



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

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CITATION of Administrative Rules

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

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
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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>
2	Wednesday, June 25, 2008	July 16, 2008
3	Friday, July 11, 2008	July 30, 2008
4	Friday, July 25, 2008	August 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*****

The Administrative Rules Review Committee will hold its July meeting at the time and place to be announced in the supplemental agenda that will be published in the July 2, 2008, Iowa Administrative Bulletin. The following rules will be reviewed:

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Contractual limitation of vendor liability provisions, ch 108, Notice **ARC 6809B** 6/4/08

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Referenda—method of transmitting results, 20.4(2)“e”(3), Filed Emergency **ARC 6864B** 6/18/08

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Film, television, and video project promotion program, 36.2, 36.7(3)“c,” 36.7(4), 36.8(2)“c,” Notice **ARC 6841B**, also Filed Emergency **ARC 6840B** 6/18/08

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Administrative experience requirements for superintendent endorsement, 14.142(4)“c,” Notice **ARC 6812B** 6/4/08

School psychologist endorsement, 15.11(2), Filed **ARC 6811B** 6/4/08

EDUCATION DEPARTMENT[281]

Entrepreneurs with disabilities (EWD) program, 56.20, Notice **ARC 6530B** Terminated **ARC 6837B** 6/18/08

Iowa self-employment program, 56.20, 56.37 to 56.41, Notice **ARC 6836B** 6/18/08

Use of restraints, physical confinement or detention, ch 103 title, 103.1, 103.3, 103.6 to 103.8, Notice **ARC 6838B** 6/18/08

EMPOWERMENT BOARD, IOWA[349]

Community empowerment gifts and grants accounts, 1.4, 1.6(3)“p,” 1.9, Filed **ARC 6846B** 6/18/08

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality, 20.2, 21.1(3), 21.1(4), 21.6, 22.1(3), 22.3(3)“f,” 22.100, 22.105(1), 22.105(5), 22.106(3)“b,” 22.106(8), 22.110, 22.116(2), 22.120, 22.207(1), 23.1(4), 23.1(4)“cz,” “dw,” “dy,” “dz” and “er” to “et,”

25.1(9), 25.2, 25.3, 33.3(17)“c,” 33.3(18)“c” and “d,” 33.3(21), Notice **ARC 6826B** 6/4/08

Existing MSWLF units—collection systems and liners, 113.2(8), Notice **ARC 6828B** 6/4/08

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Use of short form attribution statement, 4.11, Notice **ARC 6848B** 6/18/08

Executive branch lobbying expenditures, 8.6, Notice **ARC 6849B** 6/18/08

HUMAN SERVICES DEPARTMENT[441]

Reduction in fee for assessments for intermediate care facilities for the mentally retarded, 36.1, 36.2(4), Filed Emergency **ARC 6829B** 6/4/08

Medicaid coverage for varenicline; removal of obsolete reference, 78.2(4)“b”(4), 78.28(7), Filed Emergency After Notice **ARC 6831B** 6/4/08

Medicaid—medical and remedial services, 78.27(2)“e”(2) to (5), 78.27(3)“a”(2) to (4), 78.27(4)“e,” 78.27(7)“b”(6), 78.27(10)“a”(1), 78.41(7)“a,” 78.43(4)“a,” 79.1(2), 79.1(15), 79.1(24), 79.1(24)“a”(5), 79.3(2)“d”(36) to (38), Filed Emergency After Notice **ARC 6833B** 6/4/08

Child care assistance program, 170.1, 170.2(1)“d”(29) to (34), 170.2(2), 170.2(2)“b”(2), 170.2(2)“e,” 170.2(4), 170.3(1)“a”(2), 170.3(3), 170.3(5)“b,” 170.4(3)“e,” “f” and “h,” 170.4(7), 170.4(7)“g,” 170.5(1)“b” and “c,” 170.5(2), 170.5(3), 170.9, Filed **ARC 6842B** 6/18/08

Child care assistance—fee schedule, 170.4(2)“a,” Filed Emergency **ARC 6835B** 6/4/08

INSPECTIONS AND APPEALS DEPARTMENT[481]

Mobile food units/pushcarts, rescind 31.7, Notice **ARC 6839B** 6/18/08

IOWA FINANCE AUTHORITY[265]

Mortgage release certificates, 9.20(1), 9.20(2)“a”(2) and (3), 9.20(2)“b,” 9.20(3), 9.20(4)“c”(2), 9.20(4)“e,” 9.20(5)“c,” 9.20(8)“d” and “h,” 9.20(9)“a,” 9.20(9)“c”(2), 9.20(9)“e,” 9.20(10)“a” and “d,” 9.20(11), 9.20(14), 9.20(16), Notice **ARC 6819B** 6/4/08

Closing protection letters, 9.22(1), 9.22(2)“a” to “d,” 9.22(3) to 9.22(13), Notice **ARC 6818B** 6/4/08

Low-income housing tax credits—qualified allocation plan, 12.1, 12.2, Notice **ARC 6815B** 6/4/08

Low-income housing tax credits—compliance manual, 12.3, 12.4, Filed **ARC 6817B** 6/4/08

State housing trust fund allocation plans, 19.1, Notice **ARC 6816B** 6/4/08

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Wind tower lifts, 71.1, 71.2(7), 71.5(5), 72.12, 75.1(3), 75.1(4), 75.3(3), 76.4(2),
76.5(1), Notice ARC 6853B, also Filed Emergency ARC 6852B 6/18/08
- Elevator safety, 71.2(2)"c," 72.1(1), 72.1(2), 72.1(6), 72.1(7), 72.7, 72.22, 72.24, 73.8(1), 73.8(3),
73.8(4), 76.2(10); rescind ch 77, Filed ARC 6854B 6/18/08

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Alternate board members, 1.1, 1.3(5)"p," 1.3(7), 25.18(1), 25.24(1), Notice ARC 6858B 6/18/08
- Verification of physician licensure; fees, 8.5(1), 8.6, Notice ARC 6862B 6/18/08
- Licensure of physicians enrolled in Iowa resident training programs, 10.3(2)"d," Notice ARC 6859B 6/18/08
- Discipline—failure to comply with audit, 11.4(1)"a"(3), 11.4(1)"c"(4), 23.1(38),
23.1(39), Notice ARC 6860B 6/18/08
- Contested case proceedings, 25.1, 25.18(5), Notice ARC 6861B 6/18/08

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Water trails development program; low-head dam public hazard program, ch 30 title, ch 30 div I title, 30.1,
ch 30 div II, 30.51 to 30.63, Filed ARC 6824B 6/4/08
- Boating safety—vessels not powered by motor or sail, 37.6(2), Filed ARC 6823B 6/4/08
- Boating safety—zoning of Clear Lake, Cerro Gordo County, 40.55, Filed Emergency ARC 6825B 6/4/08
- Boating safety—zoning of Lake Cornelia, Wright County, 40.58, Notice ARC 6827B 6/4/08

PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]

- Reimbursement of claims for removal of eligible storage tanks, 11.3(11), Filed ARC 6808B 6/4/08

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Temporary pharmacist in charge, 8.35(6)"c," Filed ARC 6843B 6/18/08

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Distribution of bureau newsletter, 1.9(8), Filed ARC 6850B 6/18/08

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Definition of "occupational therapy screening," 206.1, Filed ARC 6851B 6/18/08
- Sign language interpreters and transliterators, rescind ch 360, 361.4, 361.6 to 361.8, 362.4 to 362.7,
363.5, ch 364, Notice ARC 6845B 6/18/08

PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]

- Propane education and research council, ch 1, Filed ARC 6810B 6/4/08

PUBLIC HEALTH DEPARTMENT[641]

- Radiation, amendments to chs 38 to 42, 44, 46, Filed ARC 6830B 6/4/08
- Office of multicultural health, ch 82, Filed ARC 6832B 6/4/08
- Emergency medical service providers—education, training, certification, 131.1, 131.4(1)"k,"
131.4(2)"b"(1), 131.4(4)"g," 131.4(8)"a," 131.4(11), 131.5(10)"c" and "l," 131.7(2),
131.8(2)"q," Filed ARC 6822B 6/4/08

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Operations of grant committee; grant applications and awards, chs 22, 23, Notice ARC 6844B 6/18/08

REVENUE DEPARTMENT[701]

- Assessment practices and equalization, 71.21(6), 71.21(7), 71.21(11), 71.21(13) to 71.21(15), 71.21(20),
71.21(24) to 71.21(29), 71.21(29)"c" and "d," 71.21(30) to 71.21(38), Filed ARC 6855B 6/18/08

SECRETARY OF STATE[721]

- Proposed constitutional amendment, 21.200(4), Notice ARC 6643B Terminated ARC 6856B 6/18/08
- Voting procedures under the Uniformed and Overseas Citizens Absentee Voting Act, 21.1(14),
21.320, Notice ARC 6834B 6/4/08
- Optical scan voting system purchase program, 22.32, Notice ARC 6728B Terminated ARC 6857B 6/18/08

STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIVISION[436]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Organization; administrative procedures, chs 1, 2, Notice **ARC 6813B** 6/4/08**TRANSPORTATION DEPARTMENT[761]**Outdoor advertising, 117.1, 117.2(3) to 117.2(5), 117.3(1)"e," "f," "h" and "m," 117.5(5), 117.6(4)"d,"
117.6(5)"c," 117.6(7), 117.6(8), 117.6(9)"b," 117.7, 117.8, 117.15, Filed **ARC 6814B** 6/4/08Motor carrier safety and hazardous materials regulations—adoption by reference,
520.1(1)"a" and "b," Filed **ARC 6821B** 6/4/08Regulations for interstate for-hire motor carriers—adoption by reference, 529.1, Filed **ARC 6820B** 6/4/08**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Wind energy tax credits, 15.18(1)"c"(2) and (4), 15.18(1)"d" to "f,"
15.20, 15.20(1)"a"(6) to (8) and (10), 15.20(1)"b"(3), Notice **ARC 6847B** 6/18/08**VETERINARY MEDICINE BOARD[811]**Veterinary practice; fees, amendments to chs 1 to 7, 9 to 14 Amended Notice **ARC 6863B** 6/18/08**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 50801Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536Senator James Seymour
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510 East Washington
Mt. Pleasant, Iowa 52641Representative David Jacoby
2308 North Ridge Drive
Coralville, Iowa 52241Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438Representative Philip Wise
503 Grand Avenue
Keokuk, Iowa 52632James 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
ADMINISTRATIVE SERVICES DEPARTMENT[11]		
Contractual limitation of vendor liability, ch 108 IAB 6/4/08 ARC 6809B	Conference Rm. 7, Level A Hoover State Office Bldg. Des Moines, Iowa	June 24, 2008 9 to 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Film, television and video project promotion program, 36.2, 36.7, 36.8(2) IAB 6/18/08 ARC 6841B (See also ARC 6840B herein)	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	July 10, 2008 3:30 to 4:30 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Administrative experience for the superintendent endorsement, 14.142(4) IAB 6/4/08 ARC 6812B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 25, 2008 1 p.m.
EDUCATION DEPARTMENT[281]		
Use of physical restraints and physical confinement or detention, 103.1, 103.3, 103.6 to 103.8 IAB 6/18/08 ARC 6838B (ICN Network)	ICN Room, Second Floor Grimes State Office Bldg. East 14th and Grand Ave. Des Moines, Iowa	July 8, 2008 1 to 3 p.m.
	Keystone AEA 1 1400 2nd St. NW Elkader, Iowa	July 8, 2008 1 to 3 p.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	July 8, 2008 1 to 3 p.m.
	Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	July 8, 2008 1 to 3 p.m.
	Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	July 8, 2008 1 to 3 p.m.
	Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	July 8, 2008 1 to 3 p.m.
	Room 206, Northwest AEA 12 1520 Morningside Ave. Sioux City, Iowa	July 8, 2008 1 to 3 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)

Revere Room, Grant Wood AEA 10 4401 6th St. SW Cedar Rapids, Iowa	July 8, 2008 1 to 3 p.m.
Room 101 Pocohontas Area High School 205 2nd Ave. NW Pocohontas, Iowa	July 8, 2008 1 to 3 p.m.
Louisa Room, Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	July 8, 2008 1 to 3 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, amendments to chs 20, 22, 23, 25, 33 IAB 6/4/08 ARC 6826B	Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	July 7, 2008 1 p.m.
Closure of existing MSWLF units, 113.2(8) IAB 6/4/08 ARC 6828B	Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	July 10, 2008 12 noon

IOWA FINANCE AUTHORITY[265]

2009 qualified allocation plan for low-income housing tax credit, 12.1, 12.2 IAB 6/4/08 ARC 6815B	2015 Grand Ave. Des Moines, Iowa	June 24, 2008 9 to 11 a.m.
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LABOR SERVICES DIVISION[875]

Wind tower lifts, amendments to chs 71, 72, 75, 76 IAB 6/18/08 ARC 6853B (See also ARC 6852B herein)	Stanley Room 1000 East Grand Ave. Des Moines, Iowa	July 9, 2008 10 a.m. (If requested)
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MEDICINE BOARD[653]

Alternate board members, 1.1, 1.3, 25.18(1), 25.24(1) IAB 6/18/08 ARC 6858B	Suite C 400 SW 8th St. Des Moines, Iowa	July 8, 2008 3 p.m.
Verification of physician licensure; fees, 8.5(1), 8.6 IAB 6/18/08 ARC 6862B	Suite C 400 SW 8th St. Des Moines, Iowa	July 8, 2008 3 p.m.
Compliance with audits, 11.4(1), 23.1 IAB 6/18/08 ARC 6860B	Suite C 400 SW 8th St. Des Moines, Iowa	July 8, 2008 2:30 p.m.
Right to appear personally or by attorney at hearings, 25.1, 25.18(5) IAB 6/18/08 ARC 6861B	Suite C 400 SW 8th St. Des Moines, Iowa	July 8, 2008 2:30 p.m.

NATURAL RESOURCE COMMISSION[571]

Zoning of Lake Cornelia in Wright County, 40.58 IAB 6/4/08 ARC 6827B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 25, 2008 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Sign language interpreters and transliterators, rescind chs 360, 364; amend chs 361 to 363 IAB 6/18/08 ARC 6845B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	July 8, 2008 9 to 9:30 a.m.
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REAL ESTATE COMMISSION[193E]

Grant committee operations; grant applications and awards, chs 22, 23 IAB 6/18/08 ARC 6844B	2nd Floor, Prof. Licensing Conf. Rm. 1920 SE Hulsizer Rd. Ankeny, Iowa	July 8, 2008 10 a.m.
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UTILITIES DIVISION[199]

Wind energy tax credits, 15.18(1), 15.20 IAB 6/18/08 ARC 6847B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 15, 2008 10 a.m.
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VETERINARY MEDICINE BOARD[811]

Veterinary medicine, chs 1 to 7, 9 to 14 IAB 6/18/08 ARC 6863B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 9, 2008 2 p.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
 HUMAN SERVICES DEPARTMENT[441]

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

ARC 6841B**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 hereby gives Notice of Intended Action to amend Chapter 36, “Film, Television, and Video Project Promotion Program,” Iowa Administrative Code.

These amendments add definitions for “commercial domicile” and “Iowa-based business”; allow tax credit certificates to be transferred regardless of the amount; and stipulate that the Department will accept an alternative format for expenditure submissions provided that the alternative format is agreed upon by the producer/production company and the Department prior to the start of production.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on July 10, 2008. Interested persons may submit written or oral comments by contacting Tom Wheeler, Iowa Film Office, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4726.

A public hearing to receive comments about the proposed amendments will be held from 3:30 to 4:30 p.m. on July 10, 2008, at the above address in the ICN/Main Conference Room.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6840B**. The content of that submission is incorporated by reference.

These amendments are intended to implement 2007 Iowa Code Supplement sections 15.391 to 15.393.

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

ARC 6837B**EDUCATION DEPARTMENT[281]****Notice of Termination**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 16, 2008, as **ARC 6530B**, proposing to amend Chapter 56, “Iowa Vocational Rehabilitation Services,” Iowa Administrative Code.

The Notice proposed to amend Chapter 56 by aligning Vocational Rehabilitation Services Division rules with those of the Iowa Department of Economic Development (IDED) and the Iowa Finance Authority (IFA). At the time of publication of the Notice of Intended Action, the Entrepreneurs with Disabilities program was affiliated with IFA. Since publication of the Notice of Intended Action, legislation was

enacted (2008 Iowa Acts, Senate File 2101) that transfers the administrative duties of the Entrepreneurs with Disabilities program from IFA to the Iowa Vocational Rehabilitation Services Division within the Department of Education. Therefore, the most reasonable course of action is to terminate the existing Notice of Intended Action and propose a new Notice of Intended Action, which is published herein as **ARC 6836B**.

The State Board of Education is terminating the rule making commenced in **ARC 6530B** and will renote proposed rules to incorporate further changes under this same chapter.

ARC 6836B**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 56, “Iowa Vocational Rehabilitation Services,” Iowa Administrative Code.

2008 Iowa Acts, Senate File 2101, transfers administration of the Entrepreneurs with Disabilities program from the Iowa Finance Authority (IFA) to the Division of Vocational Rehabilitation Services and directs the adoption of rules therefor. The proposed amendments do the following:

- Transfer the IFA rules (265—Chapter 25) regarding administration of the Entrepreneurs with Disabilities program to 281—Chapter 56.
- Limit assistance to qualified persons whose business is in this state in recognition of the legislative intent that state funding for this program be used to expand economic development in the State of Iowa, not in neighboring states.
- Eliminate the First Step program because all small business actions are now part of the Entrepreneurs with Disabilities program.

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

Interested individuals may make written comments on the proposed amendments on or before July 8, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Kenda Jochimsen, Chief, Rehabilitation Services Bureau, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4154; E-mail kenda.jochimsen@iowa.gov; or fax (515)281-4703.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2101.

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 **281—Chapter 56** by rescinding and reserving rule **281—56.20(259)**.

ITEM 2. Amend **281—Chapter 56** by adopting the following **new** division:

EDUCATION DEPARTMENT[281](cont'd)

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

281—56.37(82GA,SF2101) Purpose. The division of vocational rehabilitation services works in collaboration with the Iowa department for the blind to administer the Iowa self-employment (ISE) program, which is also known as the entrepreneurs with disabilities (EWD) program. The purpose of the program is to provide business development grants in the form of technical assistance, monetary business development grants (up to \$10,000), and financial assistance grants (up to \$10,000) to qualified Iowans with disabilities who start or expand a business within the state of Iowa.

281—56.38(82GA,SF2101) Eligibility requirements. Clients of the division or the department for the blind may apply for the program. All of the following conditions are also applicable:

1. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

2. Any equipment purchased for the applicant under this program that is no longer used by the applicant shall be returned to the division.

3. An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

4. In order to receive financial support from the ISE program, the applicant's business plan must result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

281—56.39(82GA,SF2101) Application procedure.

56.39(1) Application. Application materials for the program are available from the division and the department for the blind.

56.39(2) Submittal. Completed applications shall be submitted to a counselor employed by the division or the department for the blind.

56.39(3) Review. Applications will be forwarded to a business development specialist employed by the division for review. Applicants whose applications receive a minimum of 60 points out of a total 100 points and are accompanied by a letter of support from the division or the department for the blind are eligible to pursue a technical assistance grant. Approval of a technical assistance grant is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan will be required at the time of submission of the application. Applicants whose business plans receive a minimum score of 75 points out of a total of 100 points are eligible to pursue a financial assistance grant. Approval of a financial assistance grant is based upon acceptance of a business plan and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested. A decision on all applications and forms will generally be issued within 30 days of submission with notification by letter to the applicant.

56.39(4) Applications for technical assistance—evaluation factors. Applications for the program will be reviewed and evaluated using a 100-point system, based upon the following criteria:

a. Descriptive and organization information: 0 – 30 points. Does the applicant have education, skills, and work experience relevant to the proposed business venture? Does the applicant document previous management or accounting

experience? Does the applicant have a clear understanding of the nature of the business?

b. Market information: 0 – 30 points. Does the application indicate a clear understanding of potential customer groups and how to reach them? Does the application show sufficient knowledge of products/services, competition, and marketing methods? Does the applicant understand the critical issue of location?

c. Financial information: 0 – 30 points. Does the applicant demonstrate an understanding of how to estimate sales potential? Does the applicant indicate knowledge of estimated capital requirements for business start-up, expansion, or acquisition?

d. Creditworthiness: 0 – 10 points. Does the applicant's past credit history demonstrate responsible behavior? Awards will not be made if the applicant has a credit history showing delinquent credit obligations including, but not limited to, unpaid income tax, delinquent child support obligations, or defaulted student loans.

