12.3(4) Letters of intent. If the proposed project involves additional funding from other sources, letters of intent to support the project are required from those additional sources.

801—12.4(82GA,HF909) Assessment of applications. The Iowa department of veterans affairs will make decisions on applications based upon the following factors:

12.4(1) Need. The needs of the local veteran population that currently are not being addressed or that are not being addressed adequately are clearly identified.

12.4(2) Goals. The goals of the project are clearly outlined, and the sources of the services to be provided are clearly identified.

12.4(3) Results. A tentative time line for the delivery of the proposed services is included along with clearly identified quantitative measurements that will be used to determine the success of the grant in addressing the identified needs.

12.4(4) Innovation. The project addresses the implementation of new practices and methods for addressing the needs of the veteran community and improvement of delivery of services.

12.4(5) Accountability and project monitoring. The application demonstrates financial accountability and provides mechanisms to ensure proper evaluation of the project.

801—12.5(82GA,HF909) Application decision. The director of the Iowa department of veterans affairs shall notify each county that submits an application of the department's

decision regarding the county's application. An explanation of the reasons for the rejection of a project application and suggestions for improvement shall accompany application denials.

801—12.6(82GA,HF909) Grant agreement. Each county that is awarded a grant will be required to enter into an agreement with the Iowa department of veterans affairs that specifies the reporting requirements. A written report shall be submitted to the department and shall be due 30 days following the end of the fiscal year in which the grant was received. The report shall provide an assessment of the project, including measurable outcomes such as increased opportunities to publicize veterans' benefits, the number of outreach visits conducted to allow veterans to apply for benefits, the number of applications for benefits filed as a direct result of the project, and increased opportunities for veteran involvement in local veterans' organizations.

801—12.7(82GA,HF909) Appeals. Applicants that are dissatisfied with the decision of the Iowa department of veterans affairs may file an appeal with the Iowa commission of veterans affairs. The written appeal must be received within 15 working days of the date of the notice of decision; must be based on a contention that the process was conducted outside of statutory authority, violated state or federal law, policy or rules, did not provide adequate public notice, was altered without adequate public notice, or involved conflicts of interest by staff; and must include a request that the commission review the decision and the reasons for the appeal.

The Iowa commission of veterans affairs shall review the appeal at its next regularly scheduled meeting and shall issue a final decision.

These rules are intended to implement 2007 Iowa Acts, House File 909, section 4, subsection 4.

[Filed Emergency 10/12/07, effective 10/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6389B**DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Iowa Dental Board hereby amends Chapter 30, "Discipline," Iowa Administrative Code.

The amendment specifies that failure to preserve the confidentiality of patient information may be grounds for discipline. Formerly, the rule applied only to a dental hygienist's use of patient recall lists; the adopted rule applies to any licensee or registrant who fails to preserve confidential patient information.

This amendment is not subject to waiver or variance pursuant to Iowa Administrative Code 650—30.4(147,153,272C).

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6131B**. A public hearing on the amendment was held on September 4, 2007. One written comment in support of the amendment was received. The amendment is identical to that published under Notice.

This amendment was approved at the October 12, 2007, meeting of the Iowa Dental Board.

This amendment is intended to implement Iowa Code chapters 147, 153, and 272C.

This amendment will become effective on December 12, 2007.

The following amendment is adopted.

Amend rule **650—30.4(147,153,272C)**, numbered paragraph "**14**," as follows:

~~14. Using or attempting to use any patient recall list, records, reprints or copies thereof, or any information gathered from patients served by a dental hygienist in the office of a prior employer unless such names appear on a recall list of the new employer through the legitimate practice of dentistry. Failure to preserve the confidentiality of patient information by using or attempting to use any patient records from the office of a current or prior employer.~~

[Filed 10/18/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6392B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts new Chapter 105, "Demonstration Fund," Iowa Administrative Code.

The rules implement a new program authorized by 2007 Iowa Acts, House File 829, section 1(3). The rules describe the purpose of the fund; the application submittal, review and approval procedures; and the contract administration provisions.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 12, 2007, as **ARC 6215B**. These rules were simultaneously Adopted and Filed Emergency as **ARC 6217B**.

The Department held a public hearing on Monday, October 8, 2007, to receive comments on these rules. No comments were received. The final rules are identical to the proposed rules.

The Iowa Economic Development Board adopted these rules on October 18, 2007.

These rules will become effective on December 12, 2007, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 2007 Iowa Acts, House File 829, section 1(3).

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 105] is being omitted. These rules are identical to those published under Notice as **ARC 6215B** and Adopted and Filed Emergency as **ARC 6217B**, IAB 9/12/07.

[Filed 10/18/07, effective 12/12/07]

[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6381B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 1, "General," Iowa Administrative Code.

The amendment revises rule 282—1.2(272,17A) to be in compliance with 2007 Iowa Acts, House File 615, section 1.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6071B**. A public hearing on the amendment was held on August 22, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 12, 2007.

The following amendment is adopted.

Amend rule 282—1.2(272,17A) as follows:

282—1.2(272,17A) Organization and method of operation.

1.2(1) No change.

1.2(2) Composition. ~~The board consists of 11 members appointed by the governor, each for a four-year term. The statutory membership includes five classroom teachers, four school administrators, and two public members, one of whom is the director of the department of education, who also serves as the chair of the board. The composition of the board is defined in Iowa Code section 272.3 as amended by 2007 Iowa Acts, House File 615, section 1.~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

1.2(3) and **1.2(4)** No change.

