



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.

KATHLEEN K. WEST, Administrative Code Editor

Telephone: (515)281-3355

STEPHANIE A. HOFF, Deputy Editor

(515)281-8157

Fax: (515)281-5534

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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- Filed, Iowa supplemental energy
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**VETERANS AFFAIRS, IOWA
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- Filed, Veterans commemorative
property, ch 15 **ARC 6491B** 1140

CITATION of Administrative Rules

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

| | |
|-----------------------|----------------|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1(249A) | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)"a" | (Paragraph) |
| 441 IAC 79.1(1)"a"(1) | (Subparagraph) |

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

Schedule for Rule Making 2008

| NOTICE SUBMISSION DEADLINE | NOTICE PUB. DATE | HEARING OR COMMENTS 20 DAYS | FIRST POSSIBLE ADOPTION DATE 35 DAYS | ADOPTED FILING DEADLINE | ADOPTED PUB. DATE | FIRST POSSIBLE EFFECTIVE DATE | POSSIBLE EXPIRATION OF NOTICE 180 DAYS |
|----------------------------------|------------------------|--------------------------------------|--|-------------------------------|-------------------------|--|---|
| *Dec. 26 '07* | Jan. 16 '08 | Feb. 5 '08 | Feb. 20 '08 | Feb. 22 '08 | Mar. 12 '08 | Apr. 16 '08 | July 14 '08 |
| Jan. 11 '08 | Jan. 30 | Feb. 19 | Mar. 5 | Mar. 7 | Mar. 26 | Apr. 30 | July 28 |
| Jan. 25 | Feb. 13 | Mar. 4 | Mar. 19 | Mar. 21 | Apr. 9 | May 14 | Aug. 11 |
| Feb. 8 | Feb. 27 | Mar. 18 | Apr. 2 | Apr. 4 | Apr. 23 | May 28 | Aug. 25 |
| Feb. 22 | Mar. 12 | Apr. 1 | Apr. 16 | Apr. 18 | May 7 | June 11 | Sept. 8 |
| Mar. 7 | Mar. 26 | Apr. 15 | Apr. 30 | May 2 | May 21 | June 25 | Sept. 22 |
| Mar. 21 | Apr. 9 | Apr. 29 | May 14 | ***May 14*** | June 4 | July 9 | Oct. 6 |
| Apr. 4 | Apr. 23 | May 13 | May 28 | May 30 | June 18 | July 23 | Oct. 20 |
| Apr. 18 | May 7 | May 27 | June 11 | June 13 | July 2 | Aug. 6 | Nov. 3 |
| May 2 | May 21 | June 10 | June 25 | ***June 25*** | July 16 | Aug. 20 | Nov. 17 |
| ***May 14*** | June 4 | June 24 | July 9 | July 11 | July 30 | Sept. 3 | Dec. 1 |
| May 30 | June 18 | July 8 | July 23 | July 25 | Aug. 13 | Sept. 17 | Dec. 15 |
| June 13 | July 2 | July 22 | Aug. 6 | Aug. 8 | Aug. 27 | Oct. 1 | Dec. 29 |
| ***June 25*** | July 16 | Aug. 5 | Aug. 20 | ***Aug. 20*** | Sept. 10 | Oct. 15 | Jan. 12 '09 |
| July 11 | July 30 | Aug. 19 | Sept. 3 | Sept. 5 | Sept. 24 | Oct. 29 | Jan. 26 '09 |
| July 25 | Aug. 13 | Sept. 2 | Sept. 17 | Sept. 19 | Oct. 8 | Nov. 12 | Feb. 9 '09 |
| Aug. 8 | Aug. 27 | Sept. 16 | Oct. 1 | Oct. 3 | Oct. 22 | Nov. 26 | Feb. 23 '09 |
| ***Aug. 20*** | Sept. 10 | Sept. 30 | Oct. 15 | Oct. 17 | Nov. 5 | Dec. 10 | Mar. 9 '09 |
| Sept. 5 | Sept. 24 | Oct. 14 | Oct. 29 | Oct. 31 | Nov. 19 | Dec. 24 | Mar. 23 '09 |
| Sept. 19 | Oct. 8 | Oct. 28 | Nov. 12 | ***Nov. 12*** | Dec. 3 | Jan. 7 '09 | Apr. 6 '09 |
| Oct. 3 | Oct. 22 | Nov. 11 | Nov. 26 | ***Nov. 26*** | Dec. 17 | Jan. 21 '09 | Apr. 20 '09 |
| Oct. 17 | Nov. 5 | Nov. 25 | Dec. 10 | ***Dec. 10*** | Dec. 31 | Feb. 4 '09 | May 4 '09 |
| Oct. 31 | Nov. 19 | Dec. 9 | Dec. 24 | ***Dec. 24*** | Jan. 14 '09 | Feb. 18 '09 | May 18 '09 |
| ***Nov. 12*** | Dec. 3 | Dec. 23 | Jan. 7 '09 | Jan. 9 '09 | Jan. 28 '09 | Mar. 4 '09 | June 1 '09 |
| ***Nov. 26*** | Dec. 17 | Jan. 6 '09 | Jan. 21 '09 | Jan. 23 '09 | Feb. 11 '09 | Mar. 18 '09 | June 15 '09 |
| ***Dec. 10*** | Dec. 31 | Jan. 20 '09 | Feb. 4 '09 | Feb. 6 '09 | Feb. 25 '09 | Apr. 1 '09 | June 29 '09 |
| ***Dec. 24*** | Jan. 14 '09 | Feb. 3 '09 | Feb. 18 '09 | Feb. 20 '09 | Mar. 11 '09 | Apr. 15 '09 | July 13 '09 |

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|------------------------------|-------------------|
| 15 | Wednesday, December 26, 2007 | January 16, 2008 |
| 16 | Friday, January 11, 2008 | January 30, 2008 |
| 17 | Friday, January 25, 2008 | February 13, 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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NOTE: In 2008, the format of the Iowa Administrative Code will change to 8 ½" x 11" pages.

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, January 8, 2008, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the January 2, 2008, Iowa Administrative Bulletin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Procurement of goods and services—tied bids, 105.12(4), Filed **ARC 6439B** 12/5/07

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Avian influenza, 64.185, 64.187, 64.188, 64.191(2)“e”(7), 64.191(2)“g,” 64.192,
Filed **Emergency After Notice ARC 6492B** 12/19/07

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]“umbrella”

Debt cancellation products, ch 5, Notice **ARC 5930B**, Terminated **ARC 6486B** 12/19/07

Debt cancellation products, ch 5, Notice **ARC 6430B** 12/5/07

CULTURAL AFFAIRS DEPARTMENT[221]

Iowa community cultural grants (ICCG) program, 6.3 to 6.12, Filed **ARC 6460B** 12/5/07

Cultural enrichment grant (CEG) program, ch 8 title, 8.1 to 8.3, 8.4(1), 8.4(2), 8.5 to 8.10, Filed **ARC 6462B** 12/5/07

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Targeted industries division name change, 1.4(4), part V title, 101.1, 102.8(1), 103.11(1), 104.9(1),
105.8(1), 106.6(1), 107.6(1), 108.6(1), 109.7(1), Notice **ARC 6478B** 12/19/07

Targeted industries—networking, student competition, and career awareness funds;
community college equipment and training fund, chs 106 to 109, Filed **ARC 6479B** 12/19/07

Allocation of Grow Iowa values fund, ch 165, Notice **ARC 6477B** 12/19/07

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EDUCATION DEPARTMENT[281]“umbrella”

Complaints—who may initiate, 11.4(1), Filed **ARC 6449B** 12/5/07

Licensure—applicants from foreign institutions, 14.104, Notice **ARC 6457B** 12/5/07

Adding endorsements to licenses, 14.106(1), 14.106(2), Notice **ARC 6446B** 12/5/07

Administrator license, 14.114, Filed **ARC 6447B** 12/5/07

Adding endorsements to licenses, 14.121(2), Notice **ARC 6445B** 12/5/07

Licensure—administrators from out of state, 14.142(1)“c,” Notice **ARC 6450B** 12/5/07

Renewal of administrator license, 17.7(3), Filed **ARC 6448B** 12/5/07

EDUCATION DEPARTMENT[281]

Prohibition on discrimination based on sexual orientation and gender identity;

definition of “prekindergarten program”; antibullying and antiharassment policy, ch 12 preamble, 12.1(1),

12.2, 12.3(6), 12.3(13), 12.8(1)“a”(2), Filed **ARC 6472B** 12/5/07

Accreditation standards—school nurse, guidance counselor, school counseling program,

12.2, 12.3(11), 12.4(12), Filed **ARC 6469B** 12/5/07

Accreditation standards—core content standards, phase II accreditation visit based on recommendation

of school budget review committee, outdated provisions removed, 12.3(7), 12.3(10), 12.4(11), 12.5(10),
12.5(17), ch 12 div VIII title, 12.8(1)“c” and “f,” 12.8(4)“b”(5), Filed **ARC 6473B** 12/5/07

Student achievement and teacher quality program; beginning administrator mentoring

and induction program, 12.7, 72.9(1)“g,” ch 83 title, ch 83 div I title, 83.1, 83.2,

ch 83 div II title, 83.3 to 83.5, 83.5(3), 83.6, 83.7, ch 83 div III,

83.8 to 83.12, Notice **ARC 6475B** 12/19/07

Open enrollment—prohibition of attendance center assignment based solely on race,

17.2, 17.6(2), 17.14, Notice **ARC 6480B** 12/19/07

Salary allocation plan for community college faculty, 21.3(7), Filed **ARC 6471B** 12/5/07

Used motor vehicle dealer education program, 21.75, Filed **ARC 6470B** 12/5/07

Supplementary weighting, 97.1, 97.2, 97.4 to 97.7, Filed **ARC 6474B** 12/5/07

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Elevator appeals, rescind ch 10, Filed **ARC 6432B** 12/5/07

Boilers and unfired steam pressure vessels appeals, rescind ch 11, Filed **ARC 6433B** 12/5/07

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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”
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Engineering licensure by comity, 4.2, Notice **ARC 6499B** 12/19/07
Land surveying—examination subversion, 5.1(9), Filed **ARC 6498B** 12/19/07
Compensation to peer reviewers, 10.1(4), Filed **ARC 6496B** 12/19/07

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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

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Filing of reports, 104.1(1), 104.2(3) to 104.2(5), 104.3, Notice **ARC 6468B** 12/5/07

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Disability services management, 25.11, 25.13(1)“m,” 25.20, Filed **ARC 6481B** 12/19/07
Medicaid—eligibility for newborns, verification of identity and citizenship, 75.1(20), 75.1(20)“a,”
75.11(2)“g” and “h,” Notice **ARC 6431B** 12/5/07
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81.6(16)“f”(1)“2,” 81.6(16)“f”(2)“2,” 81.6(16)“f”(3)“2,” 81.6(16)“f”(4)“2,”
81.6(16)“h,” Filed Emergency After Notice **ARC 6452B** 12/5/07
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INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”
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Uniform health insurance application form, 71.26, Notice **ARC 6435B** 12/5/07

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WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”
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Boilers and pressure vessels—nonstandard objects, waivers, notice, temporary boilers,
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94.2, 96.1, Filed **ARC 6503B** 12/19/07

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Fees, 8.4(1)"c," "d," "f" and "g," 8.4(2)"a," 8.4(7), 9.11(3)"a," 9.13(1)"a," 9.13(2)"b,"
10.3(3)"a"(1), Filed Emergency After Notice **ARC 6489B** 12/19/07
- Complaints and investigations, 24.1(2), 24.2, 24.2(1) to 24.2(9), 24.4(5), Filed **ARC 6488B** 12/19/07

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Rules of practice in contested cases, ch 7, Filed **ARC 6440B** 12/5/07
- Violation suspension program—criminal trespass while hunting deer, 15.6(1), 15.6(2),
15.6(3)"a"(22), Filed Emergency **ARC 6443B** 12/5/07
- Water trails development program; low-head dam safety program, ch 30 title, ch 30 div I title, 30.1,
ch 30 div II, 30.51 to 30.63, Notice **ARC 6444B** 12/5/07
- Nonresident deer hunting, 94.1(1)"c," 94.7(6), 94.8(1), 94.8(2), Notice **ARC 6442B** 12/5/07

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Fees; changes to references to board and executive secretary, 2.1, 2.3(1), 2.3(3), 2.6, 2.8,
2.9(4), 2.11, 2.12(2), 2.14, 3.1, 3.10(1), 3.10(2), 3.10(4), 3.29, 8.12"3," 8.34(1), 8.34(2)"a," "d" and "e,"
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- Pharmacy technicians, ch 3, 36.1(4)"i," "v" and "aa," Notice **ARC 6483B** 12/19/07
- Cross-reference corrections, 6.10(2), 7.8(1)"b," 20.6(1), 20.8(1), 20.9(2), 20.10(6), Notice **ARC 6438B** 12/5/07
- Pharmacy practice—hospitals and long-term care facilities, 7.7, 7.8(3), 7.8(14), 23.9(4),
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- Prescription refills, 8.19(5), Filed **ARC 6437B** 12/5/07
- Automated medication distribution systems and telepharmacy services, ch 9, Notice **ARC 6482B** 12/19/07
- Centralized prescription filling and processing, 18.1 to 18.3, 18.5, 18.10, 18.15, Notice **ARC 6484B** 12/19/07

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Physical therapy, 200.3, 200.5(2), 200.6(1)"e," "f," "h," and "i," 200.6(4), 200.6(5)"i,"
200.7(6), Filed **ARC 6501B** 12/19/07
- Sign language interpreting and transliterating—examination, 361.2(1)"d"(4) and (5), Notice **ARC 6487B** 12/19/07

PUBLIC HEALTH DEPARTMENT[641]

- Area quarantines, 1.1, 1.13, Filed **ARC 6464B** 12/5/07
- Hepatitis programs, ch 2, Filed **ARC 6463B** 12/5/07
- Financial assistance to eligible end-stage renal disease patients, rescind ch 111,
Filed Without Notice **ARC 6466B** 12/5/07
- Scope of practice review committees, rescind ch 194, Filed Without Notice **ARC 6465B** 12/5/07

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Definition of "electronic format"; trust accounts and closings, 2.1, 13.2(2), 13.5,
13.5(1) to 13.5(3), Notice **ARC 6490B** 12/19/07

REVENUE DEPARTMENT[701]

- Determination of a sale and sale price—exemption certificate, 15.3(1)"a," to "c," Filed **ARC 6455B** 12/5/07

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INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Attorney fee contracts, 11.2(2), 11.4, 11.5(8), 11.6 to 11.11, Filed **ARC 6453B** 12/5/07

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

- Supplemental energy conservation plan, rescind ch 28, Filed **ARC 6476B** 12/19/07

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

- Veterans commemorative property, ch 15, Filed **ARC 6491B** 12/19/07

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Jeff Angelo
P.O. Box 604
Creston, Iowa 50801

Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

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

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

Representative David Jacoby
2308 North Ridge Drive
Coralville, Iowa 52241

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

Representative Philip Wise
503 Grand Avenue
Keokuk, Iowa 52632

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

| AGENCY | HEARING LOCATION | DATE AND TIME OF HEARING |
|---|---|--------------------------------------|
| CREDIT UNION DIVISION[189] | | |
| Debt cancellation products, ch 5 IAB 12/5/07 ARC 6430B | Conference Room 200 E. Grand Ave. Des Moines, Iowa | December 27, 2007 10 a.m. |
| ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] | | |
| Grow Iowa values fund, ch 165 IAB 12/19/07 ARC 6477B | ICN Room 200 E. Grand Ave. Des Moines, Iowa | January 8, 2008 2:30 to 3:30 p.m. |
| EDUCATIONAL EXAMINERS BOARD[282] | | |
| Practitioner's licenses and endorsements—TOEFL, 14.104 IAB 12/5/07 ARC 6457B | Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa | January 2, 2008 1 p.m. |
| Practitioner's licenses and endorsements—adding endorsements, 14.106 IAB 12/5/07 ARC 6446B | Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa | January 2, 2008 1 p.m. |
| Practitioner's licenses and endorsements—adding endorsements, 14.121(2) IAB 12/5/07 ARC 6445B | Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa | January 2, 2008 1 p.m. |
| Practitioner's licenses and endorsements—administrator license, 14.142(1) IAB 12/5/07 ARC 6450B | Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa | January 2, 2008 1 p.m. |
| EDUCATION DEPARTMENT[281] | | |
| Accreditation standards, 12.7, 72.9(1), 83.1 to 83.12 IAB 12/19/07 ARC 6475B | State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa | January 8, 2008 1 to 2 p.m. |
| Open enrollment, 17.2, 17.6(2), 17.14 IAB 12/19/07 ARC 6480B | State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa | January 8, 2008 2 to 3 p.m. |
| EMPOWERMENT BOARD, IOWA[349] | | |
| Community empowerment, amendments to ch 1 IAB 12/5/07 ARC 6429B | Room 142 Lucas State Office Bldg. Des Moines, Iowa | January 7, 2008 9:30 a.m. |
| INSPECTIONS AND APPEALS DEPARTMENT[481] | | |
| Food Code provisions, amendments to chs 30, 31, 34, 35; rescind ch 32 IAB 12/5/07 ARC 6454B | Room 319 Lucas State Office Bldg. Des Moines, Iowa | December 27, 2007 10 a.m. |
| INSURANCE DIVISION[191] | | |
| Uniform health insurance application form, 71.26 IAB 12/5/07 ARC 6435B | 330 Maple St. Des Moines, Iowa | January 4, 2008 10 a.m. |

LABOR SERVICES DIVISION[875]

| | | |
|---|---|--|
| Boiler and pressure vessel board waivers, 81.10(6) IAB 12/19/07 ARC 6500B | Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa | January 9, 2008 1 p.m. (If requested) |
| Boiler and pressure vessel program, 81.10(10), 81.15, 90.2, 90.6(7), 90.8, 90.13, 90.14, 91.16 IAB 12/19/07 ARC 6502B | Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa | January 9, 2008 11 a.m. (If requested) |

NATURAL RESOURCE COMMISSION[571]

| | | |
|---|---|---------------------------|
| Waters cost-share and grant programs, 30.1, 30.51 to 30.63 IAB 12/5/07 ARC 6444B | Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa | January 2, 2008 3 p.m. |
| Nonresident deer hunting, 94.1(1), 94.7(6), 94.8 IAB 12/5/07 ARC 6442B | Fourth Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa | January 2, 2008 1 p.m. |

PROFESSIONAL LICENSURE DIVISION[645]

| | | |
|---|--|------------------------------------|
| Sign language interpreters and transliterators—examinations to qualify for licensure, 361.2(1) IAB 12/19/07 ARC 6487B | Fifth Floor Board Conf. Room Lucas State Office Bldg. Des Moines, Iowa | January 14, 2008 9 to 9:30 a.m. |
|---|--|------------------------------------|

PUBLIC HEALTH DEPARTMENT[641]

| | | |
|---|--|-----------------------------|
| WIC program, 73.2, 73.3, 73.7(7), 73.8(2), 73.13(7) IAB 11/21/07 ARC 6428B | 6th Floor ICN Room Lucas State Office Bldg. Des Moines, Iowa | December 19, 2007 2 p.m. |
|---|--|-----------------------------|

REAL ESTATE COMMISSION[193E]

| | | |
|--|---|----------------------------|
| Record keeping—electronic format, 2.1, 13.2(2), 13.5 IAB 12/19/07 ARC 6490B | Conference Room, Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa | January 8, 2008 10 a.m. |
|--|---|----------------------------|

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]

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

| AGENCY | PROGRAM | ELIGIBLE APPLICANTS | TYPES OF PROJECTS |
|--|---|--|---|
| Iowa Homeland Security and Emergency Management Division (HSEMD) | <p>Pre-Disaster Mitigation Competitive (PDM) Grant for Fiscal Year (FY) 2007 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA).</p> <p>The PDM program seeks to reduce damages and the loss of life and property from natural hazards through the development and implementation of mitigation actions.</p> | <ul style="list-style-type: none"> • State Agencies and Local Governments • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All Applicants for a project grant MUST have a FEMA approved local hazard mitigation plan. <p>To learn more about the PDM program, use the following link on HSEMD's website: http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/index.asp</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. Applications must be submitted for State review via e-grants by January 14, 2008. To learn more about the e-grant system use the following link on HSEMD's website: http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/Egrants.asp</p> <p>For additional information please contact:</p> <p style="text-align: center;">John Wageman 515-725-3225 Jim Russell 515-725-3217 Jessica Alaniz 515-725-3247 Sherry McCloskey 515-725-3283</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Division Camp Dodge, Bldg W4 Johnston, Iowa 50131</p> | <p>Eligible Project Activities</p> <p>Mitigation projects must focus on natural hazards. Examples include (but not limited to):</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Construction of safe rooms (tornado and severe wind shelters); • Structural and non-structural retrofitting (e.g., storm shutters, hurricane clips, bracing systems) of existing structures to meet or exceed applicable building codes relative to hazard mitigation; • Hydrologic and hydraulic studies/analyses, engineering studies, and drainage studies for the purpose of project design and feasibility in conjunction with a project. • Protective measures for utilities; water and sanitary sewer systems and/or infrastructure; • Storm water management projects (e.g., culverts, floodgates, retention basins) to reduce or eliminate long-term risk from flood hazards; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA approved hazard mitigation plan.</p> <p>PROJECT TECHNICAL ASSISTANCE: Technical assistance for Engineering Feasibility, Benefit-Cost Analysis and Environmental/Historic Preservation compliance is available through FEMA.</p> <p>TECHNICAL ASSISTANCE HELPDESK: Phone: (866) 222-3580 (toll free) E-mail: enghelpline@dhs.gov chelpline@dhs.gov bchelpline@dhs.gov</p> |

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 November 20, 2007, is approximately \$350,894.00. 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 6486B

CREDIT UNION DIVISION[189]

Notice of Termination

Pursuant to the authority of Iowa Code sections 17A.3 and 533.104, the Credit Union Division hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5930B**, to adopt new Chapter 5, “Debt Cancellation Products,” Iowa Administrative Code.

The Notice proposed rules to implement the authority of credit unions organized in accordance with Iowa Code chapter 533 to engage in the activity of offering debt cancellation products.

The Division renoticed the proposed rules in the December 5, 2007, Iowa Administrative Bulletin as **ARC 6430B** to incorporate further changes and clarifications to requirements under Iowa Code chapter 533. The rule making commenced in **ARC 5930B** is hereby terminated.

ARC 6478B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt amendments to

Chapter 1, “Organization,” Chapter 101, “Division Responsibilities,” Chapter 102, “Information and Technology Joint Venture Fund,” Chapter 103, “Information Technology Training Program,” Chapter 104, “Targeted Industries Internship Program,” Chapter 105, “Demonstration Fund,” Chapter 106, “Community College Equipment and Training Fund,” Chapter 107, “Targeted Industries Networking Fund,” Chapter 108, “Targeted Industries Student Competition Fund,” and Chapter 109, “Targeted Industries Career Awareness Fund,” Iowa Administrative Code.

The amendments incorporate a decision by the Department to rename the Targeted Industries Division as the Innovation and Commercialization Division. This change more closely describes the mission of this Division.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 8, 2008. Interested persons may submit written comments to Mary Klemesrud, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4808.

These amendments are intended to implement Iowa Code chapter 17A.

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 1.4(4) as follows:

1.4(4) Divisions. The director has established the following administrative divisions within the department in order to most efficiently and effectively carry out the department’s responsibilities:

1. Administration division;
2. Business development division;
3. Community development division; and
4. ~~Targeted industries~~ *Innovation and commercialization* division.

ITEM 2. Amend **261—Part V**, title, as follows:

PART V
TARGETED INDUSTRIES INNOVATION AND
COMMERCIALIZATION DIVISION

ITEM 3. Amend rule 261—101.1(15) as follows:

261—101.1(15) Mission. The mission of the ~~targeted industries~~ *innovation and commercialization* division is to grow Iowa’s economy by fostering entrepreneurship and supporting the workforce, commercialization, and marketing activities of the advanced manufacturing, biosciences, and information technology industries.

ITEM 4. In each of the following subrules, in the phrase “Targeted Industries Division,” strike “Targeted Industries” and insert “Innovation and Commercialization” in lieu thereof: **102.8(1)**, **103.11(1)**, **104.9(1)**, **105.8(1)**, **106.6(1)**, **107.6(1)**, **108.6(1)** and **109.7(1)**.

ARC 6477B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 165, “Allocation of Grow Iowa Values Fund,” Iowa Administrative Code.

The amendments update the rules to incorporate legislative changes to the amounts allocated to the Department for the Grow Iowa Values Fund. Funds were reallocated to provide assistance for commercialization services described in Iowa Code section 15.411(2) and (3). The amendments propose revisions concerning the annual report from the State Board of Regents (Regents) to the Department and the Iowa Economic Development Board about the use of the \$5 million appropriation from the Grow Iowa Values Fund to the Regents for institutions of higher learning under the control of the Regents.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 8, 2008. Interested persons may submit written comments to Melanie Johnson, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4862.

A public hearing will be held on January 8, 2008, from 2:30 to 3:30 p.m. in the ICN Room at IDED.

This amendment is intended to implement Iowa Code chapter 15G as amended by 2007 Iowa Acts, chapter 122.