56.39(5) Applications for financial assistance—evaluation factors for business plans. Applications for financial assistance from the program will be reviewed and evaluated using a 100-point system, based upon the following criteria:

a. Feasibility: 0 – 25 points. Feasibility will be considered based upon the overall business plan. Rating factors for this criterion include, but are not limited to: market analysis, financial projections, initial capitalization, management, and historic data relative to similar businesses. A minimum of 15 points is required for this rating factor.

b. Market plan: 0 – 25 points. Does the business plan contain sufficient information to demonstrate that the applicant fully understands who the applicant's customers will be and how to reach them? Is there adequate information about competition, market need, location, sales/marketing methods, and a product/service description? Is a promotional plan included in the business plan? A minimum of 15 points is required for this rating factor.

c. Financial plan: 0 – 25 points. Does the business plan contain a two-year cash flow projection and profit and loss projection? Is there an itemized listing of fixed assets, working capital, and other start-up, expansion and acquisition needs, including detailed descriptions of equipment to be purchased? Is there a clear statement regarding the composition of the anticipated financial package? Has the applicant provided a personal financial statement along with a detailed personal monthly budget form? A minimum of 15 points is required for this rating factor.

d. Organizational information: 0 – 25 points. Does the business plan document sufficient education and work experience relevant to the proposed business? Does the business plan demonstrate adequate management experience by the principal party(ies)? A minimum of 15 points is required for this rating factor.

56.39(6) Appeal of application evaluation. If an application is denied based upon the assignment of an inadequate evaluation score, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

281—56.40(82GA,SF2101) Award of technical assistance grants.

56.40(1) Awards. Technical assistance grants may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the client. Technical assistance grants may be awarded

EDUCATION DEPARTMENT[281](cont'd)

up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, market analysis; marketing plans; engineering, legal, and computer services; preliminary business plan development; financial packaging; and other consulting services that require specialized education and training.

56.40(2) Award process. Upon approval of the application by the counselor and the business development specialist, generally within 30 days, an applicant will receive notification of eligibility to pursue technical or financial assistance. The applicant must demonstrate the ability to contribute at least 50 percent of the start-up costs and the ability to cover any costs beyond \$10,000 if necessary. The business development specialist will identify if specialized services are needed and will provide recommendation for approval by the division or departmental staff.

56.40(3) Approval of business plan feasibility study. A business plan feasibility study indicating that the proposed business has a likelihood of success based upon the scoring will accompany notification letters. The business plan feasibility study will require an applicant to identify specific steps in the business planning process as well as who will be involved in each step of the process, address budgetary guidelines, and provide a timeline. The business plan feasibility study must be signed by the applicant and the business development specialist. Applicants receiving a score of 100 out of 125 points on the feasibility study will be recommended for technical or financial assistance or both.

56.40(4) Technical assistance grant contracts. The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts shall state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the business plan. A copy of each contract shall be filed with the division.

56.40(5) Consultants. Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of consultant(s) shall be the responsibility of the applicant.

56.40(6) Case management. The business development specialist will commit a specific number of hours of direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

281—56.41(82GA,SF2101) Financial assistance grants.

56.41(1) Grant awards. Financial assistance grants may be awarded based upon the demonstrated need and evidence of business progression. The applicant must provide 50 percent of the equipment or working capital needed to start, expand, or acquire a business as defined in the business plan outline. The applicant may provide the 50 percent through conventional financing or other sources. Working capital may include, but is not limited to, design and printing of marketing materials, advertising, rent (up to six months), direct mail postage, raw materials, inventory, insurance (up to six months), and other start-up, expansion, or acquisition costs. The amount that may be awarded by the program shall be provided in three phases of business operations when each phase meets specified business results, and the need for additional award money is indicated. The timing of each phase and the amount of funds for each phase shall be established in the approved business plan, as reviewed by the business development specialist and approved by the counselor. It is a

goal of the program that program funds assist an applicant in securing financing from a commercial or private source.

56.41(2) Approval of business plan financial forms. Business plan financial forms will define specific financial needs for business start-up, expansion, or acquisition. These forms shall be provided to an applicant by the counselor following evaluation of the application for the program and the submission and review of the business plan. Completed forms shall be submitted to the counselor and the business development specialist. The counselor, the business development specialist, and the applicant will meet to review the forms. Generally, this process shall be completed within 30 days of submission.

56.41(3) Award process. Upon the business development specialist's initial approval of the business plan, the counselor shall approve or deny the business plan. If the business plan is approved, the counselor shall send the applicant a notification letter which shall state the amount and conditions of the award.

56.41(4) Financial assistance grant contracts. Contracts for financial assistance grants shall be the responsibility of the division or the department for the blind and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess the business before additional funds are expended.

ITEM 3. Amend **281—Chapter 56**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 259, the federal Rehabilitation Act of 1973, as amended, and the federal Social Security Act (42 U.S.C. Section 301 et seq.), and 2008 Iowa Acts, Senate File 2101.

ARC 6838B**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 103, “Corporal Punishment Ban,” Iowa Administrative Code.

Iowa Code section 280.21 requires the State Board of Education to adopt rules to implement the general statutory ban on corporal punishment and the exceptions. Chapter 103 has not been reviewed since 1991. In recent years, there has been much research regarding seclusion (“time out” rooms) and restraint of students. These proposed amendments provide more detail than is presently in the current rule (103.6(280)) regarding allowable parameters when a student is physically confined or detained.

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

Interested individuals may make written comments on the proposed amendments on or before July 8, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Thomas Mayes, Legal Consultant, Bureau of Stu-

EDUCATION DEPARTMENT[281](cont'd)

dent and Family Support Services, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)242-5614; E-mail thomas.mayes@iowa.gov; or fax (515)242-6019.

A public hearing will be held on July 8, 2008, from 1 to 3 p.m., originating in the ICN Room on the second floor of the 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 advise the Department of Education of specific needs by calling (515)281-5295. In addition to the origination site, the remote ICN sites are as follows:

Keystone Area Education Agency 1
1400 2nd Street NW
Elkader 52043

North Iowa Area Community College
Room Number: 106
Room Location: Activity Center
500 College Drive
Mason City 50401

Green Valley Area Education Agency 14
Room Location: Turner Room
1405 N. Lincoln
Creston 50801

Northwest Area Education Agency 12
Room Number: 206
1520 Morningside Avenue
Sioux City 51106

Grant Wood Area Education Agency 10
Room Location: Revere Room
4401 6th Street SW
Cedar Rapids 52404

Loess Hills Area Education Agency 13
24997 Hwy. 92
Council Bluffs 51502

Southern Prairie Area Education Agency 15
2814 N. Court Street
Ottumwa 52501

Pocahontas Area High School
205 2nd Avenue NW
Room Number: 101
Pocahontas 50574

Mississippi Bend AEA 9
Room Location: Louisa Room
729 21st Street
Bettendorf 52722

These amendments are intended to implement Iowa Code sections 256B.3 and 280.21.

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 **281—Chapter 103**, title, as follows:

CHAPTER 103
CORPORAL PUNISHMENT BAN; *RESTRAINT;*
PHYSICAL CONFINEMENT OR DETENTION

ITEM 2. Amend **281—Chapter 103**, parenthetical implementation statutes, as follows:
(256B,280)

ITEM 3. Amend rule 281—103.1(256B,280) as follows:

281—103.1(256B,280) Purpose. In conjunction with Iowa Code Supplement section 280.21, the purpose of this chapter is to define and exemplify generally the limitations placed on employees of public schools, accredited nonpublic schools, and area education agencies in applying physical contact or force to enrolled students, and to require that any such force or contact is reasonable and necessary under the circumstances. *These rules also provide requirements for administrators and staff of public schools, accredited nonpublic schools, and area education agencies regarding the use of physical restraints and physical confinement or detention. The applicability of this chapter to physical restraint or physical confinement or detention does not depend on the terminology employed by the organization to describe physical restraint or physical confinement or detention.*

ITEM 4. Amend rule 281—103.3(256B,280) as follows:

281—103.3(256B,280) Exclusions. Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized ~~educational~~ education program developed under the ~~Education for All Handicapped Children Act and Individuals with Disabilities Education Act, as reauthorized~~, Iowa Code chapter 256B, and 281—Chapter 41; however, under no circumstance shall an individualized education program violate the provisions of this chapter;
4. Detention in a seat, classroom or other part of a school facility, unless the detention is accomplished by the use of material restraints applied to the person; . *For purposes of this chapter, material restraints do not include devices, objects, or techniques required or ordered for reasons of safety (e.g., safety harnesses on school buses) or for therapeutic or medical treatment (e.g., devices used for physical or occupational therapy), provided those devices, objects, or techniques are so used, and used for no other purpose;*
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of an area education agency employing or utilizing the services of the employee.

ITEM 5. Amend rule 281—103.6(256B,280) as follows:

281—103.6(256B,280) Physical confinement and or detention. If a student is physically confined or detained in a portion of a school facility, the following conditions shall be observed:

1. The area of confinement shall be of reasonable dimensions; , *considering the age, size, and physical and mental condition of the student subject to confinement or detention, and shall be free from hazards and dangerous objects or instruments;*

EDUCATION DEPARTMENT[281](cont'd)

2. There shall be sufficient light and adequate ventilation for human habitation;

3. A comfortable temperature shall be maintained, consistent with the facility that includes the detention or confinement area;

4. Reasonable break periods shall be afforded the student to attend to bodily needs. However, sleep shall not be considered a "bodily need" for purposes of this subrule;

5. The period of detention or confinement is reasonable, *considering the age, size, and physical and mental condition of the student subject to confinement or detention*, and not in excess of the hours in a school day as defined by local board policy or rule. ~~However~~ ; *however*, reasonable periods of before- and after-school detention are permissible ; *If a period of physical confinement or detention exceeds the shorter of 60 minutes or the school's typical class period, staff members shall evaluate the continued need for physical confinement or detention, shall obtain administrator (or designee) approval for any continued confinement or detention beyond the initial periodic reevaluation, and shall comply with any administrator (or designee) directives concerning any continued confinement or detention;*

6. Adequate and continuous adult supervision is provided;

7. Material restraints applied to the person are not used to effect confinement ;

8. *If a room or enclosure used for physical confinement or detention has a locking mechanism, such room and mechanism shall comply with all applicable building code requirements and the following additional requirements:*

- *If a locking mechanism is used, it shall be constructed so it will engage only when a key, handle, knob, or other device is held in position by a person, unless the mechanism is electrically or electronically controlled and automatically releases when the building's fire alarm system is activated, the building's severe weather warning system is activated, or electrical power to the mechanism is interrupted.*

- *When the locking mechanism is released, the door must be able to be readily opened from the inside.*

- *If a locking mechanism requires a key, handle, knob, or other device to be held in position by a person before the mechanism is engaged, no person shall take any action, or cause such action to be taken, or employ any object, device, or instrument, or cause such to be employed, that disables the key, handle, knob or other device such that the locking mechanism engages or remains engaged without the key, handle, knob, or other device being held in position by a person.*

ITEM 6. Adopt the following **new** rule 281—103.7(256B, 280):

281—103.7(256B,280) Additional minimum mandatory procedures. If a public school, accredited nonpublic school, or area education agency seeks to use physical restraint, physical confinement or detention, or both, it shall do so in compliance with the minimum requirements of this chapter. The board of a public school, accredited nonpublic school, or area education agency may adopt policies and procedures regarding the use of physical restraint, physical confinement or detention, or both, that exceeds the minimum requirements contained in this chapter. Additional minimum mandatory procedures are as follows:

1. Physical restraint and physical confinement or detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances;

2. All school employees, before using physical restraint or physical confinement or detention, shall receive adequate and periodic training, which shall be documented and which shall include training on these rules and the employer's policies and procedures; positive behavior interventions and supports; disciplinary alternatives to seclusion and restraint; crisis prevention, crisis intervention, and crisis de-escalation techniques; and the safe and effective use of physical restraint and physical confinement or detention;

3. Parents and students are notified at least annually of this chapter and of any additional policies and procedures of the public school, accredited nonpublic school, or area education agency on physical restraint and physical confinement or detention;

4. Any physical restraint shall be reasonable and necessary in duration, in light of the provisions of this chapter;

5. If a student is subjected to physical restraint or physical confinement or detention, the public school, accredited nonpublic school, or area education agency shall maintain documentation for each such occurrence, which shall contain at least the following information:

- The names of the student and the employees involved in the restraint, confinement, or detention, as well as the administrator who authorizes any additional periods of confinement or detention pursuant to numbered paragraph "5" of rule 103.6(256B,280);

- The date, time, and duration of the occurrence;
- The actions of the student before, during, and after the occurrence;

- The actions of the employees involved in the occurrence before, during, and after the occurrence;

- The alternatives to physical restraint or physical confinement or detention attempted before the occurrence;

- A description of any injuries (whether to the student or others) and any property damage;

- A description of future approaches to the student's behavior; and

6. The student's parent or guardian must be provided a written copy of the documentation required by numbered paragraph "5" of this rule, which shall be postmarked within three school days of the occurrence. The student's parent or guardian may elect, in writing, to receive the communication required by this subrule via electronic mail or facsimile transmission.

ITEM 7. Adopt the following **new** rule 281—103.8(256B, 280):

281—103.8(256B,280) Additional provisions concerning physical restraint. If an employee of a school district, accredited nonpublic school, or area education agency employs physical restraint, the following provisions shall apply:

1. Under no circumstance shall any employee use any restraint or other technique that places a child face down or places pressure on the child's back;

2. Under no circumstance shall any employee use any restraint that obstructs the airway of any child or otherwise impairs breathing;

3. If an employee physically restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of restraint for brief periods, unless an employee determines that such freedom appears likely to result in harm to self or others.

ITEM 8. Amend **281—Chapter 103**, implementation sentence, as follows:

EDUCATION DEPARTMENT[281](cont'd)

These rules are intended to implement Iowa Code Supplement sections 256B.3 and 280.21 and 1990 Iowa Acts, chapter 1218.

ARC 6848B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The Board created Form DR-SFA to permit a candidate or organization that has not exceeded the \$750 financial filing threshold for registering a campaign committee to use the short form “paid for by” attribution statement on political materials as set out in Iowa Code section 68A.405. The proposed amendment would require the candidate or organization to file a Form DR-SFA with the Board prior to the distribution of political materials containing the short form attribution statement.

The proposed amendment does not contain a waiver provision because to permit the filing of the form after the distribution of the political materials would reduce public disclosure.

Any interested person may make written comments on the proposed amendment on or before July 8, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68A.201 and 68A.405.

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 351—4.11(68A) as follows:

351—4.11(68A) Voluntary registration—Form DR-SFA.

4.11(1) Persons voluntarily registering a committee. A person that has not exceeded the \$750 financial filing threshold may file Form DR-SFA for purposes of using the short form “paid for by” attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). *A person using the short form “paid for by” attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form “paid for by” attribution statement.*

4.11(2) \$750 threshold later exceeded. A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the \$750 threshold is later exceeded. A person that later exceeds the \$750 threshold and that fails to timely file a statement of

organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

This rule is intended to implement Iowa Code sections 68A.201 and 68A.402A 68A.405.

ARC 6849B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 8, “Executive Branch Lobbying,” Iowa Administrative Code.

The proposed amendment clarifies the type of expenses that executive branch lobbyists should disclose on their executive branch lobbying reports. The sections discussing “compensation” are removed because compensation paid to executive branch lobbyists is disclosed on separate forms filed by their clients.

The proposed amendment does not contain a waiver provision as no additional burden is being placed on the regulated community.

Any interested person may make written comments on the proposed amendment on or before July 8, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.37.

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 351—8.6(68B) as follows:

351—8.6(68B) Executive branch lobbying expenditures defined. This rule is intended to aid executive branch lobbyists in reporting expenditures as required by Iowa Code section 68B.37 that are made by lobbyists for executive branch lobbying purposes. The provisions of this rule are intended to serve as a general guideline to obtain uniform reporting. ~~The following are defined as executive branch lobbying expenditures:~~

8.6(1) Expenditures defined. *The following are defined as executive branch lobbying expenditures:*

4 a. Direct communication expenses such as telephone calls, letters, faxes, printing, and postage for purposes of engaging in executive branch lobbying.

b. *Other tangible costs directly associated with engaging in executive branch lobbying as defined in rule 351—8.1(68B).*

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

~~2.— Compensation received for time spent researching and drafting proposed legislation, rules, or executive orders when the draft is then submitted to any executive branch official or employee.~~

~~3.— Compensation received for time spent by the lobbyist communicating with executive branch officials and employees for purposes of engaging in executive branch lobbying.~~

8.6(2) Lobbyist client expenses. For purposes of this rule, any of these the expenses set out in subrule 8.6(1) incurred by a lobbyist's client shall apply to the lobbyist and shall be a reportable expense by the lobbyist. However, an expenditure made by any organization for publishing a newsletter or other informational release for its members is not a reportable expenditure.

This rule is intended to implement Iowa Code section 68B.37.

ARC 6839B

INSPECTIONS AND APPEALS DEPARTMENT[481]

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 Supplement section 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

This rule making rescinds duplicate provisions for mobile units/pushcarts that are included in the 2005 Food and Drug Administration Food Code with Supplement, which was adopted effective July 1, 2008, with publication on April 9, 2008, in the Iowa Administrative Bulletin as **ARC 6708B**. Rule 481—31.7(137F) is rescinded so that the standards set forth for mobile units/pushcarts in the Food Code will be applied to mobile units/pushcarts rather than the standards in rule 481—31.7(137F). The effects on the regulated industry will be the lowering of the required holding temperatures, the lowering of the required cooking temperatures for pork, the adoption of the same standards for bare-hand contact as for all other food establishments, and the adoption of the uniform consumer advisory.

This rule making is not subject to a waiver provision because the amendment rescinds a rule; the rules in place subsequent to rescission are subject to waiver provisions through the 2005 Food and Drug Administration Food Code with Supplement and the Department's general waiver provisions at 481—Chapter 6.

Any interested person may make written comments or suggestions on this proposed amendment by Tuesday, July 8, 2008. Such written materials should be directed to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, Lucas State Office Building, Third Floor, 321 East 12th Street, Des Moines, Iowa 50319-0083; fax (515)242-6863; or E-mail steven.mandernach@dia.iowa.gov.

This amendment is intended to implement Iowa Code Supplement chapter 137F.

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 and reserve rule **481—31.7(137F)**.

ARC 6853B

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 71, “Administration,” Chapter 72, “New Installations,” Chapter 75, “Fees,” and Chapter 76, “Permits,” Iowa Administrative Code.

The technology to create electricity from wind is evolving rapidly, and the wind energy industry is expanding rapidly in Iowa. Many of the wind towers being constructed today are approximately 300 feet high, and mechanics must have access to the full interior of the towers and the mechanical rooms at the top of the towers. While the towers are equipped with ladders and standards exist to protect workers from falls while climbing, the knees and arms of mechanics have been severely impacted by repetitive trauma while climbing. Since the height of the newer towers is increasing and the towers are proliferating, the need to find a safe, effective method for getting workers to the top of the towers is pressing.

Installation of a traditional elevator in a wind tower presents a significant engineering challenge. The towers are tapered from bottom to top and they are flexible enough to move significantly with the wind. Traditional elevators have rigid guide rails welded to the walls of hoistways. This practice is not feasible in a wind tower.

Powered equipment is being installed in towers to move the mechanics up and down, but there are no directly applicable safety codes for the equipment. The Elevator Safety Board has determined that this equipment, commonly referred to as a “lift” or “work cage” by the industry, meets the definition of “elevator” found in Iowa Code chapter 89A.

Rapid development of the wind energy industry and the unique environment of these installations have put the technology ahead of the ability of code-writing bodies to respond. The American Society of Mechanical Engineers (ASME) has begun the lengthy process of implementing a new performance-based code, ASME A17.7(2007), that will eventually ensure the health and safety of mechanics using wind tower lifts, and the Elevator Safety Board voted to adopt ASME Code A17.7(2007) effective July 23, 2008. However, it could be many months before wind tower lifts can receive approval through the ASME performance-based code.

LABOR SERVICES DIVISION[875](cont'd)

Since wind tower lifts have already been installed and more installations are planned to begin soon, the Elevator Safety Board has determined that temporary amendments to the elevator safety rules are imperative to ensure the safety and health of wind tower mechanics pending completion of the performance-based code process through ASME.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on July 8, 2008, a public hearing will be held on July 9, 2008, at 10 a.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515) 242-5869 in advance to arrange access or other needed services.

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6852B** to allow public comment. The content of that submission is incorporated by reference.