1.2(5) Conduct of business. The ordinary business of the board is conducted at its regular meetings generally held at the Grimes State Office Building, Des Moines, Iowa.

a. ~~The composition of the board is defined in Iowa Code section 272.3.~~

~~b a. The director of the department of education is the designated chair of the board; however, if the director does not serve on the board, the director shall appoint a designee. If the director does not sit on the board, the board shall biennially, at its last regularly scheduled meeting prior to May 1 in June, elect a chair from its membership to begin serving on May 1 upon election.~~

~~e b. The board shall approve annual meeting dates at its first meeting after least by June 30.~~

~~c. The board may schedule special meetings called by the chair or upon request to the chair by six members of the board or upon request of the executive director. Special meetings may be held by electronic means in accordance with Iowa Code section 21.8.~~

~~d. The board will post the date, time, and location of board meetings.~~

~~e. Persons who wish to submit materials for the agenda and appear before the board, or whose presence has been requested by the board, will be provided the opportunity to address the board.~~

~~g.f. In order to be placed on the agenda, materials must be received at least two weeks prior to a scheduled board meeting. Materials from emergency or unusual circumstances may be added to the agenda with the chair's approval.~~

~~h.g. The board will govern its meetings in accordance with Iowa Code chapter 21 and its proceedings by "Robert's Rules of Order, Revised."~~

~~i.h. All board meetings shall be open, and the public shall be permitted to attend the meetings, unless the board votes to hold a closed session in accordance with Iowa Code section 21.5.~~

~~j.i. Persons in attendance at board meetings may be granted an opportunity to speak on an issue before the board at the discretion of the chair. The length and frequency of public comment will be at the discretion of the chair.~~

~~k.j. Information, submissions or requests. General inquiries regarding the board, requests for forms and other documents and all other requests and submissions may be addressed to the Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147.~~

[Filed 10/15/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6383B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment changes the requirements for the middle school endorsement after much review and research by a middle school task force.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6103B**. A public hearing on the amendment was held on August 22, 2007. Several people attended the public hearing, with two making public comment. There also was one written comment received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 12, 2007.

The following amendment is adopted.

Amend subrule 14.140(15) as follows:

14.140(15) Middle school endorsement.

a. Authorization. The holder of this endorsement is authorized to teach ~~all subjects in the two concentration areas in which the specific requirements have been completed as well as in other subject areas~~ in grades five through eight ~~with the exception of which are not the core content areas.~~ The holder is not authorized to teach art, industrial arts, music, reading, physical education and special education.

b. Program requirements.

(1) No change.

(2) ~~Required~~ A minimum of nine semester hours of required coursework, in the following:

1. ~~Three semester hours of coursework~~ Coursework in the growth and development of the middle school age child, specifically addressing the *social*, emotional, physical and *mental cognitive* characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in 14.123(4).

2. ~~Three semester hours of coursework~~ Coursework in middle school design, *curriculum*, instruction, and ~~curriculum~~ *assessment* including, but not limited to, *interdisciplinary* instruction, *interdisciplinary* teaming, *pedagogy*, and *methods differentiated instruction* in addition to related studies completed as part of the professional education core in 14.123(4).

3. ~~Six semester hours of coursework in the social studies to include coursework in American history, world history, and geography.~~

4. ~~Six semester hours in mathematics to include coursework in algebra.~~

5. ~~Six semester hours in science to include coursework in life science and physical science.~~

6. ~~Six semester hours in language arts to include coursework in grammar, composition, and speech.~~

3. Coursework to prepare middle school teachers in literacy (reading, writing, listening and speaking) strategies for students in grades five through eight and in methods to include these strategies throughout the curriculum.

4. Thirty hours of middle school field experiences included in the coursework requirements listed in 14.140(15)"b"(2)"1" to "3."

c. Concentration areas. To obtain this endorsement, the applicant must complete the coursework requirements in two of the following content areas:

(1) Social studies concentration. The social studies concentration requires 12 semester hours of coursework in social studies to include coursework in United States history, world history, government and geography.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) *Mathematics concentration. The mathematics concentration requires 12 semester hours in mathematics to include coursework in algebra.*

(3) *Science concentration. The science concentration requires 12 semester hours in science to include coursework in life science, earth science, and physical science.*

(4) *Language arts concentration. The language arts concentration requires 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.*

[Filed 10/15/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6384B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment allows for the bundling of several endorsements into a single endorsement.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6102B**. A public hearing on the amendment was held on August 22, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 12, 2007.

The following amendment is adopted.

Amend rule 282—14.141(272) by adopting the following **new** subrule:

14.141(20) Language arts 5-12. Completion of 40 semester hours in language arts to include coursework in the following areas:

a. Written communication.

(1) Develops a wide range of strategies and appropriately uses writing process elements (e.g., brainstorming, free-writing, first draft, group response, continued drafting, editing, and self-reflection) to communicate with different audiences for a variety of purposes.

(2) Develops knowledge of language structure (e.g., grammar), language conventions (e.g., spelling and punctuation), media techniques, figurative language and genre to create, critique, and discuss print and nonprint texts.

b. Oral communication.

(1) Understands oral language, listening, and nonverbal communication skills; knows how to analyze communication interactions; and applies related knowledge and skills to teach students to become competent communicators in varied contexts.

(2) Understands the communication process and related theories, knows the purpose and function of communication and understands how to apply this knowledge to teach stu-

dents to make appropriate and effective choices as senders and receivers of messages in varied contexts.

c. Language development.

(1) Understands inclusive and appropriate language, patterns and dialects across cultures, ethnic groups, geographic regions and social roles.

(2) Develops strategies to improve competency in the English language arts and understanding of content across the curriculum for students whose first language is not English.

d. Young adult literature, American literature, and world literature.

(1) Reads, comprehends, and analyzes a wide range of texts to build an understanding of self as well as the cultures of the United States and the world in order to acquire new information, to respond to the needs and demands of society and the workplace, and for personal fulfillment. Among these texts are fiction and nonfiction, graphic novels, classic and contemporary works, young adult literature, and non-print texts.

(2) Reads a wide range of literature from many periods in many genres to build an understanding of the many dimensions (e.g., philosophical, ethical, aesthetic) of human experience.

(3) Applies a wide range of strategies to comprehend, interpret, evaluate, and appreciate texts. Draws on prior experience, interactions with other readers and writers, knowledge of word meaning and of other texts, word identification strategies, and an understanding of textual features (e.g., sound-letter correspondence, sentence structure, context, graphics).

(4) Participates as a knowledgeable, reflective, creative, and critical member of a variety of literacy communities.

e. Creative voice.

(1) Understands the art of oral interpretation and how to provide opportunities for students to develop and apply oral interpretation skills in individual and group performances for a variety of audiences, purposes and occasions.

(2) Understands the basic skills of theatre production including acting, stage movement, and basic stage design.

f. Argumentation/debate.

(1) Understands concepts and principles of classical and contemporary rhetoric and is able to plan, prepare, organize, deliver and evaluate speeches and presentations.

(2) Understands argumentation and debate and how to provide students with opportunities to apply skills and strategies for argumentation and debate in a variety of formats and contexts.

g. Journalism.