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 **261—Chapter 165** as follows:

CHAPTER 165**ALLOCATION OF GROW IOWA VALUES FUND**

261—165.1(15G) Purpose. The purpose of the grow Iowa values fund is to provide financial assistance for business incentives, marketing efforts, and other programs and activities designed to spur the economy and improve the quality of life of Iowans. Moneys in the grow Iowa values fund provide financial assistance for programs administered by the department; for state parks pursuant to a plan from the department of natural resources (DNR); for the cultural trust fund; for workforce training and economic development funds of the community colleges; for economic development region initiatives; and for financial assistance to the regents for the University of Northern Iowa, Iowa State University, the University of Iowa, a bioscience organization, and private universities. The rules in this chapter apply to financial assistance awarded from the grow Iowa values fund by the department and the board.

261—165.2(15G) Definitions. The definitions located in 261—Chapter 173 apply to this chapter.

261—165.3(15G) Grow Iowa values fund (2005). The grow Iowa values fund (2005) refers to the fund established on July 1, 2005, pursuant to Iowa Code chapter 15G as amended by 2007 Iowa Acts, chapter 122. The fund includes moneys appropriated to the department by the general assembly for the fund, interest earned, repayments, and recaptures of loans and grants. Pursuant to Iowa Code section 15G.108, the fund is under the control of and administered by the department.

261—165.4(15G) Allocation of grow Iowa values fund moneys. Pursuant to Iowa Code section 15G.110, \$50 million is appropriated from the grow Iowa values fund to the department each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2015. The fund moneys are allocated as follows:

\$35M (except as set forth in “1” to “3” below)—For programs administered by the department, marketing and other specified uses.

1. For each fiscal year beginning July 1, 2005, and ending June 30, 2007, the amount available is \$35M.

2. For each fiscal year beginning July 1, 2007, and ending June 30, 2009, the amount available is \$30M.

3. For each fiscal year beginning July 1, 2009, and ending June 30, 2015, the amount available is \$32M.

\$3M—For the fiscal period beginning July 1, 2007, and ending June 30, 2015, this amount is available for commercialization services described in Iowa Code section 15G.205.

\$2M—For the fiscal period beginning July 1, 2006, and ending June 30, 2009, this amount is available for deposit in the renewable fuel infrastructure fund as provided in Iowa Code section 15G.205.

\$5M—To the state board of regents for institutions of higher learning under the control of the state board of regents, for specific activities.

\$1M—For projects in targeted state parks, state banner parks and destination parks.

\$1M—For the cultural trust fund administered by the department of cultural affairs.

\$7M—For workforce training and economic development funds of the community colleges.

\$1M—For economic development region initiatives.

165.4(1) Funding for programs administered by the department, marketing, other specified uses.

a. IDED programs. Pursuant to Iowa Code section 15G.111, ~~\$35 million is funds~~ are appropriated to the department for each of the fiscal years identified above for deposit in the fund for programs administered by the department. The grow Iowa values fund moneys can be used to fund projects and activities under the value-added agricultural products and processes financial assistance program (VAAPFAP) (261—Chapter 57), the community economic betterment (CEBA) program (261—Chapter 53), the entrepreneurial ventures assistance (EVA) program (261—Chapter 60), the targeted small business financial assistance program (TSBFAP) (261—Chapter 55), the physical infrastructure assistance program (PIAP) (261—Chapter 61), the brown-field redevelopment program (261—Chapter 65), *commercialization services described in Iowa Code section 15.411(2) and (3)* and other programs administered by the department.

b. Administrative costs. The department may use for administrative purposes up to one and one-half percent of the \$35 million allocation for administrative purposes amount in

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

rule 261—165.4(15G) that is allocated for programs administered by the department, marketing and other specified uses.

c. Business incentives, marketing, and research and development. Each fiscal year the department shall allocate a percentage of the fund moneys for business start-ups, business expansions, business modernization, business attraction, business retention, marketing, and research and development. The department may adjust the allocation during the year if it determines that it is necessary to do so to ensure the availability of funds in those categories in which a greater need is demonstrated to exist or to respond to investment opportunities.

d. Technical assistance, labor shed study and transportation purposes. A portion of the ~~\$35 million~~ allocation for programs administered by the department, marketing and other specified uses may also be used to procure technical assistance from the public or private sectors, for information technology purposes, for a statewide labor shed study, and for rail, air, or river port transportation-related purposes. For applications involving rail, air, or river port transportation-related purposes, fund assistance is only available if the activity is directly related to an economic development project and the values fund moneys are used to leverage other financial assistance moneys.

e. No change.

f. Board approval. The board shall approve or deny financial assistance applications and other activities funded with moneys provided through this ~~\$35 million~~ allocation from the grow Iowa values fund.

165.4(2) Funding to the state board of regents for institutions of higher learning under the control of the state board of regents for specific activities.

a. Use of funds. Five million dollars is available for financial assistance to institutions of higher learning under the control of the state board of regents (Iowa State University (ISU), University of Iowa (U of I), University of Northern Iowa (UNI)). The funds must be used for capacity building infrastructure in areas related to technology commercialization, for marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and for infrastructure projects and programs needed to assist in the implementation of activities under Iowa Code chapter 262B.

(1) In allocating moneys to institutions under the control of the state board of regents, the state board of regents shall require the institutions to provide a one-to-one match of additional moneys for the activities funded with moneys provided under this subrule

(2) The state board of regents may allocate moneys available under this subrule for financial assistance to a single biosciences development organization determined by the department to possess expertise in promoting the area of bioscience entrepreneurship. The organization must be composed of representatives of both the public and the private sector and shall be composed of subunits or subcommittees in the areas of existing identified biosciences platforms, education and workforce development, commercialization, communication, policy and governance, and finance. Such financial assistance shall be used for purposes of activities related to biosciences and bioeconomy development under Iowa Code chapter 262B and to accredited private universities in this state.

b. Annual state board of regents report. Each fiscal year, the state board of regents shall report how the funds were used and allocated among ISU, U of I, UNI, a bioscience or-

ganization, and private universities. *The report shall be submitted to the department by July 31. In order to determine the impact of the funding applied to accelerate research leading to commercial products/processes and to measure activities that demonstrate successes, the annual report shall include, at a minimum, the following information:*

(1) *Research and development commercialization agreements executed with Iowa companies (the number, the dollar amount).*

(2) *Corporate sponsored funding for R&D by Iowa companies (the number, the dollar amount).*

(3) *University centers and institutes: core laboratory equipment utilized and services provided (hours, samples, dollar amount).*

(4) *License and option agreements executed with Iowa companies (the number).*

(5) *New Iowa companies formed and jobs created from the result of licensed technologies (the number).*

(6) *Revenue to Iowa companies (based on sales) as a result of licensed technologies (the dollar amount).*

c. Board action. The board shall ~~hear a review~~ the annual report from the state board of regents and accept, or request additional information regarding, the use of the \$5 million allocation from the grow Iowa values fund to the state board of regents. *The board will include in its annual grow Iowa values fund report that is required to be submitted by January 15 each year pursuant to Iowa Code section 15.104(9) an evaluation of the annual report received from the state board of regents.*

165.4(3) to 165.4(6) No change.

These rules are intended to implement Iowa Code chapter 15G and 2007 Iowa Acts, chapter 122.

ARC 6475B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Chapter 72, “Accreditation of Area Education Agencies,” and Chapter 83, “Teacher Quality Program,” Iowa Administrative Code.

These amendments implement changes made to the Student Achievement and Teacher Quality program in Iowa Code chapter 284 and the Beginning Administrator Mentoring and Induction program in Iowa Code chapter 284A as amended by 2007 Iowa Acts, Senate File 277. The Iowa teaching standards and criteria have been in rule since 2002. These rules add standards and criteria by which AEA staff who meet the definition of teacher should be evaluated. These rules also add a new division of rules with specific standards applicable to administrators and administrator quality programs, including mentoring and induction for administrators, standards and criteria by which to evaluate administrators, and professional development of administrators. Related amendments to Chapters 12 and 72 regarding those aspects of professional development that are included

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in the accreditation standards for K-12 schools and for area education agencies are found in Items 1 and 2 of the proposed amendments.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 8, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Kevin Fangman, Administrator of the Division of PK-12 Education, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3333; E-mail kevin.fangman@iowa.gov; or fax (515)281-7700.

A public hearing will be held on January 8, 2008, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

These rules are intended to implement Iowa Code chapters 284 and 284A as amended by 2007 Iowa Acts, Senate File 277.

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

The following amendments are proposed.

ITEM 1. Rescind rule 281—12.7(256) and adopt **new** rule 281—12.7(256,284,284A) as follows:

281—12.7(256,284,284A) Professional development. The following standards shall apply to staff development for accredited schools and school districts.

12.7(1) Provisions for school district professional development.

a. Provisions for district professional development plans. Each school district shall incorporate into its comprehensive school improvement plan provisions for the professional development of all staff, including the district professional development plan required in 281—paragraph 83.6(2)“a.” To meet the professional needs of all staff, professional development activities shall align with district goals; shall be based on student and staff information; shall prepare all employees to work effectively with diverse learners and to implement multicultural, gender fair approaches to the educational program; and shall adhere to the professional development standards in 281—paragraph 83.6(2)“b” to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Provisions for attendance center professional development plans. Each school district shall ensure that every attendance center has an attendance center professional development plan that addresses, at a minimum, the needs of the teachers in that center; the Iowa teaching standards; the district professional development plan; and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

c. Provisions for individual teacher professional development plans. Each school district shall ensure that every teacher as defined in rule 281—83.2(284,284A) has an indi-

vidual teacher professional development plan that meets the expectations of 281—subrule 83.6(1).

d. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(1)“a.”

12.7(2) Provisions for accredited nonpublic school professional development

a. Each accredited nonpublic school shall incorporate into its comprehensive school improvement plan provisions for the professional development of staff. To meet the professional needs of instructional staff, professional development activities shall align with school achievement goals and shall be based on student achievement needs and staff professional development needs. The plan shall deliver research-based instructional practices to realize increased student achievement, learning, and performance as set forth in the comprehensive school improvement plan.

b. Budget for staff development. The board shall annually budget specified funds to implement the plan required in paragraph 12.7(2)“a.”

ITEM 2. Amend subrule **72.9(1)** by adopting **new** paragraph “g” as follows:

g. Professional development plan. The plan shall contain a summary of the agencywide professional development plan developed pursuant to 281—subrule 83.6(2).

ITEM 3. Amend **281—Chapter 83**, title, as follows:

CHAPTER 83
TEACHER QUALITY PROGRAM
TEACHER AND ADMINISTRATOR QUALITY
PROGRAMS

ITEM 4. Amend **281—Chapter 83** by adding the following **new** division title to precede rule 281—83.1(284):

DIVISION I
GENERAL STANDARDS APPLICABLE TO
BOTH ADMINISTRATOR AND TEACHER QUALITY PROGRAMS

ITEM 5. Amend rule 281—83.1(284) as follows:

281—83.1(284,284A) Purpose Purposes. The goal of the teacher quality program is to enhance the learning, achievement, and performance of all students through the recruitment, support, and retention of quality Iowa teachers. ~~It is expected that each Iowa school district will implement the teacher quality program by July 2003.~~ The program shall contain specific strategies that include a mentoring and induction program for beginning teachers, comprehensive teacher evaluations, and district and building support for professional development that includes best practices *practice* aimed at increasing student achievement.

The goal of the administrator quality program is to promote high student achievement and enhanced educator quality. The program consists of mentoring and induction programs that provide support for administrators, professional development designed to directly support best practice for leadership, and evaluation of administrators against the Iowa standards for school administrators.

ITEM 6. Amend rule 281—83.2(284) as follows:

Amend the parenthetical implementation statute as follows:

281—83.2(284,248A) Definitions.

Amend the definitions of “beginning teacher,” “comprehensive evaluation,” “mentor,” “school board,” and “teacher” as follows:

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“Beginning teacher” means an individual serving under an initial *or intern* license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a ~~classroom~~ teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to Iowa Code section 284.5, “beginning teacher” also includes preschool teachers who are licensed by the board of educational examiners under Iowa Code chapter 272 and are employed by a school district or area education agency.

“Comprehensive evaluation” means, *with respect to a beginning teacher*, a summative evaluation of a beginning teacher conducted by an evaluator for purposes of determining a beginning teacher’s level of competency relative to the Iowa teaching standards and for recommendation for licensure based upon models developed pursuant to Iowa Code section 256.9, subsection 50, and to determine whether the teacher’s practice meets the school district expectations for a career teacher. *With respect to a beginning administrator*, “comprehensive evaluation” means a summative evaluation of a beginning administrator conducted by an evaluator in accordance with Iowa Code section 284A.3 for purposes of determining a beginning administrator’s level of competency for recommendation for licensure based on the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2.

“Mentor” means, *with respect to a beginning teacher*, an individual, employed by a school district or area education agency as a ~~classroom~~ teacher or a retired teacher, who holds a valid license issued under Iowa Code chapter 272. The individual must have a record of four years of successful teaching practice, must be employed on a nonprobationary basis and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers. *With respect to a beginning administrator*, “mentor” means an individual employed by a school district or area education agency as a school district administrator or a retired administrator who holds a valid license issued under Iowa Code chapter 272. The individual must have a record of four years of successful administrative experience and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning administrators.

“School board” means the board of directors of a school district, ~~or~~ a collaboration of boards of directors of school districts, *or the board of directors of an area education agency, as the context requires.*

“Teacher” means an individual holding a practitioner’s license *or a statement of professional recognition* issued under Iowa Code chapter 272, who is employed in a nonadministrative position as a ~~teacher, librarian, media specialist, preschool teacher, or counselor~~ by a school district *or area education agency* pursuant to a contract issued by a board of directors under Iowa Code section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position. “Teacher” includes a licensed individual employed on a less than full-time basis by a school district through a contract between the school district and an institution of higher education with a practitioner preparation program in which the licensed teacher is enrolled.

Rescind the definition of “classroom teacher.”

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

“Administrator” or “school leader” means an individual holding a professional administrator license issued under Iowa Code chapter 272, who is employed in a school district

administrative position by a school district or area education agency pursuant to a contract issued by a board of directors under Iowa Code section 279.23. An administrator may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time administrator for the portion of time that the individual is employed in an administrative position.

“Beginning administrator” means an individual serving under an initial administrator license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a school district administrator for the first time.

“Leadership standards” are synonymous with the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2.

ITEM 7. Amend **281—Chapter 83** by adding the following **new** division title to precede rule 281—83.3(284):

DIVISION II
SPECIFIC STANDARDS APPLICABLE TO
TEACHER QUALITY PROGRAMS

ITEM 8. Amend rule 281—83.3(284) as follows:

281—83.3(284) Mentoring and induction program for teachers.

83.3(1) Purpose. The beginning teacher mentoring and induction program is created to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts *and area education agencies*, increase the retention of promising beginning teachers, and promote the personal and professional well-being of ~~classroom~~ teachers.

83.3(2) District participation Participation. ~~A school district is eligible to receive moneys appropriated for purposes specified in this chapter if the school board applies to the department to implement a beginning teacher mentoring and induction program in the manner prescribed by the department and approved by the department. A school district, with the coordination of a district facilitator, All school districts and area education agencies shall provide a beginning teacher mentoring and induction program for all beginning teachers in the school year beginning July 1, 2002. A beginning teacher shall be informed by the school district or area education agency, prior to the beginning teacher’s participation in a mentoring and induction program, of the Iowa teaching standards and criteria upon which the beginning teacher shall be evaluated and of the evaluation process utilized by the school district or area education agency. The beginning teacher shall be comprehensively evaluated by the end of the beginning teacher’s second year of teaching to determine whether the teacher meets expectations to move to the career level. The school district or area education agency shall recommend for a standard license a beginning teacher who has successfully met the Iowa teaching standards as determined by a comprehensive evaluation.~~

If a beginning teacher who is participating in a mentoring and induction program leaves the employ of a ~~participating~~ school district or area education agency prior to completion of the program, the ~~participating~~ school district or area education agency subsequently hiring the beginning teacher shall credit the beginning teacher with the time earned in a program prior to the subsequent hiring. If the general assembly appropriates moneys for purposes of Iowa Code section 284.5, a school district or area education agency is eligible to receive state assistance for up to two years for each beginning teacher the school district or area education agency employs who was formerly employed in an accredited nonpublic

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school or in another state as a first-year teacher. The school district or area education agency employing the teacher shall determine the conditions and requirements of a teacher participating in a mentoring and induction program.

A school district or area education agency may offer a teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district or area education agency determines that the teacher is likely to successfully complete the mentoring and induction program by meeting the Iowa teaching standards by the end of the third year of eligibility. The third year of eligibility is offered at the employing district's expense. A teacher granted a third year of eligibility shall, in cooperation with the teacher's evaluator, develop a plan to meet the Iowa teaching standards and district career expectations. This plan will be implemented by the teacher and supported through the district's mentoring and induction program. The school district or area education agency shall notify the board of educational examiners that the teacher will participate in a third year of the school district's program. The teacher shall undergo a comprehensive evaluation at the end of the third year.

For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation required for the beginning teacher to progress to career teacher, the Iowa teaching standards and criteria shall be as described in rule 281—83.4(284). A school district or area education agency shall participate in state program evaluations.

83.3(3) District plan Plan. Each participating school district or area education agency shall develop a sequential two-year beginning teacher mentoring and induction plan based on the Iowa teaching standards. The plan shall be included in the school district's comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7, subsection 21. A school district or area education agency shall have the board adopt a beginning teacher mentoring and induction program plan and written procedures for the program. At the board's discretion, the district or area education agency may choose to use or revise the model plan provided by the area education agency or develop a plan locally. The components of a district's or area education agency's beginning teacher mentoring and induction program shall include, but are not limited to, the following:

- a. and b. No change.
- c. A mentor training process which shall:
 - (1) Be consistent with effective staff development practices and adult professional needs to include skills needed for classroom teaching, demonstration, and coaching.
 - (2) to (5) No change.
 - d. No change.
 - e. Evaluation process for the program, which shall include:
 - (1) An evaluation of the district *and area education agency* program goals,
 - (2) and (3) No change.
 - f. No change.
 - g. A plan that reflects the needs of the beginning teacher employed by the district *or area education agency*.
 - h. No change.

83.3(4) Budget. Funds received by a school district *or area education agency* from the beginning teacher mentoring and induction program shall be used for any or all of the following purposes:

- a. To pay mentors as they implement the plan. A mentor in a beginning teacher induction program approved under this chapter shall be eligible for an award of \$500 per semester for full participation in the program. A district *or area*

education agency may use local dollars to increase the mentor award.

- b. To pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system for a pension and annuity retirement system established under Iowa Code chapter 294 for such amounts paid by the district *or area education agency*.

These funds are miscellaneous funds or are considered encumbered. A school district *or area education agency* shall maintain a separate listing within its budget for payments received and expenditures made for this program. Funds that remain unencumbered or unobligated at the end of the fiscal year will not revert, but will remain available for expenditure for the purposes of the program until the close of the succeeding fiscal year.

ITEM 9. Amend rule 281—83.4(284) as follows:

281—83.4(284) Iowa teaching standards and criteria.

The Iowa teaching standards and supporting criteria represent a set of knowledge and skills that reflects the best evidence available regarding effective teaching. The purpose of the standards and supporting criteria is to provide Iowa school districts *and area education agencies* with a consistent representation of the complexity and the possibilities of quality teaching. The standards shall serve as the basis for comprehensive evaluations of teachers and as a basis for professional development plans. Each standard with supporting criteria is outlined as follows:

83.4(1) Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.

- a. The teacher:
 - a. (1) Provides evidence of student learning to students, families, and staff.
 - b. (2) Implements strategies supporting student, building, and district goals.
 - c. (3) Uses student performance data as a guide for decision making.
 - d. (4) Accepts and demonstrates responsibility for creating a classroom culture that supports the learning of every student.
 - e. (5) Creates an environment of mutual respect, rapport, and fairness.
 - f. (6) Participates in and contributes to a school culture that focuses on improved student learning.
 - g. (7) Communicates with students, families, colleagues, and communities effectively and accurately.
- b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*
 - (1) *Uses knowledge and understanding of the area education agency's mission, goals, and strategic priorities to provide services that enhance academic performance.*
 - (2) *Understands and uses knowledge of area education agency and district goals and data to provide services that enhance academic performance.*
 - (3) *Participates in and contributes to a positive learning culture.*
 - (4) *Communicates with students, families, colleagues, and communities effectively and accurately.*
 - (5) *Uses area education agency, district, and student data as a guide for decision making.*

83.4(2) Demonstrates competence in content knowledge appropriate to the teaching position.

- a. The teacher:
 - (1) *Uses knowledge and understanding of the area education agency's mission, goals, and strategic priorities to provide services that enhance academic performance.*
 - (2) *Understands and uses knowledge of area education agency and district goals and data to provide services that enhance academic performance.*
 - (3) *Participates in and contributes to a positive learning culture.*
 - (4) *Communicates with students, families, colleagues, and communities effectively and accurately.*
 - (5) *Uses area education agency, district, and student data as a guide for decision making.*

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a. (1) Understands and uses key concepts, underlying themes, relationships, and different perspectives related to the content area.

b. (2) Uses knowledge of student development to make learning experiences in the content area meaningful and accessible for every student.

c. (3) Relates ideas and information within and across content areas.

d. (4) Understands and uses instructional strategies that are appropriate to the content area.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Understands, communicates, and uses key concepts and best practice in fulfillment of area education agency roles and responsibilities.*

(2) *Uses knowledge of child and adolescent development and of adult learning to make interventions and strategies meaningful, relevant, and accessible.*

(3) *Relates professional knowledge and services within and across multiple content and discipline areas.*

(4) *Understands and supports strategies and interventions that are best practice across content and discipline areas.*

83.4(3) Demonstrates competence in planning and preparing for instruction.

a. The teacher:

a. (1) Uses student achievement data, local standards, and the district curriculum in planning for instruction.

b. (2) Sets and communicates high expectations for social, behavioral, and academic success of all students.

c. (3) Uses students' developmental needs, backgrounds, and interests in planning for instruction.

d. (4) Selects strategies to engage all students in learning.

e. (5) Uses available resources, including technologies, in the development and sequencing of instruction.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Demonstrates the ability to organize and prioritize time, resources, and responsibilities.*

(2) *Demonstrates the ability to individually and collaboratively plan and prepare professional services that address the range of district, teacher, parent, and student needs.*

(3) *Uses district and student data to develop goals and interventions.*

(4) *Demonstrates the flexibility to plan for professional services based on changing conditions of the work context and environment.*

(5) *Uses available resources, including technology, to plan and develop professional services.*

83.4(4) Uses strategies to deliver instruction that meets the multiple learning needs of students.

a. The teacher:

a. (1) Aligns classroom instruction with local standards and district curriculum.

b. (2) Uses research-based instructional strategies that address the full range of cognitive levels.

c. (3) Demonstrates flexibility and responsiveness in adjusting instruction to meet student needs.

d. (4) Engages students in varied experiences that meet diverse needs and promote social, emotional, and academic growth.

e. (5) Connects students' prior knowledge, life experiences, and interests in the instructional process.

f. (6) Uses available resources, including technologies, in the delivery of instruction.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Aligns service delivery to district, teacher, parent, and student needs.*

(2) *Provides consultation, instruction, interventions, and strategies that align with learner needs.*

(3) *Demonstrates flexibility and responsiveness in adjusting services to meet diverse learner needs.*

(4) *Uses and supports research-based and evidence-based practices to meet learner needs.*

(5) *Uses available resources, including technology, to provide professional services that meet learner needs.*

83.4(5) Uses a variety of methods to monitor student learning.

a. The teacher:

a. (1) Aligns classroom assessment with instruction.

b. (2) Communicates assessment criteria and standards to all students and parents.

c. (3) Understands and uses the results of multiple assessments to guide planning and instruction.

d. (4) Guides students in goal setting and assessing their own learning.

e. (5) Provides substantive, timely, and constructive feedback to students and parents.

f. (6) Works with other staff and building and district leadership in analysis of student progress.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Uses appropriate assessment, data collection, and data analysis methods that support alignment of services with learner needs.*

(2) *Works collaboratively within the learning community to establish measurable goals and to identify formative and summative methods to monitor progress and the quality of implementation.*

(3) *Communicates the rationale and criteria of assessment and monitoring methods.*

(4) *Elicits and provides timely and quality feedback on assessment and monitoring.*

83.4(6) Demonstrates competence in classroom management.

a. The teacher:

a. (1) Creates a learning community that encourages positive social interaction, active engagement, and self-regulation for every student.

b. (2) Establishes, communicates, models, and maintains standards of responsible student behavior.

c. (3) Develops and implements classroom procedures and routines that support high expectations for student learning.

d. (4) Uses instructional time effectively to maximize student achievement.

e. (5) Creates a safe and purposeful learning environment.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Models respectful dialogue and behaviors within and across job responsibilities.*

(2) *Promotes and maintains a positive, safe, and productive environment.*

(3) *Works collaboratively and is flexible.*

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(4) *Communicates accurately and effectively.*

83.4(7) Engages in professional growth.

a. The teacher:

a. (1) Demonstrates habits and skills of continuous inquiry and learning.

b. (2) Works collaboratively to improve professional practice and student learning.

c. (3) Applies research, knowledge, and skills from professional development opportunities to improve practice.

d. (4) Establishes and implements professional development plans based upon the teacher's needs aligned to the Iowa teaching standards and district/building student achievement goals.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Demonstrates habits and skills of continuous inquiry and learning.*

(2) *Works collaboratively to improve professional practices.*

(3) *Applies and shares research, knowledge, and skills from professional development.*

(4) *Establishes and implements professional development plans aligned to area education agency, district, and student learning goals.*

83.4(8) Fulfills professional responsibilities established by the school district.

a. The teacher:

a. (1) Adheres to board policies, district procedures, and contractual obligations.

b. (2) Demonstrates professional and ethical conduct as defined by state law and district policy.

c. (3) Contributes to efforts to achieve district and building goals.

d. (4) Demonstrates an understanding of and respect for all learners and staff.

e. (5) Collaborates with students, families, colleagues, and communities to enhance student learning.

b. *Alternative criteria for area education agency staff who meet the definition of "teacher" herein. The staff member:*

(1) *Adheres to board policies, area education agency procedures, federal and state rules, and contractual obligations.*

(2) *Demonstrates professional and ethical conduct as defined by state law and area education agency policies.*

(3) *Contributes to efforts to achieve area education agency goals.*

(4) *Demonstrates an understanding of and respect for all learners.*

(5) *Collaborates with all learners.*

83.4(9) The school board shall provide comprehensive evaluations for beginning teachers using the Iowa teaching standards and criteria listed in rule 281—83.4(284). The school board, for the purposes of performance reviews for teachers other than beginning teachers, shall provide evaluations that contain, at a minimum, the Iowa teaching standards and criteria listed in rule 281—83.4(284). A local school board and its certified bargaining representative may negotiate, pursuant to Iowa Code chapter 20, additional teaching standards and criteria for use in a performance review. In any school district or area education agency where there is no certified bargaining unit, additional standards and criteria may be determined by the board.