The principal reasons for adoption of these amendments are to protect worker safety and health and to implement legislative intent. No variance provision is included in these amendments as 875—Chapter 66 sets forth applicable variance procedures.

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

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

ARC 6858B**MEDICINE BOARD[653]****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 147.76 and 272C.3, the Board of Medicine hereby proposes to amend Chapter 1, “Administrative and Regulatory Authority,” and Chapter 25, “Contested Case Proceedings,” Iowa Administrative Code.

The proposed amendments are intended to enact 2008 Iowa Acts, Senate File 2338, section 46, that becomes effective on July 1, 2008, by updating Chapters 1 and 25. Item 1 defines an alternate board member. Item 2 defines the Board's authority to appoint a pool of up to ten alternate board members to serve on a hearing panel when a sufficient number of board members is unavailable to hear a contested case. An alternate board member is deemed a member of the Board only for the hearing panel(s) for which the alternate member serves. Item 3 identifies how alternate board mem-

bers are approved. Item 4 gives the executive director, or designee, the authority to request an alternate board member to serve on a hearing panel when a sufficient number of board members is unavailable to hear a contested case. Item 5 establishes that a decision of a hearing panel containing alternate members is considered a final decision of the Board, in accordance with Iowa Code Supplement section 148.2A as amended by 2008 Iowa Acts, Senate File 2338, section 46.

The Board approved these amendments to Chapters 1 and 25 during a regularly scheduled meeting on May 15, 2008.

Any interested person may present written comments on these proposed amendments not later than 4:30 p.m. on July 8, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or E-mailed to ann.mowery@iowa.gov.

There will be a public hearing on July 8, 2008, at 3 p.m. at the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 147, 148, and 272C.

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

The following amendments are proposed.

ITEM 1. Amend rule **653—1.1(17A,147)** by adding the following **new** definition in alphabetical order:

“Alternate member” shall mean a person who is qualified under Iowa Code section 148.2A to substitute for a board member who is disqualified or becomes unavailable for any other reason for a contested case hearing. An alternate board member is deemed a member of the board only for the hearing panel(s) for which the alternate board member serves.

ITEM 2. Amend subrule **1.3(5)** by adding **new** paragraph “p” as follows:

p. Establish a pool of up to ten alternate board members to serve on a hearing panel when a sufficient number of board members is unavailable to hear a contested case.

ITEM 3. Adopt **new** subrule 1.3(7) as follows:

1.3(7) Establishes, in accordance with Iowa Code section 148.2A, a pool of alternate board members.

a. At the beginning of each fiscal year, the executive director presents a list of persons who are qualified under Iowa Code section 148.2A to serve as alternate board members for the year beginning September 1.

b. The executive director shall present the board-approved list of alternate board members to the governor for approval.

c. Once the governor approves an alternate board member, the executive director or designee may assign the approved member to hear a contested case when an approved number of board members is unavailable.

ITEM 4. Amend subrule 25.18(1) as follows:

25.18(1) A hearing may be conducted before the board or a panel of not less than three members of the board, at least two of whom are licensed by the board.

When a sufficient number of board members is unavailable to hear a contested case, the executive director, or the executive director's designee, may request alternate members, as defined in rule 653—1.1(17A,147) and Iowa Code

MEDICINE BOARD[653](cont'd)

section 148.2A, to serve on the hearing panel. A hearing panel containing alternate members must include at least six people, of whom the majority shall be members licensed to practice under Iowa Code chapter 148.

ITEM 5. Amend subrule 25.24(1) as follows:

25.24(1) Final decisions.

a. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members of the board shall constitute a quorum. A final decision of the board is an open record. Final decisions shall be served on the parties in accordance with subrule 25.11(2).

b. A decision of a hearing panel containing alternate members is considered a final decision of the board, in accordance with Iowa Code section 148.2A.

ARC 6862B

MEDICINE BOARD[653]

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 147.76 and 272C.3, the Board of Medicine hereby proposes to amend Chapter 8, “Fees,” Iowa Administrative Code.

The proposed amendments are intended to update the Board’s rules on verification of physician licensure and fees for public records. Item 1 eliminates a service for verification of licensure status by a password-protected Web site that is no longer used. It also adds a provision that requires that physicians use an online service, VeriDoc, to verify the status of their license to another medical board. Currently, one state does not accept VeriDoc’s electronic verification; therefore, a provision is included for the Board to continue to send paper verifications to that state. The VeriDoc fee for a certified statement verifying Iowa licensure status to another medical board is \$40, which is the same fee the Board charges for a paper verification. Item 2 eliminates a subscription charge for electronically shared press releases, statements of charges, final orders and consent agreements. The information is available for free on the Board’s Web site or through a state listserv that provides free information to the public.

The Board approved these amendments to Chapter 8 during a regularly scheduled meeting on May 15, 2008.

Any interested person may present written comments on these proposed amendments not later than 4:30 p.m. on July 8, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686, or E-mailed to ann.mowery@iowa.gov.

There will be a public hearing on July 8, 2008, at 3 p.m. at the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 147, 148, 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 subrule 8.5(1) as follows:

8.5(1) Verification fees.

a. ~~Upon written request and payment of the designated fees, the board shall provide the following information about the status of licensees or examinees:~~

~~(1) Certified statement that verifies the status of licensure in Iowa that requires the board seal or a letter of good standing, \$40.~~

~~(2) Verification of the status of licensure in Iowa that does not require a certified statement or letter, \$15 each.~~

~~(3) Verification of licensure status from a password-protected Web site, \$3 per verification.~~

a. Physicians shall use VeriDoc to secure a certified statement that verifies Iowa licensure status for any state medical board that accepts VeriDoc. VeriDoc is accessible at <http://www.veridoc.org/>. The fee for this service is \$40.

b. A physician who needs a certified statement that verifies Iowa licensure status for a state medical board that does not accept verification from VeriDoc shall make a written request for a certified statement with payment of a \$40 verification fee to the Iowa Board of Medicine. The Iowa board shall provide a certified statement that verifies Iowa licensure status to the nonaccepting state medical board.

c. The fee for verification of Iowa licensure status that does not require a certified statement or letter is \$15.

d. The board shall provide an automated telephone verification service whereby callers can input the licensee’s license number or social security number and receive verbally the licensee’s current licensure status. There is no fee for this service.

The board shall provide a license number for an individual caller to use in the automated telephone verification service. Businesses that utilize verifications will be required to utilize the automated telephone verification service or the alternatives alternative outlined in 8.5(1)“a.” “c.”

ITEM 2. Amend rule 653—8.6(147,148,272C) as follows:

653—8.6(147,148,272C) Public records.

8.6(1) Public records available at no cost. The following records are available at no cost to the public:

a. Public action taken by the board against a licensee may be found under the licensee’s name on the board’s Web site, <http://medicalboard.iowa.gov>, under “Find A Physician.” Public actions are posted on the board’s Web site within approximately one week after the board has taken action.

b. Electronic files of press releases, statements of charges, final orders and consent agreements from each board meeting are available within approximately one week after the board has taken action. These files are available on the board’s Web site, <http://medicalboard.iowa.gov>.

8.6(1) 8.6(2) Purchase of public records. Public records are available according to 653—Chapter 2, “Public Records and Fair Information Practices.” Payment made to the Iowa Board of Medicine shall be received in the board office prior to the release of the records.

a. Copy Copies of public records shall be calculated at \$.25 per page plus labor. A \$16 per hour fee shall be charged for labor in excess of one-quarter hour for searching and copying documents or retrieving and copying information stored electronically. No additional fee shall be charged for

MEDICINE BOARD[653](cont'd)

delivery of the records by mail or fax. Fax is an option if the requested records are fewer than 30 pages. The board office shall not ~~required~~ *require* payment when the fees for the request would be less than \$5 total.

b. Electronic ~~copy~~ *copies* of public records delivered by E-mail shall be calculated at \$.10 per page; the minimum charge shall be \$5. A \$16 per hour fee shall be charged for labor in excess of one-quarter hour for searching and copying documents or retrieving and copying information stored electronically. The board office shall not require payment when the fees for the requests would be less than \$5 total.

~~c. Electronic files of press releases, statements of charges, final orders and consent agreements from each board meeting delivered via E-mail shall be available for an annual subscription fee of \$24 or a prorated portion thereof, based on the calendar year.~~

d. Printed copies of press releases, statements of charges, final orders and consent agreements from each board meeting shall be available for an annual subscription fee of \$192 or a prorated portion thereof, based on the calendar year.

ARC 6859B

MEDICINE BOARD[653]

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 147.76 and 272C.3, the Board of Medicine hereby proposes to amend Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The proposed amendment removes a requirement in order to allow a physician who has previously held a permanent physician license in a United States jurisdiction to practice under a resident physician license when the physician is enrolled as an intern, a resident or a fellow in an Iowa resident training program. A similar amendment was adopted earlier this year, but the Board overlooked updating paragraph 10.3(2)"d" with the same requirement.

The Board approved the amendment to Chapter 10 during a regularly scheduled meeting on May 15, 2008.

Any interested person may present written comments on this proposed amendment not later than 4:30 p.m. on July 8, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by E-mail to ann.mowery@iowa.gov.

This amendment is intended to implement Iowa Code chapters 147 and 148.

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

The following amendment is proposed.

Rescind subrule **10.3(2)**, paragraph "d."

ARC 6860B

MEDICINE BOARD[653]

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 147.76, 148E.7 and 272C.3, the Board of Medicine hereby gives Notice of Intended Action to amend Chapter 11, "Continuing Education and Mandatory Training for Identifying and Reporting Abuse," and Chapter 23, "Grounds for Discipline," Iowa Administrative Code.

The proposed amendments address a licensee's failure to comply with an audit of continuing education or mandatory training for identifying and reporting abuse within 30 days of a request by board staff. The amendment also establishes that failure to comply with the audit is grounds for discipline.

The Board approved the proposed amendments during its regularly held meeting on May 15, 2008.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on July 8, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686; or sent by E-mail to ann.mowery@iowa.gov.

There will be a public hearing on July 8, 2008, at 2:30 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 17A, 147, 148 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 subrule **11.4(1)**, paragraph "a," subparagraph (3), as follows:

(3) A licensee shall maintain a file containing records documenting continuing education activities, including dates, subjects, duration of programs, registration receipts where appropriate and any other relevant material, for four years after the date of the activity. The board may audit this information at any time within the four years. *If the board conducts an audit of continuing education activities, a licensee shall respond to the board and provide all materials requested, within 30 days of a request by board staff. Failure to comply with this provision is grounds for discipline.*

ITEM 2. Amend subrule **11.4(1)**, paragraph "c," subparagraph (4), as follows:

(4) A licensee shall maintain a file containing records documenting mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years after the date of the training. The board may audit this information at any time within the five-year period. *If the board conducts an audit of mandatory training for identifying and reporting abuse, a li-*

MEDICINE BOARD[653](cont'd)

censee shall respond to the board and provide all materials requested, within 30 days of a request made by board staff. Failure to comply with this provision is grounds for discipline.

ITEM 3. Renumber subrule **23.1(38)** as **23.1(40)** and adopt **new** subrules 23.1(38) and 23.1(39) as follows:

23.1(38) Failure to respond to the board or submit continuing education materials during a board audit, within 30 days of a request made by board staff.

23.1(39) Failure to respond to the board or submit requested mandatory training for identifying and reporting abuse materials during a board audit, within 30 days of a request made by board staff.

ARC 6861B

MEDICINE BOARD[653]

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 147.76, 148E.7 and 272C.3, the Board of Medicine hereby gives Notice of Intended Action to amend Chapter 25, “Contested Case Proceedings,” Iowa Administrative Code.

Iowa Code section 148.7(4) addresses the licensee’s right to appear personally and by attorney at a hearing or a prehearing conference. The proposed amendment in Item 1 defines “appear personally” to mean that a licensee may participate in a hearing via teleconference or videoconference or be physically present. Item 2 allows the respondent to appear personally and by attorney.

The Board approved the proposed amendments during its regularly held meeting on May 15, 2008.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on July 8, 2008. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medicine, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686; or sent by E-mail to ann.mowery@iowa.gov.

There will be a public hearing on July 8, 2008, at 2:30 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 17A and 148.

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 **653—25.1(17A)** by adding the following **new** definition in alphabetical order:

“Appear personally” means the ability to participate at a hearing or a prehearing conference through teleconference or videoconference or to be physically present.

ITEM 2. Amend subrule 25.18(5) as follows:

25.18(5) Parties have the right to ~~participate or~~ *appear personally and* to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney at the party’s own expense.

ARC 6845B

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 rescind Chapter 360, “Administrative and Regulatory Authority for the Board of Interpreter for the Hearing Impaired Examiners,” to amend Chapter 361, “Licensure of Sign Language Interpreters and Transliterators,” Chapter 362, “Continuing Education for Interpreter for the Hearing Impaired Practitioners,” and Chapter 363, “Discipline for Interpreter for the Hearing Impaired Practitioners,” and to rescind Chapter 364, “Fees,” Iowa Administrative Code.

These proposed amendments rescind rules that duplicate currently existing rules in 645—Chapters 4 and 5.

Any interested person may make written comments on the proposed amendments no later than July 8, 2008, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075 or by E-mail to pwilson@idph.state.ia.us.

A public hearing will be held on July 8, 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. Rescind and reserve **645—Chapter 360**.

ITEM 2. Rescind and reserve rules **645—361.4(147)**, **645—361.6(147)**, **645—361.7(147)**, and **645—361.8(17A, 147,272C)**.

ITEM 3. Amend **645—Chapters 362** and **363** by striking the term “board of interpreter for the hearing impaired examiners” wherever it appears and inserting the term “board of sign language interpreters and transliterators” in lieu thereof.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 4. Rescind and reserve rules ~~645—362.4(154E, 272C)~~, ~~645—362.5(154E, 272C)~~, ~~645—362.6(272C)~~, and ~~645—362.7(154E, 272C)~~.

ITEM 5. Rescind and reserve rule ~~645—363.5(154E)~~.

ITEM 6. Rescind and reserve ~~645—Chapter 364~~.

ARC 6844B**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 Supplement section 543B.54 and Iowa Code section 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to adopt new Chapter 22, “Operations of Grant Committee,” and Chapter 23, “Grant Applications and Awards,” Iowa Administrative Code.

Proposed new Chapter 22 establishes the organization and operation of the Real Estate Education Grant Committee. Proposed new Chapter 23 establishes the process and requirements for grant application and awards.

A public hearing will be held on July 8, 2008, at 10 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer, Ankeny, Iowa, at which time persons may present their views on the proposed rules 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 rules.

Consideration will be given to all written suggestions or comments received before the end of the business day on July 8, 2008. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to david.batts@iowa.gov.

These rules are intended to implement Iowa Code Supplement section 543B.54 as amended by 2008 Iowa Acts, Senate File 2250, section 4, and Iowa Code section 543B.18.

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

The following amendment is proposed.

Adopt the following **new** chapters:

CHAPTER 22**OPERATIONS OF GRANT COMMITTEE**

193E—22.1(543B) Definitions. For the purposes of this chapter, the following definitions apply:

“Applicant” means an Iowa community college or other Iowa college or university that provides or intends to provide real estate education programs and that makes application for a grant.

“Commission” means the Iowa real estate commission.

“Committee” means the seven-member real estate education grant committee composed of two members of the Iowa

real estate commission; four members of the Iowa Association of Realtors; and one member of the general public. The committee is responsible for reviewing grant applications and designating grant awards.

“Grantee” means an applicant who has been awarded a grant.

193E—22.2(543B) Scope. This chapter governs the conduct of business by the Iowa real estate education grant committee. The committee shall receive grant applications from and award grants to community colleges and other colleges and universities in the state that provide real estate education programs. The purpose of the grant is to help underwrite the cost of providing courses that use the curriculum maintained by the commission as provided by Iowa Code Supplement section 543B.54. The committee awards grants in its sole discretion by majority vote of the committee.

193E—22.3(543B) Membership. As provided by Iowa Code Supplement section 543B.54(2), the committee shall be composed of seven voting members: two must be members of the commission; four must be active members in good standing of the Iowa Association of Realtors (IAR); and one must be a member of the general public and not licensed under Iowa Code chapter 543B.

22.3(1) Appointment. Members of the committee shall be appointed by the following means:

a. Commission members. The commission shall appoint by majority vote two persons who are members of the commission.

b. IAR representative members. The IAR shall appoint through a procedure of its own choosing four persons who are members of the IAR. The IAR shall certify in writing to the real estate commission education director the names of its appointees to the committee.

c. Public member. The commission shall appoint by majority vote one person who is a member of the general public not licensed under Iowa Code chapter 543B.

22.3(2) Term. Members of the committee shall be appointed for three-year terms that shall commence at 12:01 a.m. on May 1 in the year of appointment and end at midnight on April 30 in the year of expiration. A member shall serve no more than three terms or nine years, whichever is less.

22.3(3) Vacancies. Vacancies on the committee shall be filled for the unexpired term in the same manner as provided in subrule 22.3(1).

22.3(4) Committee officers. The chair, vice-chair, and recording secretary of the committee shall be elected by majority vote of the committee.

193E—22.4(543B) Time and place of meetings. The committee shall meet at least annually if there are moneys in the fund for grants. All meetings of the committee are subject to Iowa Code chapter 21 (open meetings law). The real estate commission education director, in consultation with the committee chair, shall establish the date and proposed agenda for all meetings. All meetings of the committee shall be held at the office of the commission. When an in-person meeting is impossible or impractical, the committee may conduct a meeting by electronic means pursuant to Iowa Code section 21.8. The real estate commission education director shall provide notice of all meeting dates, locations, and agenda as required by Iowa Code chapter 21.

193E—22.5(543B) Notification of meetings. Notice of meetings will be given by the posting and distributing of the agenda. The agenda for each meeting will be posted at the of-

REAL ESTATE COMMISSION[193E](cont'd)

office of the commission. The real estate commission education director shall be responsible for providing the agenda to those interested parties making written request.

193E—22.6(543B) Attendance and participation by the public. All meetings are open to the public. Persons who wish to address the committee about a matter on the agenda should notify the committee chair or the real estate commission education director at least three days before the meeting. Iowa Code section 21.4 requires a committee to give notice of its proposed agenda. Therefore, the committee chair shall discourage persons from raising matters not on the agenda. Persons who wish to address the committee on a matter not on the agenda should file a request with the committee chair or the real estate commission education director to place the matter on the agenda of a subsequent meeting.

193E—22.7(543B) Quorum and voting requirements.

22.7(1) Quorum. Four members shall constitute a quorum of the committee.

22.7(2) Majority voting. Unless otherwise provided by these rules, action by the committee must be approved by a simple majority of the committee members present.

22.7(3) Voting procedures. The committee chair shall rule as to whether the vote will be by voice vote or roll call. A roll-call vote shall be taken at the request of any member of the committee.

193E—22.8(543B) Minutes and recording of meetings.

22.8(1) Recordings. The committee shall record by electronic means closed sessions. The electronic record shall be sealed and retained by the real estate education director on behalf of the committee for at least one year.

22.8(2) Minutes. The committee shall keep minutes of each meeting. Minutes shall be reviewed and approved by the committee and retained by the real estate education director on behalf of the committee for at least three years.

These rules are intended to implement Iowa Code Supplement section 543B.54 as amended by 2008 Iowa Acts, Senate File 2250, section 4.

CHAPTER 23

GRANT APPLICATIONS AND AWARDS

193E—23.1(543B) Scope. This chapter establishes the rules of the Iowa real estate education grant committee for the revenues collected pursuant to Iowa Code section 543B.14 and distributed pursuant to Iowa Code Supplement section 543B.54.

193E—23.2(543B) Application process.

23.2(1) Notice. Upon request of the committee, the real estate education director shall announce the opening of the application process by public notice. All communications relating to the committee, the application process, and grants awarded shall be directed to the real estate education director or the director's designee.

23.2(2) Every Iowa community college, college, and university in the state that seeks grant funds must submit an application.

23.2(3) Contents.

a. Each application must contain the following:

(1) The name and address of the applicant and the telephone number of a contact person.

(2) A proposal summary that contains the reasons for the grant request, a plan of action which details how the awarded funds will be spent, and the results and benefits that are expected. The action plan must include:

1. The grant goals, objectives, time lines, responsible individuals, and methods of evaluation. The grant results shall be quantifiable and measurable.

2. The establishment of an end result which is beneficial to the real estate profession.

3. The number of projected real estate education courses/studies/projects to be promoted by the applicant.

(3) A budget detailing how the grant funds will be expended.

(4) Assurances that the applicant will comply with the conditions and procedures for grant administration, including a plan for project monitoring.

(5) A plan for evaluation.