(1) Understands ethical standards and major legal issues including First Amendment rights and responsibilities relevant to varied communication content. Utilizes strategies to teach students about the importance of freedom of speech in a democratic society and the rights and responsibilities of communicators.

(2) Understands the writing process as it relates to journalism (e.g., brainstorming, questioning, reporting, gathering and synthesizing information, writing, editing, and evaluating the final media product).

(3) Understands a variety of forms of journalistic writing (e.g., news, sports, features, opinion, Web-based) and the appropriate styles (e.g., Associated Press, multiple sources with attribution, punctuation) and additional forms unique to journalism (e.g., headlines, cut lines, and/or visual presentations).

h. Mass media production.

(1) Understands the role of the media in a democracy and the importance of preserving that role.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Understands how to interpret and analyze various types of mass media messages in order for students to become critical consumers.

(3) Develops the technological skills needed to package media products effectively using various forms of journalistic design with a range of visual and auditory methods.

i. Reading strategies (if not completed as part of the professional education core requirements).

(1) Uses a variety of skills and strategies to comprehend and interpret complex fiction, nonfiction and informational text.

(2) Reads for a variety of purposes and across content areas.

[Filed 10/15/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6382B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The amendment provides a mechanism for practitioners to remove an endorsement from their licenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6104B**. A public hearing on the amendment was held on August 22, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 12, 2007.

The following amendment is adopted.

Adopt **new** rule 282—14.144(272) as follows:

282—14.144(272) Removal of endorsement; reinstatement of removed endorsement.

14.144(1) A practitioner may remove an endorsement from the practitioner's license as follows:

a. To remove an endorsement, the practitioner shall meet the following conditions:

(1) A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the subject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement;

(2) The practitioner must submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license); and

(3) The application must be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent's signature shall serve as notifi-

cation and acknowledgment of the practitioner's intent to remove an endorsement from the practitioner's license. The absence of the superintendent's or designee's signature does not impede the removal process.

b. The endorsement shall be removed from the license at the time of application.

c. If a practitioner is not employed and submits an application, the provisions of subparagraph 14.144(1)"a"(3) shall not be required.

d. If a practitioner submits an application that does not meet the criteria listed in subparagraphs 14.144(1)"a"(1) to (3), the application will be rendered void and the practitioner will forfeit the processing fee.

e. The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(272).

14.144(2) Reinstatement of removed endorsement.

a. If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement must be completed within the five years preceding the application to add the endorsement.

b. The practitioner must meet the current endorsement requirements when making application.

[Filed 10/15/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6373B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 92, "Iowa-Care," Iowa Administrative Code.

These amendments modify IowaCare policies as follows:

- Language is added to prevent a member from claiming hardship for months that household circumstances were misrepresented. Currently, if the Department discovers that a member has misrepresented household circumstances, with the result that a premium is assessed for past months of coverage, the member is allowed to claim hardship and avoid paying the premiums. The amendment requires the member to pay the premiums for those months. The Department continues to allow a member to claim hardship for premiums assessed for past months due to an agency error in determining the amount of the premium.

- Language requiring determination of a newborn's eligibility for Medicaid at the end of the 60 days of IowaCare coverage is removed. Pregnant women eligible for IowaCare have income above the income limit for Medicaid. To require the Department to determine eligibility for persons who are known to be over the income limit for Medicaid is not an efficient use of resources for workers or households. If the newborn's household reports a decrease in income to below 200 percent of the federal poverty level, the mother would be advised to apply for Medicaid at that time.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be sub-

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mitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6075B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 10, 2007.

These amendments shall become effective on January 1, 2008.

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

The following amendments are adopted.

ITEM 1. Amend subrule 92.7(3) as follows:

Amend the introductory paragraph as follows:

92.7(3) Hardship exemption. A member who submits a written statement indicating that payment of the monthly premium will be a financial hardship shall be exempted from premium payment for that month, *except as provided in paragraph "c."* If the statement is not postmarked by the premium due date, the member shall be obligated to pay the premium.

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

c. A member shall not be exempted from premium payment for a month in which the member misrepresented the household's circumstances.

ITEM 2. Amend subrule **92.8(3)**, paragraph "b," introductory paragraph, as follows:

b. Newborns will be eligible while hospitalized and for a period not to exceed 60 days from the date of birth. ~~Newborns who qualify for eligibility in the regular Medicaid program will be changed to that eligibility type and will have all benefits of the regular Medicaid program.~~

[Filed 10/10/07, effective 1/1/08]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6374B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 239B.4(4) and 239B.8(2), the Department of Human Services amends Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

This amendment makes 30 cents per mile the standard reimbursement when calculating a transportation allowance for participation in PROMISE JOBS activities. The Department had previously made this amount a temporary increase.

This amendment was previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6085B**. Notice of Intended Action to solicit comments on the amendment was published in the Iowa Administrative Bulletin on the same date as **ARC 6086B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that

Adopted and Filed Emergency and published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations because it provides a benefit to the people affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment October 10, 2007.

This amendment is intended to implement Iowa Code section 239B.19.

This amendment shall become effective on December 12, 2007.

The following amendment is adopted.

Amend subrule **93.110(6)**, paragraph "b," as follows:

b. ~~For~~ *Effective November 1, 2005, for* participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round-trip miles times the mileage rate of ~~21~~ 30 cents per mile. ~~EXCEPTION: From November 1, 2005, through June 30, 2007, the mileage rate shall be 30 cents per mile.~~

[Filed 10/10/07, effective 12/12/07]

[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6375B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 252D.22, the Department of Human Services amends Chapter 98, "Support Enforcement Services," Iowa Administrative Code.

These amendments modify child support rules regarding income withholding to collect court-ordered child support. The amendments make technical changes to conform the rules to statutory changes made to Iowa Code sections 252D.16A and 252D.18(2) pursuant to 2006 Iowa Acts, chapter 1119, and to changes in mandatory federal withholding forms.

In 2006, in response to employer and parent requests, the Iowa Legislature amended Iowa Code chapter 252D to authorize an alternative method for the Child Support Recovery Unit (CSRU) to amend or update the amount of income withheld to pay court-ordered support. The previous statutory method was for CSRU to issue both an income withholding order and income withholding notices every time the amount to withhold changed. The specific amount to withhold was listed in both the income withholding orders and notices.