ITEM 10. Amend rule 281—83.5(284), introductory paragraph, as follows:

281—83.5(284) Evaluator approval training. The department shall approve eligible providers and their programs to conduct evaluator training. Only individuals certified for evaluator certification by the board of educational examiners. Approved evaluator training programs shall be designed to align with the Iowa teaching standards and criteria, provide evaluators with the skills to conduct comprehensive evaluations and performance reviews as required by Iowa Code chapter 284, and provide for the evaluation of the progress made on individual ~~career~~ professional development plans. This training for evaluators shall incorporate components of theory, demonstration, practice, and application of evaluation knowledge and skills.

ITEM 11. Amend subrule 83.5(3) as follows:

83.5(3) Local teacher evaluation plans. ~~By July 1, 2004,~~ local Local districts shall develop and implement a teacher evaluation plan that contains the following components:

a. and b. No change.

c. Provisions for the performance reviews of teachers other than beginning teachers once every three years that include, at a minimum, classroom observation of the teacher, a review of the teacher's progress on the Iowa teaching standards as set forth in rule 281—83.4(284) and additional standards and criteria if established under subrule 83.4(9), a review of the implementation of the teacher's individual ~~career~~ professional development plan, and supporting documentation from other evaluators, teachers, parents, and students;

d. Provisions for individual ~~career~~ professional development plans for teachers other than beginning teachers;

e. Provisions for an intensive assistance program as provided in Iowa Code section 284.8 that addresses the remediation defined under subrules 83.4(1) through 83.4(78) or any other standards or criteria established by a collective bargaining agreement.

A local school board and its certified bargaining representative may shall negotiate, pursuant to Iowa Code chapter 20, evaluation and grievance procedures for beginning teachers and for teachers other than beginning teachers that are not in conflict with Iowa Code chapter 284. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under subrules 83.4(1) through 83.4(78) or any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to Iowa Code chapter 20.

ITEM 12. Amend rule 281—83.6(284) as follows:

281—83.6(284) Professional development for teachers.

83.6(1) Individual teacher ~~career~~ professional development plan. Each school or district and area education agency shall support the development and implementation of the individual teacher ~~career~~ professional development plan for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher ~~career~~ professional development plan must be based on the relevant Iowa teaching standards that support the student achievement goals of the attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan, and the needs of the teacher. *The goals shall go beyond*

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those required under the attendance center professional development plan described in subrule 83.6(2), paragraph "c." The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to the extent possible. The individual plan shall be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting shall be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

83.6(2) Professional development for school districts and area education agencies. The following requirements shall apply to professional development for school districts as required by Iowa Code section 284.6 and area education agencies.

a. District ~~career~~ or area education agency professional development plan. Each school district shall incorporate the district ~~career~~ professional development plan into its comprehensive school improvement plan pursuant to Iowa Code subsection 284.6(3). Each area education agency shall develop a professional development plan for the agency as a whole, and shall incorporate the same into its comprehensive improvement plan pursuant to rule 281—72.9(273). The district ~~career~~ or area education agency professional development plan shall be a long-term plan designed and implemented to increase student achievement and shall include all site and district or area education agency personnel responsible for instruction. The district ~~career~~ or area education agency professional development plan shall contain, but not be limited to, the following:

(1) Documentation that the professional development is based on student data and other needs assessment; aligned with district student achievement goals; and focused on instruction, curriculum, and assessment.

(2) Documentation that professional development learning opportunities are research-based and aligned with the Iowa teaching standards and criteria.

(3) Identification of the approved professional development provider(s).

(4) A description of a process that includes theory, demonstration, practice, observation, collaboration, and the study of implementation.

(5) A description of a program evaluation design for formative and summative evaluation processes.

b. Professional development standards. Implementation of a school district's ~~career~~ or area education agency's professional development plan shall meet the following standards:

(1) Align with the Iowa teaching standards and criteria;

(2) Deliver research-based instructional strategies aligned with the student achievement goals established by the district;

(3) Deliver professional development training and learning opportunities that are targeted at instructional improvement and designed with the following components:

1. Student achievement data and analysis;

2. Theory;

3. Classroom demonstration and practice;

4. Observation and reflection;

5. Teacher collaboration and study of implementation; and

6. Integration of instructional technology, if applicable;

(4) Include an evaluation component of professional development that documents the improvement in instructional practice and the effect on student learning; and

(5) Support the professional development needs of district licensed staff responsible for instruction.

c. Attendance center professional development plans. Each attendance center within a school district shall develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan shall further the needs of the teachers in the attendance center and shall enhance the student achievement goals of the attendance center and the goals of the district.

d. Individual ~~career~~ professional development plans. The school district and area education agency shall support the development and implementation of the individual teacher ~~career~~ professional development plan for each career teacher as outlined in subrule 83.6(1). Each individual teacher ~~career~~ professional development plan shall align to the fullest extent possible with the district ~~career~~ professional development plan.

e. Beginning teacher mentoring and induction. The school district shall support the development and implementation of a beginning teacher mentoring and induction plan as outlined in subrule 83.3(3). The district beginning teacher mentoring and induction plan shall be included in the comprehensive school improvement plan submitted pursuant to Iowa Code section ~~256.7, subsection (21a),~~ 256.7(21), paragraph "a," and shall align with the district ~~career~~ professional development plan described in subrule 83.6(2), paragraph "a."

f. Organizational support for professional development. The school district shall provide resources and support for the district ~~career~~ professional development plan, including professional development provider(s), time for collaborative work of staff, budget, policies, and procedures.

83.6(3) Professional development provider requirements.

a. A provider may be a school district, an area education agency, a higher education institution, a public or private entity including a professional organization that provides long-term, ongoing support of the district's ~~career~~ or area education agency's professional development plan, or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.

b. Provider approval procedures must be followed to approve providers identified in the district's ~~career~~ or area education agency's professional development plan that are not currently accredited or approved through state accreditation procedures. The potential provider must submit to the school district a written application that provides the following documentation:

(1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in subrule 83.6(2), paragraph "b."

(2) How the provider intends to assist the local district in designing, implementing, and evaluating professional development that meets the requirements established in subrule 83.6(2), paragraph "a."

(3) A description of the qualifications of the provider.

(4) Evidence of the provider's expertise in professional development.

(5) A budget.

(6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider.

83.6(4) Professional development for accredited schools. Each accredited school shall incorporate into its comprehensive school improvement plan provisions for the professional

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development of staff. To meet the professional needs of instructional staff, staff development activities shall align with school achievement goals and shall be based on student achievement needs and staff professional development needs. The plan shall deliver research-based instructional practices to achieve increased student achievement, learning, and performance as stated in the comprehensive school improvement plan.

ITEM 13. Adopt **new** rule 281—83.7(284) as follows:

281—83.7(284) Teacher quality committees. Each school district and area education agency shall create a teacher quality committee pursuant to Iowa Code section 284.4. The committee is subject to the requirements of the Iowa open meetings law (Iowa Code chapter 21). To the extent possible, committee membership shall have balanced representation with regard to gender. The committee shall do all of the following:

1. Monitor the implementation of the requirements of statutes and administrative code provisions relating to this chapter, including requirements that affect any agreement negotiated pursuant to Iowa Code chapter 20.

2. Monitor the evaluation requirements of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. In addition to any negotiated evaluation procedures, develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met through observation and which evidence meets multiple standards and criteria.

3. Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds distributed to the school district or agency as provided in Iowa Code section 284.13, subsection 1, paragraph “d,” based upon school district or agency, attendance center, and individual teacher professional development plans.

4. Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual teacher professional development plans.

5. Ensure the agreement negotiated pursuant to Iowa Code chapter 20 determines the compensation for teachers on the committee for work responsibilities required beyond the normal workday.

6. Make recommendations to the school board and the certified bargaining representative regarding the expenditures of market factor incentives.

ITEM 14. Amend **281—Chapter 83** by adopting the following **new** division:

DIVISION III
SPECIFIC STANDARDS APPLICABLE TO
ADMINISTRATOR QUALITY PROGRAMS

281—83.8(284A) Administrator quality program. An administrator quality program is established to promote high student achievement and enhanced educator quality. The program shall consist of the following four major components:

1. Adherence to the Iowa school leadership standards and criteria as the minimum basis for evaluations of administrators and as the basis for professional development plans for administrators.

2. Mentoring and induction programs that provide support for administrators in accordance with Iowa Code section

284A.2 as amended by 2007 Iowa Acts, chapter 108, sections 51 to 54.

3. Professional development designed to directly support best practice for leadership.

4. Evaluation of administrators against the Iowa standards for school administrators.

281—83.9(284A) Mentoring and induction program for administrators.

83.9(1) Purpose. A beginning administrator mentoring and induction program is created to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

83.9(2) District participation. Each school board shall establish an administrator mentoring program for all beginning administrators. The school board may adopt the model program developed by the department or develop the program locally. Each school board's beginning administrator mentoring and induction program shall, at a minimum, provide for one year of programming to support the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2, and to support beginning administrators' professional and personal needs. Each school board shall include in the program the mentor selection process, supports for beginning administrators, and the organizational and collaborative structures. Each district must also provide the budget, establish a process for sustainability of the program, and establish a process for program evaluation. The school board employing an administrator shall determine the conditions and requirements of an administrator participating in a program established pursuant to this rule. A school board shall include its plan in the school district's comprehensive school improvement plan.

83.9(3) Recommendation for licensure. By the end of a beginning administrator's first year of employment, the beginning administrator shall be comprehensively evaluated to determine if the administrator meets expectations to move to a standard administrator license. The school district or area education agency shall recommend the beginning administrator for a standard license to the board of educational examiners upon the administrator's completion of a successful comprehensive evaluation. The evaluation process must include documented evidence of the administrator's competence in meeting the Iowa leadership standards. A school district or area education agency may allow a beginning administrator a second year to demonstrate competence in the Iowa standards for school administrators if, after conducting a comprehensive evaluation, the school district or area education agency determines that the administrator is likely to successfully demonstrate competence in the Iowa standards for school administrators by the end of the second year. Upon notification by the school district or area education agency, the board of educational examiners shall grant a beginning administrator who has been allowed a second year to demonstrate competence a one-year extension of the beginning administrator's initial license. An administrator granted a second year to demonstrate competence shall undergo a comprehensive evaluation at the end of the second year.

281—83.10(284A) Iowa school leadership standards and criteria for administrators. The Iowa school leadership standards and criteria represent a set of knowledge and skills that reflects the best evidence available regarding effective teaching. The standards and criteria provide school districts

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with a consistent basis for evaluations of administrators and serve as the basis for professional development plans for administrators. A local school board may establish additional administrator standards and related criteria, but shall at a minimum utilize the following standards, with supporting criteria listed after each, in evaluating its school leaders and adopting individual professional development plans therefor:

83.10(1) Shared vision. An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The administrator:

- a. In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.
- b. Uses research and best practice in improving the educational program.
- c. Articulates and promotes high expectations for teaching and learning.
- d. Aligns and implements the educational program, plans, actions, and resources with the district's vision and goals.
- e. Provides leadership for major initiatives and efforts to effectuate change.
- f. Communicates effectively with various stakeholders regarding progress with school improvement plan goals.

83.10(2) Culture of learning. An educational leader promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional development. The administrator:

- a. Provides leadership for assessing, developing, and improving climate and culture of learning.
- b. Systematically and fairly recognizes and celebrates accomplishments of staff and students.
- c. Provides leadership, encouragement, opportunities, and structure for staff to continually design more effective teaching and learning experiences for all students.
- d. Monitors and evaluates the effectiveness of curriculum, instruction, and assessment.
- e. Evaluates staff and provides ongoing coaching for improvement.
- f. Ensures that staff members have professional development that directly enhances their performance and improves student learning.
- g. Uses current research and theory about effective schools and leadership to develop and revise the administrator's professional growth plan.
- h. Promotes collaboration with all stakeholders.
- i. Is easily accessible and approachable to all stakeholders.
- j. Is highly visible and engaged in the school community.
- k. Articulates the desired school culture and shows evidence about how it is reinforced.

83.10(3) Management. An educational leader promotes the success of all students by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment. The administrator:

- a. Complies with state and federal mandates and local school board policies.
- b. Recruits, selects, inducts, and retains staff to support quality instruction.
- c. Addresses current and potential issues in a timely manner.

d. Manages fiscal and physical resources responsibly, efficiently, and effectively.

e. Protects instructional time by designing and managing operational procedures to maximize learning.

f. Communicates effectively with both internal and external audiences about the operations of the school.

83.10(4) Family and community. An educational leader promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:

- a. Engages family and community by promoting shared responsibility for student learning and support of the educational system.
- b. Promotes and supports a structure for family and community involvement in the educational system.
- c. Facilitates the connections of students and families to the health and social services that support a focus on learning.
- d. Collaboratively establishes a culture that welcomes and honors families and community and seeks ways to engage them in student learning.

83.10(5) Ethics. An educational leader promotes the success of all students by acting with integrity and fairness, and in an ethical manner. The administrator:

- a. Demonstrates ethical and professional behavior.
- b. Demonstrates values, beliefs, and attitudes that inspire others to higher levels of performance.
- c. Fosters and maintains caring professional relationships with staff.
- d. Demonstrates appreciation for and sensitivity to diversity in the school community.
- e. Is respectful of divergent opinions.

83.10(6) Societal context. An educational leader promotes the success of all students by understanding the profile of the community, and by responding to and influencing the larger political, social, economic, legal, and cultural context. The administrator:

- a. Collaborates with service providers and other decision makers to improve teaching and learning.
- b. Advocates for the welfare of all members of the learning community.
- c. Designs and implements appropriate strategies to reach desired goals.

281—83.11(284A) Evaluation. The board of directors of a school district shall conduct an evaluation of an administrator who holds a standard license issued under Iowa Code chapter 272 at least once every three years for purposes of assisting the administrator in making continuous improvement, documenting continued competence in the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2, and determining whether the administrator's practice meets the board's expectations for the school district. The review shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

281—83.12(284A) Professional development of administrators.

83.12(1) Responsibility of district. Each school district shall be responsible for the provision of professional growth programming for individuals employed in a school district

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administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency. School districts may collaborate with other educational stakeholders, including other school districts, area education agencies, professional organizations, higher education institutions, and private providers, regarding the provision of professional development for school district administrators. Professional development programming for school district administrators may include support that meets the individual administrator's professional development needs as aligned to the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2, and that meets individual administrator professional development plans.

83.12(2) Individual plans. In cooperation with the administrator's evaluator, an administrator who has a standard administrator's license issued by the board of educational examiners pursuant to Iowa Code chapter 272 and is employed by a school district or area education agency in a school district administrative position shall develop an individual administrator professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at a minimum, on the needs of the administrator. The individual plan shall be aligned, as appropriate, to the Iowa standards for school administrators adopted pursuant to 2007 Iowa Acts, chapter 108, section 2, and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

83.12(3) Role of evaluator. The administrator's evaluator shall meet annually as provided in Iowa Code section 279.23A with the administrator to review progress in meeting the goals in the administrator's individual professional development plan. The purpose of the meeting shall be to review collaborative work with other staff on student achievement goals and to modify as necessary the administrator's individual plan to reflect the individual administrator's and the school district's needs and the administrator's progress in meeting the goals in the plan. The administrator shall provide evidence of progress toward meeting the goals. Modifications to the plan may be made jointly by the administrator and the administrator's supervisor, or the supervisor may adjust the plan. Any changes in the plan made unilaterally by a supervisor must be clearly documented for the administrator.

ITEM 15. Amend **281—Chapter 83**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter chapters 284 and 284A as amended by 2007 Iowa Acts, chapter 108.

ARC 6480B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 17, "Open Enrollment," Iowa Administrative Code.

The amendments are in response to the June 28, 2007, decision of the United States Supreme Court that student attendance center assignments may not be based solely or primarily on race. Thus, under the amended rules, eligible school districts will still be able to deny open enrollment requests if the enrollment or release of the student will negatively impact the district's voluntary diversity plan. Rather than defining "minority student" solely in terms of race, the amendments allow eligible districts to define the term for themselves as long as race is not the sole or the determinative factor.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 8, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Iowa Department of Education, 2nd Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held January 8, 2008, from 2 to 3 p.m. in the State Board Room, 2nd Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Education and advise of specific needs by calling (515)281-5295.

These amendments are intended to implement Iowa Code section 282.18(3) and Parents Involved in Community Schools v. Seattle School District No. 1, et al., 551 U.S. ____ (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 amendments are proposed.

ITEM 1. Amend rule **281—17.2(282)** as follows:

Amend the definitions of "minority student" and "voluntary or court-ordered desegregation plan," as follows:

"Minority student" means a student who is a member of one of the following four groups (as used by the federal Department of Education): Black (not of Hispanic origin), Hispanic, American Indian/Alaskan Native, or Asian/Pacific Islander. For purposes of these rules, a student who is biracial or multiracial may be categorized as a minority student shall be defined by a local school board in its diversity plan, and may include consideration of any one characteristic or a combination of any of the following characteristics except that race may not be either the sole or the determinative characteristic: socioeconomic status, ethnicity/national origin, English language learner status, or race.

"Voluntary or court-ordered Court-ordered desegregation plan" means a plan that is either under direct court order or is voluntarily adopted to avoid racial isolation in the district.

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

"Diversity plan" or "voluntary diversity plan" means a plan that is voluntarily adopted by a local school board to promote diversity and to avoid minority student isolation in the district.

"Eligible district" means a school district whose board had adopted a voluntary desegregation plan under this chapter prior to June 28, 2007.

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ITEM 2. Amend subrule 17.6(2) as follows:

17.6(2) Voluntary *diversity plans* or court-ordered desegregation *plans*. In districts involved with voluntary or court-ordered desegregation (see 17.2(282)) or voluntary *diversity plans* where there is a requirement to maintain minority and nonminority student ratios according to a desegregation plan or order, the superintendent of the district may deny a request for open enrollment if it is found that the enrollment or release of a pupil will adversely affect the district's desegregation plan or order *voluntary diversity plan*. Open enrollment requests that would facilitate the desegregation plan or order *voluntary diversity plan* shall be given priority over other open enrollment requests received by the district. A parent/guardian whose request for open enrollment is denied by the superintendent of the district on the basis of its adverse effect on the district's desegregation plan or *voluntary diversity plan* may appeal that decision to the district board.

ITEM 3. Amend rule 281—17.14(282) as follows:

281—17.14(282) Voluntary diversity plans or court-ordered desegregation plans.

17.14(1) Applicability. These rules govern only the components of a voluntary *diversity plan* or court-ordered desegregation plan as the plan affects open enrollments. Nothing herein shall prohibit a district from implementing a lawful voluntary *desegregation diversity or court-ordered desegregation* plan or components thereof for transfers other than open enrollment.

17.14(2) Eligibility to adopt and implement a plan applicable to open enrollments.

a. Adoption. The board of a *an eligible* school district may adopt a voluntary *desegregation diversity* plan with a component that applies to open enrollments if either of the following conditions exists: (1) The district's total student population consists of at least 20 percent minority students *The percentage of minority students in the district exceeds the percentage of minority students in the state by at least 20 percentage points*; or (2) The percentage of minority students in one or more attendance centers in the district exceeds the percentage of minority students in the district as a whole by at least 20 percentage points.

b. Implementation. The open enrollment component of the plan adopted by the district board shall only be implemented by the district if other components of the *desegregation diversity* plan describe the steps the district is taking internally to avoid or reduce *racial minority student* isolation, and the district demonstrates the extent to which it has implemented those steps. For districts with multiple attendance centers at the same grade level, such steps may include intra-district student transfer policies, pairing of attendance centers, revision of boundaries of attendance centers, *selecting school sites*, realignment of feeder systems, magnet schools, and the placement of specialized programs and services. In a district without multiple attendance centers at the same grade level, such steps may include pupil assignments to classrooms, classroom pairing, community and family outreach programs, student-to-student mentoring or grouping designed to promote understanding and acceptance of and positive interactions with all *racial and ethnic groups of minority students*, and professional development activities designed to promote understanding and acceptance of and positive interactions with all *racial and ethnic groups of minority students*. The open enrollment component of the plan adopted by the district board may remain in effect for so long as the district's total minority student population exceeds 15 percent, and shall remain in effect for so long as the district dem-

onstrates is necessary to avoid *racial minority student* isolation in the district.

17.14(3) Open enrollment elements of a *desegregation diversity* plan.

a. All applicable deadlines for the filing and determination of open enrollment requests, including the exceptions for good cause under rule 17.4(282), apply to open enrollment requests filed in a district that has adopted an open enrollment component in its voluntary *desegregation diversity* plan.

b. The plan shall establish a districtwide ratio of minority-to-nonminority students to be maintained, consistent with subrule 17.14(2). All open enrollment requests, both those into and out of the district, shall be acted on according to whether the request will adversely affect or will positively affect the implementation of the plan. Under Iowa Code section 282.18, if an open enrollment request would positively affect the plan, the district shall give priority to granting the request over other requests.

c. A district with multiple attendance centers at the same grade level shall specify in the open enrollment component of its *desegregation diversity* plan which attendance centers are affected by the open enrollment component. For each of those attendance centers, the district shall establish and specify the individual attendance center ratios of minority-to-nonminority students, consistent with subrule 17.14(2). The plan may provide for an initial determination of whether a requested open enrollment will negatively affect the specific attendance center ratio. With respect to a request to open enroll out of the district, if such enrollment will negatively affect the ratio established for the student's current attendance center, the request may be denied by the district with no further determination of the impact of the request on the districtwide ratio. For a request to open enroll either into or out of the district, if the open enrollment will not negatively affect the attendance center ratio, the request shall be denied only if there would be a negative impact on the districtwide ratio. As of July 1, 2003, if a district's plan sets a threshold lower than allowed in paragraph 17.14(2)"a" and that plan has not been disapproved by a court of competent jurisdiction, the district may implement its individual attendance center ratios in addition to its districtwide ratio.

d. The plan shall include provision for the formation and operation of a waiting list for those requests that could not be granted immediately. A parent/guardian of a child on the waiting list must be informed by the district of the details of the operation of the list and whether the parent/guardian must refile a timely request for open enrollment in order to remain on the waiting list.

e. The plan shall specify a district contact person to whom questions may be directed from parents/guardians.

f. The plan shall include a provision whereby a parent/guardian has a means to request that the district determine whether a hardship exists for granting a request that may not otherwise be granted under the plan.

17.14(4) Exceptions. The following exceptions shall apply:

a. If an open enrollment request is filed on behalf of a student whose sibling is already participating in open enrollment to the same district to which the student desires open enrollment, the request shall be granted.

b. If an open enrollment request is filed on behalf of a student whose parent/guardian moves out of the school district of residence and who wishes to remain in the district of residence as an open enrolled student without interruption in the student's educational program under subrule 17.8(7), the

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request shall be granted. This option is not available to the parent/guardian of a student who is entering kindergarten for the first time.

c. A request for open enrollment based on repeated acts of harassment of the student shall not be denied on the basis that such request would have an adverse impact on the district's ratio of minority-to-nonminority students.

d. A request for open enrollment based on a serious health condition of the student that the district cannot adequately address shall not be denied on the basis that such request would have an adverse impact on the district's ratio of minority-to-nonminority students.