(6) Assurance that the funds will not be used to retire pre-existing financial obligations.

(7) Assurances that the applicant will comply with the conditions for financial management.

b. One original application and eight copies of the application shall be filed with the real estate education director or the director's designee, who shall provide a copy to each committee member.

23.2(4) The committee chair, designee, or a subcommittee appointed by the chair shall be responsible to determine which applications, if any, qualify for consideration. All applicants whose applications are rejected shall be notified of the rejection and why. The following are the reasons for which an application shall not be considered:

a. The application is received after the date and time specified in the notice.

b. The application does not contain the required information.

c. The application does not use the curriculum maintained by the commission.

23.2(5) The committee shall notify successful applicants and shall provide each successful applicant with a contract for signature. This contract shall be signed by the committee chair and an official with authority to bind the grantee. The original executed contract shall be returned to the real estate education director at the office of the commission prior to the disbursement of any funds under this program. Disbursement of funds will be processed by the professional licensing and regulation bureau within 60 days after the real estate education director has received the fully executed contract.

23.2(6) A grant shall be awarded for a 12-month period. The grant may be renewed for subsequent years by the grantee's making application as required.

23.2(7) If the applicant and the committee are unable to successfully negotiate a contract, the committee may withdraw the offer of the grant.

23.2(8) Applications that do not receive grants, or do not qualify, shall be retained for a period of six months from the date of the application deadline.

193E—23.3(543B) Selection of grant proposals. A majority vote of the committee as a whole is required to award any and all grants under this program. All votes of the committee to award any and all grants under this program shall be made in open session at a meeting of the committee.

23.3(1) Evaluation of proposals. All applications completed as directed and submitted within the time frames allowed will be evaluated by the committee. Each committee member will recommend and advise action on each application.

23.3(2) Final discretion. The committee shall have full and final discretion on the awarding of grants. The committee's decisions regarding grant applications are not appeal-

REAL ESTATE COMMISSION[193E](cont'd)

able to the commission. The commission will not and is not authorized to consider committee award decisions.

23.3(3) Factors in selection. The following factors will be considered in selecting proposals for grant awards:

- a. The demonstrated need for or value of the project.
- b. The support of and coordination with the applicant's existing program.
- c. The course/program structure, including how realistic goals and objectives are, likelihood of the anticipated impact on the area addressed, experience serving similar populations or providing similar services, administration of funds, stability of the organization and the overall quality of the proposal in comparison to other proposals submitted.
- d. Plans for use of funds. Grant funds may not be used for construction, capital improvements, or purchase of real estate.

23.3(4) The sum total of the grant, or grants, awarded shall not exceed the amount of funds available in the grant account on the date the committee votes to award the funds.

23.3(5) Applying for a grant does not entitle the applicant to any funds. The committee shall have sole discretion to decide which, if any, application shall be funded and in what amount.

193E—23.4(543B) Evaluation. When requested by the committee, the grantee shall cooperate with the committee and shall provide information to determine how the goals and objectives of the project are being met. The committee shall evaluate the grantee at least once prior to the end of the contract period to determine whether the goals are being met and shall provide feedback to the grantee.

193E—23.5(543B) Termination.

23.5(1) Cause. The contract may be terminated in whole or in part at any time before the date of grant expiration, whenever the committee determines that the grantee has failed to comply substantially with the conditions of the contract or there is a lack of funds available for the contract. The grantee shall be notified in writing of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion of the contract after the effective date of termination and shall cancel outstanding obligations.

23.5(2) Responsibility of grantee at termination. Within 45 days of the termination, the grantee shall supply the committee with a financial statement detailing all costs up to the effective date of the termination. If the grantee expends moneys other than for specified budget items approved by the committee, the grantee shall return moneys for the unapproved expenditures.

193E—23.6(543B) Financial management.

23.6(1) Financial documents. The grantee shall follow generally accepted accounting principles for financial records and procedures established.

23.6(2) Financial reporting. Within 90 days of the expiration or termination of a grant, the recipient shall submit to the committee a full disclosure of the status of grant expenditures compared to budgeted amounts on a line item basis. Expenditures shall be reported on a line item basis, and any expenditure exceeding 5 percent of the line item will require the grantee to submit an amended application to the committee for approval. This approval must accompany the close-out report to justify any positive 5 percent deviation.

23.6(3) Retention of records. All financial and program records, supporting documents, statistical records, and other records of the grantee which are relevant to this rule shall be maintained for three years from the starting date of the grant

agreement. This time period will be extended if any litigation, claim, negotiation, audit, investigation, or other action involving the records has begun before the end of the three-year period. The extension will be for one year past the completion of all actions and the resolution of all issues which resulted in the extension of the period.

23.6(4) Access to records. The records required by this rule shall be accessible to the committee, the auditor of state, or their designees for the retention period established in this rule.

193E—23.7(543B) Adjustments and collections.

23.7(1) Disallowances and adjustments. The closeout of a grant does not affect the committee's right to disallow costs and recover funds on the basis of an audit or other postgrant period review or the grantee's obligation to return any funds due as a result of unexpended funds, refunds, corrections or other transactions.

23.7(2) Collection. Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be due under the terms of the award constitute a debt to the state of Iowa. Excess amounts are due within 30 days of demand.

These rules are intended to implement Iowa Code Supplement section 543B.54 as amended by 2008 Iowa Acts, Senate File 2250, section 4.

ARC 6856B

SECRETARY OF STATE[721]

Notice of Termination

Pursuant to the authority of Iowa Code section 17A.3(1)"b," the Secretary of State terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on March 12, 2008, as **ARC 6643B** amending Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

The purpose of the proposed amendment to subrule 721—21.200(4) was to provide interested people with an opportunity to review the summary to be printed on the ballot for the proposed constitutional amendment that will be voted upon at the November 4, 2008, general election. The period for comments has passed without any comments being submitted. The Secretary of State finds no further need to proceed with rule making for **ARC 6643B**.

ARC 6857B

SECRETARY OF STATE[721]

Notice of Termination

Pursuant to the authority of Iowa Code section 17A.3(1)"b," the Secretary of State terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6728B** amending Chapter 22, "Voting Systems," Iowa Administrative Code.

The proposed amendment to Chapter 22 was also Adopted and Filed Emergency as **ARC 6727B**. The period for comments has passed without any comments being submitted. The Secretary of State finds no further need to proceed with rule making for **ARC 6728B**.

**NOTICE—PUBLIC FUNDS
INTEREST RATES**

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for June is 5.75%.

**INTEREST RATES FOR PUBLIC
OBLIGATIONS AND ASSESSMENTS**

- 74A.2 Unpaid Warrants Maximum 6.0%
- 74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective June 10, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 1.20%
- 32-89 days Minimum 1.50%
- 90-179 days Minimum 1.60%
- 180-364 days Minimum 1.80%
- One year to 397 days Minimum 2.05%
- More than 397 days Minimum 2.30%

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 6847B

UTILITIES DIVISION[199]

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 Iowa Code sections 17A.4, 17A.7, chapter 476B, and 2008 Iowa Acts, Senate File 2405, the Utilities Board (Board) gives notice that on May 22, 2008, the Board issued an order in Docket No. RMU-08-4, In re: Wind Energy Tax Credits, “Order Commencing Rule Making.” The Board is noticing for public comment proposed amendments to 199 IAC 15.18(476B) and 15.20(476B). The amendments impact both facility eligibility and the tax credits applications for facilities qualified under Iowa Code chapter 476B.

Senate File 2405, which was passed during the 2008 General Assembly, amends Iowa Code chapter 476B by allowing tax credits for electricity generated for on-site consumption, setting a minimum nameplate capacity of two megawatts for eligibility applications filed after March 1, 2008, and extending the in-service deadline for eligible projects by three years (from July 1, 2009, to July 1, 2012). The proposed amendments to 199 IAC 15.18(476B) and 15.20(476B) implement these changes.

The language in 2008 Iowa Acts, Senate File 2405, allowing tax credits for on-site consumption can be interpreted to allow an applicant to apply the tax credits to either (a) electricity sales or on-site consumption, but not both, or (b) sales and on-site consumption together. The statutory changes contained in Senate File 2405 have no fiscal impact because they do not affect the overall eligibility limits. The statutory changes also have no adverse effect on pending applications. Because there is no adverse fiscal impact or effect on pending applications, the Board is proposing the less restrictive interpretation of the statutory changes, which would allow an applicant to apply the tax credits to a mix of electricity sales and on-site consumption.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before July 8, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on July 15, 2008, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA, HF2206) is applicable to these amendments.

UTILITIES DIVISION[199](cont'd)

These amendments are intended to implement Iowa Code chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

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

The following amendments are proposed.

ITEM 1. Amend subparagraph **15.18(1)“c”(2)** as follows:

(2) Total nameplate generating capacity rating; . *For applications filed on or after March 1, 2008, the facility must have a combined nameplate capacity of no less than 2 megawatts;*

ITEM 2. Amend subparagraph **15.18(1)“c”(4)** as follows:

(4) The date the facility is expected to be placed in service (that is, placed in service on or after July 1, 2005, but before ~~January 1, 2009~~ July 1, 2012, for eligibility under Iowa Code chapter 476B as amended by 2005 Iowa Acts, chapter 179).

ITEM 3. Reletter paragraphs **15.18(1)“d”** and **15.18(1)“e”** as **15.18(1)“e”** and **15.18(1)“f”**.

ITEM 4. Adopt the following **new** paragraph **15.18(1)“d”**:

d. A signed statement from the owner attesting that the owner intends to either sell electricity generated by the facility, consume the electricity on site, or a combination of both.

ITEM 5. Amend relettered paragraph **15.18(1)“e”** as follows:

e. *A If the owner intends to sell electricity generated by the facility, a copy of the executed power purchase agreement, or other agreement to purchase electricity. If the power purchase agreement has not yet been finalized and executed, the board will accept as an other agreement an executed agreement signed by at least two parties that includes both a commitment to purchase electricity from the facility upon completion of the project and most of the essential elements of a contract.*

The board will also accept a copy of an executed interconnection agreement or transmission service agreement, in lieu of a power purchase agreement, if the facility owner has instead agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

ITEM 6. Amend rule 199—15.20(476B), introductory paragraph, as follows:

199—15.20(476B) Applications for wind energy tax credits under Iowa Code chapter 476B. The wind energy tax credits equal one cent per kilowatt-hour of electricity generated by ~~and purchased from~~ eligible wind energy facilities under 199 IAC 15.18(476B), *which is sold or used for on-site consumption by the owner*, for tax years beginning on or after July 1, 2006. The owners of an eligible facility may apply for wind energy tax credits for up to ten tax years following the date the facility is placed in service. Wind energy tax credits will not be issued for wind energy ~~purchased sold or used for on-site consumption~~ after June 30, ~~2019~~ 2022.

ITEM 7. Amend subparagraph **15.20(1)“a”(6)** as follows:

(6) ~~A~~ *For any electricity sold, a copy of the executed power purchase agreement or other agreement to purchase electricity. Alternatively, a copy of an executed interconnection agreement or transmission service agreement is acceptable if the owners have elected to sell electricity from the facility directly or indirectly to a wholesale power pool market.*

ITEM 8. Amend subparagraph **15.20(1)“a”(7)** as follows:

(7) *A For any electricity sold, the owner must provide a statement attesting that the electricity for which tax credits are sought has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the wind energy tax credits, the definition of “related person” is the same as specified in department of revenue subrules 701 IAC 42.25(2) and 52.26(2). That is, the definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.*

For any electricity consumed on site, the owner must provide a signed statement attesting under penalty of perjury that the electricity for which tax credits are sought was generated by the eligible facility and consumed on site by the owner.

ITEM 9. Amend subparagraph **15.20(1)“a”(8)** as follows:

(8) The date that the eligible facility was placed in service (that is, between July 1, 2005, and ~~January 1, 2009~~ July 1, 2012).

ITEM 10. Amend subparagraph **15.20(1)“a”(10)** as follows:

(10) ~~Invoices~~ *For any electricity sold, invoices or other information that documents the number of kilowatt-hours of electricity generated by the eligible facility and sold to an unrelated purchaser during the tax year.*

For any electricity consumed on site, the number of kilowatt-hours of electricity generated by the eligible facility and consumed on site by the owner.

ITEM 11. Amend subparagraph **15.20(1)“b”(3)** as follows:

(3) Whether the reported kilowatt-hours of electricity generated by ~~and purchased from~~ the facility *and sold or used by the owner for on-site consumption* during the tax year seem accurate and eligible for wind energy tax credits.

ARC 6863B

VETERINARY MEDICINE BOARD[811]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 169.5, the Iowa Board of Veterinary Medicine gives Notice of Intended Action to amend Chapters 1 through 7 and 9 through 14, Iowa Administrative Code.

Notice of Intended Action was published in the April 23, 2008, Iowa Administrative Bulletin as **ARC 6747B**. A public hearing was held on May 27, 2008, and written comments were received.

Since the Notice of Intended Action was published, some changes have been made in response to the comments. Provisions on auxiliary personnel and veterinary technicians and assistants were removed. Certain provisions on prescription drugs, veterinary practice standards, facility standards and the scope of veterinary practice were also removed.

VETERINARY MEDICINE BOARD[811](cont'd)

The Amended Notice of Intended Action sets out the discipline standards in Chapter 10. The civil penalties that could be imposed are increased. Additionally, financial responsibility for disciplinary actions may be imposed.

Increases in fees are made in Chapter 6. Application requirements and licensing and the licensing fee structure for veterinarians are revised. The description of the Veterinary Medicine Board organization is revised, and updated definitions are provided in Chapter 1.

Any interested person may make written suggestions or comments on the proposed amendments prior to 4:30 p.m. on July 9, 2008. Written material should be directed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may also be submitted by letter, by fax to (515)281-6236, or by E-mail to Margaret.Thomson@idals.state.ia.us.

A public hearing will be held on July 9, 2008, at 2 p.m. in the Second Floor Conference Room, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa.

These amendments are intended to implement Iowa Code chapters 169 and 272C.

The following amendments are proposed.

ITEM 1. Amend **811—Chapter 1**, title, as follows:

CHAPTER 1
DESCRIPTION OF ORGANIZATION
AND DEFINITIONS

ITEM 2. Amend rule 811—1.1(17A,169) as follows:

811—1.1(17A,169) Organization and duties. The board of veterinary medicine shall consist of five members, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians and who shall represent the general public. *One public member may be a graduate of an AVMA-accredited school of veterinary technology and be licensed in Iowa as a veterinary technician.* The state veterinarian shall serve as secretary. The board shall may administer examinations to applicants for a license or temporary permit to practice veterinary medicine and to applicants for licenses or certificates for auxiliary personnel. ~~and~~ The board shall investigate and discipline, as necessary, persons licensed to practice veterinary medicine for whom credentials have been issued or who are engaged in an activity regulated by the board.

ITEM 3. Amend rule 811—1.2(17A,169) as follows:

811—1.2(17A,169) Headquarters of the board. The official mailing address of the board shall be is: State Veterinarian, Secretary of the Iowa Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053.

ITEM 4. Adopt the following **new** rule 811—1.4(17A, 169):

811—1.4(17A,169) Definitions. As used in these rules, unless the context otherwise requires:

“AAVSB” means the American Association of Veterinary State Boards.

“AVMA” means the American Veterinary Medical Association.

“AVMA-accredited” means colleges in the United States and foreign colleges evaluated by the AVMA Council on

Education and found to meet accreditation standards as published.

“AVMA-listed” means a foreign college recognized by the World Health Organization or the government of its own country whose graduates are eligible to practice veterinary medicine in that country and whose graduates may qualify for entrance in the ECFVG certification program.

“Board” means the Iowa board of veterinary medicine.

“Certificate” means a credential issued by the board to practice on an animal as a certified veterinary student pursuant to 811—subrule 6.6(3).

“Certificate holder” means a person issued a certificate by the board.

“Credential” means, as applicable, a certificate, license, or permit issued by the board.

“Credential holder” means a person who holds a certificate, license, or permit issued by the board.

“Department” means the Iowa department of agriculture and land stewardship.

“Direct supervision” means that a licensed veterinarian is on the premises and is readily available.

“ECFVG” means the Educational Commission for Foreign Veterinary Graduates.

“License” means a credential issued by the board that permits a person to practice veterinary medicine.

“Licensee” means a person holding a license issued by the board.

“NAVLE” means the North American Veterinary Licensing Examination.

“NBVME” means the National Board of Veterinary Medical Examiners.

“PAVE” means the Program for the Assessment of Veterinary Education Equivalence.

“Permit” means a temporary educational permit or a temporary in-state practice permit issued by the board pursuant to rule 811—9.1(169).

“Permit holder” means a person holding a permit issued by the board.

“RACE” means the Registry of Approved Continuing Education, which is the national clearinghouse for approval of continuing education providers and their programs. All RACE-approved continuing education providers and programs are listed on the American Association of Veterinary State Boards Web site.

“Veterinarian” means a person who has received a doctor of veterinary medicine degree or its equivalent from an AVMA-accredited, -approved or -listed college of veterinary medicine.

“VTNE” means the Veterinary Technician National Examination.

ITEM 5. Amend rule 811—2.1(17A), introductory paragraph, as follows:

811—2.1(17A) Petition for rule making. In lieu of the words “agency, at (designate office)”, insert “Board of Veterinary Medicine at the Iowa Department of Agriculture and Land Stewardship, State Veterinarian, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”. In lieu of the words “(AGENCY NAME)”, the heading on the petition should read:

ITEM 6. Amend rule 811—2.3(17A) as follows:

811—2.3(17A) Inquiries. Substitute the following information for the parenthetical statement at the end: “the State Veterinarian, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 7. Amend rule 811—3.1(17A,169,272C) as follows:

811—3.1(17A,169,272C) Petition for declaratory order. In lieu of the words “(designate agency)” the first time the words are used, insert “board of veterinary medicine (hereinafter referred to as “the board”)”. In lieu of the words “(designate agency)” the subsequent times the words are used, insert “board”. In lieu of the words “(designate office)”, insert “State Veterinarian’s Office, Wallace State Office Building, East Ninth and Grand 502 E. 9th Street, Des Moines, Iowa 50319-0053.” In lieu of the words “(AGENCY NAME)”, insert “BOARD OF VETERINARY MEDICINE”.

ITEM 8. Amend rule 811—3.5(17A,169,272C) as follows:

811—3.5(17A,169,272C) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

ITEM 9. Amend subrule 3.6(2) as follows:

3.6(2) In lieu of the words “(specify office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand 502 E. 9th Street, Des Moines, Iowa 50319-0053”. In lieu of the words “(agency name)”, insert “board”.

ITEM 10. Amend **811—Chapter 3**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter chapters 17A, as amended by 1998 Iowa Acts, chapter 1202 169, and 272C.

ITEM 11. Amend rule 811—4.5(17A,169,272C) as follows:

811—4.5(17A,169,272C) Public participation.

4.5(1) In lieu of the words “(identify office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

4.5(5) In lieu of the words “(designate office and telephone number)”, insert “the state veterinarian office at (515)281-5305 (515)281-8617”.

ITEM 12. Amend subrule 4.11(1) as follows:

4.11(1) In lieu of the words “(specify the office and address)”, insert “the State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, East Ninth and Grand 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

ITEM 13. Amend **811—Chapter 4**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter chapters 17A, as amended by 1998 Iowa Acts, chapter 1202 169, and 272C.

ITEM 14. Amend subrule 5.3(1) as follows:

5.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “state veterinarian as secretary of the board of veterinary medicine”. In lieu of the words “(insert agency name and address)”, insert “Board of Veterinary Medicine, State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0053”.

ITEM 15. Amend subrule **5.9(2)**, paragraph “e,” as follows:

e. To the legislative fiscal bureau under Iowa Code section ~~2.52~~ services agency under Iowa Code section 2A.3.

ITEM 16. Amend subrules 5.14(3) and 5.14(4) as follows:

5.14(3) Contested case matters. These records are collected and maintained pursuant to Iowa Code sections 17A.3(1)“d,” 17A.3(2), and 17A.12, and the Iowa Code sections noted in subrule 5.14(4). Contested case matters include all pleadings, motions, briefs, orders, transcripts, exhibits, and physical evidence utilized in the resolution of the matter, and may, unless released by the licensee *credential holder*, be confidential as stated in subrule 5.14(4). These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

5.14(4) ~~Licensure or certification~~ *Credential* records. Under Iowa Code chapter 169, the board regulates by license the profession of veterinary medicine veterinarians, and regulates by certificate veterinary technicians and assistants and veterinary students, and regulates by temporary permit veterinarians credentialed under Iowa Code section 169.11 and rule 811—9.1(169), Iowa Administrative Code. ~~Licensure and certification~~ *Credential* records generally include, but are not limited to, information identifying the licensee *credential holder* by name or code, location, and form of business entity, including the names of corporate principals. ~~Examination and compliance reports may be included in the license records. These records may include examinations, complaints, compliance activities and investigatory reports that are confidential.~~ These records may include confidential information protected from disclosure under Iowa Code section 22.7(3), 22.7(6), or 22.7(18). ~~In addition, information relating to examination results is confidential under Iowa Code section 169.6, and information regarding complaints and investigations of licensees is confidential under Iowa Code section 272C.6 sections 22.7, 169.6 and 272.6.~~ These records are maintained jointly with the department of agriculture and land stewardship. These records are primarily maintained in paper copy, with some material generated or maintained in a data processing system.