Under the new alternative method, the amount to withhold can be updated using fewer forms. CSRU is still authorized to issue an initial order to withhold income to comply with a court order. However, rather than citing the specific dollar amount to withhold in that order, the amount to withhold is listed in notices to the employer and to the parent who is or-

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dered to pay child support. If the amount to withhold later changes (for example, because the court changed the amount of child support or because delinquent support has been paid), CSRU can issue amended notices to the employer and parent without amending the underlying order. When the support has been paid and the court's order ends, CSRU enters a final order terminating the income withholding.

The forms still provide the same information to employers and to parents. There is no change in the parent's rights to contest the income withholding. Regardless of which method is used to amend the amount of withholding, the parent has the same rights to contest by requesting a conference with CSRU and a hearing with the court.

These amendments also delete language permitting CSRU to use income withholding notices to enforce health insurance orders under Iowa Code chapter 252E, because CSRU is now required to use standard federal forms for income withholding and for health insurance.

These amendments include processes to contest the actions of the unit.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6119B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 10, 2007.

These amendments are intended to implement Iowa Code chapters 252D and 252E.

These amendments shall become effective on January 1, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 98] is being omitted. These amendments are identical to those published under Notice as **ARC 6119B**, IAB 8/1/07.

[Filed 10/10/07, effective 1/1/08]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6386B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 73, "Existing Conveyances," Iowa Administrative Code.

The amendment creates exceptions to an existing rule that requires pit floors of existing elevators to be excavated and lowered.

The purpose of this amendment is to ease requirements for the owner of a building to excavate and lower an existing elevator pit when the incremental improvement to public safety would be minimal in comparison to the cost.

The principal reason for adoption of this amendment is to implement the legislative intent behind Iowa Code chapter 89A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6070B**. No

member of the public commented on the Notice of Intended Action. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 66.

This amendment is intended to implement Iowa Code chapter 89A.

This amendment will become effective on December 12, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [73.8] is being omitted. This amendment is identical to that published under Notice as **ARC 6070B**, IAB 8/1/07.

[Filed 10/17/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6387B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment provides for the designation of public swimming areas at Clear Lake in Cerro Gordo County by placement of regulatory buoys in such a way as to define the swimming area.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 29, 2007, as **ARC 6201B**. Public hearings were held at Clear Lake State Park Conference Room on September 19, 2007, and the Wallace State Office Building on September 25, 2007. No written or oral comments were received at the hearings or during the comment period. No changes were made from the Notice of Intended Action.

This amendment is intended to implement Iowa Code section 456A.25.

This amendment shall become effective December 12, 2007.

The following amendment is adopted.

Amend 571—Chapter 40 by adopting the following **new** rule:

571—40.55(462A) Zoning of Clear Lake, Cerro Gordo County. Areas may be specifically designated for swimming with the use of regulatory buoys.

[Filed 10/18/07, effective 12/12/07]
[Published 11/7/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/7/07.

ARC 6399B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants hereby amends Chapter 325, "Administrative and Regulatory Authority for the Board of Physician Assistant Examiners," Chapter 326, "Licensure of Physician Assistants," Chapter 327, "Practice of Physician Assistants," Chapter 328, "Continuing Education for Physician Assistants," and Chapter 329, "Discipline for Physician Assistants," Iowa Administrative Code.

These amendments adopt changes to clarify continuing education requirements, rescind old or duplicated language, and amend both the number of board members and the board title to be consistent with changes to Iowa Code section 147.13 as amended by 2007 Iowa Acts, Senate File 74, section 32, and section 147.14 as amended by 2007 Iowa Acts, House File 909, section 188.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6134B**. A public hearing was held on September 5, 2007, from 9 to 9:30 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.

The amendments were adopted by the Board of Physician Assistants on October 17, 2007.

These amendments will become effective December 12, 2007.

These amendments are intended to implement Iowa Code chapters 21, 147, 148C, and 272C and 2007 Iowa Acts, Senate File 74 and House File 909.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 325 to 329] is being omitted. These amendments are identical to those published under Notice as **ARC 6134B**, IAB 8/15/07.

[Filed 10/19/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6403B**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 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXX; No. 6, p. 525, on September 12, 2007, as **ARC 6241B**.

Items 1, 4 and 5 amend subrules 42.2(7) and 42.13(1) and rule 701—42.12(422) to remove references to Iowa Code section 422.12B for tax years beginning on or after January 1,

2007, regarding the earned income credit since this credit is now a refundable credit. Item 4 also amends the implementation clause for rule 701—42.12(422).

Item 2 amends subrule 42.2(9) to provide that the earned income credit is 7 percent of the federal earned income credit for tax years beginning on or after January 1, 2007, and that the credit is now refundable. In addition, the subrule provides for the method for nonresidents and part-year residents of Iowa to calculate the earned income credit for tax years beginning on or after January 1, 2007.

Item 3 amends the implementation clause for rule 701—42.2(422).

Item 6 amends subrule 42.15(2) for individual income tax to set forth the additional amounts of historic preservation and cultural and entertainment district tax credits starting with the fiscal year beginning July 1, 2007.

Items 7, 8 and 9 amend subrules 42.15(4) and 42.15(6) for individual income tax to provide that the historic preservation and cultural and entertainment district tax credit is now fully refundable for tax years ending on or after July 1, 2007. Item 9 also amends the implementation clause for rule 701—42.15(422).

Item 10 amends rule 701—42.23(422) to update the listing regarding the sequence of tax credits to be deducted for individual income tax.

Item 11 amends rule 701—42.30(422) to provide that the school tuition organization tax credit may be allowed for noncash contributions for tax years beginning on or after January 1, 2007.

Items 12 and 13 amend subrules 42.30(1), 42.30(3), 42.30(4) and 42.30(5) to provide for new reporting dates for school tuition organizations, to allow the increased amount of school tuition organization tax credits starting for tax years beginning on or after January 1, 2008, and to clarify the definition of a "qualified school."

Item 14 amends the implementation clause for rule 701—42.30(422).

Item 15 amends rule 701—52.12(422) to update the listing regarding the sequence of tax credits to be deducted for corporation income tax.

Item 16 amends subrule 52.18(2) for corporation income tax to set forth the additional amounts of historic preservation and cultural and entertainment district tax credits starting with the fiscal year beginning July 1, 2007. This is similar to the change in Item 6.