17.14(5) Review by department.

a. ~~Initial submission of plan. A district whose board has adopted a voluntary desegregation plan for open enrollment before July 1, 2004, shall submit a copy of its plan to the department by September 1, 2004. A district that adopts such a plan on or after July 1, 2004, shall submit a copy to the department within 60 days of the adoption of the plan. All changes to voluntary desegregation plans for open enrollment shall be submitted to the department within 60 days of local board action.~~

b. ~~Compliance plans adopted before July 1, 2004. With respect to plans adopted prior to July 1, 2004, the department initially shall inform the district within 90 days whether the plan complies with this rule. The district has until July 1, 2006, to comply with this rule. The department shall work with the district toward compliance by providing technical assistance. If a district's plan is not in compliance with this rule by July 1, 2006, the district shall not use its plan to deny any timely open enrollment requests filed after July 1, 2006, until the district's plan is determined by the department to be in compliance with this rule. A district whose board adopted a plan prior to July 1, 2004, may use its plan for the 2004-2005, 2005-2006, and 2006-2007 school years.~~

c. ~~Compliance plans adopted on or after July 1, 2004. With respect to plans adopted on or after July 1, 2004, the department initially shall inform the district within 90 days of submission of the plan to the department whether the plan complies with this rule. The department shall work with the district toward compliance by providing technical assistance. Until a district's plan is in compliance with this rule, the district shall not use its plan to deny any timely open enrollment requests.~~

17.14(5) Review by department. All voluntary desegregation plans adopted under this rule prior to June 28, 2007, are no longer valid. An eligible district whose board desires to adopt a voluntary diversity plan for open enrollment must do so by March 1, 2008. The district shall submit a copy of its plan to the department for review within 10 days of the adoption of the plan. Open enrollment requests received prior to March 1, 2008, by a district that has a voluntary diversity plan may be held by the district for action pursuant to the district's new voluntary diversity plan.

The department shall inform the district within 10 days of receipt of the district's voluntary diversity plan whether the plan complies with this rule. All changes to voluntary diversity plans for open enrollment shall be submitted to the department within 60 days of local board action.

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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

This amendment allows the Board more flexibility when reviewing applications for licensure by comity from another licensing jurisdiction by addressing the matter of comity applicants who did not fully satisfy the licensure requirements in Iowa at the time of initial licensure in another jurisdiction, but who have since initial licensure fulfilled all requirements in a manner that is determined to be substantially equivalent to meeting the standards imposed on current applicants for initial licensure. Thus, the individuals who meet all the requirements of initial licensure but who completed them out of order will have a smoother avenue to licensure in Iowa.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before January 8, 2008. Comments should be directed to Gleen Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or by telephoning (515)281-7360.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

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

The following amendment is proposed.

Amend rule 193C—4.2(542B) as follows:

193C—4.2(542B) Requirements for licensure by comity.

A person holding a certificate of licensure to engage in the practice of engineering issued by a proper authority of a jurisdiction or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of Iowa Code section 542B.14 and of a standard not lower than that specified in the applicable licensure Act in effect in this jurisdiction at the time such certificate was issued who has met standards determined by the board to be substantially equivalent to those required of applicants for initial licensure in this state may, upon application, be licensed without further examination. When determining whether the licensing standards satisfied by a comity applicant at the time of foreign initial licensure are equal or superior substantially equivalent to those required in Iowa, the board considers each of the four licensing prerequisites in Iowa Code section 542B.14(1) individually.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The licensing standards satisfied by the comity applicant must accordingly ~~have been~~ *be* equal or superior to those required in Iowa for education, fundamentals examination, experience, and professional examination. Unless expressly stated in this chapter, the board will not consider an applicant's superior satisfaction of one licensing prerequisite, such as a higher level of education than is required in Iowa, as resolving an applicant's lack of compliance with another prerequisite, such as professional examination. Comity applicants are governed by the same standards as are required of Iowa applicants *for initial licensure in Iowa*.

4.2(1) References. An applicant for licensure by comity shall submit three references on forms provided by the board, at least two of which shall be from licensed professional engineers. The board reserves the right to contact employers for information about the applicant's professional experience and competence.

4.2(2) Basis for evaluation of applications. Applications for licensure by comity will be evaluated on the following basis:

a. The applicant's record of education, references, practical experience, and successful completion of approved examinations will be reviewed to determine if it currently satisfies the substantive requirements of Iowa Code section 542B.14. In reviewing the education, references, and practical experience of comity applicants, the board will use the same criteria used by the board to determine the eligibility of a candidate for the Principles and Practice of Engineering examination; or

b. The applicant's licensure in a jurisdiction other than Iowa will be reviewed to determine if it was granted only after satisfaction of requirements ~~equal to or more stringent than~~ *substantially equivalent* to those that ~~were~~ *are* required of applicants *for initial licensure in Iowa* by Iowa Code section 542B.14 at the time the applicant was licensed in the other jurisdiction.

4.2(3) Evaluation of comity application process.

a. First, the applicant for licensure by comity from a jurisdiction other than Iowa must ~~have satisfied~~ *meet or exceed* the education requirements set forth in Iowa Code section 542B.14 that were in effect at the time that the applicant was licensed initially. In addition, if the applicant did not graduate from an Accreditation Board of Engineering and Technology (ABET)/ Engineering Accreditation Commission (EAC) or Canadian Engineering Accreditation Board (CEAB) approved curriculum, the applicant must have completed a year of practical experience satisfactory to the board prior to taking the Fundamentals of Engineering examination. *This year of experience must be in addition to the four years of practical experience in engineering work as required in paragraph 4.2(3) "d."*

b. Second, the applicant must have successfully completed the Fundamentals of Engineering examination.

~~(1) The applicant may take the Fundamentals of Engineering examination anytime after the practical experience or educational requirements are completed, but the applicant must successfully complete the Fundamentals of Engineering examination prior to taking the Principles and Practice of Engineering examination.~~

~~(2) An applicant who graduated from a satisfactory engineering program and who has 25 years or more of work experience satisfactory to the board shall not be required to take the Fundamentals of Engineering examination.~~

~~(3) An applicant who has earned a Doctor of Philosophy degree from an institution in the United States of America with an accredited Bachelor of Science engineering de-~~

~~gree program in the same discipline, or a similar doctoral degree in a discipline approved by the board, shall not be required to take the Fundamentals of Engineering examination.~~

~~c. Third, the applicant must have successfully completed the Principles and Practice of Engineering examination. Prior to taking this examination, the applicant should have had a record of four years or more of practical experience in engineering work which is of a character satisfactory to the board. This experience must have been obtained after the receipt of the appropriate education and prior to taking the Principles and Practice of Engineering examination.~~

~~d. Fourth, the applicant must have a record of four years or more of practical experience in engineering work which is of a character satisfactory to the board. This experience must have been obtained after the receipt of the appropriate education and must meet the requirements for practical experience found at paragraph 4.1(7) "a."~~

~~e. While the board will consider evidence presented by a comity applicant on non-NCEES examinations successfully completed in a foreign country, the non-NCEES examination will be compared with the appropriate NCEES examination. A non-NCEES professional examination, for instance, must be designed to determine whether a candidate is minimally competent to practice professional engineering in a specific branch of engineering, such as civil, structural, electrical, or mechanical engineering. The examination must be written, objectively graded, verifiable, and developed and validated in accordance with the testing standards of the American Psychological Association or equivalent testing standards. Free-form essays and oral interviews, while valuable for certain purposes, are not equal or superior to NCEES examinations for reasons including the subjective nature of such procedures, lack of verifiable grading standards, and heightened risk of inconsistent treatment.~~

~~4.2(4) Comity licensure for applicants who completed the professional examination before completing the experience requirement.~~

~~a. Purpose. Licensure requirements for professional engineers are generally consistent across jurisdictions, but occasionally the board receives an application for comity licensure from an applicant who was allowed to complete the professional engineering examination before completing the practical engineering experience required of Iowa applicants. This subrule is intended to provide a mechanism for comity applicants faced with this situation to become licensed in Iowa without retaking the professional examination.~~

~~b. Licensure conditions. If an applicant for comity licensure as a professional engineer satisfies all four of the licensing requirements set forth in Iowa Code section 542B.14(1) (i.e., education, fundamentals examination, four or more years of practical engineering experience of a character satisfactory to the board, and professional examination) at the time of application, but the applicant was permitted by the jurisdiction of initial licensure to complete the professional examination with a shortfall of the practical experience required of professional examination candidates in Iowa, the board may approve the applicant for comity licensure without further written examination pursuant to Iowa Code section 542B.20, if the applicant has had, since initial licensure, additional practical engineering experience of a character satisfactory to the board of at least twice the shortfall. Under no circumstances will the amount of additional experience required be less than six months.~~

~~4.2(5) Education and experience requirements.~~

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

a. ~~The~~ For applicants who were originally licensed in a jurisdiction other than Iowa prior to July 1, 1988, the board will employ the following ~~charts~~ chart to determine if the applicant's licensure in a jurisdiction other than Iowa was granted after satisfaction of requirements equal to or more stringent than substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant's original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who were licensed prior to July 1, 1988 | | |
|---|---|--|
| If the applicant's educational level was: | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| No post-high school education | 8 | 4 |
| Postsecondary study in mathematics or physical sciences | | |
| One year | 7 | 4 |
| Two years | 6 | 4 |
| Three years | 5 | 4 |
| Four years | 3 | 4 |
| Four-year BS degree in mathematics or physical sciences plus master's degree* in engineering | 0 | 4 |
| Postsecondary study in engineering technology programs and architecture | | |
| One year | 7 | 4 |
| Two years | 5.5 | 4 |
| Three years | 4 | 4 |
| Four-year degree in a nonaccredited engineering technology program or BA in architecture | 2.5 | 4 |
| Four-year degree in an accredited engineering technology program | 2 | 4 |
| Bachelor of architecture, four years or more | 2 | 4 |
| Four-year degree in engineering technology or architecture plus master's degree* in engineering | 0 | 4 |
| Postsecondary study in a nonaccredited engineering program | | |
| One year | 7 | 4 |
| Two years | 5 | 4 |
| Three years | 3 | 4 |
| Four-year BS degree | 1 | 4 |
| Four-year degree in a nonaccredited engineering program plus master's degree* in engineering | 0 | 4 |
| Postsecondary study in an accredited engineering program | | |
| Two years | 6 | 4 |
| Three years | 3 | 4 |
| Four-year degree in an accredited engineering program | 0 | 4 |

b. For applicants who were originally licensed in another jurisdiction and who meet the requirements of Iowa Code section 542B.14(1)(a)(3), the board will employ the following chart to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which were required by Iowa Code section 542B.14 at the time of the applicant's original licensure. Column 1 indicates the years of practical experience that were required prior to the Fundamentals of Engineering examination in addition to the completion of the required educational level. To determine the total years of practical experience that were required prior to taking the Principles and Practice of Engineering examination, column 2 is added to column 1.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

| EXPERIENCE REQUIREMENTS FOR COMITY APPLICANTS Who meet the requirements of Iowa Code section 542B.14(1)(a)(3) | | |
|--|---|--|
| If the applicant's educational level was: | The applicant must have had the following additional years of experience prior to taking the Fundamentals of Engineering examination: | The applicant must have had the following years of experience after receipt of the qualifying degree and prior to taking the Principles and Practice of Engineering examination: |
| College or junior college (mathematics or physical sciences) | | |
| Two years | 6 | 4 |
| Three years | 5 | 4 |
| Four-year BS degree | 3 | 4 |
| Four-year BS degree plus MS master's degree [§] in engineering | 0 | 4 |
| All engineering technology programs and architecture | | |
| Two years | 6 | 4 |
| Three years | 5 | 4 |
| Four-year degree, nonaccredited technology or BA in architecture | 3 | 4 |
| Four-year degree, accredited technology | 2 | 4 |
| Four-year degree or more, bachelor of architecture | 2 | 4 |
| Four-year BS degree, technology or architecture plus master's degree [§] in engineering | 0 | 4 |
| Engineering program, nonaccredited | | |
| Two years | 6 | 4 |
| Three years | 3 | 4 |
| Four-year BS degree | 1 | 4 |
| Four-year BS degree plus MS master's degree in engineering | 0 | 4 |
| Engineering program, accredited | | |
| Two years | 6 | 4 |
| Three years | 3 | 4 |
| Four-year BS degree | 0 | 4 |

c. For all other applicants who were originally licensed in a jurisdiction other than Iowa on or after July 1, 1988, the board will employ the chart found at subrule 4.1(6) to determine if the applicant's licensure was granted after satisfaction of requirements substantially equivalent to those which are required by Iowa Code section 542B.14.

[§] d. For purposes of this subrule, an applicant's master's degree in engineering must be from an institution in the United States of America with an accredited bachelor's degree in the same curriculum, and the master's degree candidate must be required to fulfill the requirements for the bachelor's degree in the same area of specialization.

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**HUMAN SERVICES
DEPARTMENT[441]**

Notice of Intended Action

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

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

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

The proposed amendments make technical changes to update the descriptions of forms and procedures used in determining Medicaid eligibility and benefits. The amendments reflect the development of a new authorization form for obtaining information necessary to determine disability. Under current procedures, the applicant must sign a separate form for every source of information, and if more sources are identified during the process, work must stop until more authorizations are obtained. The new form is designed to authorize all sources of information with one signature.

The amendments also reflect new names for:

- The form used to gather information from newly approved Supplemental Security Income recipients that is needed to complete the Medicaid eligibility determination;
- The form used to gather medical support information from an absent parent; and
- The form used to collect information about accident-related injuries. The affected rules are updated with current terminology and references.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

Any interested person may make written comments on the proposed amendments on or before January 9, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

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

The following amendments are proposed.

ITEM 1. Amend subrule **75.1(35)** as follows:

Strike the word "recipient" or "recipients" and insert in lieu thereof the word "member" or "members" wherever the words appear in subparagraph **"c"(2)**, paragraphs **"f"** and **"i,"** and paragraph **"j,"** introductory paragraph.

Amend paragraph **"l,"** subparagraphs **(2)** and **(3)**, as follows:

(2) For an independent determination of disability, the applicant or recipient or the applicant's or recipient's authorized representative shall complete, sign and submit Form 470-4459 or 470-4459(S), *Authorization to Disclose Information to the Department of Human Services*, and either:

1. Form 470-2465, Disability Report for Adults, if the applicant or recipient is aged 18 or over; or

2. Form 470-3912, Disability Report for Children, if the applicant or recipient is under the age of 18. A signed *Authorization to Obtain or Release Health Care Information*, Form 470-3951 or 470-3951(S), shall be completed for each medical source listed on the disability report.

(3) In connection with any independent determination of disability, the department shall determine whether reexamination of the person's medical condition will be necessary for periodic redeterminations of eligibility. *When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms as required in subparagraph (2).*

ITEM 2. Amend rule 441—75.2(249A) as follows:

Amend the introductory paragraphs and subrules 75.2(1) and 75.2(2) as follows:

441—75.2(249A) Medical resources. Medical resources include health and accident insurance, eligibility for care through Veterans' Administration, specialized child health services, Title XVIII of the Social Security Act (Medicare) and other resources for meeting the cost of medical care which may be available to the recipient member. These resources must be used when reasonably available.

~~When a medical resource may be obtained by filing a claim or an application, and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist.~~

75.2(1) The department shall approve payment only for those services or that part of the cost of a given service for

which no medical resources exist unless pay and chase provisions as defined in rule 441—75.25(249A) are applicable.

a. Persons who have been approved by the Social Security Administration for supplemental security income shall complete Form 470-2304, 470-2304(S), 470-0364, or 470-0364(S), *SSI Medicaid Information Questionnaire for SSI Persons*, and return it to the local office of the department.

b. Persons eligible for Part B of the Medicare program shall make assignment to the department on Form 470-2304, 470-2304(S), 470-0364, or 470-0364(S), *SSI Medicaid Information Questionnaire for SSI Persons*.

75.2(2) *When a medical resource may be obtained by filing a claim or an application and cooperating in the processing of that claim or application, that resource shall be considered to be reasonably available, unless good cause for failure to obtain that resource is determined to exist.*

75.2(1) a. The recipient member, or one acting on the recipient's member's behalf, shall file a claim, or submit an application, for any reasonably available medical resource, and shall also cooperate in the processing of the claim or application. Failure to do so, without good cause, shall result in the termination of medical assistance benefits.

b. The medical assistance benefits of a minor or a legally incompetent adult recipient member shall not be terminated for failure to cooperate in reporting medical resources.

75.2(2) When a parent or payee, acting on behalf of a minor, or of a legally incompetent adult recipient member, fails to file a claim or application for reasonably available medical resources, or fails to cooperate in the processing of a claim or application, without good cause, the medical assistance benefits of the parent or payee shall be terminated.

Amend subrules **75.2(3)** and **75.2(4)** by striking the word "recipient" or "recipients" and inserting in lieu thereof the word "member" or "members" wherever the words appear.

Amend subrule 75.2(5) as follows:

75.2(5) When the department receives information through a cross-match with *Iowa workforce development* department of employment services and child support recovery files which indicates the absent parent of a Medicaid-eligible child is employed, the department shall send Form 470-0413, *Absent Parent Obligor Insurance Questionnaire*, to the absent parent in order to obtain health insurance coverage information. If the absent parent does not respond within 15 days from the date Form 470-0413 is sent, the department shall send Form 470-2240, *Employer Insurance Questionnaire*, to the employer in order to obtain the health insurance coverage information.

ITEM 3. Amend rule **441—75.3(249A)** by striking the word "recipient" and inserting in lieu thereof the word "member" wherever the word appears.

ITEM 4. Amend rule **441—75.4(249A)** as follows:

Strike the words "recipient," "medical assistance recipient," "recipient of medical assistance," "recipient of the medical assistance program" and "applicant for or recipient of medical assistance" and insert in lieu thereof the word "member" wherever the words appear, except as indicated below.

Amend subrule **75.4(3)**, paragraphs **"d"** and **"e,"** as follows:

d. The recipient member, or one acting on the recipient's member's behalf, shall complete the *Recipient Inquiry Priority Leads Letter*, Form 470-0398, when the department has reason to believe that the recipient member has received an accident-related injury. Failure to cooperate in completing and returning this form, or in giving complete and accurate

HUMAN SERVICES DEPARTMENT[441](cont'd)

information, shall result in the termination of Medicaid benefits.

e. When the recovery rights of the department are adversely affected by the actions of a parent or payee acting on behalf of a minor or legally incompetent adult ~~recipient member~~, the Medicaid benefits of the parent or payee shall be terminated. When a parent or payee fails to cooperate in completing or returning the ~~Recipient Inquiry Priority Leads Letter~~, Form 470-0398, or the Supplemental Insurance Questionnaire, Form 470-2826, or fails to give complete and accurate information concerning the accident-related injuries of a minor or legally incompetent adult ~~recipient member~~, the department shall terminate the Medicaid benefits of the parent or payee.

Amend subrule **75.4(4)**, paragraph “**c**,” as follows:

c. An attorney representing an applicant for *medical assistance* or a past or present ~~recipient of medical assistance Medicaid member~~ on a claim to which the department has filed a lien under this rule shall notify the department of the claim of which the attorney has actual knowledge, ~~prior to before~~ filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge shall include the notice to the attorney pursuant to subrule 75.4(1). The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or ~~regional local~~ office location, is adequate legal notice of the claim.

Amend subrule 75.4(6) as follows:

75.4(6) For purposes of this rule, the term “third party” includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for *medical assistance* or a past or present ~~recipient of assistance under the medical assistance program Medicaid member~~.

ITEM 5. Amend rule 441—75.20(249A) as follows:

Amend subrule **75.20(2)**, paragraph “**b**,” as follows:

b. When there is no binding SSA decision and the department is required to establish eligibility for SSI-related Medicaid based on disability, initial determinations shall be made by disability determination services, a bureau of the Iowa department of education under the division of vocational rehabilitation services. The ~~client applicant~~ or the ~~client's applicant's~~ authorized representative shall complete and submit Form 470-4459 or 470-4459(S), *Authorization to Disclose Information to the Department of Human Services*, and either:

(1) Form 470-2465, Disability Report for Adults, if the ~~client applicant~~ is aged 18 or over; or

(2) Form 470-3912, Disability Report for Children, if the ~~client applicant~~ is under the age of 18. ~~A signed release, Form 470-3951 or 470-3951(S), Authorization to Obtain or Release Health Care Information, shall be completed for each medical source listed on the disability report.~~

Amend subrule 75.20(4) as follows:

75.20(4) Redeterminations of disability. In connection with any independent determination of disability, the department will determine whether reexamination of the ~~person's member's~~ medical condition will be necessary for periodic redeterminations of eligibility. *When reexamination is required, the member or the member's authorized representative shall complete and submit the same forms as required in paragraph 75.20(2) “b.”*

Amend subrule **75.20(5)** by striking the word “recipient” or “recipients” and inserting in lieu thereof the word “member” or “members” wherever the words appear.

ITEM 6. Amend rule **441—76.1(249A)** as follows:

Amend the second unnumbered paragraph as follows:

A person who is a recipient of supplemental security income (SSI) benefits shall not be required to complete a separate Medicaid application. If the ~~county local~~ office does not have all information necessary to establish that an SSI recipient meets all Medicaid eligibility requirements, the SSI recipient may be required to complete Form 470-2304, ~~470-2304(S), or 470-0364, or 470-0364(S), SSI Medicaid Information Questionnaire for SSI Persons~~, and may be required to attend an interview to clarify information on this form.

Amend subrule **76.1(7)** by striking the word “recipient” or “recipients” and inserting in lieu thereof the word “member” or “members” wherever the words appear.

ITEM 7. Amend subrule **76.5(1)**, paragraph “**d**,” as follows:

d. Persons receiving only supplemental security income benefits who wish to make application for Medicaid benefits for three months preceding the month of application shall complete Form ~~MA-2124-0 470-2304, 470-2304(S), 470-0364, or 470-0364(S), Supplementary SSI Medicaid Information—Medicaid Application—Retroactive Medicaid Eligibility.~~

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 202, “Foster Care Services,” Iowa Administrative Code.

The Tax Relief and Health Care Act of 2006 (Public Law 109-432) has imposed more stringent requirements on eligibility for funding through various federal programs, including federal foster care assistance authorized under Title IV-E of the Social Security Act. The proposed amendments detail the documentation that may be used to verify citizenship for children in foster care. If citizenship cannot be verified, the Department will not be able to claim federal matching funds for the cost of the child’s care. This decision will not affect the services offered to the child.

The amendments also make technical changes to update organizational terms and references.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive federal requirements.

Any interested person may make written comments on the proposed amendments on or before January 9, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are intended to implement Iowa Code section 234.6.

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

The following amendments are proposed.

ITEM 1. Amend rule 441—202.2(234) as follows:

Amend subrule 202.2(5), introductory paragraph, as follows:

202.2(5) The need for foster care and the efforts to prevent placement shall be evaluated by a review committee prior to placement or, for emergency placements only, within 30 days after the date of placement. For children who are mentally retarded or developmentally disabled and receive case management services, this requirement may be met by the interdisciplinary staffing described in 441—Chapter 24 90, as long as the service area manager approves, the department worker attends the staffing, and the staffing meets the requirements of paragraphs “b” to “h” below.

Adopt **new** subrule 202.2(6) as follows:

202.2(6) The citizenship or alien status of a child who enters foster care must be verified.

a. When the child will remain in foster care for no more than 60 days, Form 470-4500, Statement of Citizenship Status: Foster Care, signed by the parent or guardian of the child is sufficient.

b. When the child will remain in foster care for more than 60 days, one of the documents listed in this paragraph is required. Any one of the following documents shall be accepted as satisfactory documentation of citizenship or nationality:

- (1) A certificate of birth in the United States.
- (2) Form FS-240 (Report of Birth Abroad of a Citizen of the United States) issued by the U.S. Citizenship and Immigration Services.
- (3) Form FS-545 or Form DS-1350 (Certification of Birth Abroad) issued by the U.S. Citizenship and Immigration Services.
- (4) A United States passport.
- (5) Form I-97 (United States Citizen Identification Card) issued by the U.S. Citizenship and Immigration Services.
- (6) Form N-560 or N-561 (Certificate of United States Citizenship) issued by the U.S. Citizenship and Immigration Services.
- (7) Form N-550 or N-570 (Certificate of Naturalization) issued by the U.S. Citizenship and Immigration Services.
- (8) A valid state-issued driver's license or other identity document described in Section 274A(b)(1)(D) of the United States Immigration and Nationality Act, but only if the state issuing the license or document either:
 1. Requires proof of United States citizenship before issuance of the license or document; or
 2. Obtains a social security number from the applicant and verifies before certification that the number is valid and is assigned to the applicant who is a citizen.
- (9) Another document that provides proof of United States citizenship or nationality as the Secretary of the U.S. Department of Health and Human Services may specify by regulation pursuant to 42 U.S.C. Section 1396b(x)(3)(B)(v) or 1396b(x)(3)(C)(v).

c. A child entering foster care is exempt from these requirements when the family has previously presented satisfactory documentary evidence of citizenship, as specified by

the Secretary of the U.S. Department of Health and Human Services.

d. The parent or guardian of the child shall have a reasonable period to obtain and provide proof of citizenship. For the purposes of this requirement, the “reasonable period” begins on the date when the child is placed in foster care and continues to the date when the proof is provided or when the department establishes that the parent or guardian is no longer making a good-faith effort to obtain the proof.

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code section ~~sections~~ 234.6(1) and 234.6(6)“b.”