ITEM 17. Amend rule 811—5.17(169,252J) as follows:

811—5.17(169,252J) Release of confidential licensing information for child support recovery purposes. Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying licensees of applicants or *credential holders* subject to enforcement under Iowa Code Supplement chapter 252J or 598.

ITEM 18. Amend **811—Chapter 5**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapters 17A, and 22, 169 and Iowa Code Supplement chapter 252J.

ITEM 19. Amend **811—Chapter 6**, title, as follows:

CHAPTER 6

APPLICATION FOR VETERINARY LICENSURE

ITEM 20. Amend subrules 6.1(1), 6.1(2) and 6.1(3) as follows:

6.1(1) Application to take examination. Any person desiring to take the National Board Examination (NBE) or the Clinical Competency Test (CCT) NAVLE in Iowa for a license to practice veterinary medicine shall make application

VETERINARY MEDICINE BOARD[811](cont'd)

60 days before the date set for the beginning of the examination to the board in accordance with the guidelines and time lines established by the NBVME. The applicant shall submit to the board proof of completing the application process with NBVME along with the administrative fee by sending the proof and fee to:

Bureau of Animal Industry, Iowa Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, East 9th and Grand Avenue, 502 E. 9th Street Des Moines, Iowa 50319, -0053

Proof of NAVLE application shall be submitted to the board in accordance with the guidelines and time lines established by the NBVME on forms to be provided by the board. The application form shall be notarized and completely filled out. The completed application form shall include two one current passport size and quality photographs photograph of the applicant. Incomplete applications shall be returned to the applicant along with the tendered fee and a written statement setting forth the reasons for such rejections.

The application form shall be accompanied by satisfactory evidence of the applicant's having graduated from an AVMA-accredited or approved school of veterinary medicine or satisfactory evidence that the applicant is expected to graduate within six months of the date of the examination. However, applications for either the NBE or CCT may be accepted with evidence of graduation if the applicant provides satisfactory evidence that the applicant is expected to graduate within six months of the date of the examination.

Applications to take the NBE or CCT NAVLE will not be accepted from any person who has previously taken and passed that examination in any jurisdiction, except on case-by-case petition to the board for good cause shown or other order of the board.

6.1(2) License requirements. Prior to the board's issuance of a license, the applicant shall:

- a. Successfully complete the NBE or CCT NAVLE as provided in rule 811—7.1(169);
b. Remit the proper application fee for licensure;
c. Graduate from an :

(1) An AVMA-accredited or approved school of veterinary medicine, ; or

(2) An AVMA-listed school of veterinary medicine and have received or receive a certificate from the Educational Commission for Foreign Veterinary Graduates (ECFVG) either ECFVG or PAVE;

d. Provide a statement indicating all jurisdictions in which the applicant is or has ever been licensed to practice veterinary medicine. The applicant shall provide information and shall consent to release to the board license information from jurisdictions in which the applicant is or has ever been licensed;

e. The board may require from an applicant or obtain from other sources such other information Provide information or consent to the release of information pertinent to the character and education of the applicant as it the board may deem necessary in order to pass upon evaluate the applicant's qualifications; and

f. Submit evidence of having completed at least an average of 20 60 hours of approved continuing education for each year of the previous three years within the last three licensing years. New graduates and applicants within one year after the date of graduation are exempt from continuing education requirements for initial licensing. Applicants who apply more than one year but less than two years after the date of graduation must complete at least 20 hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation must have completed at least 40 hours of approved continuing education. As used in this paragraph, "date of graduation" also includes the date of PAVE or ECFVG certification.

Upon payment of the prorated triennial license fee, a A license issued during a triennium, upon the applicant's completion of these requirements is valid through June 30 of the next triennium year and payment of the prorated triennial license fee, shall be issued for the balance of the triennium. A license shall expire on June 30 of the third year of the triennium.

6.1(3) An accredited or approved college of veterinary medicine is a school which has satisfied the "Essential Requirements of an Accredited or Approved College of Veterinary Medicine" as revised and adopted by the American Veterinary Medical Association (AVMA), July 1987, which is hereby adopted by reference. An evaluation by the AVMA Council on Education finding that these criteria are satisfied will be automatically accepted absent sufficient evidence to the contrary.

ITEM 21. Amend rule 811—6.2(169) as follows:

811—6.2(169) Fee schedule for veterinarians. The following fees shall be collected by the board and shall not be refunded except by board action in unusual instances such as documented illness of the applicant, death of the applicant, inability of the applicant to comply with the rules of the board, or withdrawal of an examination application provided withdrawal is received in writing 45 days prior to the examination date. Examination fees shall be nontransferrable from one examination to another.

The fee for the National Board Examination (NBE) or Clinical Competency Test (CCT) NAVLE, which is utilized by the board as a part of their examination the licensure process, shall be the fees fee charged that year by the Professional Examination Service (PES) and approved by the board NBVME, plus the costs incurred by an administrative fee payable to the board for administration of the NBE or CCT examination.

Based on the board's anticipated financial requirements, the following fees are hereby adopted:

Table with 2 columns: Fee Description and Amount. Rows include License—application fee (\$50), National Board Examination (NBE) cost of PES examination plus (\$10), Clinical Competency Test (CCT) cost of PES examination plus (\$10), NBVME examination fee (set by NAVLE), Board administrative fee for NAVLE (\$25), State veterinary examination fee (set by board), State veterinary administrative fee (set by board), and Triennial license (\$45 60).

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<i>Late renewal penalty</i>	\$100
License by endorsement—application fee	\$25 50
<i>Reactivation fee for lapsed or inactive license</i>	\$100
Late renewal penalty	\$100
Reinstatement fee	\$45 100
Duplicate license	\$15
Temporary permit	\$25 35
Temporary permit application fee	\$15
Certification of Official licensure verification	\$10 15
Charge for <i>insufficient funds</i> or returned checks	\$10 25
<i>Senior student certificate</i>	\$0

This rule is intended to implement Iowa Code section 169.5.

ITEM 22. Amend rule 811—6.3(169) as follows:

811—6.3(169) Reinstatement Reactivation fee. All applications for ~~reinstatement~~ *reactivation* of a lapsed or inactive license to practice veterinary medicine shall be filed with the secretary of the board, together with the then current license fee, the current ~~reinstatement~~ *reactivation* fee, and all, if lapsed, applicable penalties for a lapsed or inactive license.

ITEM 23. Amend rule 811—6.4(169) as follows:

811—6.4(169) Graduates of foreign schools. *Graduates of foreign veterinary schools may become eligible for examination and licensure by either of the following methods:*

6.4(1) Examination eligibility through ECFVG. Graduates of foreign veterinary schools which, pursuant to the AVMA criteria, are not AVMA-approved *accredited* but are AVMA-listed may make application to take the NBE or the CCT NAVLE in this state provided that ~~such the~~ application ~~include~~ *includes* a copy of the applicant’s diploma or certificate indicating the award of a degree in veterinary medicine from an AVMA-listed college, and a letter from the Educational Commission for Foreign Veterinary Graduates (ECFVG) ECFVG verifying that the applicant is or will be participating in an ECFVG certification program administered by an institution in Iowa or a state contiguous to Iowa.

6.4(2) Licensure eligibility through ECFVG. Graduates of foreign veterinary schools which are not AVMA-approved *accredited* but are AVMA-listed will not be considered for licensing until they have received the certificate granted by the Educational Commission for Foreign Veterinary Graduates ECFVG. A license will not be issued to an applicant until the applicant submits a certified copy of the applicant’s ECFVG certificate.

6.4(3) Examination eligibility through PAVE. *Graduates of foreign veterinary schools may make application to take the NAVLE in this state provided that the application includes a certified copy of the applicant’s diploma or certificate indicating the award of a degree in veterinary medicine from a foreign veterinary school and a letter from the AAVSB on behalf of PAVE verifying that the applicant is participating in the PAVE certification program administered by the AAVSB, and has met the requirements for taking the NAVLE.*

6.4(4) Licensure eligibility through PAVE. *Graduates of foreign veterinary schools will not be considered for licensing until they have received the certificate granted by PAVE. A license will not be issued to an applicant until the applicant submits a copy of the applicant’s PAVE certificate.*

ITEM 24. Amend rule 811—6.5(169) as follows:

811—6.5(169) License by endorsement.

6.5(1) A license by endorsement may be granted by the board pursuant to either Iowa Code section 169.10(1) or 169.10(2). An applicant shall make application for a license by endorsement on a form provided by the board. The application fee and triennial license fee shall accompany the application. In addition to the information specified in Iowa Code section 169.10, the applicant shall supply all of the following:

a. A statement indicating all jurisdictions in which the licensee is or has ever been licensed to practice veterinary medicine. The applicant shall *provide information and consent to the release of information* to the board license information from jurisdictions in which the applicant is or has ever been licensed.

b. ~~The board may require from the applicant or obtain from other sources such other information~~ *Information* pertinent to the character and education of the applicant as ~~it the board~~ may deem necessary in order to ~~pass upon~~ *evaluate* the applicant’s qualifications.

c. Evidence of approved continuing education totaling at least 60 hours obtained ~~in the previous three years~~ *within the last three licensing years. New graduates and applicants within one year after graduation are exempt from continuing education requirements for initial licensing. Applicants who apply more than one year but less than two years after the date of graduation must complete at least 20 hours of approved continuing education. Applicants who apply more than two years but less than three years after the date of graduation must have completed at least 40 hours of approved continuing education. As used in this paragraph, “date of graduation” also includes the date of PAVE or ECFVG certification. Foreign graduates licensed by PAVE or ECFVG certification are exempt from the continuing education requirement for one year from the date of certification by PAVE or ECFVG.*

6.5(2) ~~If the non-Iowa license of an applicant under Iowa Code section 169.10(1) was issued after January 1, 1965, the applicant shall have successfully completed the NBE. If the applicant’s non-Iowa license was issued after January 1, 1980, the applicant shall have successfully completed the NBE and CCT according to rule 811—7.1(169). For an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1), the following shall apply:~~

a. ~~If the applicant’s non-Iowa license was issued between December 31, 1964, and December 31, 1979, the applicant shall have successfully completed the National Board Examination (NBE).~~

b. ~~If the applicant’s non-Iowa license was issued between January 1, 1980, and December 31, 2000, the applicant shall have successfully completed the National Board Examination (NBE) and the Clinical Competency Test (CCT).~~

VETERINARY MEDICINE BOARD[811](cont'd)

c. *If the applicant's non-Iowa license was issued on or after January 1, 2001, the applicant shall have successfully completed the NAVLE in accordance with rule 811—7.1(169).*

6.5(3) An applicant *who is a diplomate* under Iowa Code section 169.10(2) shall also include a copy of the applicant's board or college specialty certificate. For the purpose of this rule, a specialty board or college means a specialty board or college which has been officially recognized by the AVMA. Changes of specialty status shall be reported to the board within 30 days of the action.

ITEM 25. Amend rule 811—6.6(169) as follows:

811—6.6(169) Issuance of limited license; specialization.

6.6(1) The board may grant a license to practice veterinary medicine within a limited and specified scope:

a. As an option for board discipline under 811—Chapter 10.

b. ~~Rescinded IAB 11/18/98, effective 12/23/98~~ *To a qualified member of the faculty of the Iowa State University College of Veterinary Medicine.*

c. To an applicant requesting limited or specialized status.

6.6(2) A *licensed* veterinarian ~~holding either a limited license or a full license~~ shall not claim or imply specialization unless the veterinarian is a *member diplomate* in good standing of the respective specialty board or college recognized by the AVMA.

6.6(3) *Veterinary student certificate. The board may issue a veterinary student certificate to a senior veterinary student who is attending an AVMA-accredited college of veterinary medicine, upon endorsement by the college that the student is competent to perform veterinary duties. The certificate issued by the board shall limit the student to performing duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian. Veterinary student certificate holders are prohibited from administering rabies vaccine to dogs as described in Iowa Code section 351.35 and signing a certificate of veterinary inspection as described in Iowa Code section 163.12.*

6.6(4) *Limited licensure for faculty. Faculty, not including residents or interns, at Iowa State University College of Veterinary Medicine may be issued a limited license to practice veterinary medicine. The applicant for a limited license for faculty shall have graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or have received a PAVE or ECFVG certificate and shall submit a completed application and the required fees. Holders of limited licenses for faculty are limited to duties performed on the college premises during periods of employment at the college.*

ITEM 26. Amend subrules 6.7(1) and 6.7(5) as follows:

6.7(1) A license to practice veterinary medicine shall be issued for a three-year period, except that new licenses issued during a triennium shall be issued for the balance of that triennium, *except that new certificates issued during a triennium shall be issued for the balance of the triennium and the certificate fee shall be prorated.* A license shall expire on June 30 of the third year of the triennium.

6.7(5) ~~If the renewal and penalty fees are~~ *fee has not been received by the board on or by August 1 after before the license has lapsed, an application for reinstatement renewal must be filed with the board with a reinstatement renewal fee in addition to the renewal reactivation fee and the late renewal penalty fee.*

ITEM 27. Adopt the following **new** rule 811—6.9(169):

811—6.9(169) Renewal, lapsed or inactive license. A veterinarian whose license has lapsed may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed since the date of expiration, a license may not be renewed, and the veterinarian must make application for a new license and take the license examination. A veterinarian whose license has lapsed or has been placed on inactive status shall, prior to receiving active status licensure in the practice of veterinary medicine in the state of Iowa, satisfy the requirements in either subrule 6.9(1) or subrule 6.9(2) for renewal of a lapsed or inactive license:

6.9(1) Renewal of a lapsed or inactive license. An applicant for renewal of a lapsed or inactive license shall do both of the following:

a. Submit written application for renewal of a lapsed or inactive license to the board upon forms provided by the board;

b. Furnish evidence of compliance with continuing education requirements specified in rule 811—11.3(169).

6.9(2) Renewal by endorsement. An applicant for renewal by endorsement may submit an application for renewal by endorsement by following the procedures set out in rule 811—6.5(169).

ITEM 28. Amend **811—Chapter 6**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections ~~17A.3, 169.5, 169.8, 169.9, 169.10, and 169.12~~ *chapters 17A, 169, and 261.*

ITEM 29. Amend **811—Chapter 7**, title, as follows:

CHAPTER 7
VETERINARY EXAMINATIONS

ITEM 30. Amend rule 811—7.1(169) as follows:

811—7.1(169) Examination procedure. ~~In order to successfully complete the National Board Examination, an applicant shall achieve a minimum converted score of 70. In addition, in order to successfully complete the CCT, the applicant shall obtain a minimum converted score of 75. The National Board Examination and the CCT are prepared by the Professional Examination Service for use by the state board of veterinary examiners. In order to successfully complete the NAVLE, an applicant shall achieve the minimum passing score as determined by the NBVME. The NAVLE is prepared by the NBVME for use by the board.~~

7.1(1) Examinations shall be given in April and December each year. The dates for the examination shall be those set by the National Board Examination Committee *NBVME*. Examinations shall be held at a site to be determined by the board ~~at least 30 days before the date of the examination~~ *NBVME*.

7.1(2) Upon request, the board *NBVME* will attempt to provide adequate individualized testing arrangements for applicants who establish the existence of a verified disability, including a verified learning disability, consistent with the provisions of the Americans with Disabilities Act of 1990, and regulations promulgated thereunder. Verification may be provided by a testing or evaluation agency approved by the board *NBVME* or by a physician approved by the board *NBVME*.

ITEM 31. Amend **811—Chapter 7**, implementation clause, as follows:

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These rules are intended to implement Iowa Code sections ~~17A.3, 169.5, and 169.9~~ chapters 17A and 169.

ITEM 32. Amend **811—Chapter 9**, title, as follows:

CHAPTER 9
TEMPORARY VETERINARY PERMITS

ITEM 33. Amend rule 811—9.1(169) as follows:

811—9.1(169) Eligibility for a temporary permit.

~~9.1(1) Pending state board examination. Rescinded IAB 11/18/98, effective 12/23/98. Temporary educational permit. For the purpose of this subrule, “qualified applicant” means a person who is undertaking internship or residency training at Iowa State University College of Veterinary Medicine. A temporary educational permit may be issued upon application to a qualified applicant who does not also seek an Iowa veterinary license. A temporary educational permit allows the permit holder to act as a licensed veterinarian, including for privately owned animals, but only within the scope of the permit holder’s internship or residency program at Iowa State University College of Veterinary Medicine. Verification of internship or residency shall consist of an endorsement signed by the dean of the school and submitted directly to the board by the school. A temporary educational permit expires upon termination of the permit holder’s internship or residency program, as reported by the dean of the school of veterinary medicine. An initial temporary educational permit may be issued by the board for a term of up to two years. An initial temporary educational permit may be renewed by the board for a term of up to one year. No more than two renewals will be granted to the same person.~~

9.1(2) Temporary in-state practice permit.

a. A temporary in-state practice permit may be issued upon application to a qualified applicant who does not also seek a full an Iowa license. For the purpose of this subrule, “qualified applicant” means a person who:

a. (1) Has graduated from an AVMA-accredited or approved AVMA-listed school of veterinary medicine or has received an ECFVG or PAVE certificate.

~~b. Rescinded IAB 11/18/98, effective 12/23/98.~~

c. (2) Is licensed in good standing in another jurisdiction.

~~d. (3) If the applicant’s non-Iowa license was issued after January 1, 1965, the applicant shall have successfully completed the NBE. If the applicant’s non-Iowa license was issued after January 1, 1980, the applicant shall have successfully completed the NBE and CCT. For an applicant with a non-Iowa license seeking licensure under Iowa Code section 169.10(1), the applicant:~~

1. Has successfully completed the National Board Examination (NBE) if the applicant’s non-Iowa license was issued between December 31, 1964, and December 31, 1979.

2. Has successfully completed the National Board Examination (NBE) and the Clinical Competency Test (CCT) if the applicant’s non-Iowa license was issued between January 1, 1980, and December 31, 2000.

3. Has successfully completed the NAVLE in accordance with rule 811—7.1(169) if the applicant’s non-Iowa license was issued on or after January 1, 2001.

b. The temporary permit shall be issued for a period of no more than 180 days, and no more than one permit shall be issued to a person during each calendar year. The temporary in-state practice permit allows the permit holder to act as a licensed veterinarian in this state. A person may not obtain more than three temporary permits.

ITEM 34. Amend subrule 9.2(1) as follows:

9.2(1) An application for a temporary permit shall be made on forms a form provided by the board. The application shall state whether the applicant is applying for a temporary educational permit or a temporary in-state practice permit. The applicant shall provide a statement indicating all jurisdictions in which the licensee applicant is or has ever been licensed to practice veterinary medicine. The applicant shall provide information and consent to the release of information to the board license information from jurisdictions in which the applicant is or has ever been licensed.

ITEM 35. Rescind and reserve rule **811—9.3(169)**.

ITEM 36. Amend rule 811—9.4(169) as follows:

811—9.4(169) Practice without benefit of temporary permit or full Iowa license. An applicant for a temporary permit or a full an Iowa license shall not engage in the practice of veterinary medicine unless and until a temporary permit or full Iowa license is granted by the board. Prior to the issuance of the temporary permit or full Iowa license, an applicant who is otherwise qualified under rule 9.1(169) may perform within the same scope of authority as a registered licensed veterinary technician, as provided in 811—Chapter 8. An applicant for a temporary permit or full Iowa license who engages in the practice of veterinary medicine prior to the issuance of the temporary permit or full Iowa license is subject to denial or revocation of the temporary permit, denial or revocation of the full Iowa license, and referral for civil or criminal prosecution, at the board’s discretion.

ITEM 37. Adopt the following new rule 811—9.5(169):

811—9.5(169) Grounds for discipline and disciplinary procedures. A disciplinary action against a permit holder, including grounds for disciplinary action, is governed by 811—Chapter 10. In addition to the applicable grounds set forth in 811—Chapter 10, an applicant for a temporary permit or an Iowa license who engages in the practice of veterinary medicine prior to the issuance of the temporary permit or Iowa license is subject to denial or revocation of the temporary permit, denial or revocation of the Iowa license, and referral for civil or criminal prosecution, at the board’s discretion.