Items 17, 18 and 19 amend subrules 52.18(4) and 52.18(6) for corporation income tax to provide that the historic preservation and cultural and entertainment district tax credit is now fully refundable for tax years ending on or after July 1, 2007. This is similar to the change in Items 7, 8 and 9. Item 19 also amends the implementation clause for rule 701—52.18(422).

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 12, 2007.

These amendments are intended to implement Iowa Code sections 404A.4, 422.11D and 422.33 as amended by 2007 Iowa Acts, Senate File 566; Iowa Code section 422.12B as amended by 2007 Iowa Acts, Senate File 590; and Iowa Code section 422.11S as amended by 2007 Iowa Acts, House File 923 and Senate File 601.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 42, 52] is being

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omitted. These amendments are identical to those published under Notice as **ARC 6241B**, IAB 9/12/07.

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[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6402B

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 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXX; No. 6, p. 530, on September 12, 2007, as **ARC 6240B**.

Items 1 and 2 amend subrules 42.24(3) and 42.24(4) for individual income tax to provide that only \$4 million of wage-benefits tax credits is available for the fiscal year ending June 30, 2008, and for subsequent fiscal years.

Item 3 amends the implementation clause for rule 701—42.24(15,422).

Items 4 and 5 amend subrules 52.25(3) and 52.25(4) for corporation income tax to provide that only \$4 million of wage-benefits tax credits is available for the fiscal year ending June 30, 2008, and for subsequent fiscal years.

Item 6 amends the implementation clause for rule 701—52.25(15,422).

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 12, 2007.

These amendments are intended to implement Iowa Code section 15I.3 as amended by 2007 Iowa Acts, Senate File 601.

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 [42.24(3), 42.24(4), 52.25(3), 52.25(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 6240B**, IAB 9/12/07.

[Filed 10/19/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6404B

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 46, "Withholding," and Chapter 48, "Composite Returns," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXX; No. 6, p. 532, on September 12, 2007, as **ARC 6243B**.

Item 1 amends subrule 46.3(2) to include allowances for adjustments to income when taxpayers complete the Iowa employee's withholding allowance certificate, Form IA W-4, for tax years beginning on or after January 1, 2008.

Item 2 amends the implementation clause for rule 701—46.3(422).

Items 3, 4 and 5 amend rule 701—46.4(422) to provide for an exemption from withholding of partnership distributions made to nonresidents of certain publicly traded partnerships for tax years beginning on or after January 1, 2008.

Items 6 and 7 amend rules 701—48.1(422) and 701—48.2(422) to provide that nonresident trusts or estates which are partners, members, shareholders or beneficiaries in partnerships, limited liability companies, S corporations or estates or trusts may elect or may be required to file a composite return for tax years beginning on or after January 1, 2008.

Items 8 and 9 amend rule 701—48.3(422) and rescind rule 701—48.4(422) to eliminate the requirement that taxpayers have to make applications for permission to file a composite return.

Item 10 amends subrule 48.9(1) to correct the mailing address for composite returns.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 12, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 422.16 as amended by 2007 Iowa Acts, House File 904, section 3, and Iowa Code section 422.13 as amended by 2007 Iowa Acts, House File 923, section 15.

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 [46.3(2), 46.4(1), 46.4(2), 46.4(8), 48.1 to 48.4, 48.9(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 6243B**, IAB 9/12/07.

[Filed 10/19/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6406B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code chapter 17A and sections 421.17 and 437A.25, the Department of Revenue adopts amendments to Chapter 70, "Replacement Tax and Statewide Property Tax," Chapter 71, "Assessment Practices and Equalization," Chapter 75, "Property Tax Administration," Chapter 78, "Property Tax Exemptions," and Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXX, No. 6, p. 534, on September 12, 2007, as **ARC 6242B**.

Item 1 amends subrule 70.22(1) by requiring that any entity or person subject to the replacement tax must keep records

REVENUE DEPARTMENT[701](cont'd)

of all property transferred or disposed of in the preceding calendar year, by local taxing district.

Item 2 amends the implementation clause for 701—Chapter 70.

Item 3 amends subrule 71.5(2) to clarify that assessors in assessing property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code shall use the productive and earning capacity from the actual rents received as a method of appraisal to determine the extent to which that use and limitation reduces the market value. This is not a change in policy but only a clarification of the statute and the method presently being followed by assessors.

Item 4 amends subrule 71.20(4) to permit a board of review to accept taxpayer protests by electronic transmission.

Item 5 adopts new rule 701—75.8(614), which clarifies that a county is immune from the statute of limitations when collecting delinquent property taxes.

Item 6 amends rule 701—78.8(427) to allow certain properties acquired by purchase after the filing deadline for claiming a property tax exemption to receive the exemption if the properties would have been exempt had a timely claim for exemption been filed.

Item 7 adopts new rule 701—80.26(427), which allows a tax exemption on property used by a Web search portal business if the business meets certain criteria.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 12, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 427.1 as amended by 2007 Iowa Acts, House File 912, section 3; Iowa Code section 427.3 as amended by 2007 Iowa Acts, House File 923, section 27; Iowa Code chapter 437A as amended by 2007 Iowa Acts, Senate File 278; Iowa Code sections 441.21 and 441.37; and Iowa Code section 614.1 as amended by 2007 Iowa Acts, Senate File 450, section 1.

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 [70.22(1), 71.5(2)“a,” 71.20(4)“a,” 75.8, 78.8, 80.26] is being omitted. These amendments are identical to those published under Notice as **ARC 6242B**, IAB 9/12/07.

[Filed 10/19/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6376B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 306C.11, 307.10 and 307.12, the Department of Transportation, on October 9, 2007, adopted amendments to Chapter 118, “Logo Signing,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the August 15, 2007, Iowa Administrative Bulletin as **ARC 6166B**.

The Department is amending its logo signing rules to implement changes authorized by the Federal Highway Administration, incorporate other changes requested by participants in the logo signing program and business owners, expand the types of attractions that qualify for attraction signing, provide more flexibility where warranted, and clarify program requirements. The amendments to Chapter 118 are as follows:

Rule 761—118.3(306C) is revised to include more detail and provide more flexibility regarding the erection of specific service signs and the posting of business signs. One significant change is that the Department may allow the posting of business signs for a single type of motorist service on two specific service signs. Previously, a service type could appear on no more than one specific service sign. The Federal Highway Administration has given the Department the authority to implement this change. To administer the change, the Department will designate each mainline specific service sign for a particular type of motorist service, even though a specific service sign may, in use, be displaying more than one service type. Posting a business sign of one service type on a specific service sign designated for another service type will be handled through an exception process, which is addressed later in this preamble.