ITEM 2. Amend rule ~~441—202.3(234)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 234.6(6)“b” and section 234.35(1)“c.” as amended by 2003 Iowa Acts, House File 667, section 37.

ITEM 3. Amend subrule 202.16(1), introductory paragraph, as follows:

202.16(1) Applicants for departmental approval of need shall submit the following to the division of ~~adult, children~~ child and family services:

ITEM 4. Amend subrule 202.18(4), introductory paragraph, as follows:

202.18(4) Report. The service area manager or designee shall submit a report on transition planning committees to the department's division of ~~behavioral, developmental~~ child and protective family services for families, adults and children. The report shall be submitted annually by October 1 for the immediately preceding fiscal year. The report shall include, but not be limited to, the following:

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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 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 81, “Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board,” Iowa Administrative Code.

The proposed amendment amends the language in the rules for Board issuance of waivers or variances.

The purpose of this amendment is to more closely align the administrative rule with the legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on January 8, 2008, a public hearing will be held on January 9, 2008, at 1 p.m. in the Capitol View 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 amendment. 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.

LABOR SERVICES DIVISION[875](cont'd)

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than January 9, 2008, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

This amendment is intended to implement Iowa Code chapter 89.

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 81.10(6) as follows:

81.10(6) Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be ~~impractical~~ *impracticable*. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

ARC 6502B**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 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 81, “Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board,” Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

The proposed amendments rescind a rule concerning non-standard objects; require that operating certificates and orders granting waivers be posted in boiler rooms; adopt new language concerning “imminent danger”; change the requirements for using a waiver as a defense to an enforcement action; adopt a new rule concerning the statutory ten-day notice provision; and establish rules regarding temporary boilers.

The purposes of these amendments are to clarify safety requirements for temporary boilers, to facilitate the automatic transfer of waivers from one building owner to the next, to implement 2007 Iowa Acts, House File 368, to enhance compliance with the statutory ten-day notice requirement, to protect 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 January 8, 2008, a public hearing will be held on January 9, 2008, at 11 a.m. in the Capitol View 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 January 9, 2008, to the 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 89 and 2007 Iowa Acts, House File 368.

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—81.10(17A,89) by adopting **new** subrule 81.10(10) as follows:

81.10(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 room where the object is installed.

ITEM 2. Amend rule 875—81.15(17A,89) as follows:

875—81.15(17A,89) 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 object to which* the order pertains in any proceeding in which the rule in question is sought to be invoked.

ITEM 3. Amend rule **875—90.2(89)** as follows:

Rescind the definition of “nonstandard object.”

Adopt the following **new** definition:

“Boiler” means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat. “Boiler” includes all temporary boilers.

ITEM 4. Amend rule 875—90.6(89) by adopting **new** subrule 90.6(7) as follows:

90.6(7) Imminent danger. If the labor commissioner determines that continued operation of an object constitutes an imminent danger that could seriously injure or cause death to any person, notice to immediately cease operation of that object shall be posted by the labor commissioner. Upon such notice, the owner shall immediately begin the necessary steps to cease operation of the object. The object shall not be used until the necessary repairs have been completed and the object has passed inspection. Operation of an object in violation of this subrule may result in further legal action pursuant to Iowa Code section 89.11 as amended by 2007 Iowa Acts, House File 368, section 7, and Iowa Code section 89.14 as amended by 2007 Iowa Acts, House File 368, section 8.

ITEM 5. Amend rule 875—90.8(89) as follows:

875—90.8(89) Certificate. A certificate to operate shall not be issued until the boiler or pressure vessel is in compliance with the applicable rules and all fees have been paid. *The current certificate to operate or a copy of the current certificate to operate shall be conspicuously posted in the room where the object is installed.*

ITEM 6. Adopt **new** rule 875—90.13(89) as follows:

875—90.13(89) Notice prior to installation. Written notice of intent to install objects subject to the jurisdiction of Iowa

LABOR SERVICES DIVISION[875](cont'd)

Code chapter 89 shall be provided to the labor commissioner at least ten days before installation. Written notice shall be accomplished by completing and submitting to the labor commissioner, either:

1. The form designated by the labor commissioner, or
2. The National Board's Boiler Installation Report, I-1.

ITEM 7. Adopt **new** rule 875—90.14(89) as follows:

875—90.14(89) Temporary boilers. A certificate to operate a temporary boiler shall expire one year from the date of issuance or when the temporary boiler is disconnected. Inspections on temporary boilers that remain in one location longer than one year shall be performed according to the inspection schedule of Iowa Code section 89.3. A temporary boiler that is installed at a different location less than a year since the prior internal inspection of the boiler shall be subjected to a hydrostatic test pursuant to the National Board Inspection Code or to an internal inspection, at the discretion of the inspector.

ITEM 8. Rescind and reserve rule **875—91.16(89)**.

ARC 6483B

PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to rescind Chapter 3, “Pharmacy Technicians,” and to adopt a new Chapter 3 with the same title, and to amend Chapter 36, “Discipline,” Iowa Administrative Code.

The amendments were approved at the November 13, 2007, regular meeting of the Board of Pharmacy.

The proposed amendments rescind current Chapter 3 and adopt new rules implementing provisions of 2007 Iowa Acts, Senate File 75, regarding the registration and national certification of pharmacy technicians. The proposed rules define terms used within the chapter and identify individuals required to maintain registration as a pharmacy technician. Authorized and prohibited duties of a pharmacy technician are identified, and a pharmacist's responsibilities for supervision of pharmacy technicians are established.

The proposed rules in new Chapter 3 establish requirements for national certification of pharmacy technicians by July 1, 2010, provide for registration as a pharmacy technician trainee for individuals in the process of certification, and approve a national certification program. Application requirements are established, including application forms, fees, terms, renewals, and penalties for late registration or renewal. The proposed rules also identify unethical conduct or practice and provide for the denial of an application for registration and for discipline of a pharmacy technician.

The proposed amendments to subrule 36.1(4) delete “examiners” from the name of the Board pursuant to 2007 Iowa Acts, Senate File 74, and change references to pharmacy technician registration requirements as a result of the proposed new Chapter 3.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on January 8, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 147.72, 155A.23, 155A.33, and 155A.39 and 2007 Iowa Acts, Senate Files 74 and 75.

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

The following amendments are proposed.

ITEM 1. Rescind **657—Chapter 3** and adopt the following **new** chapter in lieu thereof:

CHAPTER 3 PHARMACY TECHNICIANS

657—3.1(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Board” means the Iowa board of pharmacy.

“Cashier” means a person whose duties within the pharmacy are limited to accessing finished, packaged prescription orders and processing payments for and delivering such orders to the patient or the patient's agent.

“Certified pharmacy technician” or “certified technician” means an individual who holds a valid current national certification from the PTCB and who has registered with the board as a certified pharmacy technician.

“Pharmacy technician” or “technician” means a person who is employed in Iowa by a licensed pharmacy under the responsibility of an Iowa-licensed pharmacist to assist in the technical functions of the practice of pharmacy, as provided in rules 3.22(155A) through 3.24(155A).

“Pharmacy technician certification” or “national certification” means a certificate issued by the PTCB attesting that the technician has successfully completed the requirements of the PTCB certification program. The term includes evidence of renewal of the national certification.

“Pharmacy technician trainee” or “technician trainee” means an individual who is in training to become a pharmacy technician and who is in the process of acquiring national certification as a pharmacy technician as provided in rule 3.5(155A).

“Pharmacy technician training” or “technician training” means education or experience acquired for the purpose of qualifying for and preparing for national certification.

“PTCB” means the Pharmacy Technician Certification Board.

“Supervising pharmacist” means an Iowa-licensed pharmacist who is on duty in an Iowa-licensed pharmacy and who is responsible for the actions of a pharmacy technician or other supportive personnel.

“Supportive personnel” means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by the pharmacist under the pharmacist's su-

PHARMACY BOARD[657](cont'd)

pervision, including but not limited to delivery, billing, cashier, and clerical functions.

657—3.2(155A) Purpose of registration. A registration program for pharmacy technicians is established for the purposes of determining the competency of a pharmacy technician or of an applicant for registration as a pharmacy technician, a certified technician, or a pharmacy technician trainee and for the purposes of identification, tracking, and disciplinary action for violations of federal or state pharmacy or drug laws or regulations.

657—3.3(155A) Registration required. Any person employed in Iowa as a pharmacy technician, except a pharmacist-intern whose pharmacist-intern registration is in good standing with the board, shall obtain and maintain during such employment a current registration as a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee pursuant to these rules. An individual accepting employment as a pharmacy technician or technician trainee in Iowa who fails to register as a pharmacy technician, certified technician, or technician trainee as provided by these rules may be subject to disciplinary sanctions.

3.3(1) Licensed health care provider. Except as provided in this rule, a licensed health care provider whose registration or license is in good standing with and not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing board and who assists in the technical functions of the practice of pharmacy shall be required to register as a pharmacy technician, certified technician, or technician trainee pursuant to these rules.

3.3(2) Original application required. Any person not currently registered with the board as a pharmacy technician or certified technician shall complete an application for registration within 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 30-day period.

3.3(3) Technician training. A person who is enrolled in a college-based or ASHP-accredited technician training program shall obtain a pharmacy technician trainee registration prior to beginning on-site practical experience. A person who is employed in a pharmacy and who is receiving pharmacy technician training through work experience shall obtain a pharmacy technician trainee registration within 30 days of the commencement of pharmacy technician training.

3.3(4) Registration number. Each pharmacy technician, certified technician, and technician trainee registered with the board will be assigned a unique registration number.

657—3.4 Reserved.

657—3.5(155A) Certification of pharmacy technicians. Prior to July 1, 2010, the certification and recertification of pharmacy technicians shall be voluntary and not mandatory. Beginning July 1, 2010, the certification of pharmacy technicians shall be required as provided by this rule. National certification does not supplant the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules.

3.5(1) Approved pharmacy technician certification. The board hereby approves the PTCB pharmacy technician certification program and examination, the successful completion of which fulfills the requirement for national certification.

3.5(2) Pharmacy technician trainee. Beginning July 1, 2009, a person who is in the process of acquiring national certification as a pharmacy technician shall register with the

board as a pharmacy technician trainee. The registration shall be issued for a period of one year and shall not be renewed.

3.5(3) Certified pharmacy technician. Beginning July 1, 2010, all applicants for a new pharmacy technician registration, except as provided by subrule 3.5(2), and all applicants for renewal of a pharmacy technician registration shall provide proof of current national pharmacy technician certification and shall complete the application for certified pharmacy technician registration.

657—3.6 and 3.7 Reserved.

657—3.8(155A) Application form.

3.8(1) Required information. The application for a pharmacy technician registration, certified technician registration, or pharmacy technician trainee registration shall include the following:

- a. Information sufficient to identify the applicant including, but not limited to, name, address, date of birth, gender, and social security number;
- b. Educational background;
- c. Work experience;
- d. Current place or places of employment;
- e. Any other information deemed necessary by the board and as provided by this rule.

3.8(2) Declaration of current impairment or limitations. The applicant shall declare any current use of drugs, alcohol, or other chemical substances that in any way impairs or limits the applicant's ability to perform the duties of a pharmacy technician with reasonable skill and safety.

3.8(3) History of felony or misdemeanor crimes. The applicant shall declare any history of being charged, convicted, found guilty of, or entering a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100).

3.8(4) History of disciplinary actions. The applicant shall declare any history of disciplinary actions or practice restrictions imposed by a state health care professional or technician licensure or registration authority.

3.8(5) Additional information. The following additional information shall be required from an applicant for the specified registration.

a. Technician trainee. The applicant for technician trainee registration shall identify the source of technician training, the anticipated date of completion of training, and the anticipated date of national certification.

b. Certified pharmacy technician. The applicant for certified technician registration shall provide proof of current pharmacy technician certification. The applicant shall also identify all current pharmacy employers including pharmacy name, license number, address, and average hours worked per week.

c. Licensed health care provider. In addition to the additional information required by paragraph "a" or "b" as applicable, a licensed health care provider shall provide evidence that the licensee's professional license or registration is current and in good standing and is not subject to current disciplinary sanctions or practice restrictions imposed by the licensee's professional licensing authority.

3.8(6) Sworn signature. The applicant shall sign the application under penalty of perjury and shall submit the application to the board with the appropriate fees pursuant to rule 3.10(155A).

657—3.9(155A) Registration term and renewal. Prior to July 1, 2008, a pharmacy technician registration shall expire on the second last day of the birth month following initial reg-

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istration, with the exception that a new pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration. A pharmacy technician registration issued between July 1, 2008, and July 1, 2009, except as provided in subrule 3.9(1), shall expire no later than June 30, 2010. Registration shall not require continuing education for renewal.

3.9(1) Certified pharmacy technician registration. A certified pharmacy technician registration shall expire on the second last day of the birth month following initial registration, with the exception that a new certified pharmacy technician registration issued within the two months immediately preceding the applicant's birth month shall expire on the third last day of the birth month following initial registration.

3.9(2) Pharmacy technician trainee registration. Beginning July 1, 2009, a registration for a pharmacy technician who is in the process of acquiring national certification (technician trainee) shall expire on the last day of the registration month 12 months following the date of registration or 12 months following the date registration was required pursuant to subrule 3.3(3).

a. National certification completed. When the registered technician trainee completes national certification, and no later than the date of expiration of the technician trainee registration, the pharmacy technician trainee shall complete and submit an application for certified pharmacy technician registration. A successful application shall result in issuance of a new certified pharmacy technician registration as provided in subrule 3.9(1).

b. Voluntary cancellation of registration. A registered technician trainee who fails to complete national certification prior to expiration of the technician trainee registration shall notify the board that the pharmacy technician trainee registration should be canceled and that the individual has ceased practice as a pharmacy technician.

c. Failure to notify board. If a pharmacy technician trainee fails to notify the board prior to the expiration date of the technician trainee registration regarding the individual's intentions as provided in paragraph "a" or "b," the technician trainee registration shall be canceled and the individual shall cease practice as a pharmacy technician.

657—3.10(155A) Registration fee. The following fees for initial registration and registration renewal shall apply to the specified registration applications filed within the following time frames. The appropriate fee shall be submitted with the registration application in the form of a personal check, certified check or cashier's check, or a money order payable to the Iowa Board of Pharmacy.

3.10(1) Registration prior to July 1, 2009. The fee for obtaining an initial technician registration, for obtaining an initial certified pharmacy technician registration, or for renewal of a technician or certified technician registration prior to July 1, 2009, shall be \$40 plus applicable surcharge pursuant to rule 657—30.8(155A).

3.10(2) Registration effective July 1, 2009. The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration beginning July 1, 2009, shall be \$50 plus applicable surcharge pursuant to rule 657—30.8(155A).

3.10(3) Technician trainee registration effective July 1, 2009. The fee for a one-year pharmacy technician trainee registration shall be \$20 plus applicable surcharge pursuant to rule 657—30.8(155A).

657—3.11(155A) Late applications and fees.

3.11(1) Initial registration. An application for initial registration that is not received within the applicable period specified in subrule 3.3(2) or 3.3(3) shall be delinquent, and the applicant shall be assessed a late payment fee. The late payment fee shall be equal to the amount of the fee for initial registration. A delinquent initial registration shall include payment of the initial registration fee, applicable surcharge pursuant to rule 657—30.8(155A), and late payment fee.

3.11(2) Registration renewal. A technician registration that is not renewed before its expiration date shall be delinquent, and the registrant shall not continue employment as a pharmacy technician until the registration is reactivated. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

a. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, plus the applicable surcharge pursuant to rule 657—30.8(155A).

b. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the second month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, the applicable surcharge pursuant to rule 657—30.8(155A), plus an additional penalty fee of \$10 for each additional month, not to exceed three additional months, that the registration is delinquent. The maximum combined fee payment for reactivation of a delinquent registration shall not exceed an amount equal to twice the renewal fee plus \$30 plus the applicable surcharge pursuant to rule 657—30.8(155A).

657—3.12(155A) Registration certificates. The certificate of technician registration issued by the board to a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee is the property of and shall be maintained by the registered technician. The certificate or a copy of the certificate shall be maintained in each pharmacy where the pharmacy technician, certified pharmacy technician, or pharmacy technician trainee works. Each pharmacy utilizing pharmacy technicians shall be responsible for verifying that all technicians, certified technicians, and technician trainees working in the pharmacy are registered, and that technician registrations remain current and active.

657—3.13(155A) Notifications to the board. A pharmacy technician, certified pharmacy technician, or technician trainee shall report to the board within ten days a change of the technician's name, address, or pharmacy employment status.

657—3.14 to 3.16 Reserved.

657—3.17(155A) Training and utilization of pharmacy technicians. All Iowa-licensed pharmacies utilizing pharmacy technicians shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians appropriate to the practice of pharmacy. Pharmacy policies shall specify the frequency of review. Technician training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of technician training shall be available for inspection and copying by the board or an agent of the board.

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657—3.18(147,155A) Identification of pharmacy technician.

3.18(1) Identification badge. A pharmacy technician shall wear a visible identification badge while on duty that clearly identifies the person as a pharmacy technician and that includes at least the technician's first name.

3.18(2) Misrepresentation prohibited. A pharmacy technician shall not represent himself or herself in any manner as a pharmacist or pharmacist-intern. A pharmacy technician shall not represent himself or herself in any manner as a certified pharmacy technician unless the technician has attained national pharmacy technician certification. A technician trainee shall not represent himself or herself in any manner as a certified pharmacy technician, as a pharmacist-intern, or as a pharmacist.

657—3.19 Reserved.

657—3.20(155A) Responsibility of supervising pharmacist. The ultimate responsibility for the actions of a pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee shall remain with the supervising pharmacist.

546—3.21(155A) Delegation of technical functions. A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9. The pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative.

657—3.22(155A) Technical functions. At the discretion of the supervising pharmacist, technical functions which may be delegated to a pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee include, but are not limited to, the following:

1. Performing packaging, manipulative, or repetitive tasks relating to the processing of a prescription or medication order in a licensed pharmacy.
2. Accepting prescription refill authorizations communicated to a pharmacy by a prescriber or by the prescriber's office.
3. Contacting prescribers to obtain prescription refill authorizations.
4. Collecting pertinent patient information.
5. Inspecting drug supplies provided and controlled by an Iowa-licensed pharmacy, including but not limited to drug supplies maintained in an ambulance or other emergency medical service vehicle, a long-term care facility, a hospital nursing unit, or a hospice facility.

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician, a certified pharmacy technician, or a pharmacy technician trainee shall not:

1. Provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;
2. Conduct prospective drug use review or evaluate a patient's medication record for purposes identified in rule 657—8.21(155A);
3. Provide patient counseling, consultation, or patient-specific drug information, tender an offer of patient counseling on behalf of a pharmacist, or accept a refusal of patient counseling from a patient or patient's agent;

4. Make decisions that require a pharmacist's professional judgment, such as interpreting prescription drug orders or applying information;

5. Transfer a prescription drug order to another pharmacy or receive the transfer of a prescription drug order from another pharmacy;

6. Delegate technical functions to supportive personnel.

657—3.24(155A) New prescription drug orders or medication orders. At the discretion of the supervising pharmacist, a pharmacy technician or a certified pharmacy technician may be allowed to accept new prescription drug orders or medication orders communicated to the pharmacy by a prescriber or by the prescriber's agent if the pharmacy technician or certified pharmacy technician has received appropriate training pursuant to the pharmacy's policies and procedures. The supervising pharmacist shall remain responsible for ensuring the accuracy, validity, and completeness of the information received by the pharmacy technician or certified technician. The pharmacist shall contact the prescriber to resolve any questions, inconsistencies, or other issues relating to the information received by the pharmacy technician or certified technician that involve a pharmacist's professional judgment.

657—3.25(155A) Delegation of nontechnical functions. A pharmacist may delegate nontechnical functions to supportive personnel only if the pharmacist is on site when delegated nontechnical functions are performed. A pharmacy technician shall not delegate technical functions to supportive personnel.

657—3.26 and 3.27 Reserved.

657—3.28(147,155A) Unethical conduct or practice. Violation by a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee of any of the provisions of this rule shall constitute unethical conduct or practice and may be grounds for disciplinary action as provided in rule 3.30(155A).

3.28(1) Misrepresentative deeds. A pharmacy technician, certified technician, or technician trainee shall not make any statement tending to deceive, misrepresent, or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

3.28(2) Confidentiality. In the absence of express written authorization from the patient or written order or direction of a court, except where the best interests of the patient require, a pharmacy technician, certified technician, or technician trainee shall not divulge or reveal to any person other than the patient or the patient's authorized representative, the prescriber or other licensed practitioner then caring for the patient, a licensed pharmacist, a person duly authorized by law to receive such information, or as otherwise provided in rule 657—8.16(124,155A), any of the following:

- a. A patient's name, address, social security number, or any information that could be used to identify a patient;
- b. The contents of any prescription drug order or medication order or the therapeutic effect thereof, or the nature of professional pharmaceutical services rendered to a patient;
- c. The nature, extent, or degree of illness suffered by any patient; or
- d. Any medical information furnished by the prescriber or the patient.

3.28(3) Discrimination. It is unethical to unlawfully discriminate between patients or groups of patients for reasons of religion, race, creed, color, gender, gender identity, sexual orientation, marital status, age, national origin, physical or

PHARMACY BOARD[657](cont'd)

mental disability, or disease state when providing pharmaceutical services.

3.28(4) Unethical conduct or behavior. A pharmacy technician, certified technician, or technician trainee shall not exhibit unethical behavior in connection with the technician's pharmacy employment. Unethical behavior shall include, but is not limited to, the following acts: verbal or physical abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, and theft.

657—3.29(155A) Denial of registration. The executive director or designee may deny an application for registration as a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

An individual whose application for registration as a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee is denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

657—3.30(155A) Discipline of pharmacy technicians.

3.30(1) Violations. The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

3.30(2) Sanctions. The board may impose the following disciplinary sanctions:

- a. Revocation of a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee registration.
- b. Suspension of a pharmacy technician, certified pharmacy technician, or pharmacy technician trainee registration until further order of the board or for a specified period.
- c. Nonrenewal of a pharmacy technician or certified pharmacy technician registration.
- d. Prohibition, permanently, until further order of the board, or for a specified period, from engaging in specified procedures, methods, or acts.
- e. Probation.
- f. The ordering of a physical or mental examination.
- g. Imposition of civil penalties not to exceed \$25,000.
- h. Issuance of a citation and warning.
- i. Such other sanctions allowed by law as may be appropriate.

These rules are intended to implement Iowa Code sections 147.72, 155A.23, 155A.33, and 155A.39 and 2007 Iowa Acts, Senate File 75.

ITEM 2. Amend subrule **36.1(4)**, paragraphs "i," "v," and "aa," as follows:

i. Willful or repeated violations of the provisions of Iowa Code chapter 147 or Iowa Code chapter 272C. Willful or repeated violations of these Acts include, but are not limited to, a pharmacist's, pharmacist-intern's, or pharmacy technician's intentionally or repeatedly violating a lawful rule or regulation promulgated by the board of pharmacy examiners or the state department of public health, violating a lawful order of the board in a disciplinary hearing, or violating the provisions of Title IV (Public Health) of the Code of Iowa, as amended.

v. Practicing pharmacy without an active and current Iowa pharmacist license, operating a pharmacy without a

current pharmacy license, operating a prescription drug wholesale facility without a current wholesale drug license, practicing as a pharmacist-intern without a current pharmacist-intern registration, or assisting a pharmacist with technical functions associated with the practice of pharmacy without a current pharmacy technician registration except as provided in ~~657—subrule 3.3(1) or rule 657—3.4(155A)~~ *657—3.3(155A), introductory paragraph.*

aa. Employing or continuing to employ as a practicing pharmacist any person whose Iowa pharmacist license is not current and active, or employing or continuing to employ a person to assist a pharmacist with technical functions associated with the practice of pharmacy who is not currently registered as a pharmacy technician except as provided in ~~657—subrule 3.3(1) or rule 657—3.4(155A)~~ *657—3.3(155A), introductory paragraph.*

ARC 6485B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, "Hospital Pharmacy Practice," and Chapter 23, "Long-Term Care Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the November 13, 2007, regular meeting of the Board of Pharmacy.

The proposed amendments provide that a pharmacy contracting with a hospital pharmacy to provide remote pharmacist review and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed may include, as a part of those contracted services, pharmacist order entry of the medication order. The proposed amendments also provide that a written or verbal patient-specific medication order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to a physician-approved hospital or facility policy and following patient assessment for contraindications. Administration of the vaccine shall be recorded in the patient's medical record, and a long-term care facility shall submit to the provider pharmacy a list of those residents or staff members to whom the vaccine has been administered.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on January 8, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code section 155A.13.

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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 657—7.7(155A), introductory paragraph, as follows:

657—7.7(155A) Verification by pharmacist when pharmacy is closed. A hospital pharmacy may contract with another pharmacy for remote pharmacist preview and verification of patient-specific drugs or devices ordered for a patient when the hospital pharmacy is closed. *Contracted services may include pharmacist order entry pursuant to subrule 7.8(3).* Pharmacies entering into a contract or agreement pursuant to this rule shall comply with the following requirements:

ITEM 2. Amend subrule 7.8(3) as follows:

7.8(3) Medication orders. *Except as provided in subrule 7.8(14),* a pharmacist shall receive a copy of the original medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who then enters the order into an electronic medical record system. If an individual other than the prescriber enters a medication order into an electronic medical record system, the pharmacist shall review and verify the entry against the original order before the drug is dispensed except for emergency use, when the pharmacy is closed, or when the original order is a verbal order from the prescriber to the registered nurse or pharmacist, or as provided in rule 7.7(155A). When the pharmacy is closed, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and a pharmacist shall verify the entry against the original medication order as soon as practicable. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee.