ITEM 38. Amend **811—Chapter 9**, implementation clause, as follows:

These rules are intended to implement Iowa Code section ~~169.11~~ chapter 169.

ITEM 39. Amend rule 811—10.1(17A,169,272C) as follows:

811—10.1(17A,169,272C) Board authority. The board of veterinary medicine (hereinafter referred to as “the board”) may discipline a veterinarian any credential holder for any grounds stated in Iowa Code chapters 169 and 272C or rules promulgated thereunder.

ITEM 40. Amend rule 811—10.2(17A,169,272C) as follows:

811—10.2(17A,169,272C) Complaints and investigations. Complaints are allegations of wrongful acts or omissions relating to the ethical or professional conduct of a licensee credential holder.

10.2(1) In accordance with Iowa Code section 272C.3(1)“c,” the board shall investigate or review, upon written complaint or upon its own motion pursuant to other information received by the board, alleged acts or omissions which the board reasonably believes constitute cause for licensee credential holder discipline.

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10.2(2) No change.

ITEM 41. Amend rule 811—10.3(17A,169,272C) as follows:

811—10.3(17A,169,272C) Investigatory subpoena powers. The board shall have the authority to issue an investigatory subpoena in accordance with the provisions of Iowa Code section 17A.13.

10.3(1) A subpoena which requires production of real evidence that is necessary to an investigation may be issued upon the authority of the executive secretary or a designee.

10.3(2) *Any person who is aggrieved or adversely affected by compliance with the subpoena and who desires to challenge the subpoena must, within 14 days after the service of the subpoena or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified and may be accompanied by legal briefs or factual affidavits.*

10.3(2) 10.3(3) In the event obedience to a subpoena is refused, the requesting party may petition the district court for enforcement.

ITEM 42. Amend subrule 10.5(1) as follows:

10.5(1) The committee shall determine if the conduct of the licensee *credential holder* conforms to minimum standards of acceptable and prevailing practice of veterinary medicine *or other applicable standards* and submit a report of its findings to the board.

ITEM 43. Amend rule 811—10.6(17A,169,272C) as follows:

811—10.6(17A,169,272C) Grounds for discipline. *Without regard as to whether the board has determined that an injury has occurred, The the board may impose any of the disciplinary sanctions set forth in rule 10.7(17A,169,272C), including civil penalties in an amount not to exceed \$1000 \$10,000, when the board determines that the licensee credential holder is guilty of any of the following acts or offenses:*

10.6(1) *Grounds applicable to all credential holders.*

a. Fraud in procuring a license *credential*, which includes but is not limited to an intentional perversion of the truth in making application for a license *credential* to practice ~~veterinary medicine~~ *any of the professions or activities regulated by the board* in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license *credential* in this state, or attempting to file or filing with the board or the Iowa department of agriculture and land stewardship any false or forged diploma, certificate, affidavit, identification, or qualification in making an application for a license *credential* in this state.

10.6(2) b. *Credential holder professional* Professional incompetency, ~~which includes but is not limited to violations of the standards of practice as set out in 811—Chapter 12.~~ Professional incompetency *of a credential holder* may also be established by:

a. (1) A substantial lack of knowledge or ability to discharge professional obligations within the scope of the ~~veterinarian's credential holder's~~ practice;

b. (2) A substantial deviation by the ~~veterinarian credential holder~~ *credential holder* from the standards of learning or skill ordinarily possessed and applied by other ~~veterinarians credential holders~~ *credential holders* acting in the same or similar circumstances;

c.—A failure by a veterinarian to exercise in a substantial respect that degree of care which is ordinarily exercised by the average veterinarian credential holder acting in the same or similar circumstances;

d. (3) A willful or repeated departure from or the failure to conform to the minimal standards of acceptable and prevailing practice of ~~veterinarians~~ *credential holders*.

10.6(3) (4) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a *the* profession or engaging in unethical conduct or practice harmful or detrimental to the public. ~~Proof of actual injury need not be established.~~

a. 1. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a *the* profession includes, but is not limited to, an intentional perversion of the truth, either orally or in writing, by a veterinarian in the practice of veterinary medicine and includes any representation contrary to legal or equitable duty, trust or confidence and is deemed by the board to be contrary to good conscience, prejudicial to the public welfare or may operate to the injury of another.

b. ~~Engaging in unethical conduct includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and may include acts or offenses in violation of the code of ethics of the American Veterinary Medical Association (AVMA).~~

e. 2. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a veterinarian *credential holder* to possess and exercise that degree of skill, learning and care expected of a reasonable, prudent veterinarian *credential holder* acting in the same or similar circumstances, including *for a veterinarian* a violation of the standards of practice as set out in 811—Chapter 12, or when a veterinarian *credential holder* is unable to practice veterinary medicine with reasonable skill and safety ~~to~~ *on* a client's animals as a result of a mental or physical impairment or chemical abuse.

d. ~~Practice harmful or detrimental to the public includes, but is not limited to, the use of a rubber stamp to affix a signature to a prescription. A person who is unable, due to a physical handicap, to make a written signature or mark may substitute in lieu of a signature a rubber stamp which is adopted by the handicapped person for all purposes requiring a signature and which is affixed by the handicapped person or affixed by another person upon the request of the handicapped person and in their presence.~~

e. ~~Practice harmful or detrimental to the public includes, but is not limited to, the practice of maintaining any pre-signed prescription which is intended to be completed and issued at a later time.~~

10.6(4) (5) Habitual intoxication or addiction to the use of drugs, which includes, but is not limited to, the inability of a veterinarian *credential holder* to practice veterinary medicine with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other types of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other *types* of material which may impair a veterinarian's *credential holder's* ability to practice the profession with reasonable skill and safety. The board may require ~~participation in a credential holder's completion of~~ a treatment program as a condition of license probation or suspension, and shall consider the licensee's *credential holder's* willingness to ~~participate in complete~~ a treatment program when determining the appropriate degree of disciplinary sanction.

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10.6(5) (6) Conviction of a felony *which is either of the following:*

1. *One that is related to the credential holder's profession or occupation of the licensee,; or the conviction of any felony that would*

2. *One that would affect the licensee's credential holder's ability to practice within a the profession.*

~~A copy of the record of conviction or plea of guilty shall be conclusive evidence.~~

Conviction of a felony related to the profession or occupation of the licensee *credential holder* or the conviction of any felony that would affect the licensee's *credential holder's* ability to practice within a *the* profession includes, but is not limited to, the conviction of a ~~veterinarian who has committed~~ a public offense in the practice of ~~their~~ *the credential holder's* profession which is defined or classified as a felony under state or federal law, or ~~who has violated violation of~~ a statute or law designated as a felony in this state, another state, or the United States, which statute or law relates to the practice of veterinary medicine *credential holder's profession* or ~~who has been convicted conviction of~~ a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon a ~~veterinarian credential holder~~ in this state. *A copy of the record of conviction or plea of guilty shall be conclusive evidence.*

10.6(6) (7) Fraud in representations as to skill or ability, which includes but is not limited to a ~~veterinarian's credential holder's~~ having made misleading, deceptive or untrue representations as to the ~~veterinarian's credential holder's~~ competency to perform professional services for which the ~~veterinarian credential holder~~ is not qualified to perform by training or experience.

10.6(7) (8) Use of untruthful or improbable statements in advertisements, which includes but is not limited to an action by a ~~veterinarian credential holder~~ in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but not be limited to:

1. Inflated or unjustified expectations of favorable results;

2. Self-laudatory claims that imply that the ~~veterinarian credential holder~~ engaged in a field or specialty of practice for which the ~~veterinarian credential holder~~ is not qualified. A veterinarian is not qualified to claim or imply specialization unless the veterinarian is a member in good standing of the respective specialty board or college recognized by the AVMA;

3. Representations that are likely to cause the average person to misunderstand; or

4. Extravagant claims or claims of extraordinary skills not recognized by the ~~veterinary credential holder's~~ profession.

10.6(8) (9) Willful or repeated violations of the provisions of Iowa Code chapters 169 and 272C and rules promulgated thereunder by the board.

10.6(9) (10) Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.

10.6(10) (11) Failure to report a license, *certificate, permit, or other credential* revocation, suspension or other disciplinary action taken by a licensing *or regulating* authority of another state, territory or country within 30 days of the final action by such licensing *or regulating* authority. A stay by an

appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

10.6(11) (12) Failure of licensee *a credential holder* or an applicant for licensure *a credential* in this state to report any, *within 30 days, any of the following:*

1. *Any settlement agreement or voluntary agreement to restrict the practice of veterinary medicine or other applicable activities entered into in another state, district, territory or country,; or failure to report any*

2. *Any adverse judgment in a malpractice action to which the licensee credential holder is a party, and every; or*

3. *Any settlement of a claim against the licensee credential holder alleging malpractice, within 30 days of said voluntary agreement, adverse judgment, or settlement.*

10.6(12) (13) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

~~**10.6(13)** Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine in which proceeding actual injury to a patient need not be established, which includes, but is not limited to, a violation of the standards of practice as set out in 811 Chapter 12; or the committing by a veterinarian of an act contrary to honesty, justice or good morals, whether the same is committed in the course of practice or otherwise, and whether committed within or without this state, where such act substantially relates to the practice of veterinary medicine.~~

~~**10.6(14)** (14) Inability to practice veterinary medicine perform duties for which a credential is required with reasonable skill and safety by reason of a mental or physical impairment or chemical abuse.~~

~~**10.6(15)** (15) Violating a lawful order of the board previously entered by the board in a disciplinary hearing.~~

~~**10.6(16)** (16) Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license credential for the duration of the license credential unless the board orders otherwise.~~

~~**10.6(17)** Indiscriminately or promiscuously prescribing, administering or dispensing any drug; or prescribing, administering or dispensing any drug for other than a lawful purpose.~~

~~**10.6(18)** (17) Knowingly submitting a false report of continuing education or failure to submit the triennial report of continuing education.~~

~~**10.6(19)** (18) Failure to comply with a subpoena issued by the board.~~

~~**10.6(20)** (19) Willful or gross negligence.~~

~~**10.6(21)** (20) Obtaining any fee by fraud or misrepresentation.~~

~~**10.6(22)** Negligence in failing to exercise due care in the delegation of veterinary services to or supervision of registered veterinary technicians, veterinary assistants, employees or other individuals, whether or not injury results.~~

~~**10.6(23)** (21) Violating any of the grounds for the revocation or suspension of a license credential as listed in Iowa Code section 169.13 or these rules.~~

~~**10.6(24)** (22) Noncompliance with the college student aid commission in regard to repayment of student financial aid obligations. The board shall suspend or revoke a license to practice veterinary medicine credential upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to the procedures contained therein, the following shall apply. :~~

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a 1. The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or *credential holder* may accept service personally or through authorized counsel.

b 2. The effective date of revocation or suspension of a *license credential*, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant *credential holder*.

e 3. The board's executive secretary is authorized to prepare and serve the notice required by Iowa Code section 261.126 and is directed to notify the *licensee credential holder* that the *license credential* will be suspended, unless the *license credential* is already suspended on other grounds. In the event a *license credential* is *on* under suspension, the executive secretary shall notify the *licensee credential holder* of the board's intention to revoke the *license credential*.

d 4. *Licensees Credential holders* shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

e 5. All board fees required for renewal or reinstatement must be paid by the applicant or *credential holder*; and all continuing education requirements must be met before a *license credential* will be renewed or reinstated after the board has denied the renewal or reinstatement of a *license credential* pursuant to Iowa Code chapter 261.

f 6. In the event a *licensee credential holder* timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the renewal, or reinstatement of a *license credential*, the board shall count the number of days before the court action was disposed of by the court.

g 7. The board shall notify the *licensee credential holder* in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a *license credential* and shall similarly notify the applicant when the *license credential* is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.

10.6(25) (23) Having the person's *certificate*, license, permit, or other *credential* to practice veterinary medicine revoked or suspended, or having any other disciplinary action taken by a licensing or regulating authority of another state, territory, or country, or the United States Department of Agriculture (USDA), or having the person's *veterinarian's* USDA accreditation revoked, suspended or other disciplinary action taken against the accreditation. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or *prima facie* evidence of the *credential holder's* having committed one of the following actions:-

1. *Permitting or directing any auxiliary personnel or any other person who does not hold the proper credentials to per-*

form veterinary duties involving diagnosis, prescription or surgery, except as allowed pursuant to rule 811—8.5(169);

2. *Permitting or directing any auxiliary personnel or any other person to perform any act which would be a legal or ethical violation if committed by a veterinarian;*

3. *Failing to comply with a lawful child support order as provided in 811—Chapter 13; or*

4. *Failing to pay any hearing fees and costs within the time specified in the board's decision.*

10.6(2) *Grounds applicable to licensed veterinarians only. In addition to the grounds set out in subrule 10.6(1), without regard as to whether the board has determined that injury has occurred, a licensed veterinarian is subject to disciplinary action for the violation of any of the following:*

a. *Engaging in unethical conduct which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12, and which may include acts or offenses in violation of the AVMA Principles of Veterinary Medical Ethics.*

b. *Engaging in practice harmful or detrimental to the public which includes, but is not limited to, either of the following:*

(1) *The use of a rubber stamp to affix a signature to a prescription. A licensee who is unable, due to a physical disability, to make a written signature or mark may substitute in lieu of a signature a rubber stamp which is adopted by the disabled person for all purposes requiring a signature and which is affixed by the disabled person or affixed by another person upon the request of the disabled person and in the licensee's presence.*

(2) *The practice of maintaining any presigned prescription which is intended to be completed and issued at a later time.*

c. *Willfully or repeatedly departing from, or failing to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine which includes, but is not limited to, a violation of the standards of practice as set out in 811—Chapter 12; or committing an act contrary to honesty, justice or good morals, whether the act is committed in the course of practice or otherwise, and whether the act is committed within or without this state, where such act substantially relates to the practice of veterinary medicine. It is not necessary for grounds to exist under this paragraph that actual injury to a patient be established.*

d. *Indiscriminately or promiscuously prescribing, administering or dispensing any drug; or prescribing, administering or dispensing any drug for other than a lawful purpose.*

e. *Negligently failing to exercise due care in the delegation of veterinary services to or in supervision of employees or other individuals, whether or not injury results.*

ITEM 44. Amend rule 811—10.7(17A,169,272C) as follows:

811—10.7(17A,169,272C) Sanctions. The board has authority to impose the following disciplinary sanctions:

1. Revoke a *license credential*.
2. Suspend a *license credential* until further order of the board or for a specified period.
3. Prohibit permanently, until further order of the board or for a specified period, the engaging in specified procedures, methods or acts.
4. Impose a period of probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental examination.

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8. Impose civil penalties not to exceed \$1000 \$10,000.
9. Issue a citation and warning.
10. Impose such other sanctions allowed by law as may be appropriate.

ITEM 45. Amend paragraph **10.8(2)“d”** as follows:

d. Receive evidence, in accordance with Iowa Code section 17A.14, on behalf of the state of Iowa and on behalf of the licensee credential holder.

ITEM 46. Amend rule 811—10.9(17A,169,272C) as follows:

811—10.9(17A,169,272C) Informal settlement. Pursuant to the provisions of Iowa Code sections 17A.12 and 272C.3, the board may consider resolution of disciplinary matters through informal settlement prior to commencement of contested case proceedings. The executive secretary or a designee may negotiate with the licensee credential holder regarding a proposed disposition of the controversy. Upon consent of both parties, the board will review the proposal for action.

ITEM 47. Amend rule 811—10.10(17A,169,272C) as follows:

811—10.10(17A,169,272C) Voluntary surrender. A voluntary surrender of licensure credentials may be submitted to the board as resolution of a contested case or in lieu of continued compliance with a disciplinary decision of the board.

ITEM 48. Amend rule 811—10.11(17A,169,272C) as follows:

811—10.11(17A,169,272C) Application for reinstatement. Any A person whose license to practice veterinary medicine credential has been suspended, revoked, or voluntarily surrendered may apply to the board for reinstatement in accordance with the terms and conditions of the order.

10.11(1) If the licensee credential was voluntarily surrendered, or if the order for suspension or revocation did not establish terms and conditions for reinstatement, an initial application may not be made until one year has elapsed from the date of the order.

10.11(2) The application shall allege facts and circumstances which will enable the board to determine that the basis for the sanction or voluntary surrender no longer exists, and that it is in the public interest to reinstate the licensee credential. The burden of proof to establish these facts shall rest with the petitioner.

10.11(3) The hearing in an application for reinstatement is a contested case in within the meaning of Iowa Code section 17A.12.

10.11(4) The order to grant or deny reinstatement shall incorporate findings of fact and conclusions of law. If reinstatement is granted, terms and conditions of licensure for reinstating the credential may be imposed.

ITEM 49. Amend rule **811—10.14(17A)**, definition of “contested case,” as follows:

“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

ITEM 50. Amend subrules 10.16(1) and 10.16(2) as follows:

10.16(1) The date, time, and location of the hearing shall be set by the chairperson or the executive secretary board. The licensee credential holder shall be notified at least 30 days prior to the scheduled hearing.

10.16(2) Notification shall be in writing delivered either by personal service as in civil actions or by certified mail with return receipt requested. When the licensee credential holder cannot be located:

a. An affidavit shall be prepared outlining the measures taken to attempt service, and shall become a part of the file record when a notice cannot be delivered by personal service or certified mail, return receipt requested.

b. Notice of hearing shall be published once each week for three consecutive weeks in a newspaper of general circulation, published or circulated in the county of last-known residence of the licensee credential holder. The newspaper will be selected by the executive secretary or a designee. The first notice of hearing shall be published at least 30 days prior to the scheduled hearing.

ITEM 51. Amend rule 811—10.17(17A), introductory paragraph, as follows:

811—10.17(17A) Presiding officer. Disciplinary hearings shall be conducted by the board pursuant to Iowa Code section 272C.6. The chairperson of the board shall designate the presiding officer in accordance with the provisions of 1998 Iowa Acts, chapter 1202, section 15 Iowa Code section 17A.11.

ITEM 52. Amend subrule 10.20(2) as follows:

10.20(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by 1998 Iowa Acts, chapter 1202, section 19(3), Iowa Code section 17A.17(3) and subrules 10.20(3) and 10.32(9).

ITEM 53. Amend subrule 10.20(4) as follows:

10.20(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 10.20(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7) Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 10.34(17A).

ITEM 54. Amend subrule 10.35(1) as follows:

10.35(1) Appeal by party. Any adversely affected party may appeal a final decision of the board to the district court within 30 days after issuance, in accordance with Iowa Code

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section 17A.19 as amended by 1998 Iowa Acts, chapter 1202.

ITEM 55. Amend subrules 10.38(1) through 10.38(4) as follows:

10.38(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, the *agency board* may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license *credential* in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the *agency board* by emergency adjudicative order. Before issuing an emergency adjudicative order, the *agency board* shall consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the *agency board* is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety, or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and
- e. Whether the specific action contemplated by the *agency board* is necessary to avoid the immediate danger.

10.38(2) Issuance. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

- a. Personal delivery;
- b. Certified mail, return receipt requested, to the last address on file with the *agency board*;
- c. Certified mail to the last address on file with the *agency board*;
- d. First-class mail to the last address on file with the *agency board*; or
- e. Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that *agency board* orders be sent by fax and has provided a fax number for that purpose.

To the degree practicable, the *agency board* shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

10.38(3) Oral notice. Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the *agency board* shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

10.38(4) Completion of proceedings. Issuance of a written emergency adjudicative order shall include notification of the date on which *agency board* proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further *agency board* proceedings to a later date will be granted only in compelling circumstances upon application in writing.

ITEM 56. Adopt **new** rule 811—10.39(272C) as follows:

811—10.39(272C) Disciplinary hearing—fees and costs.

10.39(1) Definitions. As used in this rule in relation to a formal disciplinary action filed by the board against a credential holder:

“Deposition” means the testimony of a person taken pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

“Expenses” means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

“Medical examination fees” means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a credential holder when the examination or evaluation is conducted pursuant to an order of the board.

“Record” means the proceedings of the hearing including, but not limited to, the transcript and any documentary evidence admitted or offered at the hearing.

“Transcript” means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

“Witness fees” means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purpose of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72, as applicable.