Trailblazing signs are required when a business is neither located on nor is visible from the road that intersects the mainline at the logo-signed interchange. Subrule 118.3(4) provides two new options that, with Department approval, may be used as substitutes for required trailblazing signs: an official sign or a legal off-premises advertising device.

To qualify for logo signing, the maximum distance that a business may be located from the exit is normally three miles. Currently, the Department may reduce this limit to one mile when the number of qualified businesses for a particular type of motorist service exceeds eight within the three-mile limit. Subrule 118.4(2) is revised to change “eight” to “six.” Six is the maximum number of business signs that may be displayed on a specific service sign.

A business qualifying for gas signing is currently required to provide “fuel.” Subrule 118.4(3) is revised to be more specific by changing “fuel” to “gasoline.” Subrule 118.4(3) is also revised to provide for the signing, through an exception process, of 24-hour, card-operated fueling stations that do not meet all of the qualifications for gas signing; the exception is addressed in more detail later in this preamble.

Subrule 118.4(4) regarding the qualifications for food signing is revised to:

- Reference the need for a food service establishment license.
- Add a list of food items that are and are not considered breakfast items.
- Specify the minimum serving hours for breakfast, lunch and dinner.
- Require the business providing the food service to have its own employees, seating, menu and cash register for the food service. The business sign must identify the entity providing the food service.

In subrule 118.4(6), new requirements for camping signing are a minimum of 20 camping spaces and 24-hour availability when the campground is in operation. These requirements match those for general service signs for camping.

Subrule 118.4(7) regarding the qualifications for attraction signing is revised to:

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- Except for racetracks, require the attraction to maintain normal business hours at least five days per week, totaling at least 40 hours per week. This matches the requirement for signing tourist attractions under the tourist-oriented directional signing program.

- Increase the required number of parking spaces from 10 to 30.

- Add several types of sites or attractions that qualify for attraction signing. These additions were developed by a joint effort between the Tourism Signing Committee established in Iowa Code section 321.252 and the Department, and included research of other states' programs. Seventeen different types of sites or attractions are now listed. Eight were previously listed.

Subrule 118.4(9) adds a new requirement for all types of services. To qualify for logo signing, a business must erect and maintain a legal on-premises sign at the site where the service is provided. Motorists need to be able to find the business.

Subrule 118.4(10) provides that the Department shall remove the business signs of a business that does not comply with program requirements. Subrule 118.5(6) provides that when fees are delinquent, the application of the affected business is terminated, and the delinquency is cause for removal of the affected business signs. Both subrules provide that the business must submit a new application to the Department in order to have its business signs reinstalled. The new application is subject to all the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.

The revised rules provide that the Department may grant four types of exceptions, two of which are new, for the posting of business signs as follows:

- When a specific service sign designated for a particular type of motorist service exists and that sign is full, the Department may grant an exception to allow the placement of a business sign for that service type on a specific service sign designated for another service type.

- As discussed above, the maximum distance that a business may be located from the exit is normally three miles, but may be reduced to one mile in urban areas. If there is space for additional business signs on a mainline specific service sign for a particular type of motorist service and no businesses of that service type within the distance limit have expressed an interest in the space, the revised rules provide that the Department may grant a distance exception to a business which provides that motorist service and is located within 15 miles of the exit. The current rules provide a distance exception in three-mile increments, up to 15 miles.

- To qualify for gas signing, a business must meet certain requirements. Card-operated fueling stations may be granted an exception from the requirements to provide oil and water, restroom facilities, drinking water, and a public telephone. These fueling stations must operate 24 hours per day, 7 days per week, and must be operable by motorists without membership.

- To qualify for food signing, a business must serve three meals per day. The revised rules retain the existing exception that may be granted to a business that serves only two meals per day.

Subrule 118.4(11) cross-references the individual types of exceptions that may be granted and describes the process for granting an exception. A business granted an exception is guaranteed a space on a specific service sign for at least five years if certain conditions are met.

Subrule 118.5(2) clarifies that drawings held to fill vacancies are limited to qualified businesses, unless no qualified businesses have applied, in which case the Department will consider businesses that would require an exception to qualify.

Subrule 118.5(4) adds a new requirement for a business that changes its name or franchise affiliation from that which appears on its business sign. A new application is required, but the business will retain its spot on the specific service sign and no application fee is due if the application is received by the Department prior to the change on the business premises.

A new requirement in subrule 118.5(5) is a flat, one-time application fee of \$100. The application fee is nonrefundable once the Department has performed an on-site review to verify compliance with the requirements of these rules. This new requirement is similar to the existing requirement for the issuance of outdoor advertising permits. The application fee replaces the current initial fee of \$50 for each business sign to be posted (mainline, ramp and trailblazing), which is due upon approval of the application for logo signing.

Subrule 118.5(5) also reflects a revised procedure for payment of annual logo fees. An annual fee will be due once a year, on or before July 1, and will consist of \$230 per year for each mainline business sign posted and \$230 per year for each ramp business sign posted. No fee will be due for a trailblazing business sign posted. The revision also provides for proration of the annual fee for business signs installed during the year. Currently, the fees are an annual fee of \$50 for each business sign posted (mainline, ramp and trailblazing), payable on or before July 1 of each year, plus a monthly fee of \$15 for each mainline business sign posted and \$15 for each ramp business sign posted. Most businesses currently pay the fees annually.

The amount paid per business in the first year of participation in the logo signing program may increase by an average of \$32.50, depending upon the number of business signs installed and the installation date. After the first year, the amount paid each year by a participating business will be the same as the amount currently paid or may be slightly less, because the Department will no longer charge an annual fee for trailblazing business signs posted.

The current rules allow camping services to be operated seasonally. The revised rules provide that food, lodging and attraction services may also be operated seasonally. Subrule 118.5(7) provides three fee options for seasonal operations, including two reduced-cost options.

New subrule 118.5(8) provides that in cases where the attachment of a business sign will require the installation of a new or larger specific service sign, an applicant that wishes to have its business sign installed sooner than the estimated date of installation as performed by the Department's contractor may request the Department to erect a temporary specific service sign. The new subrule also specifies the fees that will be charged for erection of the temporary sign.