ITEM 3. Amend rule 657—7.8(124,126,155A) by adding the following **new** subrule:

7.8(14) Influenza and pneumococcal vaccines. As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved hospital policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's medical record.

ITEM 4. Amend rule 657—23.9(124,155A) by adding the following **new** subrule:

23.9(4) Influenza and pneumococcal vaccines. As authorized by federal law, a written or verbal patient-specific medication administration order shall not be required prior to administration to an adult patient of influenza and pneumococcal polysaccharide vaccines pursuant to physician-approved facility policy and after the patient has been assessed for contraindications. Administration shall be recorded in the patient's record. The facility shall submit to the provider pharmacy a listing of those residents or staff members who have

been immunized utilizing vaccine from each vial supplied by the provider pharmacy.

ITEM 5. Amend subrule 23.11(2) as follows:

23.11(2) Medication order required. Dispensing of all drugs to the facility shall be pursuant to a medication order for an individual resident except as provided in rules 23.5(124,155A) and 23.14(124,155A) and in subrule 23.9(4).

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Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to rescind Chapter 9, “Automated Medication Distribution Systems,” and to adopt new Chapter 9, “Automated Medication Distribution Systems and Telepharmacy Services,” Iowa Administrative Code.

These rules were approved at the November 13, 2007, regular meeting of the Board of Pharmacy.

The Board is proposing to rescind current Chapter 9 and to adopt new Chapter 9 that will incorporate the provisions of the current chapter relating to the use of automated medication distribution systems (AMDS) in the practice of pharmacy with new provisions relating to telepharmacy systems and remote dispensing locations. The proposed rules define terms used within the chapter, identify duties of the pharmacist and responsibilities of the pharmacist in charge, and identify responsibilities and requirements of the managing pharmacy and the remote dispensing site engaged in telepharmacy. The proposed rules identify criteria for determining the need for a remote dispensing site providing telepharmacy services, establish the requirements for applying to the Board for authority to operate a remote dispensing site, and require either that a contract be established between the managing pharmacy and the remote dispensing site or that the two facilities share ownership. The proposed rules require control and verification by the pharmacist at the managing pharmacy before the certified pharmacy technician dispenses any drugs to patients at a remote dispensing site and require the pharmacist at the managing pharmacy to counsel each patient via audiovisual link between the remote site and the managing pharmacy.

Requirements for quality assurance and performance improvement programs are identified, and policy and procedure requirements are enumerated. The proposed rules also address drug, facility, and system security and control procedures and establish record-keeping requirements. The proposed rules establish criteria and requirements for AMDS components within a pharmacy or within a remote dispensing site and components utilized outside the pharmacy but within an institution and define requirements for monitoring and reporting of dispensing errors attributable to the AMDS.

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

Any interested person may present written comments, data, views, and arguments on the proposed rules not later than 4:30 p.m. on January 8, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These rules are intended to implement Iowa Code sections 147.107, 155A.13, and 155A.33.

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

The following amendment is proposed.

Rescind 657—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9

AUTOMATED MEDICATION DISTRIBUTION SYSTEMS AND TELEPHARMACY SERVICES

657—9.1(155A) Purpose and scope. The purposes of this chapter are to provide standards for the utilization of automated medication distribution systems in the practice of pharmacy and to provide standards for the provision of telepharmacy services to patients in areas of Iowa without local pharmacy services. These rules provide for pharmacy services at a remote dispensing site utilizing an automated pharmacy system that is linked to a managing pharmacy. Both the remote dispensing site and the managing pharmacy shall be located within Iowa and appropriately licensed by the board.

657—9.2(147,155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Automated medication distribution system” or “AMDS” includes, but is not limited to, an automated device or series of devices operated by an electronic interface with one or more computers that is used to prepare, package, or dispense specified dosage units of drugs for administration or dispensing to a patient or the ultimate user. “AMDS” includes a device that prepares and packages a drug for unit dose dispensing, that prepares and packages a drug into outpatient prescription vials, and that dispenses prepackaged drugs.

“Automated pharmacy system” means a system that utilizes an automated medication distribution system to monitor and control the dispensing of prescription drugs and that provides for related drug use review and patient counseling via an electronic method that includes the use of linked computer, audio, and video communication technologies between a managing pharmacy and a remote dispensing site.

“Board” means the board of pharmacy.

“Centralized unit dose AMDS” means an AMDS located within the pharmacy department where automated technology is utilized in the dispensing of patient-specific unit dose drugs.

“Component” means any single physical or electronic storage or access device that, in combination with other devices, makes up the AMDS.

“DEA” means the Drug Enforcement Administration of the U.S. Department of Justice.

“Decentralized unit dose AMDS” means an AMDS where automated technology is utilized in the dispensing of unit dose drugs for administration to patients in an institutional

setting and drug-dispensing components are maintained within the institution but outside the pharmacy department.

“Drug access” means the physical entry into any component of the AMDS for the purpose of stocking or removing drugs.

“Drug bin” means a compartment in an AMDS component that is designed to contain one specific drug.

“Emergency drugs” means those drugs critical for patient care and approved by the institution’s pharmacy and therapeutics committee or equivalent committee. Drugs critical for patient care include drugs requiring administration within minutes or within less time than the pharmacy can be practically expected to respond, such as the administration of naloxone for treatment of an opioid overdose.

“Floor-stock drugs” means those drugs consisting of emergency drugs and controlled substances which are routinely maintained on patient care units and accessible by nursing staff for patient administration.

“Information access” means the entry into a record-keeping component of the AMDS, by electronic or other means, for the purpose of adding, updating, or retrieving any patient record or drug record or data.

“Managing pharmacy” means a licensed community pharmacy providing telepharmacy services at one or more licensed remote dispensing sites.

“Outpatient AMDS” means an AMDS where automated technology is utilized in the dispensing of prescriptions for ambulatory patients and includes an AMDS located at a remote dispensing site.

“Qualified certified pharmacy technician” or “technician” means a pharmacy technician registered in good standing with the board who has obtained and maintains current certification by a national technician certification authority approved by the board pursuant to 657—Chapter 3.

“Remote dispensing site” or “remote site” means a licensed pharmacy staffed by one or more qualified certified pharmacy technicians at which telepharmacy services are provided through a licensed managing pharmacy.

“Telepharmacy” means the provision of pharmaceutical care services, including the storage and dispensing of prescription drugs, drug regimen review, and patient counseling, at a remote dispensing site using an automated pharmacy system.

657—9.3(147,155A) Pharmacist in charge responsibilities.

9.3(1) AMDS. The pharmacist in charge of any pharmacy utilizing an AMDS shall be responsible for the following in addition to other responsibilities assigned under federal and state laws and regulations:

a. Implementing an ongoing quality assurance program which purpose is to monitor and improve performance of each AMDS as provided in rule 9.10(147,155A).

b. Establishing and ensuring compliance with all policies and procedures relating to the AMDS.

c. Assigning, discontinuing, or changing drug and information access to the AMDS.

d. Ensuring that drug access, including access to controlled substances, is in compliance with state and federal regulations.

e. Ensuring that each AMDS component is filled or stocked accurately and in accordance with established, written policies and procedures.

f. Ensuring that each AMDS component is in good working order and performs its designated tasks, including ensuring the correct strength, dosage form, and quantity of the prescribed drug.

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g. Ensuring that the AMDS has adequate security safeguards regarding drug access and information access.

h. Ensuring that confidentiality of patient-specific information is maintained.

i. Ensuring that all personnel utilizing or accessing the AMDS or any component of the AMDS have been appropriately trained.

j. Ensuring that the board is provided with written notice at least 30 days prior to an installation, removal, or upgrade that significantly changes the operation of an AMDS. The notice shall include:

(1) The name, address, and license number of the pharmacy;

(2) The location of the automated equipment;

(3) Identification of the pharmacist in charge;

(4) The name, manufacturer, and model of the system;

(5) A description of the change or upgrade, if applicable, and a description of the intended use of the equipment; and

(6) If a new or significantly changed AMDS will be installed or upgraded, a copy of the quality assurance plan.

9.3(2) Telepharmacy. The pharmacist in charge of the managing pharmacy shall also serve as the pharmacist in charge of the remote dispensing site. In addition to other responsibilities assigned under federal and state laws and regulations, including the responsibilities identified in rule 657—6.2(155A), the pharmacist in charge shall be responsible for, at a minimum, the following:

a. Submitting for board approval the operational plan for the telepharmacy service, including identification of the managing pharmacy; identification of the remote dispensing site; the names and titles of key personnel at both locations; the quality assurance and improvement plan; policies and procedures as provided in rule 9.11(147,155A); identification of the AMDS as provided in subrule 9.3(1), paragraph “j”; justification of the need for the telepharmacy service as provided in subrule 9.5(2); and a copy of the proposed contract between the managing pharmacy and the remote dispensing site.

b. Maintaining all licenses and registrations required of the managing pharmacy and of the remote dispensing site.

c. Ensuring that the practice of telepharmacy performed at a remote dispensing site, including the utilization of an automated pharmacy system and the supervision of one or more qualified certified pharmacy technicians, complies with these rules and other applicable rules of the board.

d. Ensuring that the managing pharmacy and the remote dispensing site have entered into a written contract as provided by subrule 9.5(6).

e. Ensuring that the automated pharmacy system is in good working order and that the AMDS accurately dispenses the correct strength, dosage form, and quantity of the prescribed drug and accurately prints the prescription label, while maintaining appropriate record-keeping and security safeguards.

f. Ensuring that all pharmacists, pharmacist-interns, and pharmacy technicians authorized to engage in telepharmacy services at the managing pharmacy or the remote site maintain current licensure or registration with the board and are trained in the operation of the automated pharmacy system and familiar with policies and procedures relating to the telepharmacy practice.

g. Ensuring that a pharmacist completes and documents monthly inspections of each remote site pursuant to subrule 9.5(8).

657—9.4 Reserved.

657—9.5(124,155A) General requirements for telepharmacy. The pharmacist in charge of the managing pharmacy shall ensure that the managing pharmacy and the remote site have obtained all necessary licenses, registrations, and authorizations prior to engaging in the practice of telepharmacy at the remote dispensing site. Regardless of the fact that both the managing pharmacy and the remote site are required to be licensed, the remote site is considered an extension of the managing pharmacy.

9.5(1) License requirements.

a. **Managing pharmacy.** A managing pharmacy shall maintain a license issued by the board pursuant to 657—8.35(155A). The license shall be a general pharmacy license. A managing pharmacy engaged in the dispensing of controlled substances shall maintain registrations with the DEA and the board.

b. **Remote dispensing site.** A remote site shall maintain a license issued by the board pursuant to 657—8.35(155A). The application for initial licensure shall include the information identified in subrules 9.5(2) and 9.5(6). The license shall be a limited use pharmacy license. If controlled substances are maintained at or dispensed from the remote site, the remote site shall maintain registrations with the DEA and the board that authorize the stocking and dispensing of controlled substances from the remote site.

9.5(2) Need for remote dispensing site. Prior to engaging in the practice of telepharmacy with a remote dispensing site, the managing pharmacy shall demonstrate to the board that there is limited access to pharmacy services in the community where the remote site is located.

a. Information justifying the need for the remote dispensing site shall be submitted to the board with the initial application for licensure of the remote site as a limited use pharmacy.

b. The board shall consider the availability of pharmacists in the community, whether the request is for availability of patient care in a critical access area or is solely for the benefit of the managing pharmacy, whether any benefit to the managing pharmacy will balance the benefit to the patients of the remote dispensing site, the population of the community to be served by the remote site, and the need for the service.

c. The board shall not approve a remote dispensing site if a general pharmacy that dispenses prescription drug orders to outpatients is located within the same community as the proposed remote site or is located within 15 miles of the proposed remote dispensing site.

9.5(3) Reference library. A managing pharmacy shall comply with the requirements for a reference library found at 657—6.3(155A); a remote site shall be exempt from complying with the requirements for a reference library.

9.5(4) Patient notification. A remote site shall display a sign, easily visible to the public, that informs patients that the location is a remote dispensing site providing telepharmacy services supervised by a pharmacist located in another pharmacy, that identifies the city where the managing pharmacy is located, and that informs patients that a pharmacist is required to speak with the patient over an audiovisual link each time a prescription drug is delivered to the patient at the remote site.

9.5(5) Environment and equipment. A managing pharmacy and a remote site shall comply with the requirements for environment and equipment found at 657—8.5(155A) except that a remote site that does not dispense drugs requiring refrigeration shall be exempt from complying with the requirements of 657—subrule 8.5(1).

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9.5(6) Written contract. A managing pharmacy and a remote dispensing site, unless jointly owned, shall enter into a written contract that outlines the services to be provided and the responsibilities and accountability of each party in fulfilling the terms of the contract in compliance with federal and state laws and regulations.

a. A copy of the contract shall be submitted to the board for approval with the initial application for licensure of the remote site as a limited use pharmacy and at any time there is a substantial change in any of the terms of the contract.

b. The contract shall be maintained by the managing pharmacy and shall be available for inspection or copying by the board or an agent of the board for a minimum of two years following expiration or other termination of the contract.

9.5(7) Changes relating to remote dispensing site. Pursuant to the requirements of 657—8.35(155A), a managing pharmacy shall notify the board of a change of name, change of location, change of ownership, change of pharmacist in charge, discontinuance of service, or closure of a remote dispensing site operated by the managing pharmacy. A managing pharmacy shall also notify the board of any change of qualified certified pharmacy technician staffing at a remote dispensing site.

9.5(8) Monthly inspection. A pharmacist shall complete and document the monthly inspection of a remote dispensing site. Inspection criteria shall be identified in the policies and procedures for the remote site, and inspection reports shall be maintained and available to the board or an agent of the board for review and copying for a minimum of 12 months from the date of the monthly inspection or until the next board inspection, whichever period is longer.

657—9.6(155A) Duties of pharmacist in telepharmacy practice. The following activities shall be performed only by a pharmacist at the managing pharmacy or at the remote dispensing site. These activities may not be delegated to a pharmacy technician at a remote site.

1. Receiving an oral prescription drug order from a prescriber or the prescriber's agent for dispensing to a patient at the remote site.
2. Interpreting a prescription drug order.
3. Verifying the accuracy of prescription data entry.
4. Interpreting the patient's drug record and conducting a drug use review.
5. Authorizing the AMDS to dispense a prescription drug and print a prescription label at the remote site.
6. Performing the final verification of a dispensed prescription as specified in subrule 9.18(7) to ensure that the prescription drug order has been accurately dispensed as prescribed.
7. Counseling the patient or the patient's caregiver as specified in subrule 9.18(8).
8. Completing and documenting the monthly inspection of the remote site pursuant to subrule 9.5(8).

657—9.7 to 9.9 Reserved.

657—9.10(147,155A) Quality assurance and performance improvement.

9.10(1) AMDS. The goal of the AMDS is the accurate dispensing of drugs. In all dispensing activities, the pharmacy shall strive for 100 percent accuracy. Pharmacies utilizing an AMDS shall develop a written quality assurance and monitoring plan prior to implementation of the AMDS. Quality assurance data shall be utilized to monitor and improve systems. The quality assurance plan shall target the preparation, delivery, and verification of AMDS unit contents during fill

and refill processes and shall include, but not be limited to, the following:

- a. Requiring continuous monitoring of the system.
- b. Establishing mechanisms and procedures to test the accuracy of the system.
- c. Establishing a protocol for measuring the effectiveness of the system.
- d. Requiring the pharmacy to report to the board each recurring error of the system.

9.10(2) Telepharmacy. A managing pharmacy that provides telepharmacy services at a remote dispensing site shall operate according to a written program for quality assurance. In addition to the requirements of subrule 9.10(1), the quality assurance plan shall include, but not be limited to, the following:

- a. Requiring continuous supervision of the remote dispensing site at all times when the remote site is open to provide telepharmacy services.
- b. Requiring a pharmacist at the managing pharmacy to be accessible to respond to inquiries or requests pertaining to drugs that are dispensed by utilizing the automated pharmacy system located at the remote dispensing site.
- c. Establishing procedures to test the operation of all aspects of the automated pharmacy system, including all electronic audio and video communication components, at a minimum of every six months and whenever any upgrade or change is made to the system, and to document the testing of each system.
- d. Establishing a written plan for recovery from a failure of the automated pharmacy system or any component of the system pursuant to subrule 9.10(3).

9.10(3) Recovery from failure of the automated pharmacy system. The written plan for recovery from an event that interrupts the ability of a pharmacist to electronically supervise the automated pharmacy system and the dispensing of drugs at the remote dispensing site shall include, at a minimum, the following:

- a. A statement that drugs shall not be dispensed at the remote dispensing site if a pharmacist is not available or able to electronically supervise such dispensing, including the utilization of audio and video communication, or if a pharmacist is not on site at the remote dispensing site to personally dispense the drugs.
- b. Procedures for response when the automated pharmacy system is experiencing downtime.
- c. Procedures for the maintenance and testing of the written plan for recovery.
- d. Procedures for notifying the board and other appropriate agencies or organizations of a disaster affecting the ability of the pharmacy to provide services for an extended period of time, including the date on which the pharmacy expects to recommence services.

9.10(4) Records. All records and documentation of quality assurance and monitoring, performance improvement projects, and recovery from system failure shall be maintained by the managing pharmacy and be available for inspection and copying by the board or its representative for a minimum of two years from the date of the record.

657—9.11(147,155A) Policies and procedures. All policies and procedures shall be in writing and shall be maintained in the pharmacy responsible for the AMDS or, if a telepharmacy practice, shall be maintained at both the managing pharmacy and the remote site. All policies and procedures shall be reviewed at least annually, and revised as necessary, and the review shall be documented. Additions, deletions, amendments, and other changes to policies and procedures

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shall be signed or initialed by the pharmacist in charge, shall include the date on which the change was approved, and shall be maintained for a minimum of two years following the date of the change. The policy and procedure manual and retained changes shall be available for inspection and copying by the board or an agent of the board.

9.11(1) AMDS. All pharmacies utilizing AMDS shall develop, implement, and adhere to policies and procedures that address, at a minimum, the following:

a. Type of equipment, system components, and location of each system component including:

(1) Name and address of the pharmacy, including identification of the specific location within an institution but outside the pharmacy where any component of the AMDS is being used;

(2) Name and address of any remote dispensing site where a component of the AMDS is being used; and

(3) Manufacturer's name and model of each system component.

b. Drug access and information access procedures.

c. Security and confidentiality of records in compliance with 657—8.16(124,155A) and 657—21.2(124,155A).

d. Description of how each component is being utilized, including processes for dispensing and distributing drugs.

e. Staff education and training.

f. Review, including prospective drug use review, of medication orders and prescriptions in accordance with federal and state laws and regulations.

g. Patient counseling on outpatient prescriptions.

h. Quality assurance and quality improvement.

i. Downtime or system failure procedures.

j. Periodic system maintenance and preventive maintenance.

k. Drug security and control including:

(1) Drug loading, storage, and records.

(2) Drugs removed from system components but not used.

(3) Inventory.

(4) Cross contamination.

(5) Lot number control.

(6) Wasted or discarded drugs.

(7) Controlled substances.

9.11(2) Telepharmacy. In addition to other requirements for policies and procedures relating to pharmacy practices and the requirements of subrule 9.11(1) relating to policies and procedures for utilization of the AMDS, pharmacies engaging in telepharmacy shall develop, implement, and adhere to policies and procedures that address, at a minimum, the following:

a. Security, including identification by name of the personnel designated by the pharmacist in charge to have access to drug storage and dispensing areas at the remote dispensing site and to receive drugs delivered to the remote dispensing site.

b. Operation of the automated pharmacy system, including identification by name of the personnel designated by the pharmacist in charge to operate the system from the remote site or from the managing pharmacy, and identification by name of the individuals responsible for daily and periodic testing of the automated pharmacy system.

c. Identification of duties that may be performed only by a pharmacist.

d. Sanitation.

e. Storage of drugs and devices at the remote site.

f. Dispensing and delivery of drugs and devices from the remote site.

g. Supervision of remote site personnel.

h. Procurement, receipt, and delivery of drugs and devices to the remote site and into AMDS components.

i. Records.

j. Monthly pharmacist inspection of the remote dispensing site, including documentation of inspection.

k. The frequency of review of the policy and procedure manual and required documentation of that periodic review.

657—9.12(147,155A) System, site, and process requirements. An AMDS may be utilized on site by licensed pharmacies or in board-approved remote dispensing sites engaged in the practice of telepharmacy. Each AMDS shall comply with the following minimum requirements:

9.12(1) System access.

a. The AMDS shall automatically and electronically record drug access.

b. Drug access and information access records shall include, at a minimum, the date the AMDS was accessed, the identity of the individual who accessed the system, the type of transaction completed, and the identity of the accessed component.

c. Information access for the purpose of retrieving or reviewing any patient or drug record or data, when the access does not permit change or addition to the record or data, shall be exempt from the access record requirements of paragraph "b" of this subrule.

d. The AMDS shall include the ability to assign, discontinue, and change an individual's access to drugs and information in the AMDS.

e. A licensed pharmacist or appropriately trained pharmacy technician under the oversight of a licensed pharmacist shall fill and stock drugs into AMDS components.

f. A record of drugs filled or stocked into an AMDS component shall be maintained and shall include identification of the person filling or stocking the system and, if applicable, the person checking for accuracy.

9.12(2) Dispensing and distributing.

a. All containers of drugs stored in each AMDS shall be packaged and labeled in compliance with federal and state laws and regulations.

b. All aspects of handling controlled substances dispensed utilizing an AMDS shall be in compliance with the requirements of all state and federal laws and regulations.

c. Each centralized or decentralized AMDS shall provide a mechanism for securing and accounting for drugs removed from and subsequently returned to the system. Drugs removed from a system component but not administered to a patient shall be returned to the pharmacy or maintained in a manner that would prevent access to the returned drugs except for the purpose of returning the drugs to the pharmacy. The provisions of this paragraph regarding preventing access to returned drugs except for return to the pharmacy shall not apply, for a decentralized unit dose AMDS, to items that are too large or bulky to be inserted into the system's return bin, to items requiring refrigeration, or to limited critical care items whose inaccessibility would compromise patient care. The provisions of this paragraph shall not apply to an AMDS utilized in telepharmacy.

d. Each centralized or decentralized AMDS shall provide a mechanism for securing and accounting for wasted or discarded drugs in compliance with federal and state laws and regulations. The provisions of this paragraph shall not apply to an AMDS utilized in telepharmacy.

e. An AMDS utilized in telepharmacy shall not permit the wasting or discarding of drugs. The automated pharmacy system shall provide that any drugs removed from the AMDS

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component but not delivered to the patient shall be maintained in a manner that prevents access to the drugs except for the purpose of returning the drugs to the managing pharmacy. The technician at a remote dispensing site shall not accept drugs returned by a patient or patient's agent.

9.12(3) Security and confidentiality. An AMDS shall include system safeguards designed to prevent and detect unauthorized drug access, including access to controlled substances. System safeguards shall also be designed to prevent and detect unauthorized access to information for the purpose of modification or manipulation of patient records and prescription drug orders.

a. An AMDS shall be capable of generating reports of all drug access activity. Reports shall include, at a minimum for each drug access record, the following:

- (1) Identification of the person accessing the drug or drug bin.
- (2) The date and, preferably, the time.
- (3) Identification of the specific drug or drug bin.
- (4) Whether the drug access involved stocking, dispensing, wasting, or returning the drug.
- (5) The quantity of the drug.
- (6) The accessed component.

b. An AMDS shall maintain confidential patient records and information in compliance with rules 657—8.16(124, 155A) and 657—21.2(124, 155A).

657—9.13(147, 155A) Records. All records required pursuant to these rules, unless otherwise specifically identifying a different retention period, shall be available to the board or its authorized agents for two years following the recorded activity.

657—9.14 Reserved.

657—9.15(147, 155A) Decentralized unit dose AMDS. Components of a decentralized unit dose AMDS utilized for the storage and dispensing of drugs in an institutional setting may be restocked with drugs by an appropriately trained pharmacy technician following pharmacist verification in the pharmacy of each dose of the drug to be restocked. The provisions of either subrule 9.15(1) or 9.15(2) shall also apply based on whether or not bar coding or other technology-based verification is utilized to check the accuracy of drug dose placement in the AMDS component.

9.15(1) No technology-based verification is available or used. When bar coding or other technology-based verification is not utilized to check the accuracy of drug doses stocked in a dispensing component, a pharmacist shall check each drug dose prior to releasing the drugs from the pharmacy.

a. Following restocking of drug doses into the AMDS component, a pharmacist or a nurse shall verify that 100 percent of all drug doses are accurately placed in each drug bin of each dispensing component.

b. Policies, procedures, and safeguards shall be developed and implemented that control, while ensuring availability and access to needed drugs, utilization of drugs added to the dispensing component prior to pharmacist or nurse verification of the addition. Policies and procedures shall also provide for documentation identifying the individual who provides verification of drugs stocked in dispensing components.