10.39(2) Disciplinary hearing fee. The board may charge a fee not to exceed the amount authorized in Iowa Code section 272C.6 for conducting a disciplinary hearing which results in disciplinary action taken against the credential holder by the board. An order assessing a fee shall be included as part of the board’s final decision. The order shall direct the credential holder to deliver payment directly to the department of agriculture and land stewardship as provided in subrule 10.39(6).

10.39(3) Recovery of related hearing costs. The board may also recover from the credential holder the costs for transcripts, witness fees and expenses, depositions, and medical examination fees, if disciplinary action is taken. The board may assess these costs in the manner it deems most equitable in accordance with the following:

a. Transcript costs. The board may assess the transcript costs against the credential holder pursuant to Iowa Code section 272C.6(6) or against the requesting party pursuant to Iowa Code section 17A.12(7).

(1) The cost of the transcript includes the transcript of the original contested case hearing before the board, as well as transcripts of any other formal proceedings before the board which occur after the notice of the contested case hearing is filed.

(2) In the event of an appeal to the full board from a proposed decision, the appealing party shall timely request and pay for the transcript necessary for use in the board appeal process.

b. Witness fees and expenses. The parties in a contested case shall be responsible for any witness fees and expenses incurred by witnesses appearing at the contested case hearing. In addition, the board may assess a credential holder the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa, provided that the costs are calculated as follows:

(1) The costs for lay witnesses shall be determined in accordance with Iowa Code section 622.69. For purposes of

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calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(2) The costs for expert witnesses shall be determined in accordance with Iowa Code section 622.72. For purposes of calculating the mileage expenses allowed under that section, the provisions of Iowa Code section 625.2 do not apply.

(3) The provisions of Iowa Code section 622.74 regarding advance payment of witness fees and the consequences of failure to make such payment are applicable with regard to witnesses who are subpoenaed by either party to testify at the hearing.

(4) The board may assess as costs the meal and lodging expenses necessarily incurred by witnesses testifying at the request of the state of Iowa. Meal and lodging costs shall not exceed the reimbursement employees of the state of Iowa receive for these expenses under the department of revenue guidelines currently in effect.

c. Deposition costs. Deposition costs for purposes of allocating costs against a credential holder include only those deposition costs incurred by the state of Iowa. The credential holder is directly responsible for the payment of deposition costs incurred by the credential holder.

(1) The costs for depositions include the cost of transcripts, the daily charge of the court reporter for attending and transcribing the deposition, and all mileage and travel time charges of the court reporter for traveling to and from the deposition which are charged in the ordinary course of business.

(2) If the deposition is of an expert witness, the deposition costs include a reasonable fee for an expert witness. This fee shall not exceed the expert's customary hourly or daily fee, and shall include the time reasonably and necessarily spent in connection with the deposition, including the time spent in travel to and from the deposition, but excluding time spent in preparation for the deposition.

d. Medical examination fees. All costs of physical or mental examinations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation of a pending complaint or as a sanction following a contested case shall be paid directly by the credential holder.

10.39(4) Certification of reimbursable costs. Within ten days after conclusion of a contested case hearing and before issuance of any final decision assessing costs, the secretary shall certify any reimbursable costs to the board. The secretary shall calculate the specific costs, certify the costs calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on each party of record at the time of the filing.

10.39(5) Assessment of fees and costs. A final decision of the board imposing disciplinary action against a credential holder shall include the amount of any fee assessed. If the board also assesses costs against the credential holder, the final decision shall include a statement of costs delineating each category of costs and the amount assessed. The board shall specify the time period in which the fees and costs must be paid by the credential holder.

a. A party shall file an objection to any fees or costs imposed in a final decision in order to exhaust administrative remedies. An objection shall be filed in the form of an application for rehearing pursuant to Iowa Code section 17A.16(2).

b. The application shall be resolved by the board consistent with the procedures for ruling on an application for rehearing. Any dispute regarding the calculations of any fees or costs to be assessed may be resolved by the board upon receipt of the parties' written objections.

10.39(6) Payment of fees and costs. Payment for fees and costs assessed pursuant to this rule shall be made in the form of a check or money order made payable to the state of Iowa and delivered by the credential holder to the department of agriculture and land stewardship.

10.39(7) Failure to make payment. Failure of a credential holder to pay any fees and costs within the time specified in the board's decision shall constitute a violation of an order of the board and shall constitute grounds for disciplinary action.

ITEM 57. Amend **811—Chapter 10**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~chapter chapters~~ 17A, as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapters 169, and 272C.

ITEM 58. Amend rule 811—11.1(169) as follows:

811—11.1(169) Continuing education required for a veterinary licensee.

11.1(1) At least 60 hours of continuing education in courses approved by the board of veterinary medicine shall be completed ~~triennially~~ *within the last three licensing years* by each licensee as a condition for license renewal. The licensee has *financial* responsibility for ~~financing the cost~~ of continuing education. These credit hours may be obtained by attending board-approved scientific *or practice management* seminars and meetings on the basis of one credit hour for each hour of attendance. Attendance at any approved national, state or regional meeting *or RACE-approved meeting* will be acceptable. One hour of credit may be approved for local meetings where a scientific paper is presented. Credit for qualified graduate college courses may be approved on the basis of multiplying each college credit hour by 10, to a maximum of 30 hours during any one triennial license period. A maximum of 20 hours during any one triennial license period of continuing education may be achieved by completion of approved ~~home study~~ *distance education* courses. *A maximum of 20 hours of continuing education during any one triennial license period may be achieved by completion of approved practice management courses.*

11.1(2) Each licensee shall obtain the 60 credit hours between July 1 of the year the license was issued and June 30 of the following third year as a condition precedent to license renewal. Continuing education credits in excess of 60 hours for any three-year license period may be carried over to the next *triennial* license period, but the total number of ~~credits~~ *credit hours* carried over shall not exceed 20 hours.

11.1(3) A recent graduate is exempt from meeting continuing education requirements at the time of original licensure and for the first year of practice. For the purpose of this rule, a "recent graduate" means a person who has graduated from an accredited or approved school of veterinary medicine, or received a certificate from the ~~Educational Commission for Foreign Veterinary Graduates (ECFVG)~~ *ECFVG or PAVE* no more than three years prior to ~~passing the state board examination application for licensure~~. If a recent graduate is licensed during the first year of the ~~continuing education~~ *triennial license* period, the licensee is required to complete 40 hours of continuing education for the first license renewal. If a recent graduate is licensed during the second year of the ~~continuing education~~ *triennial license* period, the licensee is required to complete 20 hours of continuing education for the first license renewal. If a recent graduate is licensed during the third year of the ~~continuing education~~ *triennial license* period, the licensee is exempt from meeting continuing education requirements for the first license renewal.

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11.1(4) Completion of the continuing education *requirement* will be reported to the secretary of the board of veterinary medicine on forms a form provided by the board, at the time the of license is due for renewal. The reporting form must be signed by the license holder licensee and accompanied by a renewal application and the proper renewal fee.

This rule is intended to implement Iowa Code sections 169.5, 169.12 and 272C.2.

ITEM 59. Amend rule 811—11.2(169) as follows:

811—11.2(169) Exemptions for an inactive practitioners veterinary licensee. A licensee residing within or outside Iowa who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon paying the annual license renewal fees fee. The licensee shall make provide a written application to the board containing that includes a statement that the applicant will not engage in the practice of veterinary medicine in Iowa without first complying with all the regulations rules governing reinstatement reactivation after exemption. The application for a certificate of exemption shall be submitted upon the on a form provided by the board.

ITEM 60. Amend rule 811—11.3(169) as follows:

811—11.3(169) Reinstatement Reactivation of license. Practitioners A veterinarian whose license has lapsed or who have been placed on inactive status shall, prior to engaging in the practice of veterinary medicine in the state of Iowa, satisfy the following requirements for reinstatement:

11.3(1) Successfully complete the examination procedures specified in rule 811—7.1(169) within one year of reinstatement or otherwise demonstrate their proficiency to the satisfaction of the board;

11.3(2) Submit written application for reinstatement to the board upon forms provided by the board; and

11.3(3) Furnish furnish evidence of completion of a total number of hours of accredited continuing education computed by multiplying 20 by the number of years of inactive status, or 60 hours of accredited continuing education, whichever is less since the date of the last issuance of the license for which reactivation is sought.

ITEM 61. Amend **811—Chapter 11**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 169.5, 169.12, and 258A.2 chapters 169 and 272C.

ITEM 62. Amend rule 811—12.2(169) as follows:

811—12.2(169) Extra-label use of veterinary drugs and immunization products. Any extra-label use of veterinary products shall be considered, prescribed or used by or under the order of a practicing licensed veterinarian only; and shall be subject to the following criteria:

12.2(1) There shall be a veterinarian-client-patient relationship as defined in subrule 12.1(3).

12.2(2) For drugs used in animals not intended for food, There there are no marketed products specifically labeled for the conditions diagnosed; or if in the veterinarian's clinical judgment the labeled dosage is inadequate inappropriate for the condition, in the opinion of the veterinarian or the extra-label use should result in a better outcome for the patient.

12.2(3) The health of the treated animal(s) is immediately threatened and suffering or death would result from a failure to treat the affected animal(s).

12.2(4) Appropriate withdrawal times shall be specified when the veterinary products are used in animals intended as food. Extra-label drug use in food-producing animals must follow Food and Drug Administration - Animal Medicinal Drug Use Clarification Act regulations (21 Code of Federal Regulations 530).

ITEM 63. Adopt the following **new** rule:

811—12.3(169) Prescription labeling and packaging. A licensed veterinarian shall comply with all of the following requirements for the storage, handling, dispensing, and administering of medication:

12.3(1) The veterinarian shall maintain all controlled substances in compliance with state and federal requirements.

12.3(2) All medications that are dispensed from a container other than the original container shall be placed in a child-resistant container unless otherwise requested by the owner or unless the medication is in a form or size that cannot be easily dispensed in a child-resistant container.

12.3(3) All medications dispensed shall be labeled with the following information:

- a. Name, telephone number, and address of the veterinary clinic, hospital, or service facility.
- b. Name of the prescribing licensed veterinarian.
- c. Date on which the prescription is dispensed.
- d. Directions for use, including any cautionary statements and withdrawal times when appropriate.
- e. Name and species of the patient.
- f. Name of the owner.
- g. Name, strength, and dosage form of the medication. If the medication is a compounded product, all active ingredients must be listed on the label, with corresponding strengths or concentrations of each ingredient.
- h. Number of units dispensed.
- i. Expiration date. If the medication is a compounded product with no assigned expiration date, the veterinarian shall determine a beyond-use date as supported by the literature or by the veterinarian's professional judgment when no such supportive information exists.
- j. Appropriate withdrawal times, when the animal patient is intended as food.

12.3(4) All medications dispensed in the original container shall retain the original label and, in addition, shall be labeled with the same information as required in subrule 12.3(3).

12.3(5) Medications which have expired shall be removed from current inventory and shall not be dispensed or sold.

12.3(6) Medications shall be dispensed only for specific animals and for specific veterinary medical therapies with the exception of groups of similar animals and other groups such as pet fish, kennels, and catteries for which dispensing shall be done judiciously within a valid veterinarian-client-patient relationship.

ITEM 64. Amend **811—Chapter 12**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 169.13(7) chapter 169.

ITEM 65. Amend rule 811—13.1(169,252J) as follows:

811—13.1(169,252J) Licensing actions. In addition to other reasons specified by statute or rule, the board may refuse to issue a license or permit credential, or may revoke, suspend, or not renew any license or permit credential for which it has jurisdiction if the board is in receipt of a certificate of non-compliance from the child support recovery unit, pursuant to

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the procedures set forth in Iowa Code Supplement chapter 252J.

An applicant, licensee, or permit credential holder whose application is denied or whose license or permit is credential is denied, suspended, or revoked because of receipt by the board of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 811—13.1(169,252J), and procedures specified in 811—Chapter 10 for contesting board actions shall not apply.

ITEM 66. Amend rule 811—13.2(169,252J) as follows:

811—13.2(169,252J) Child support collection procedures. The following procedures shall apply to actions taken by the board on a certificate of noncompliance pursuant to Iowa Code Supplement chapter 252J:

13.2(1) The notice required by Iowa Code Supplement section 252J.8 shall be served upon the applicant, licensee, or permit credential holder by restricted certified mail, return receipt requested, or personal service in accordance with *Iowa Rule of Civil Procedure 56.4 1.305*. Alternatively, the applicant, licensee, or permit credential holder may accept service personally or through authorized counsel.

13.2(2) The effective date of revocation or suspension of a license or permit credential or the denial of the issuance or renewal of a license or permit credential, as specified in the notice required by Iowa Code Supplement section 252J.8, shall be 60 days following service of the notice upon the licensee, permit credential holder, or applicant.

13.2(3) Applicants, licensees, and permit credential holders shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code Supplement chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

13.2(4) All board fees for applications, license credential renewals or reinstatements must be paid by the applicant, licensee, or permit credential holder before a license creden-

tial will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license credential or has suspended or revoked a license or permit credential pursuant to Iowa Code Supplement chapter 252J.

13.2(5) If an applicant, licensee, or permit credential holder timely files a district court action following service of a board notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license or permit credential, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

ITEM 67. Amend **811—Chapter 13**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter chapters 169 and Iowa Code Supplement chapter 252J.

ITEM 68. Amend subrules 14.5(1) and 14.5(3) as follows:

14.5(1) License Credential application. If the petition relates to a license credential application, the petition shall be made in accordance with the filing requirements for the license credential in question.

14.5(3) Other. If the petition does not relate to a license credential application or a pending contested case, the petition may be submitted to the board's executive secretary.

ITEM 69. Amend rule **811—14.6(17A,169)**, numbered paragraph "5," as follows:

5. A history of any prior contacts between the board and the petitioner relating to the regulated activity or license credential affected by the proposed waiver, including a description of each affected license credential held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license credential within the last five years.

ARC 6864B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 185C.25, the Department of Agriculture and Land Stewardship hereby amends Chapter 20, "Referendum," Iowa Administrative Code.

The amendment allows preliminary county results to be E-mailed or faxed to the Department. Currently, the preliminary results can only be sent by telephone.

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

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. This amendment confers a benefit to the public because the amendment allows an upcoming referendum to be conducted with updated technology.

No waiver provision is included in this amendment.

This amendment became effective on May 30, 2008.

This amendment is intended to implement Iowa Code chapters 179, 181, 182, 183A, 184A, 185, and 185C.

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

The following amendment is adopted.

Amend subrule **20.4(2)**, paragraph "e," subparagraph (3), as follows:

(3) The election judge shall, after voting has been completed and the voting place closed, count the ballots and telephone, *fax or E-mail* the tentative tabulation to the office of the secretary.

[Filed Emergency 5/30/08, effective 5/30/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6840B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 36, "Film, Television, and Video Project Promotion Program," Iowa Administrative Code.

These amendments add definitions for "commercial domicile" and "Iowa-based business"; allow tax credit certificates to be transferred regardless of the amount; and stipulate that the Department will accept an alternative format for

expenditure submissions provided that the alternative format is agreed upon by the producer/production company and the Department prior to the start of production.

The IDED Board adopted these amendments on May 14, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because the current administrative rules place an unnecessary burden on constituents who utilize this program in terms of how large a tax credit certificate amount must be before it can be transferable and what form or format can be used when submitting expenditures to the Department.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on May 16, 2008. These amendments confer a benefit on the public by eliminating unnecessary burdens related to when a tax credit certificate is eligible for transfer and how customers need to file qualified expense reports.

These amendments are also published herein under Notice of Intended Action as **ARC 6841B** to allow for public comment.

These amendments became effective on May 16, 2008.

These amendments are intended to implement Iowa Code Supplement sections 15.391 to 15.393.

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

The following amendments are adopted.

ITEM 1. Amend **261—Chapter 36**, parenthetical implementation statutes, as follows:

(~~82GA, HF892 15~~)

ITEM 2. Amend rule **261—36.2(15)** by adopting the following **new** definitions in alphabetical order:

"Commercial domicile" means the principal place from which the trade of business of the taxpayer is directed or managed.

"Iowa-based business" means a business whose commercial domicile is in Iowa.

ITEM 3. Amend subrule **36.7(3)**, paragraph "c," as follows:

c. A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. ~~Tax credit certificate amounts of less than \$1000 shall not be transferable. Any certificates issued on or after the program's effective date, May 17, 2007, may be freely transferred without regard to face value.~~ A maximum of two transfers shall be allowed.

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

ITEM 4. Amend subrule 36.7(4) as follows:

36.7(4) Approval of tax credit—reporting. All qualified expenditures made for a registered project must be submitted on Form Z, Schedule of Qualified Expenses, or in a format approved by the department prior to production once the producer has completed the project. ~~No other form of reporting will be accepted.~~ No additional claims will be accepted once the Schedule of Qualified Expenses or previously approved documentation has been received by the Iowa film office.

ITEM 5. Amend subrule **36.8(2)**, paragraph “c,” as follows:

c. A tax credit certificate issued may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee’s name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the transferred tax credit certificate and the transferee’s statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. ~~Tax credit certificate amounts of less than \$1000 shall not be transferable.~~ Any certificates issued on or after the program’s effective date, May 17, 2007, may be freely transferred without regard to face value. A maximum of two transfers shall be allowed.

ITEM 6. Amend **261—Chapter 36**, implementation sentence, as follows:

These rules are intended to implement 2007 Iowa Acts, House File 892 2007 Iowa Code Supplement sections 15.391 to 15.393.

[Filed Emergency 5/16/08, effective 5/16/08]

[Published 6/18/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6852B

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 71, “Administration,” Chapter 72, “New Installations,” Chapter 75, “Fees,” and Chapter 76, “Permits,” Iowa Administrative Code.

The technology to create electricity from wind is evolving rapidly, and the wind energy industry is expanding rapidly in Iowa. Many of the wind towers being constructed today are approximately 300 feet high, and mechanics must have access to the full interior of the towers and the mechanical rooms at the top of the towers. While the towers are equipped with ladders and standards exist to protect workers from falls while climbing, the knees and arms of mechanics have been severely impacted by repetitive trauma while climbing. Since the height of the newer towers is increasing and the towers are proliferating, the need to find a safe, effective

method for getting workers to the top of the towers is pressing.

Installation of a traditional elevator in a wind tower presents a significant engineering challenge. The towers are tapered from bottom to top, and they are flexible enough to move significantly with the wind. Traditional elevators have rigid guide rails welded to the walls of hoistways. This practice is not feasible in a wind tower.

Powered equipment is being installed in towers to move the mechanics up and down, but there are no directly applicable safety codes for the equipment. The Elevator Safety Board has determined that this equipment, commonly referred to as a “lift” or “work cage” by the industry, meets the definition of “elevator” found in Iowa Code chapter 89A.

Rapid development of the wind energy industry and the unique environment of these installations have put the technology ahead of the ability of code-writing bodies to respond. The American Society of Mechanical Engineers (ASME) has begun the lengthy process of implementing a new performance-based code, ASME A17.7(2007), that will eventually ensure the health and safety of mechanics using wind tower lifts, and the Elevator Safety Board voted to adopt ASME Code A17.7(2007) effective July 23, 2008. However, it could be many months before wind tower lifts can receive approval through the ASME performance-based code.

Since wind tower lifts have already been installed and more installations are planned to begin soon, the Elevator Safety Board has determined that emergency rule making is imperative to ensure the safety and health of wind tower mechanics pending completion of the performance-based code process through ASME.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Elevator Safety Board finds that making these amendments effective immediately is appropriate to remove the restrictions on installation of additional wind tower lifts and to allow the use of existing wind tower lifts. The amendments benefit the mechanics and their employers now and in the future. Mechanics will benefit from a greatly reduced likelihood of repetitive joint trauma, and their employers will benefit from reduced costs for workers’ compensation and training new mechanics.

The Elevator Safety Board has worked toward a resolution of this issue for several months with wind tower lift manufacturers. The Elevator Safety Board has balanced the value of public participation against the need for rapid implementation of new rules and has determined, pursuant to Iowa Code section 17A.4, that notice and public participation are impracticable and that further delay for additional input from the public would be contrary to the public interest. A significant level of industry input has already occurred, and construction schedules demand immediate resolution of this issue.

The Elevator Safety Board has also proposed these same amendments under Notice of Intended Action as **ARC 6853B** to allow public comment.

The principal reasons for adoption of these amendments are to protect worker safety and health and to implement legislative intent. No variance provision is included in these amendments as 875—Chapter 66 sets forth applicable variance procedures.

These amendments became effective May 28, 2008.

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

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

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

The following amendments are adopted.

ITEM 1. Amend rule **875—71.1(89A)** by inserting the following **new** definitions in alphabetical order:

"AECO." An accredited elevator/escalator certification organization accredited pursuant to ASME A17.7(2007).