Rules 761—118.6(306C) and 761—118.7(306C) are revised to split the specifications for business signs between those for the sign blank and those for the sign face, to add some detail, and to delete provisions that have already been addressed in the chapter. Three other changes include:

- Businesses shall submit a proposed sign design to the Department for approval before proceeding with fabrication. This will reduce the number of signs that fail to meet Department specifications.

- The letter height of sign legends is no longer mandatory but is recommended (and is subject to Department

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approval). This will allow more flexibility for longer business names.

- Supplemental messages for seasonal operations are allowed. This will eliminate the need to remove and reinstall business signs for seasonal businesses.

The Department currently assesses a \$50 service fee when it installs a business sign to replace an existing sign. Subrule 118.7(7) is amended to eliminate this service fee when the existing business sign has been damaged by vandalism, vehicle accidents or acts of God.

Rule 761—118.8(306C) is a new rule addressing optional RV symbols. These symbols are posted on mainline business signs to identify businesses that are designed to accommodate the on-site movement and parking of recreational vehicles. The Federal Highway Administration has given the Department the authority to use these symbols and has established the criteria for their use; the criteria are included in the new rule. The fee is \$15 per RV symbol if it is posted at the time the business sign is installed and \$50 per RV symbol if it is added to an existing business sign.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 306C.11.

These amendments will become effective December 12, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 118] is being omitted. These amendments are identical to those published under Notice as **ARC 6166B**, IAB 8/15/07.

[Filed 10/11/07, effective 12/12/07]
[Published 11/7/07]

[For replacement pages for IAC, see IAC Supplement 11/7/07.]

ARC 6377B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on October 9, 2007, adopted amendments to Chapter 400, "Vehicle Registration and Certificate of Title," Chapter 401, "Special Registration Plates," Chapter 405, "Salvage," Chapter 411, "Persons with Disabilities Parking Permits," Chapter 424, "Transporter Plates," Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," Chapter 430, "Motor Vehicle Leasing Licenses," Chapter 431, "Vehicle Recyclers," Chapter 451, "Emergency Vehicle Permits," and Chapter 480, "Abandoned Vehicles," and rescinded Chapter 421, "Manufactured or Mobile Home Retailers, Manufacturers and Distributors," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the August 15, 2007, Iowa Administrative Bulletin as **ARC 6133B**.

The purpose of this rule making is to amend the rules to conform to recent legislation and the Iowa Code, to streamline procedures where appropriate, to remove form numbers and use more generic descriptions of forms, to correct or delete outdated language, to clarify rules where needed, and to generally clean up the rules. Following are descriptions of amendments that may need further explanation:

2006 Iowa Acts, chapter 1068, section 6, amends the definition of motorized bicycle to remove the reference to engine displacement. A definition in rule 761—400.1(321) is amended to reflect this change.

Subrule 400.3(3) is amended to provide that a firm, association, corporation or trust which is not required to have a federal employer identification number shall disclose the social security number, Iowa driver's license number or Iowa non-operator's identification card number of an authorized representative when applying for a certificate of title or registration. This provides an alternative for organizations that are not required to have federal employer identification numbers.

Iowa Code section 321.23A requires the Department to adopt rules on affidavits of correction. New subrule 400.3(15) implements this rule-making requirement.

Subrule 400.4(2) is amended to provide that when a vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted with the application for registration. The bill of sale language is new, but accepting a bill of sale is current practice.

New subrule 400.4(9) and amended subrule 400.14(3) provide that applications and transfers involving a trust shall be accompanied by a copy of all documents creating or otherwise affecting the trust and shall be signed by each trustee unless otherwise specified in the trust agreement. This is current practice.

Subrule 400.7(11) is amended to establish a procedure for updating a title or registration when the name of the vehicle owner changes.

Subrule 400.10(3) regarding assignment of security interest is amended to conform to Iowa Code section 321.50.

Rule 761—400.15(321) is amended to add an explanation of what action the Department will take after a title has been canceled.

Subrules 400.27(3) and 400.27(4) regarding vehicles held for resale or trade by dealers are amended to require a new title when a vehicle is assigned to a dealer using an affidavit of foreclosure form and to require a new title and payment of registration fees when a dealer's license is revoked or surrendered in lieu of revocation. Both reflect current practice.

Rule 761—400.34(321) currently allows a multipurpose vehicle to be registered as a motor truck if the owner certifies that the vehicle is not equipped with rear seats, and provides that a vehicle so registered shall not be operated on the highway when it is equipped with a rear seat. This rule is rescinded; the Department believes it is unenforceable.

Iowa Code section 321.134 requires the Department to adopt rules regarding waiver of registration penalties for an owner who is in the military service of the United States and who has been relocated as a result of being placed on active duty on or after September 11, 2001. New subrule 400.44(6) implements this rule-making requirement; it requires the owner to provide a copy of an official government document verifying the military service.

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Subrule 400.50(1) regarding refunds of registration fees is amended to conform to Iowa Code section 321.126, including amendments made to Iowa Code section 321.126 by 2005 Iowa Acts, chapter 133, 2006 Iowa Acts, chapter 1068, and 2006 Iowa Acts, chapter 1070. Also, when the current plates must be surrendered with the claim for refund and one or both plates have been lost or stolen, subrule 400.50(1) currently requires the claimant to purchase duplicate plates. Subrule 400.50(1) is amended to remove this requirement; instead, if one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

Subrule 400.53(1) is amended to allow validation stickers for natural resources plates to be affixed to the lower right corner of the rear plate, rather than the lower left corner. Affixing the sticker to the lower left corner may cover up the image on the plate.

2006 Iowa Acts, chapter 1068, section 13, provides that a lessee who purchases a leased vehicle has 30 days, rather than 15 days, to request assignment of the vehicle's fee credit and plates. Subrule 400.60(4) is amended to reflect this change.

Rule 761—400.63(321) is amended to strike obsolete language regarding issuing registration plates in sequence. Assignment of plates is automated.

Rule 761—400.71(321) regarding lemon buy-back designations is rescinded. Provisions regarding lemon buy-back designations are being moved to 761—Chapter 405.

Subrule 401.2(2) regarding issuance of special registration plates is amended to add a new sentence that clarifies what is required if the 90-day deadline for assignment of special plates to a vehicle is not met, to delete a requirement that the lessee provide a copy of the lease agreement when applying for special plates for a leased vehicle, and to delete a provision regarding multipurpose vehicles and motor homes that unnecessarily repeats the Iowa Code.