9.15(2) Bar coding or technology-based verification is available and used. When bar coding or other technology-based verification is utilized to check the accuracy of drug doses stocked in a dispensing component and a nonpharmacist fills the component, a pharmacist shall check each drug

dose prior to releasing the drugs from the pharmacy. The quality assurance plan shall provide for random verification by a pharmacist utilizing one of the methods described in paragraphs "a" and "b" below. A pharmacy may petition the board pursuant to 657—Chapter 34 for a variance for an alternate pharmacist verification process.

a. One day each month, all drug doses or bins contained in 5 percent of the components utilized within the system shall be verified by a pharmacist.

b. One day each month, 5 percent of the drug doses or bins contained in each component utilized within the system shall be verified by a pharmacist. If, however, the system includes fewer than five components, a pharmacist shall, one day each month, verify all drug doses or bins contained in one component utilized within the system.

9.15(3) Errors identified. All identified errors shall be logged as provided by the quality assurance and monitoring plan developed pursuant to rule 9.10(147, 155A) and shall be categorized as follows:

- a. Incorrect drug;
- b. Incorrect dose;
- c. Incorrect dosage form;
- d. Other errors. All errors categorized as "other errors" shall include additional notation identifying the error.

657—9.16(147, 155A) Centralized unit dose AMDS. The quality assurance plan shall provide for pharmacist verification of all drug doses dispensed for a minimum of 60 days following implementation of the AMDS.

9.16(1) Errors logged. All identified errors shall be logged as provided by the quality assurance and monitoring plan developed pursuant to rule 9.10(147, 155A) and shall be categorized as follows:

- a. Computer order entry error;
- b. Incorrect drug;
- c. Incorrect dose;
- d. Incorrect quantity — extra dose(s);
- e. Incorrect quantity — short dose(s);
- f. Incorrect dosage form;
- g. Other errors. All errors categorized as "other errors" shall include additional notation identifying the error.

9.16(2) Initial report to the board. The first quarterly report to the board shall summarize identified errors by category and shall include the total number of errors identified, the reasons for the errors, the corrective actions taken to prevent the recurrence of those errors, and the average accuracy (correct doses over total doses) determined for all AMDS-dispensed drugs during the first quarter following implementation.

9.16(3) Random verification. If the average accuracy of the AMDS during the initial 60-day period is at least 99.7 percent for all drug doses dispensed, the quality assurance plan shall provide for random verification by a pharmacist. The plan shall provide that 5 percent of all drug doses dispensed daily utilizing the AMDS be verified by a pharmacist, or it shall provide that 100 percent of all drug doses dispensed on a specific day each month be verified by a pharmacist. A pharmacy may petition the board pursuant to 657—Chapter 34 for a variance for an alternate pharmacist verification process. Errors shall continue to be identified and logged as provided by the quality assurance and monitoring plan developed pursuant to rule 9.10(147, 155A) and shall be categorized as provided in subrule 9.16(1).

If the average accuracy of the AMDS during the initial 60-day period is not at least 99.7 percent for all drug doses dispensed, the pharmacy shall continue pharmacist verification of all drug doses dispensed utilizing the AMDS until the

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average accuracy for 60 consecutive days is at least 99.7 percent.

9.16(4) Reports during first year. For a minimum of one year following implementation of the AMDS, written quarterly reports shall be submitted to the board. Reports shall summarize identified errors by category and shall include the total number of errors identified, the reasons for the errors, the corrective actions taken to prevent the recurrence of those errors, and the average accuracy (correct doses over total verified doses) for all drug doses verified during the preceding quarter.

9.16(5) Accuracy. Any random verification disclosing accuracy of less than 99.7 percent for all drug doses verified shall require that a pharmacist again verify all drug doses dispensed utilizing the AMDS until the average accuracy equals or exceeds 99.7 percent for all drug doses dispensed for three consecutive days.

9.16(6) Continued verification. The quality assurance plan shall provide for continuation, as long as the pharmacy utilizes the AMDS, of random verification by the pharmacist of AMDS-dispensed drug doses as provided in subrules 9.16(3) and 9.16(5).

9.16(7) Reports after one year. Following the one-year period and within 30 days of determining by random verification that the accuracy of AMDS drug fills is less than 99.7 percent for all drug doses verified, a written report shall be submitted to the board. The report shall summarize the identified errors by category and shall include the reasons for the errors, the corrective actions taken to prevent the recurrence of those errors, and the low accuracy rate prompting the report.

657—9.17(147,155A) Outpatient AMDS.

9.17(1) Verification. All outpatient prescriptions prepared for dispensing utilizing an AMDS shall be verified, prior to being dispensed, by a pharmacist in the pharmacist's physical presence unless a waiver is approved pursuant to subrule 9.17(2) or as provided in these rules for telepharmacy.

9.17(2) Waiver. A pharmacy may request waiver or variance from subrule 9.17(1) pursuant to the procedures and requirements of 657—Chapter 34. In addition to the requirements for the petition for waiver or variance identified in 657—Chapter 34, applications for waiver shall specify and include justification for the requested waiver, the methods to be used to ensure patient counseling is provided on new prescriptions pursuant to 657—8.20(155A), a quality assurance plan, and written policies and procedures for utilization of the AMDS.

a. Quarterly reports. The quality assurance plan shall provide for submission of written quarterly reports to the board. All reports shall summarize identified errors by category and shall include the reasons for the errors, the corrective actions taken to resolve and prevent recurrence of the errors, and the average accuracy for the specified period.

b. Verification. The quality assurance plan shall provide for verification processes for all AMDS-dispensed prescriptions.

c. Identification of errors. The quality assurance plan shall require that all identified errors be logged as provided by the quality assurance and monitoring plan developed pursuant to rule 9.10(147,155A) and shall be categorized as follows:

- (1) Incorrect drug;
- (2) Incorrect quantity;
- (3) Incorrect dose;
- (4) Incorrect dosage form;
- (5) Incorrect directions for use;

(6) Incorrect patient name;

(7) Other incorrect label information;

(8) Computer order entry error;

(9) Other errors. All errors categorized as "other errors" shall include additional notation identifying each error.

d. Accuracy. The performance improvement plan shall identify actions to be taken in the event that any drug error is identified.

657—9.18(124,155A) Remote dispensing site operations.

9.18(1) Automated pharmacy system. On any day when the remote site is opened and prior to providing telepharmacy services, the managing pharmacy shall perform a test of the automated pharmacy system with the remote site to ensure proper operation. A log shall be created and maintained that includes the date and the test results and that identifies the individual performing the test.

9.18(2) Remote site staffing. A remote dispensing site shall be staffed by one or more qualified certified pharmacy technicians under the continuous supervision of a pharmacist at the managing pharmacy at all times that the remote site is open to provide telepharmacy services. Continuous supervision does not require the pharmacist to be physically present at the remote dispensing site, but the pharmacist shall supervise telepharmacy operations electronically through the automated pharmacy system.

9.18(3) Supervising pharmacists. The managing pharmacy shall have a sufficient number of pharmacists on duty to ensure that a pharmacist is able to provide all services offered by the managing pharmacy and to ensure appropriate supervision of all telepharmacy services. The board may limit the number of remote dispensing sites under the management of a single managing pharmacy.

9.18(4) Prescription drug orders. A remote dispensing site may receive written or electronic prescription drug orders or refill requests in accordance with the policies and procedures designated by the pharmacist in charge. As provided in policies and procedures, the qualified certified pharmacy technician at the remote site shall either transmit the prescription drug order or refill request to the managing pharmacy or input the prescription drug order or refill request so that the pharmacist at the managing pharmacy may perform a prospective drug use review and verify the prescription information prior to authorizing dispensing at the remote site. A pharmacy technician at a remote site shall not receive oral prescription drug orders from a prescriber or prescriber's agent. Oral prescription drug orders shall be communicated directly to a pharmacist.

9.18(5) Drug use review. A pharmacist at the managing pharmacy shall conduct a drug use review as specified in 657—8.21(155A) prior to authorizing delivery of the prescription to the patient or the patient's caregiver at the remote dispensing site.

9.18(6) Prescription label. A prescription dispensed at a remote site shall be labeled with the following information:

a. Serial number (a unique identification number of the prescription) which shall, in some manner, identify the remote site that dispensed the prescription.

b. The name and address of the remote dispensing site.

c. The name, address, and telephone number of the managing pharmacy.

d. The name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of the owner.

e. The name of the prescribing practitioner.

f. The date on which the prescription is dispensed.

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g. The directions or instructions for use, including precautions to be observed.

h. The initials or other unique identification of the supervising pharmacist at the managing pharmacy and of the technician who dispenses the prescription at the remote dispensing site.

i. The name, strength, and quantity of the drug dispensed.

(1) If a pharmacist selects an equivalent drug product for a brand name drug product prescribed by a practitioner, the prescription container label shall identify the generic drug and may identify the brand name drug for which the selection is made, such as “(generic name) Generic for (brand name product).”

(2) If a pharmacist selects a brand name drug product for a generic drug product prescribed by a practitioner, the prescription container label shall identify the brand name drug product dispensed and may identify the generic drug product ordered by the prescriber, such as “(brand name product) for (generic name).”

9.18(7) Verification prior to dispensing. A pharmacist at the managing pharmacy shall approve each prescription before it leaves the remote site. If the qualified certified pharmacy technician at the remote site enters original or new prescription information into the automated pharmacy system, the pharmacist at the managing pharmacy shall, prior to approving dispensing of the drug via the AMDS, verify the information entered against an electronic image of the original prescription. The technician may transmit the prescription to the pharmacist by scanning the prescription into the automated pharmacy system or by placing the prescription in an appropriate position to facilitate viewing of the original prescription with video communication between the remote site and the managing pharmacy. Using the video communication component of the automated pharmacy system, the pharmacist shall verify the accuracy of the drug dispensed and shall check the prescription label for accuracy. The dispensing record, the patient profile, and the prescription label shall identify both the pharmacist who approved dispensing the prescription and the certified pharmacy technician who completed the dispensing and delivery of the prescription to the patient.

9.18(8) Patient counseling. A remote dispensing site shall contain an appropriate area for patient counseling. The area shall be readily accessible to patients and be designed to maintain the confidentiality and privacy of a patient's conversation with the pharmacist. A pharmacist at the managing pharmacy shall utilize the video and audio components of the automated pharmacy system to counsel each patient or the patient's caregiver on all new prescriptions pursuant to 657—6.14(155A). As provided in subrule 9.5(4), a sign shall be posted at the remote site to ensure that all patients are informed that a pharmacist will provide counseling regarding any prescription dispensed from the remote site. A nonpharmacist may not extend an offer to counsel or ask questions of a patient or the patient's caregiver if such offer is intended to screen or limit the patient's interaction with a pharmacist.

657—9.19 Reserved.

657—9.20(124,155A) Drugs at a remote dispensing site. Policies and procedures of the managing pharmacy shall es-

tablish criteria for the delivery and storage of drugs at the remote dispensing site including but not limited to the provisions of this rule. If controlled substances are maintained or dispensed from the remote dispensing site, the transfer of those controlled substances from the managing pharmacy to the remote site shall comply with federal and state requirements for the sale or transfer of controlled substances between registrants, including the use of DEA Form 222 for the transfer of Schedule II controlled substances.

9.20(1) Drug delivery and verification. Drugs shall only be delivered to the remote dispensing site in a sealed container with a list identifying the drugs, including drug strength and quantities, included in the container. Drugs shall not be delivered to the remote site unless a remote site staff member designated by the pharmacist in charge to receive and check the drugs is present at the remote site to accept delivery and verify that the drugs sent were actually received. The designated individual who receives and checks the order shall document the verification by signing and dating the list of drugs delivered.

9.20(2) Limited drug inventory. A remote dispensing site may maintain a limited drug inventory for the purpose of restocking the AMDS. The pharmacist at the managing pharmacy shall ensure, through use of the electronic audio and video communications system or bar code technology, that the qualified certified pharmacy technician has accurately and correctly restocked drugs into AMDS components.

9.20(3) Drug storage. Drugs at a remote dispensing site shall be stored in a manner to protect their identity and integrity including the requirements of 657—Chapter 8 relating to environment, temperature, and handling of outdates. Drugs shall be stored in a secure area, and access to any drugs maintained at a remote site shall be limited to pharmacists from the managing pharmacy and qualified certified pharmacy technicians who have been so authorized, in writing, by the pharmacist in charge.

657—9.21(124,155A) Record keeping. In addition to records identified elsewhere in state and federal laws and regulations, the following records of a managing pharmacy and a remote dispensing site shall be maintained as provided herein.

9.21(1) Electronic records. All electronic records shall be available to, and accessible from, both the managing pharmacy and the remote dispensing site.

9.21(2) Receipt, dispensing, and distribution records. Except as provided in this subrule, a managing pharmacy shall maintain a record of all drugs received, dispensed, and distributed from the managing pharmacy and from each remote dispensing site.

a. Records of the receipt, dispensing, and distribution of controlled substances from a remote dispensing site, including controlled substances inventory records for the remote site, that are required by the DEA to be maintained at the registered location shall be maintained at the remote site.

b. Records of the managing pharmacy and of each remote dispensing site shall be maintained separately from each other.

These rules are intended to implement Iowa Code sections 147.107, 155A.13, and 155A.33.

ARC 6484B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 18, “Centralized Prescription Filling and Processing,” Iowa Administrative Code.

The amendments were approved at the November 13, 2007, regular meeting of the Board of Pharmacy.

The proposed amendments differentiate between a central fill pharmacy and a central processing pharmacy and establish requirements specifically relating to a central fill pharmacy, a central processing pharmacy, and an originating pharmacy. The proposed amendments define “centralized prescription drug order processing,” “central fill pharmacy,” “central processing pharmacy,” and “medication therapy management” and amend the definitions of “originating pharmacy” and of “dispense” as used in this chapter. The amendments also provide for patient notification relating to centralized filling and processing of the patient’s prescriptions and a patient’s refusal of centralized services.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on January 8, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 124.308, 155A.13, and 155A.28.

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 657—18.1(155A) as follows:

657—18.1(155A) Purpose and scope. The purpose of this chapter is to provide standards for centralized prescription drug order filling or *centralized prescription* processing by a pharmacy. Any facility established for the purpose of filling or processing prescription drug orders on behalf of other pharmacies shall be licensed as a pharmacy and shall hold all necessary registrations. A hospital pharmacy shall not be authorized to ~~may~~ participate in centralized prescription filling or processing ~~only of prescription drug orders for noncontrolled substances~~ pursuant to these rules. A hospital pharmacy may engage in centralized prescription processing pursuant to the requirements of rule 657—7.7(155A). Except as specifically identified in the rules, the requirements of these rules for centralized prescription filling or *centralized prescription* processing are in addition to the requirements of

657—Chapters 6, 7, and 8, and other rules of the board relating to services provided by pharmacies.

ITEM 2. Amend rule 657—18.2(155A) as follows:

657—18.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Central fill ~~or processing~~ pharmacy” means a pharmacy contracting with an originating pharmacy, or having the same owner as an originating pharmacy, that provides centralized prescription drug order filling ~~or processing~~ on behalf of the originating pharmacy pursuant to these rules.

“Centralized prescription drug order filling ~~or processing~~” or “centralized filling ~~or processing~~” means the filling ~~or processing~~ of a prescription drug order by a pharmacy on behalf of another pharmacy. “Centralized filling ~~or processing~~” does not include the *processing or* dispensing of a prescription drug order but may include any of the following *filling functions*:

1. Receiving, ~~interpreting~~ *prescription drug orders from the originating pharmacy*;
2. *Interpreting or clarifying prescription drug orders*;
- 2 3. ~~Entering data and transferring~~ *prescription drug order information into a pharmacy’s prescription record system*;
4. *Selecting, counting, and placing the prescribed drug into an appropriate prescription container*;
5. *Affixing the prescription label, including any auxiliary labels, to the prescription container*;
- 3 6. Obtaining refill and substitution authorizations;
7. *Verifying all filling processes performed by the central fill pharmacy*.

“Centralized prescription drug order processing” or “centralized processing” means the processing of a prescription drug order by a pharmacy on behalf of another pharmacy. “Centralized processing” does not include the filling or dispensing of a prescription drug order but may include any of the following processing functions:

1. *Interpreting or clarifying prescription drug orders*;
2. *Entering prescription drug order information into a pharmacy’s prescription record system*;
3. *Interpreting clinical data for prior authorization for dispensing*;
4. *Performing therapeutic interventions*;
5. *Performing formulary-directed therapeutic interchange*.

“Central processing pharmacy” means a pharmacy contracting with an originating pharmacy, or having the same owner as an originating pharmacy, that provides centralized prescription drug order processing on behalf of the originating pharmacy pursuant to these rules.

“DEA” means the U.S. Department of Justice, Drug Enforcement Administration.

“Dispense” means the delivery of a prescription drug or device to an ultimate user or the ultimate user’s agent by or pursuant to the lawful order of a practitioner. “Dispense” includes:

1. ~~Performing drug regimen review~~;
2. ~~Interpreting clinical data for prior authorization for dispensing~~;
3. ~~Performing therapeutic interventions~~;
1. *Receiving the prescription drug order from the patient, the patient’s agent, or the prescriber*;
2. *Delivering the filled prescription to the patient or the patient’s agent*;
- 4 3. *Providing drug information concerning a patient’s drug therapy*;

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§ 4. Providing patient counseling;

5. *Providing medication therapy management.*

“Hospital” means a facility licensed pursuant to Iowa Code chapter 135B.

“Hospital pharmacy” means and includes a pharmacy licensed by the board and located within any hospital, health system, institution, or establishment which maintains and operates organized facilities for the diagnosis, care, and treatment of human illnesses to which persons may or may not be admitted for overnight stay at the facility.

“*Medication therapy management*” means the review of drug therapy regimens of a patient by a pharmacist for the purpose of evaluating and rendering advice to a practitioner, or for the purpose of evaluating and modifying the drug regimen in accordance with a collaborative drug therapy management protocol pursuant to rule 657—8.34(155A).

“Originating pharmacy” means a pharmacy that receives a prescription drug order from a patient, or the patient’s agent, or a prescriber; outsources prescription filling or processing functions to another pharmacy, and ultimately dispenses the prescription drug or device to the patient or the patient’s agent.

ITEM 3. Amend rule 657—18.3(155A) as follows:

657—18.3(155A) General requirements.

18.3(1) Essential qualifications. ~~A~~ *An originating pharmacy may outsource prescription drug filling or processing to a central fill or processing pharmacy or prescription drug order processing to a central processing pharmacy provided the pharmacies:*

a. Have the same owner or have entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws, rules, and regulations; and

b. Share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to ~~process a nondispensing function~~ *perform the contracted functions.*

18.3(2) Legal compliance. ~~A~~ *An originating pharmacy, a central fill or processing pharmacy, and a central processing pharmacy shall comply with all provisions applicable to the pharmacy contained in federal and state laws, rules, and regulations to the extent applicable for the specific filling or processing activity and these rules, including but not limited to the following:*

a. *Each pharmacy located within Iowa shall maintain Iowa pharmacy licensure and, if the pharmacy dispenses controlled substances, the pharmacy shall maintain DEA and Iowa controlled substances registrations.*

b. *Each pharmacy located outside Iowa shall maintain Iowa nonresident pharmacy licensure in addition to the licensure requirements of the pharmacy’s home state.*

c. *Each pharmacist providing centralized prescription drug order processing functions as an employee or agent of a central processing pharmacy shall maintain active licensure to practice pharmacy in Iowa.*

d. ~~Duties~~ *Pharmacies shall comply with Iowa board rules relating to the duties that must be performed by a pharmacist; and.*

e. ~~Supervision~~ *Pharmacies shall comply with Iowa requirements for supervision of pharmacy technicians.*

18.3(3) Originating pharmacy responsibility. The originating pharmacy shall be responsible for all dispensing functions as the term “dispense” is defined in rule 18.2(155A). *An originating pharmacy contracting only for centralized filling shall retain responsibility for all processing functions,*

and an originating pharmacy contracting only for centralized processing shall retain responsibility for all filling functions.

18.3(4) ~~Label~~ *Central fill label requirements.* The label affixed to the prescription container filled by a central fill or processing pharmacy on behalf of an originating pharmacy shall include the following:

a. A unique identifier indicating that the prescription was filled at the central fill or processing pharmacy;

b. Serial number (a unique identification number of the prescription) as assigned by the originating pharmacy;

c. The name, address, and telephone number of the originating pharmacy;

d. The name of the patient or, if such drug is prescribed for an animal, the species of the animal and the name of its owner;

e. The name of the prescribing practitioner;

f. The date the prescription is filled by the central fill or processing pharmacy;

g. The directions or instructions for use, including precautions to be observed;

h. Unless otherwise directed by the prescriber, the name, strength, and quantity of the drug dispensed.

(1) If a pharmacist selects an equivalent drug product for a brand name drug product prescribed by a practitioner, the prescription container label shall identify the generic drug and may identify the brand name drug for which the selection is made, such as “(generic name) Generic for (brand name product)”.

(2) If a pharmacist selects a brand name drug product for a generic drug product prescribed by a practitioner, the prescription container label shall identify the brand name drug product dispensed and may identify the generic drug product ordered by the prescriber, such as “(brand name product) for (generic name)”;

i. The initials or other unique identification of the pharmacist in the originating pharmacy who performed drug use review and transmitted the prescription drug order to the central fill or processing pharmacy.

ITEM 4. Amend rule 657—18.5(155A) as follows:

657—18.5(155A) Notifications to patients *Patient notification and authorization.*

18.5(1) *Prior notification and authorization.* A pharmacy that outsources prescription drug order filling or prescription drug order processing to another pharmacy shall, prior to outsourcing a patient’s prescription:

a. Notify the patient or the patient’s agent that prescription filling or processing may be outsourced to another pharmacy; and.

b. Provide the name of the pharmacy that will be filling or processing the prescription or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may fill or process the prescription, the patient shall be notified of this fact. Notification may be provided through a one-time written notice to the patient or patient’s agent or through use of a sign prominently displayed in the originating pharmacy.

c. *Following patient notification and prior to outsourcing, the originating pharmacy shall receive written authorization from the patient to outsource the filling or processing of a patient’s prescription drug order. If a patient does not so authorize the originating pharmacy, the pharmacy shall not outsource the filling or processing of the patient’s prescription drug orders.*

d. *If a patient provides the originating pharmacy with notification that the patient no longer authorizes the origi-*

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nating pharmacy to outsource the patient's prescription drug orders, the originating pharmacy shall discontinue outsourcing the filling or processing of the patient's prescription drug orders.

18.5(2) Exception. The provisions of this rule do not apply to a patient in a facility, such as a *hospital* or long-term care facility, where Iowa law requires that drugs be administered to the patient by a health care professional.

ITEM 5. Amend rule 657—18.10(155A) as follows:

657—18.10(155A) Policy and procedures.

18.10(1) Manual maintained. A policy and procedure manual relating to centralized filling or *centralized* processing activities shall be maintained at all pharmacies involved in centralized filling or *centralized* processing and shall be available for inspection and copying by the board *or an agent of the board*.

18.10(2) Manual contents. The manual shall:

- a. Outline the responsibilities of each of the pharmacies;
- b. Include a list of the names, addresses, telephone numbers, and all license and registration numbers of the pharmacies involved in centralized filling or *centralized* processing;
- c. Include evidence that all licenses and registrations have been verified to be current and in good standing, identifying the individual verifying license and registration status and the method used to verify status; and
- d. Include, but not necessarily be limited to, policies and procedures for:

(1) Protecting the confidentiality and integrity of patient information;

(2) *Protecting each patient's freedom of choice of pharmacy services;*

(3) (3) Maintaining appropriate records to identify the name, the initials or unique identification code, and the specific activities of each pharmacist or pharmacy technician who performed any centralized filling or *centralized* processing function;

(4) (4) Complying with federal and state laws, rules, and regulations;

(5) (5) Operating a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems; and

(6) (6) Reviewing, at least annually, the written policies and procedures and documenting that review.

ITEM 6. Amend rule 657—18.15(155A) as follows:

657—18.15(155A) Records. Central fill or *central* processing pharmacies shall maintain appropriate records that identify, by prescription drug order, the name and initials or unique identification code of each pharmacist or pharmacy technician who performs a centralized filling or *centralized* processing function for a prescription drug order. Originating pharmacies shall maintain appropriate records that identify, by prescription drug order, the name and initials or unique identification code of the pharmacist who performed drug use review and *the pharmacist who* transmitted the prescription drug order to the central fill or *central* processing pharmacy. These records may be maintained separately by each pharmacy and pharmacist or technician or in a common electronic file as long as the data processing system is capable of producing a printout that lists the functions performed by each pharmacy and pharmacist or technician and identifies the pharmacist or technician who performed each function.

ARC 6487B

**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 Sign Language Interpreters and Transliterators hereby gives Notice of Intended Action to amend Chapter 361, “Licensure of Interpreter for the Hearing Impaired Practitioners,” Iowa Administrative Code.

The proposed amendment to subrule 361.2(1) adds an examination to the list of examinations that may be taken to qualify for licensure.