"Wind tower lift." A conveyance designed and utilized solely for movement of trained and authorized people and small loads in wind towers built for the production of electricity.

ITEM 2. Amend subrule 71.2(7) as follows:

71.2(7) The commissioner shall assign identification numbers to all conveyances which shall be on a metal tag permanently attached to the controller or electrical disconnect in the machine room. *The metal tag in a wind tower lift shall be attached in the lift cage.*

ITEM 3. Amend subrule 71.5(5) as follows:

71.5(5) Prohibited inspections. A special inspector shall not conduct an inspection of any conveyance to satisfy the requirements of Iowa Code section 89A.6, if the conveyance is:

- a. Owned or leased by the employer of the inspector, or
- b. Under contract for installation, alteration or maintenance by the employer of the special inspector, or
- c. *A wind tower lift as described in rule 875—72.12(89A).*

ITEM 4. Adopt the following **new** rule 875—72.12(89A):

875—72.12(89A) Wind tower lifts. Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception shall not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

72.12(1) Wind tower lifts that meet the requirements of subrules 72.12(2) through 72.12(10) are exempt from the requirements of ASME A17.1. This temporary exemption shall terminate for a wind tower lift upon the occurrence of at least one of the following events:

- a. Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the labor commissioner an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7(2007) was submitted to an AECO.
- b. The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.
- c. The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.
- d. The AECO has determined that modifications to the wind tower lift are necessary, and the labor commissioner determines the wind tower lift is not safe to operate prior to completion of the modifications.
- e. The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

72.12(2) A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the labor commissioner no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the la-

bor commissioner according to the schedule set by the labor commissioner. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(3) The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the labor commissioner prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the labor commissioner's inspectors prior to its being placed into operation. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(4) Registration pursuant to this rule requires submission of the following information to the labor commissioner:

- a. The unique identifier of the wind tower.
- b. The name of the wind tower owner and contact information for the owner's representative.
- c. The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.
- d. The location of the wind farm.
- e. The blueprints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.
- f. The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

72.12(5) The owner shall notify the labor commissioner within 30 days of any change in the information provided pursuant to 72.12(4)"b" and "c."

72.12(6) This subrule establishes reporting requirements in addition to the requirements of rule 875—71.3(89A). The manufacturer of a lift must notify the labor commissioner in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding \$2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or accident. The labor commissioner shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

72.12(7) Wind tower lifts must comply with 29 CFR 1910.

72.12(8) The manufacturer shall notify the labor commissioner within seven days of notification to the manufacturer that an AECO has:

- a. Issued a Certificate of Conformance for the model or series of wind tower lifts,
- b. Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or
- c. Determined that modifications to the wind tower lifts are necessary.

72.12(9) Wind tower lifts shall pass an inspection covering the following criteria:

- a. Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.
- b. Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.
- c. Interior floor and cage framework shall appear to be structurally sound.

LABOR SERVICES DIVISION[875](cont'd)

- d. Enclosure signage recommended by the manufacturer shall be in place.
- e. Manufacturer's data plate shall be visible.
- f. Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.
- g. Guide shoes shall appear to be structurally sound and undamaged.
- h. Suspended power cords and strain relief devices shall reveal no visible damage.
- i. Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.
- j. Overspeed device shall successfully pass a full-load test.
- k. Overload device shall successfully pass an overload test according to the manufacturer's recommendations.
- l. Wire rope, safety rope, and guide rope shall show no evidence of wear.
- m. Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.
- n. The wind tower lift shall not drift when subjected to a static full load.
- o. Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.
- p. Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.
- q. Power cord catch basket shall pass a visual inspection.
- r. Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.
- s. A communication device, if installed in the car, shall be operable.
- t. Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

72.12(10) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

ITEM 5. Renumber subrule **75.1(3)** as **75.1(4)**.

ITEM 6. Adopt the following **new** subrule 75.1(3):

75.1(3) Installation inspection and permit fees for each wind tower lift as described in rule 875—72.12(89A) shall be \$250. This fee includes the initial inspection; the first-year operating permit; and the issuance of a single installation permit for all of the identical wind tower lifts installed in identical wind towers in a single wind farm as the result of one construction contract. This fee is applicable to all wind tower lifts, regardless of the date of installation. If a wind tower lift is not in compliance at the time of the installation inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$150 for each additional inspection.

ITEM 7. Adopt the following **new** subrule 75.3(3):

75.3(3) Wind tower lift inspections. The periodic (annual) inspection fee for each wind tower lift shall be \$150. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$150. The fee for each consultative inspection is \$150.

ITEM 8. Amend subrule 76.4(2) as follows:

76.4(2) Escalator, moving walk, *wind tower lift*, and wheelchair lift operating permits shall be displayed on or near the unit for which they are issued.

ITEM 9. Amend subrule 76.5(1) as follows:

76.5(1) All installation or major alteration permits shall be kept at the worksite and be made available upon request. *All the wind towers covered by a single installation permit shall be considered a single worksite, and posting one copy of the installation permit at the construction project office shall be sufficient.*

[Filed Emergency 5/28/08, effective 5/28/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6846B**EMPOWERMENT
BOARD, IOWA[349]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 28.4, the Iowa Empowerment Board hereby amends Chapter 1, "Community Empowerment," Iowa Administrative Code.

The amendments to Chapter 1 add definitions and incorporate language placed into the Iowa Code during the 2006 and 2007 legislative sessions. These amendments add definitions for the "business community investment advisory council," "community empowerment gifts and grants account," "early childhood business committee," and "first years first," and update the responsibilities of the Iowa Empowerment Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6584B**. A public hearing was held on March 4, 2008, in Room 142 at the Lucas State Office Building. No public comments were received.

These amendments are identical to those published under Notice.

These amendments were approved by the Iowa Empowerment Board on May 16, 2008.

These amendments will become effective on July 23, 2008.

These amendments are intended to implement Iowa Code section 28.9(5) and 2006 Iowa Acts, chapter 1157, section 17(4)"b."

The following amendments are adopted.

ITEM 1. Amend rule **349—1.4(28)** by adopting the following **new** definitions in alphabetical order:

"Business community investment advisory council" means a council created by the Iowa legislature to provide recommendations on building a public-private partnership for early childhood in Iowa.

"Community empowerment gifts and grants account" means an account created in the Iowa empowerment fund under the authority of the department of management to be used for first years first.

"Early childhood business committee" means a committee created by the Iowa board to advise the Iowa board on the use of the community empowerment gifts and grants account funds and to support implementation of the business community investment advisory council recommendations.

"First years first" means a public-private partnership for early childhood in Iowa.

ITEM 2. Amend subrule **1.6(3)** by adopting the following **new** paragraph:

p. The Iowa board shall establish an early childhood business committee to serve in an advisory role to the Iowa board on the use of the gifts and grants account funds and to support the implementation of the business community investment advisory council recommendations through first years first.

ITEM 3. Amend rule 349—1.9(28) as follows:

349—1.9(28) Iowa empowerment fund. An Iowa empowerment fund is created in the state treasury as specified in Iowa Code section 28.9. A school ready funding account is created in the Iowa empowerment fund under the authority of the Iowa board to be administered by the director of the de-

partment of education. Moneys credited to the account shall be distributed by the department of education to designated empowerment areas pursuant to criteria established by the Iowa board in accordance with law. An early childhood funding account is created in the Iowa empowerment fund and shall be distributed by the *director of the* department of human services to designated empowerment areas pursuant to criteria established by the Iowa board in accordance with law. *A community empowerment gifts and grants account is created in the Iowa empowerment fund under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are appropriated to the department of management to be used for first years first.* Interest or earnings on moneys deposited in the Iowa empowerment fund shall be credited to the fund.

[Filed 5/20/08, effective 7/23/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6842B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 170, "Child Care Services," Iowa Administrative Code.

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

- Allowing parents who work at least six hours between the hours of 8 p.m. and 6 a.m. to have child care paid while they sleep during the daytime. Allowing sleep time as a qualifying need for service will provide a safer environment for children and will support employment for low-income parents.

- Requiring that parents cooperate with quality control reviews and eligibility investigations as a condition of eligibility. The Department will be doing quality control reviews to measure, calculate, and report improper payments related to federal child care development funds, in compliance with federal regulations. Cases with questionable circumstances are referred to the Department of Inspections and Appeals for investigation. Failure to cooperate will result in cancellation of assistance.

- Adding definitions of "agency error" and "PROMISE JOBS."

- Requiring the recoupment of Child Care Assistance overpayments that are caused by agency errors, consistent with policies in other assistance programs of the Department.

- Clarifying that vocational training includes postsecondary education.

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

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

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 26, 2008, as **ARC 6677B**. The Department received no comments on the Notice of Intended Action.

The Department has made one change to the amendments as stated in the Notice of Intended Action. New subparagraph (4) is added to paragraph 170.9(6)“b” to reference Form 470-4530, Notice of Child Care Assistance Overpayment, a new form that will be issued for overpayments due to client, provider, or agency error.

The Council on Human Services adopted these amendments on May 14, 2008.

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

These amendments shall become effective on August 1, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 170] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6677B**, IAB 3/26/08.

[Filed 5/16/08, effective 8/1/08]
[Published 6/18/08]

[For replacement pages for IAC, see IAC Supplement 6/18/08.]

ARC 6854B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 71, “Administration,” Chapter 72, “New Installations,” Chapter 73, “Existing Conveyances,” and Chapter 76, “Permits,” and rescinds Chapter 77, “Variances,” Iowa Administrative Code.

These amendments rescind unnecessary and obsolete provisions, adopt by reference the most recent edition of the American Society of Mechanical Engineers code for elevators and escalators, and implement statutory changes enacted in 2007 Iowa Acts, chapter 16 (House File 369), and 2008 Iowa Acts, Senate File 2154.

The purposes of these amendments are to protect the safety of the public, allow the most current technology to be installed in Iowa, keep the rules current, and implement legislative intent.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6718B**. A public hearing was scheduled for May 14, 2008. The only comment received was a letter that was favorable to the proposed changes.

One change from the Notice of Intended Action is included in the amendments adopted below. The Notice of Intended Action included the adoption by reference of the new ASME performance-based code; however, the Notice did not include a needed conforming amendment to the rules for installation permits. In Item 8, an additional amendment is adopted that requires submission of certain documents generated during the performance-based safety code process with applications for installation permits.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 66.

These amendments are intended to implement Iowa Code chapter 89A as amended by 2007 Iowa Acts, chapter 16, and 2008 Iowa Acts, Senate File 2154.

These amendments will become effective on July 23, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **71.2(2)“c,”** introductory paragraph, as follows:

c. Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own conveyances. All tests shall be in accordance with ~~ASME A17.1-2004, A17.1a-2005 and A17.1S-2005, part 8 (except for rule 8.11.1.1), ASME A17.1-2007/CSA B44-07, part 8, (except for rule 8.11.1.1); ASME A17.7-2007/CSA B44-07; or ASME A18.1(2003), part 10, as applicable.~~ Safety tests shall be in a format approved by the commissioner. The firm or person conducting the tests shall:

ITEM 2. Amend subrules 72.1(1), 72.1(2), 72.1(6), and 72.1(7) as follows:

72.1(1) Installations—January 1, 1975, to December 31, 1982. As used in this chapter, ANSI A17.1 shall mean ANSI A17.1 (1971). ~~As used in this chapter, ANSI C1 shall mean ANSI C1-1975.~~

72.1(2) Installations—January 1, 1983, to December 31, 1992. As used in this chapter, ANSI A17.1 shall mean ANSI A17.1 (1981). ~~As used in this chapter, ANSI C1 shall mean ANSI C1-1981.~~ As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(6) Installations—~~on and after~~ April 5, 2006, *through July 22, 2008*. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003), except for rule 407.4.6.2.2. As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(7) ~~Any installation which is in compliance with the latest supplements to ASME A17.1 shall be considered to be in compliance with this chapter, where the latest supplement has equal or more stringent safety requirements as determined by the commissioner.~~ *Installations—on or after July 23, 2008. This subrule applies to installations on or after July 23, 2008. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07. As used in this chapter, ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003), except for rule 407.4.6.2.2. As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).*

72.1(8) As used in this rule, the word “installed” refers to the date of a written contractual agreement to install a new conveyance or reinstate a dormant conveyance.

ITEM 3. Adopt **new** rule 875—72.7(89A) as follows:

875—72.7(89A) Performance-based safety code. Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

ITEM 4. Rescind rule 875—72.22(89A) and adopt in lieu thereof the following **new** rule:

LABOR SERVICES DIVISION[875](cont'd)

875—72.22(89A) Material lift elevators. The provisions contained in ASME A17.1, Sections 7.4 and 7.5, are adopted by reference for Type B material lift elevators installed on or after July 23, 2008. Material lift elevators used exclusively for the movement of materials are not subject to regulation under Iowa Code chapter 89A.

ITEM 5. Adopt **new** rule 875—72.24(89A) as follows:

875—72.24(89A) Construction personnel hoists. The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

ITEM 6. Amend **875—Chapter 72**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 89A as amended by 2007 Iowa Acts, chapter 16, and 2008 Iowa Acts, Senate File 2154.

ITEM 7. Amend subrules 73.8(1); 73.8(3), introductory paragraph; and 73.8(4), introductory paragraph, as follows:

73.8(1) All maintenance, repairs and alterations shall comply with ~~ASME A17.1-2004, A17.1a-2005 and A17.1S-2005~~ ASME A17.1-2007/CSA B44-07 or ASME A17.7-2007/CSA B44-07, as applicable, except as noted in 73.8(3) and 73.8(4).

73.8(3) The provisions of ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

73.8(4) The full length of the platform guard set forth in ASME A17.1-2007/CSA B44-07 and ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

ITEM 8. Adopt **new** subrule 76.2(10) as follows:

76.2(10) For a conveyance covered by ASME A17.7, a complete copy of the Code Compliance Document with attachments as described by ASME A17.7, Section 2.10, and a complete copy of the Certificate of Conformance with attachments as described by ASME A17.7 Appendix I, Section 4.5.2.

ITEM 9. Rescind and reserve **875—Chapter 77**.

[Filed 5/29/08, effective 7/23/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6843B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment provides for the identification of a temporary pharmacist in charge for a period not to exceed 90 days following vacancy of the pharmacist in charge position in a pharmacy. Written notification of appointment of a temporary pharmacist in charge shall be submitted to the Board

within ten days of the vacancy, without fee or license application. Upon identification of a permanent pharmacist in charge, a new license application and fee shall be submitted to the Board.

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

Notice of Intended Action was published in the March 26, 2008, Iowa Administrative Bulletin as **ARC 6664B**. The Board received written comments regarding the proposed amendment from one pharmacy association. The adopted amendment is identical to that published under Notice.

The amendment was approved during the April 30, 2008, meeting of the Board of Pharmacy.

This amendment will become effective on July 23, 2008.

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

The following amendment is adopted.

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

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

[Filed 5/19/08, effective 7/23/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6850B

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Adopted and Filed

Pursuant to the authority of Iowa Code section 546.2, the Professional Licensing and Regulation Bureau hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

This amendment allows the newsletter which is published by the Professional Licensing and Regulation Bureau to be distributed to additional licensees regulated within the Division of Banking. The Professional Licensing and Regulation Division became a Bureau of the Division of Banking in July 2006.

Notice of Intended Action was published in Iowa Administrative Bulletin on April 23, 2008, as **ARC 6712B**. No comments were received. This amendment is identical to that published under Notice.

The Bureau adopted this amendment on May 28, 2008.

This amendment is intended to implement Iowa Code chapter 546.

The amendment shall become effective July 23, 2008.

The following amendment is adopted.

PROFESSIONAL LICENSING AND REGULATION BUREAU[193](cont'd)

Amend rule 193—1.9(272C,542,542B,543B,543D,544A,544B,544C) by adopting the following **new** subrule:

1.9(8) Commencing with the first bureau newsletter distributed on or after July 1, 2008, newsletter circulation may, at the administrator's sole discretion, include additional licensees within the division of banking, including but not limited to the following: state banks (Iowa Code chapter 524), debt management companies (Iowa Code chapter 533A), money services providers (Iowa Code chapter 533C), delayed deposit services providers (Iowa Code chapter 533D), mortgage bankers, mortgage brokers, and mortgage originators (Iowa Code chapter 535B), regulated loan companies (Iowa Code chapter 536), industrial loan companies (Iowa Code chapter 536A), and state chartered savings and loans (Iowa Code chapter 534). If the administrator expands the circulation as provided in this subrule, the newsletter may include advertising consistent with this rule on the topics listed in subrule 1.9(6) as such topics would apply to the additional types of licensees.

[Filed 5/28/08, effective 7/23/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6851B**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 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

This amendment updates the requirement for occupational therapy screening.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 26, 2008, as **ARC 6675B**.

A public hearing was held on April 15, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comment was received. This amendment is identical to the one published under Notice of Intended Action.

This amendment was adopted by the Iowa Board of Physical and Occupational Therapy on May 16, 2008.

This amendment will become effective July 23, 2008.

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

The following amendment is adopted.

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

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

1. Assessment of the medical and social history of an individual;
2. Observations related by that individual's caregivers; or

3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

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

[Filed 5/28/08, effective 7/23/08]

[Published 6/18/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/18/08.

ARC 6855B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.4 and 421.1A, the Property Assessment Appeal Board hereby adopts amendments to Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The amendments to rule 701—71.21(42,17A) correct existing subrules and add new subrules to clarify the practice and procedure for the conduct of appeals before the Board.

Notice of Intended Action was published in IAB Vol. XXX, No. 22, p. 1577, on April 23, 2008, as **ARC 6746B**. Dale McCrea, President-Elect of the Iowa State Association of Assessors presented oral and written comments on the rules to the Administrative Rules Review Committee on May 13, 2008. The Board gave thoughtful consideration to the comments and suggestions of the ISAA but determined no changes to the proposed amendments were necessary as they conform to the Iowa Code, Iowa Case law, and Iowa Rules of Civil Procedure. These amendments are identical to those published under Notice of Intended Action.

Item 1 amends subrule 71.21(6) to include an appellee in the definition of "party."

Item 2 amends subrule 71.21(7) to clarify what qualifies as "filing" with the Board, to eliminate the time requirement for requests to participate in a proceeding by telephone, and to clarify what methods of delivery are acceptable for filing papers with the Board.

Item 3 amends subrule 71.21(11) to extend the time requirement for certifying records to the Board and to require that a request for extension of time be made in writing.

Item 4 amends subrule 71.21(13) to clarify how a party may make a formal appearance before the Board.

Item 5 amends subrule 71.21(14) to clarify what methods of delivery are acceptable for filing papers with the Board and the number of copies to be provided.

Item 6 amends subrule 71.21(15) to eliminate the time requirement for filing motions with the Board and to clarify the time for response.

Item 7 amends subrule 71.21(20) to clarify factors the Board may consider when granting a continuance.

Item 8 amends subrule 71.21(24) to allow an appellant to make a motion to rescind a withdrawal.

Item 9 renumbers subrule 71.21(25) as 71.21(26); subrule 71.21(26) as 71.21(29); subrule 71.21(27) as 71.21(34); sub-

REVENUE DEPARTMENT[701](cont'd)

rule 71.21(28) as 71.21(36); subrule 71.21(29) as 71.21(37); and subrule 71.21(30) as 71.21(38).

Item 10 adds new subrule 71.21(25) to allow the Board to hold a prehearing conference on its own motion or at the request of the parties.

Item 11 adds new subrule 71.21(27) to set forth discovery procedures available in appeals before the Board.

Item 12 adds new subrule 71.21(28) to set forth the procedures for the issuance of subpoenas by the Board.

Item 13 amends renumbered subrule 71.21(29), paragraphs "c" and "d," to clarify what evidence may be admissible or excluded in a hearing before the Board and to require parties to exchange exhibits.

Item 14 adds new subrule 71.21(30) to set forth the procedures a party may follow for settlement of an appeal before the Board.

Item 15 adds new subrule 71.21(31) to notify parties that the record is kept at the office of the Board and that papers filed as part of the record are public records unless held confidential.

Item 16 adds new subrule 71.21(32) to allow the Board to reopen the record in an appeal before the Board.

Item 17 adds new subrule 71.21(33) to allow a party to request a rehearing or reconsideration of an appeal before the Board.

Item 18 adds new subrule 71.21(35) to provide for waiver of any rule of the Board.

These amendments will become effective July 23, 2008, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 421.1A and 441.37A and chapter 17A.

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 [71.21] is being omitted. These amendments are identical to those published under Notice as **ARC 6746B**, IAB 4/23/08.

[Filed 5/29/08, effective 7/23/08]
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