Subrule 401.6(2), paragraph "d," lists the reasons the Department will not issue certain combinations of characters on personalized plates. This list is updated to address issues that have arisen in hearings on personalized plates.

2007 Iowa Acts, House File 749, section 2, amends Iowa Code section 321.34, subsection 8, which pertains to Congressional Medal of Honor plates, by striking the word "Congressional." Rule 761—401.8(321) is amended to reflect this change.

Subrule 401.13(2) is amended to clarify that a disabled veteran is eligible for disabled veteran plates even if the U.S. government only partially covers the cost of the vehicle provided to the veteran.

761—Chapter 405, "Salvage," is amended to:

- Implement 2006 Iowa Acts, chapter 1068, section 14, which amends the definition of "wrecked or salvage vehicle" to remove the exemption for motor vehicles having a gross vehicle weight rating of less than 30,000 pounds, and adds a provision stating that a motor vehicle with a gross vehicle weight rating of 30,000 pounds or more is not required to have a salvage theft examination certificate to convert a salvage title to a regular title.

- Implement 2006 Iowa Acts, chapter 1120, section 12, which allows new motor vehicle dealers and authorized vehicle recyclers to reassign Iowa salvage titles, and 2007 Iowa Acts, House File 793, section 10, which allows new motor vehicle dealers and authorized vehicle recyclers to reassign foreign salvage titles.

- Remove references to obsolete designations on titles and registrations; add the designation for "damage over 50 percent," which is required by Iowa Code section 321.69;

add the "lemon buy-back" designation, which was formerly addressed in 761—Chapter 400; establish the order of precedence of various designations; and make it clear that designations will be carried forward when title is transferred.

2006 Iowa Acts, chapter 1090, shifts the responsibility for licensing manufactured and mobile home retailers, manufacturers and distributors from the Department to the State Building Code Commissioner. 761—Chapter 421, which pertains to the Department's licensing of these entities, is therefore rescinded.

761—Chapter 424, "Transporter Plates," is amended to:

- Clarify that only transporters located in this state may be issued transporter plates.

- No longer require an applicant to include a permit or certificate number on its application but instead require the applicant to certify that it has proper operating authority to conduct business as a transporter.

- List the ownership information that transporters must provide. Similar language is being added to other business licensing rules (761—Chapters 425, 430 and 431). The computer licensing system uses the same customer record as the vehicle registration and titling system. The Department collects consistent information from applicants.

761—Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," other than the rule on dealer plates, which is discussed separately, is amended to:

- Remove references to the licensing of used vehicle wholesalers, including the rescission of rule 761—425.52(322). 2006 Iowa Acts, chapter 1068, sections 36 and 37, eliminated the Department's licensing of used vehicle wholesalers.

- Clarify that a dealer must staff its designated location during regular business hours.

- List the ownership information that dealers must provide and comply with 2007 Iowa Acts, House File 793, section 22.

- Clarify that a dealer's required telephone service must be a land line and not cellular phone service.

- Require extension lots to be owned or leased by the dealer. This change will allow the Department to suspend or revoke a dealer's license if the dealer displays vehicles on property without the permission of the property owner. Currently, the Department is unable to take any enforcement action in such situations.

- Strike language which limits fair, show or exhibition permits to 14 days. 2006 Iowa Acts, chapter 1068, sections 35 and 39, allow the Department to issue consecutive 14-day permits.

- Rescind subrule 425.26(7), pertaining to the granting of a special limited permit for the display of motor homes or travel trailers at a convention sponsored by an established national association. The subrule has not been used for several years.

Rule 761—425.70(321) regarding dealer plates is amended to:

- Strike a paragraph which allows licensed manufactured or mobile home dealers to be issued dealer plates. Under 2006 Iowa Acts, chapter 1090, sections 18 and 19, manufactured or mobile home retailers are no longer eligible for dealer plates.

- Eliminate references to dealer plates that display the word "trailer." Dealer plates displaying the word "trailer" will be discontinued.

- Add a paragraph regarding the issuance of dealer plates to licensed manufacturers of ambulances, rescue ve-

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hicles or fire vehicles. 2007 Iowa Acts, Senate File 463, allows these manufacturers to use dealer plates in certain instances.

- Strike a provision that does not allow dealer plates to be used on vehicles that are leased. 2006 Iowa Acts, chapter 1068, section 15, provides that dealer plates may be displayed on unregistered vehicles owned by lessors under certain conditions.

761—Chapter 430, “Motor Vehicle Leasing Licenses,” is amended to:

- Clarify situations regarding leases created in jurisdictions outside the state of Iowa.
- List the ownership information that lessors must provide.
- State the situations when a separate leasing license is required; these situations document current requirements.

761—Chapter 431, “Vehicle Recyclers,” is amended to delete repetitious verbiage and obsolete requirements and to rearrange the topics covered so that they are more understandable and are arranged in a way that is similar to those in other business licensing chapters. Also, the chapter is amended to:

- Add a definition for “regular business hours.” The term is used in the chapter but is not defined.
- List the ownership information that recyclers must provide.
- Clarify that a recycler’s required telephone service must be a land line and not cellular phone service.
- Clarify that a zoning compliance letter is required not only for the applicant’s place of business but also for any extension.

Iowa Code section 321.451 permits the Department to issue a certificate designating a privately owned towing or recovery vehicle as an authorized emergency vehicle, subject to rules adopted by the Department. Rule 761—451.2(321)

is amended to implement this rule-making requirement. The amendment provides that the certificate is valid only when the towing or recovery vehicle is at the scene of an emergency, unless otherwise authorized by a law enforcement officer.

Iowa Code section 321.89, subsection 4, requires the Department to adopt rules regarding procedures for reimbursement of expenses and costs to a private entity hired to take custody of an abandoned vehicle. 761—Chapter 480, “Abandoned Vehicles,” is amended to implement this rule-making requirement. Also, a definition of “public auction” is added to clarify what is meant by the use of this term in Iowa Code section 321.89.

These amendments do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 321, 321L, 322, 322C, 321F and 321H.

These amendments will become effective December 12, 2007.

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 [amend Chs 400, 401, 405, 411, 424, 425, 430, 431, 451, 480; rescind Ch 421] is being omitted. These amendments are identical to those published under Notice as **ARC 6133B**, IAB 8/15/07.

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