Any interested person may make written comments on the proposed amendments no later than January 14, 2008, 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 January 14, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154E 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 361** by deleting the words “licensure of interpreter for the hearing impaired practitioners” wherever they appear and inserting “licensure of sign language interpreters and transliterators” in lieu thereof.

ITEM 2. Amend subrule **361.2(1)**, paragraph “d,” as follows:

Amend subparagraph (4) as follows:

(4) The Educational Interpreter Performance Assessment (EIPA) with a score of 3.5 or above obtained after December 31, 1999; ; or

Adopt **new** subparagraph (5) as follows:

(5) The Cued Language Transliterators National Certification Examination (CLTNCE).

ARC 6490B**REAL ESTATE COMMISSION[193E]****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 543B.9, 543B.18, and 543B.46, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 2, "Definitions," and Chapter 13, "Trust Accounts and Closings," Iowa Administrative Code.

The proposed amendment to rule 2.1(543B) adds the definition of "electronic format" in alphabetical order; the proposed amendment to subrule 13.2(2) strikes language that has been added to rule 13.5(543B) for clarification; proposed language in rule 13.5(543B) provides that records may be retained in an electronic format; the proposed amendment to rule 13.5(543B) identifies the records required to be maintained; proposed new subrule 13.5(1) requires that contracts and documents must be legible; proposed new subrule 13.5(2) provides that an unreadable copy is not acceptable as a true copy of the original regardless of the medium; and proposed new subrule 13.5(3) establishes the minimum requirements for electronic storage of required records.

A public hearing will be held on January 8, 2008, at 10 a.m. in the Second Floor, Professional Licensing Conference Room, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received before the end of the business day on January 8, 2008. Comments should be addressed to Roger Hansen, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515) 281-7411. E-mail may be sent to Roger.Hansen@Iowa.gov.

These amendments are intended to implement Iowa Code sections 543B.9, 543B.18, and 543B.46.

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 **193E—2.1(543B)** by adopting the following **new** definition in alphabetical order:

"Electronic format" means a record generated, communicated, received, or stored by electronic means. Such electronic record must be in a format that has the continued capability to be retrieved and legibly printed upon request.

ITEM 2. Amend subrule 13.2(2) as follows:

13.2(2) The broker shall retain all trust account records and a complete file ~~on each transaction for a period of at least five years after the date of the closing, which shall include one copy of the listing, any offers to purchase, all correspondence pertinent to the transaction, and the closing statement. but not be limited to the records required by 13.5(543B), on~~

each transaction for a period of at least five years after the date of the closing. Records required by this rule may be retained as an electronic record as provided by 13.5(543B).

ITEM 3. Amend rule 193E—13.5(543B) as follows:

Amend the introductory paragraph as follows:

193E—13.5(543B) File record keeping. Every broker shall retain for a period of at least five years true copies of all business books; accounts, including voided checks; records; contracts; closing statements; disclosures; signed documents; *the listing; any offers to purchase;* and *all* correspondence relating to each real estate transaction that the broker has handled and each property managed. The records shall be made available for *reproduction and* inspection by the commission, staff, and its *commission*-authorized representatives at all times during usual business hours at the broker's regular place of business. If the brokerage closes, the records shall be made available for *reproduction and* inspection by the commission, staff, and its *commission*-authorized representatives upon request.

Adopt the following **new** subrules:

13.5(1) Contracts and other documents that have been changed or altered to the point where the language is unreadable and faxed contracts and documents in which the language is unreadable are not acceptable records and must be redrafted and signed by the parties.

13.5(2) Copies of unreadable documents are not acceptable as true copies of the originals regardless of the medium.

13.5(3) Electronic records. The files, records, and other documents required by this chapter may be stored in electronic format for convenience and efficiency in a system for electronic record storage, analysis, and retrieval.

a. A record required by this chapter may be retained as an electronic record only if the record storage medium can be easily accessed and the records can be readily retrieved and transferred to a legible printed form upon request.

b. The scanning or electronic generation of a record must be monitored to ensure that the copy is clear, legible and true before the original is shredded.

c. Once the original record is transferred to the appropriate electronic storage medium consistent with this rule, the commission will no longer require the retention of the record in its original medium. For the purposes of this chapter, electronic records shall be considered the same as originals.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vautt have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 6.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

| | |
|-------------------------------------|--------------|
| 74A.2 Unpaid Warrants | Maximum 6.0% |
| 74A.4 Special Assessments | Maximum 9.0% |

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective December 11, 2007, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

| | |
|--------------------------------|---------------|
| 7-31 days | Minimum 2.10% |
| 32-89 days | Minimum 3.05% |
| 90-179 days | Minimum 3.10% |
| 180-364 days | Minimum 3.45% |
| One year to 397 days | Minimum 3.45% |
| More than 397 days | Minimum 3.40% |

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 6492B

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

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 163.1, the Iowa Department of Agriculture and Land Stewardship amends Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The amendments update current provisions and conform the rules to existing practices related to low pathogenic avian influenza. The amendments add a provision for the movement of liquid egg products, remove the reference to quail from the provisions, and provide approval for an additional test for low pathogenic avian influenza.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6330B**. No written comments were received and the public comment period closed on November 14, 2007. No changes were made from the proposed amendments published under Notice of Intended Action.

The Department finds that earlier implementation of the amendments provides a health benefit by allowing for earlier testing, identification and segregation of birds with low pathogenic avian influenza. 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 are intended to implement Iowa Code chapter 163.

These amendments became effective on November 29, 2007.

The following amendments are adopted.

ITEM 1. Amend rule **21—64.185(163)**, definition of "poultry," as follows:

"Poultry" means commercial egg-laying and meat-producing chickens and commercial turkeys. "Poultry" also means breeder flocks and quail.

ITEM 2. Amend rule 21—64.187(163) as follows:

21—64.187(163) Surveillance procedures. *Surveillance procedures shall only apply to commercial poultry flocks of 10,000 or more layers, commercial chicken broiler operations with 10,000 or more broilers, and commercial turkey operations with 1,000 or more turkeys. Breeders that participate in, and qualify under, the USDA, APHIS, NPIP U.S. Avian Influenza Clean Program meet or exceed the surveillance provisions of this plan and are exempt from further certification under this rule. For poultry flocks, surveillance procedures shall include the following:*

64.187(1) Turkeys and turkey poults.

a. Preslaughter/movement testing. A minimum of 15 blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation or movement; or

a b. Slaughter/disposal testing. Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

b c. Sick flock testing. Twenty blood samples shall be collected ~~two weeks between 10 days and 21 days~~ after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be col-

lected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

e d. Routine serologic testing. A test for LPAI should be included.

64.187(2) Laying chickens and quail pre-lay pullets.

a. Preslaughter/disposal/movement testing. ~~Twenty Fifteen~~ blood samples shall be collected and forwarded to an approved laboratory for LPAI testing within 30 days prior to depopulation or disposal of spent hens or movement of pre-lay pullets to another farm.

b. Sick flock testing. Twenty blood samples shall be collected ~~two weeks between 10 days and 21 days~~ after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. Routine serologic testing. A test for LPAI should be included.

64.187(3) Broiler chickens.

a. Preslaughter testing. Twenty blood samples may be collected and forwarded to an approved laboratory for LPAI testing within 21 days prior to depopulation; or

a b. Slaughter/disposal testing. Twenty blood samples shall be collected at slaughter/disposal and forwarded to an approved laboratory for LPAI testing.

b c. Sick flock testing. Twenty blood samples shall be collected ~~two weeks between 10 days and 21 days~~ after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing, and 20 pharyngeal swabs shall be collected at onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

e d. Routine serologic testing. A test for LPAI should be included.

ITEM 3. Amend rule 21—64.188(163) as follows:

21—64.188(163) Official LPAI tests. Official tests for LPAI are:

1. Agar Gel Precipitin (AGP);
2. Enzyme Linked Immunosorbent Assay (ELISA);
3. Any other tests performed by an approved laboratory to confirm a diagnosis of LPAI.

Tests positive to screening for avian influenza *through AGP, ELISA, and any other tests performed by an approved laboratory to confirm a diagnosis of LPAI* must be forwarded to National Veterinary Services Laboratory, Ames, Iowa, for subtype testing.

4. Influenza type A antigen detection tests approved by the state veterinarian. All influenza type A antigen detection tests performed shall be prior-approved by the state veterinarian, and all positive test results shall be reported immediately to the state veterinarian. A monthly report of all test results shall be reported to the state veterinarian.

ITEM 4. Amend rule 21—64.191(163) as follows:

Amend subrule **64.191(2)**, paragraph "e," by adding the following **new** subparagraph (7):

(7) Liquid eggs from layer flocks may continue to move from breaking operations directly to pasteurization plants provided that the transport vehicles are cleaned and disinfected before entering and leaving the premises.

Amend paragraph "g" as follows:

g. Housing facilities and manure. Before a new flock is placed in an infected house, manure must be removed and the housing facilities must be cleaned and disinfected. Manure shall not be removed from the premises for a minimum of 30 days after the last active detection of avian influenza virus in a house. Manure from infected housing facilities must be

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

carried in covered conveyances, and transportation routes must avoid other poultry operations. Manure handling and disposal will be at the direction of the state veterinarian.

ITEM 5. Amend rule 21—64.192(163) as follows:

21—64.192(163) Cleaning and disinfecting. The housing facilities must be cleaned and disinfected under state supervision within 15 days after affected poultry *and manure* have been removed.

[Filed Emergency After Notice 11/29/07, effective 11/29/07]
[Published 12/19/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/19/07.

ARC 6489B

MEDICINE BOARD[653]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medicine hereby amends Chapter 8, "Fees," Chapter 9, "Permanent Physician Licensure," and Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The rules raise the fee for license renewal and license reinstatement by \$50 and raise the fee for a resident physician license by \$50. The fee to process the criminal history background check is raised by \$9. The renewal penalty fee will increase by \$50 per month.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 10, 2007, as **ARC 6297B**. A public hearing was held on October 30, 2007. Comments received from the medical associations addressed their concerns for the rising costs for physicians while they have declining revenue. One resident training program expressed concern about rising costs that have not been anticipated for next year's budget. The Board considered the comments but did not make any changes from the previously published rules because the income is needed to sustain the Board's current level of operations.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Board finds that the normal effective date of these rules shall be waived and these rules shall be made effective on January 1, 2008. Early implementation is necessary to generate the revenue needed to sustain the Board.

The Board adopted these rules on November 21, 2007.

These amendments are intended to implement Iowa Code chapters 147, 148, and 272C.

These amendments will 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 [8.4, 9.11(3), 9.13, 10.3(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 6297B**, IAB 10/10/07.

[Filed 11/21/07, effective 1/1/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6479B**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 Chapter 106, "Community College Equipment and Training Fund," Chapter 107, "Targeted Industries Networking Fund," Chapter 108, "Targeted Industries Student Competition Fund," and Chapter 109, "Targeted Industries Career Awareness Fund," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 10, 2007, as **ARC 6310B**. In addition, the rules were simultaneously Adopted and Filed Emergency as **ARC 6309B**.

The Department held a public hearing on Tuesday, October 30, 2007, to receive comments on these rules. No comments were received. The final rules are identical to the proposed rules.

The rules implement new programs authorized by 2007 Iowa Acts, House File 829. The rules describe the purpose of the programs; the application submissions, review and approval procedures; and the contract administration provisions.

The Iowa Department of Economic Development Board adopted these rules on November 15, 2007.

These rules will become effective on January 23, 2008. On that date, the rules that were Adopted and Filed Emergency are hereby rescinded.

These rules are intended to implement 2007 Iowa Acts, House File 829.

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 [Chs 106 to 109] is being omitted. These rules are identical to those published under Notice as **ARC 6310B** and Adopted and Filed Emergency as **ARC 6309B**, IAB 10/10/07.

[Filed 11/15/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6497B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 4, "Engineering Licensure," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6151B**. This amendment is identical to the one published under Notice of Intended Action.

This amendment adds a subrule to define examination subversion and to explain the conduct for which the Board may impose sanctions. This subrule also explains the legal rights of the candidate who is charged with examination subversion.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on November 8, 2007.

This amendment shall become effective January 23, 2008.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13 to 542B.15, and 542B.20.

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 [4.1(9)] is being omitted. This amendment is identical to that published under Notice as **ARC 6151B**, IAB 8/15/07.

[Filed 11/29/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6498B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 5, "Land Surveying Licensure," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6152B**. This amendment is identical to the one published under Notice of Intended Action.

This amendment adds a subrule to define examination subversion and to explain the conduct for which the Board may impose sanctions. This subrule also explains the legal rights of the candidate who is charged with examination subversion.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on November 8, 2007.

This amendment shall become effective January 23, 2008.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13 to 542B.15, and 542B.20.

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 [5.1(9)] is being omitted. This amendment is identical to that published under Notice as **ARC 6152B**, IAB 8/15/07.

[Filed 11/29/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6496B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 10, "Peer Review," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6150B**. This amendment is identical to the amendment published under Notice of Intended Action.

This amendment revises the compensation to peer reviewers to allow for a variety of payment terms in lieu of restricting payment to per diem compensation equal to that received by board members and clarifies the types of expenses that will be reimbursed.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on November 8, 2007.

This amendment shall become effective January 23, 2008.

This amendment is intended to implement Iowa Code section 272C.3.

The following amendment is adopted.

Amend subrule 10.1(4) as follows:

10.1(4) Compensation. ~~PRC members may receive per diem compensation equal to that received by board members for performing board duties. Within established budget limitations, PRC members may be reimbursed for reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties. The terms of payment as authorized by the peer review agreement may vary based on the nature and complexity of each assignment and whether the peer reviewer will act as a single peer reviewer or as part of a peer review committee. The peer reviewer shall be additionally entitled to reimbursement of expenses directly related to the peer review process, deposition or hearing preparation, or deposition or hearing testimony, such as mileage, meals, or out-of-pocket charges for securing copies of documents. Expenses will be reimbursed as allowed under the manuals and guidelines published by the Iowa department of administrative services, state accounting enterprise. The PRC shall not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.~~

[Filed 11/29/07, effective 1/23/08]

[Published 12/19/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/19/07.

ARC 6481B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 225C.6(1), the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

Iowa Code subsection 225C.6(1), paragraph "m," directs the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission to establish statewide financial eligibility guidelines for disability service funding administered by counties. Basic standards for income and resource eligibility are set in the statute as income under 150 percent of the federal poverty level and resources within the limits for the federal Supplemental Security Income (SSI) program. Counties are allowed to set less restrictive limits in their county management plans. The proposed amendments outline the financial eligibility requirements for county management plans, including the basic standards and standards that counties may adopt to extend financial eligibility to more consumers. The amendments explain how countable resources are determined for SSI and identify expectations for counties that decide to establish copayments for consumers.

These amendments provide that a county management plan may establish a policy to allow exceptions to the basic or extended financial eligibility standards on a case-by-case basis to benefit an individual consumer. This constitutes a waiver provision.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6101B**. Nine public hearings were held around the state. Four persons attended. The Department received four comments on the Notice of Intended Action.

Three comments recommended copayments for persons whose income is below 150 percent of the federal poverty level, based on the belief that clients have more of a stake in their services when they contribute toward them financially, and this participation leads to a better service outcome. The Department was unable to find any research that supports this view.

Another comment related to a perceived inequity between married and unmarried couples in regard to resource standards related to vehicles. The standards in these rules represent the minimum allowable. Counties are free to set more liberal standards in their county plans.

These amendments are identical to those published under Notice of Intended Action.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on November 15, 2007.

These amendments are intended to implement Iowa Code section 331.439.

These amendments shall become effective on February 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

HUMAN SERVICES DEPARTMENT[441](cont'd)

these amendments [25.11, 25.13(1)“m,” 25.20] is being omitted. These amendments are identical to those published under Notice as **ARC 6101B**, IAB 8/1/07.

[Filed 11/16/07, effective 2/1/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6495B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 502.605(1), the Insurance Division hereby amends Chapter 50, “Regulation of Securities Offerings and Those Who Engage in the Securities Business,” Iowa Administrative Code.

These amendments were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on October 10, 2007, as **ARC 6308B**. No public comments were received. The adopted amendments are identical to the proposed amendments.

Item 1 amends subrule 50.10(1), paragraph “a,” in order to eliminate a manual signature requirement so as to allow for electronic filings.

Item 2 amends subrule 50.10(3) to make clear that a broker-dealer only has to file audited financial statements when initially applying for a license or when specifically requested by the administrator.

Item 3 amends subrule 50.12(1) to provide guidance for waiver of the examinations requirements. This amendment restores language that had been found in former 191—Chapter 50 and should have been included in new 191—Chapter 50 (**ARC 5974B**, IAB 6/20/07).

Item 4 amends subrule 50.15(2) to make clear that a broker-dealer only has to file audited financial statements when initially applying for a license or when specifically requested by the administrator.

Item 5 amends subrule 50.39(1), paragraph “e,” in order to correct an internal citation.

Item 6 amends subrule 50.40(1) in order to correct internal citations and amends subrule 50.40(2) to clarify that a minimum net worth is always required in the case of discretionary authority.

Item 7 amends subrule 50.41(1), paragraphs “d” and “e,” in order to correct internal citations.

Item 8 amends rule 191—50.43(502) in order to add exceptions to the rule that are contained in the national model.

Item 9 amends subrules 50.66(2), 50.66(4) to 50.66(9) and 50.66(19) in order to update certain NASAA guidelines involving direct participation programs that have recently been amended by NASAA. These amendments essentially update all the objective suitability requirements of these guidelines.

Item 10 amends rule 191—50.102(502) by adding new subrule 50.102(3). The new subrule is similar to a recent SEC rule and makes clear that the administrator has fraud authority over hedge funds and similar pooled income vehicles.

These amendments are intended to implement Iowa Code section 502.605(1).

These amendments will become effective January 23, 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 50] is being omitted. These amendments are identical to those published under Notice as **ARC 6308B**, IAB 10/10/07.

[Filed 11/29/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6503B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” Chapter 91, “General Requirements for All Objects,” Chapter 92, “Power Boilers,” Chapter 93, “Miniature Boilers Installed Prior to September 20, 2006,” Chapter 94, “Steam Heating Boilers, Hot Water Heating Boilers and Hot Water Supply Boilers,” and Chapter 96, “Pressure Vessels,” Iowa Administrative Code.

The amendments update the language relating to identification numbers on jurisdictional objects. The amendments exempt cast iron and cast aluminum boilers from the requirement that boilers be registered with the National Board of Boiler and Pressure Vessel Inspectors. Throughout the boiler and pressure vessel chapters, the proposed amendments change references to Canadian standards from “Canadian National Standards” to “Canadian Standards Association.” The amendments also expand the usage of defined abbreviations.

The purposes of these amendments are to make the rules more current and internally consistent, to protect the safety of the public, and to implement legislative intent.

No waiver or variance provision is included in this rule making because 875—Chapter 81 sets forth procedures for waivers or variances.

Notice of Intended Action was published in the October 24, 2007, Iowa Administrative Bulletin as **ARC 6340B**. No member of the public commented on the Notice of Intended Action. The adopted amendments do not differ from the amendments in the Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 89.

These amendments will become effective January 23, 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 Chs 90 to 94, 96] is being omitted. These amendments are identical to those published under Notice as **ARC 6340B**, IAB 10/24/07.

[Filed 11/30/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6488B**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medicine hereby amends Chapter 24, "Complaints and Investigations," Iowa Administrative Code.

The amendment in Item 1 updates the Board's Web site address. In Item 2, the complaint and investigative processes are amended to clarify how staff of the Board, the complaint review committee, the Board's screening committee and the full Board handle complaints and investigations, including allowing some complaints to be closed without investigation. The Board is required to attempt to contact a licensee at the address of record to give the licensee an opportunity to respond to any allegations; Item 2 includes an amendment which clarifies what additional efforts staff will undertake to find the licensee if the licensee is not available at the address of record. In Item 3, the amendment to confidentiality of orders and reports will allow investigative information to be turned over to the licensee in the event of an objection filed pursuant to 24.4(3) in order to give the licensee the opportunity to prepare for hearing.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 10, 2007, as **ARC 6298B**. A public hearing was held on October 30, 2007. Written and oral comment was received from six individuals and organizations. The proposed amendments allow those complaints that are closed after clearing both a staff and a Board committee and the full Board without investigation to be considered as closed complaints rather than closed investigations, as the rules currently require. The opponents of the change believe the Board has not gone far enough and that the Board should allow closed complaints that received some investigation to be closed complaints rather than closed investigations. The Board finds that any level of investigation, e.g., asking the physician for an explanation and medical records, means a case was investigated. Making a determination about the investigative status of a case after the investigation is arbitrary and inappropriate. The suggestion that the Board add another level between complaint and investigation, called an "inquiry," was dismissed because of the lack of jurisdiction and the added complexity. The Board has the legal authority to share complaint and investigative information with medical boards in other jurisdictions, when requested, and the Board overruled those who object to the provision in Item 2.

The Board was asked to establish a statute of limitations on what investigative information it keeps and shares with medical boards in other jurisdictions. The Board chose not to establish a statute of limitations because other jurisdictions should have a full picture of a physician's past when the doctor is moving into another jurisdiction. The Board was asked not to get involved in billing disputes because they are not a quality of care issue. The Board does not routinely address billing disputes but believes it has the authority to do so when a pattern of problems exists or when patient care may be jeopardized. The Board has procedures in place that address the confidentiality of records, including mental health records.

These amendments are identical to those published under Notice of Intended Action.

These amendments were approved in a conference call meeting of the Board on November 21, 2007.

These amendments will become effective January 23, 2008.

These amendments are intended to implement Iowa Code chapter 148 and Iowa Code sections 148E.7, 272C.3 and 272C.4.

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 [24.1(2), 24.2, 24.4(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 6298B**, IAB 10/10/07.

[Filed 11/21/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6501B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy hereby amends Chapter 199, "Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy Examiners—Physical Therapy Examiners," Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," Chapter 205, "Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy Examiners—Occupational Therapy Examiners," Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," and Chapter 209, "Discipline for Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

These amendments update requirements for foreign-trained applicants for licensure as physical therapists and physical therapist assistants; add clarity regarding supervisory requirements for physical therapist assistants; stipulate that a physical therapist assistant must list on every patient chart the name of the physical therapist assistant's supervisor for each treatment session; and update standards for physical therapists regarding direct client contact based upon the status of the patient being treated. Additionally, the amendments change the name of the Board of Physical and Occupational Therapy in response to 2007 Iowa Acts, Senate File 74, which renamed health-related examining boards as licensing boards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 26, 2007, as **ARC 6248B**. A public hearing was held on October 16, 2007, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comment was received from four individuals requesting a clarification of the equivalency of two full-time PTAs. In response to this comment, one revision was made in the final amendments. In Item 4, in subrule 200.6(1), paragraph "e," the phrase "not to exceed

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

four part-time PTAs” has been added. Paragraph “e” now reads as follows:

“e. Supervise not more than the equivalent of two full-time PTAs, not to exceed four part-time PTAs, who are providing physical therapy per calendar day, including supervision by telecommunication.”

The amendments were adopted by the Iowa Board of Physical and Occupational Therapy on November 16, 2007.

These amendments will become effective January 23, 2008.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A, 148B and 272C.

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 199, 200, 202, 203, 205 to 207, 209] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6248B**, IAB 9/26/07.

[Filed 11/30/07, effective 1/23/08]
[Published 12/19/07]

[For replacement pages for IAC, see IAC Supplement 12/19/07.]

ARC 6476B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1A, 476.1B, and 476.2, the Utilities Board (Board) gives notice that on November 15, 2007, the Board issued an order in Docket No. RMU-07-7, In re: Rescission of 199 IAC Chapter 28, Iowa Supplemental Energy Conservation Plan, “Order Rescinding 199 IAC Chapter 28.” The Board is rescinding Chapter 28 since it is no longer necessary to establish voluntary requirements for municipal utilities and electric cooperatives to provide energy efficiency plans.

Notice of Intended Action with the proposed rescission was published in IAB Vol. XXX, No. 8 (10/10/07) p. 692, as **ARC 6317B**. The Consumer Advocate Division of the Department of Justice filed a comment supporting the rescission. No other comments were filed. The order containing the Board's decision can be found on the Board's Web site, www.state.ia.us/iub.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1A, 476.1B, and 476.2.

This amendment will become effective January 23, 2008.

Rescind and reserve **199—Chapter 28**.

[Filed 11/15/07, effective 1/23/08]
[Published 12/19/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/19/07.

ARC 6491B**VETERANS AFFAIRS, IOWA
DEPARTMENT OF[801]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and 2006 Iowa Acts, chapter 1107, the Iowa Department of Veterans Affairs adopts new Chapter 15, “Veterans Commemorative Property,” Iowa Administrative Code.

These rules implement Iowa Code section 37A.1, which establishes the Iowa Department of Veterans Affairs as the entity with jurisdiction over the transfer, sale, or trade of veterans commemorative property.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6348B**. A public hearing was held on November 13, 2007. No public comment was received on these rules. These rules are identical to those published under Notice of Intended Action.

The Iowa Department of Veterans Affairs adopted these rules on November 28, 2007.

These rules shall become effective January 23, 2008.

These rules are intended to implement Iowa Code section 37A.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 rules [Ch 15] is being omitted. These rules are identical to those published under Notice as **ARC 6348B**, IAB 10/24/07.

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