



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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

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

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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2018

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 13, 2017	January 3, 2018
15	Wednesday, December 27, 2017	January 17, 2018
16	Friday, January 12, 2018	January 31, 2018

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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*****

DENTAL BOARD[650]

Review of applications for license, permit, registration or qualification, 11.8, 20.18
IAB 12/6/17 **ARC 3477C**

Board Office, Suite D
400 S.W. Eighth St.
Des Moines, Iowa

January 9, 2018
2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Licensure; authorizations; endorsements; conversion information, amend chs 13, 15, 16, 18, 22, 27; rescind ch 21
IAB 12/6/17 **ARC 3471C**

Room 3 Southwest
Grimes State Office Bldg.
Des Moines, Iowa

December 27, 2017
1 p.m.

Teacher leadership and compensation model for mentoring; computer science endorsement, 13.7, 13.28
IAB 12/6/17 **ARC 3470C**

Room 3 Southwest
Grimes State Office Bldg.
Des Moines, Iowa

December 27, 2017
1 p.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Residential care facilities for persons with an intellectual disability, 57.1, 57.6
IAB 12/6/17 **ARC 3472C**

Room 319
Lucas State Office Bldg.
Des Moines, Iowa

January 3, 2018
10 a.m.

Prohibition of mechanical restraints in residential care facilities, 57.1, 57.33(8)
IAB 12/6/17 **ARC 3473C**

Room 319
Lucas State Office Bldg.
Des Moines, Iowa

January 3, 2018
10 a.m.

Residential care facilities for persons with mental illness, ch 62
IAB 12/6/17 **ARC 3474C**

Room 319
Lucas State Office Bldg.
Des Moines, Iowa

January 3, 2018
10 a.m.

Residential care facility—three-to five-bed specialized license, ch 63
IAB 12/6/17 **ARC 3475C**

Room 319
Lucas State Office Bldg.
Des Moines, Iowa

January 3, 2018
10 a.m.

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Description of organization, ch 1
IAB 11/22/17 **ARC 3458C**

Conference Room 4E
Wallace State Office Bldg.
Des Moines, Iowa

December 12, 2017
11 a.m. to 12 noon

PROFESSIONAL LICENSURE DIVISION[645]

Physician assistant practice—sharing of information about complaints, 327.8
IAB 11/22/17 **ARC 3455C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

December 12, 2017
7:30 to 8 a.m.

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Medical cannabidiol program, amendments to ch 154 IAB 10/25/17 ARC 3420C	Rooms 517 and 518 Lucas State Office Bldg. Des Moines, Iowa	December 8, 2017 10 a.m. to 12 noon
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Planting and harvesting period, 520.8 IAB 12/6/17 ARC 3482C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	December 28, 2017 10 a.m. (If requested)
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“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 3478C

AGING, DEPARTMENT ON[17]**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 231.14 and 17A.3, the Department on Aging hereby gives Notice of Intended Action to amend Chapter 2, “Department on Aging,” Iowa Administrative Code.

This proposed amendment changes the divisions of the Department on Aging. New legislation was passed on the federal level related to the Office of the State Long-Term Care Ombudsman. On a monitoring visit, the Administration for Community Living noted that the organization of the Department was inconsistent with 45 CFR § 1324.11(c). The proposed amendment will put the Department in compliance with federal law.

Any interested person may make written suggestions or comments on the proposed amendment on or before December 26, 2017. Such written comments or suggestions should be directed to Brian Majeski, Iowa Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319. Email may be sent to brian.majeski@iowa.gov.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 231.22.

The following amendment is proposed.

Amend rule 17—2.5(231) as follows:

17—2.5(231) Organizational units of the department. The department’s activities are performed by employees within the office of the director and ~~three~~ two divisions. Grants will be managed by the appropriate division, dependent upon the source and intended use of funds.

2.5(1) Office of the director. The office of the director may be comprised of the director, the assistant director, the state long-term care ombudsman, the policy coordinator, the public information officer, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

2.5(2) Division of programs, planning, and administration. The responsibilities of the division of programs, planning, and administration include the development and operation of home- and community-based programs, development of program and operational budgets, providing leadership and direction for the integration of policy development, ensuring that policies are consistent with department goals and results, and accounting and administrative control of appropriation expenditures.

~~**2.5(3) Division of policy and planning.** The responsibilities of the division of policy and planning include providing leadership and direction for the integration of policy development and ensuring that policies are consistent with department goals and results.~~

~~**2.5(4) Division of elder rights.** The responsibilities of the division of elder rights include development, administration, and operation of the program and budget for the office of the state long-term care ombudsman and other programs impacting elder rights.~~

2.5(3) Office of the state long-term care ombudsman. The responsibilities of the state long-term care ombudsman include development, administration, and operation of the program and allocated budget to provide advocacy for individuals residing in long-term care.

ARC 3479C

AGING, DEPARTMENT ON[17]**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 231.42 and 17A.3, the Department on Aging hereby gives Notice of Intended Action to amend Chapter 8, “Long-Term Care Ombudsman,” Iowa Administrative Code.

This proposed amendment changes the rule related to the Certified Volunteer Long-Term Care Ombudsman Program. New legislation was passed on the federal level related to the Office of the State Long-Term Care Ombudsman. On a monitoring visit, the Administration for Community Living noted that the subrule regarding access to residents was inconsistent with 45 CFR § 1324.11(e)(2)(ii). This amendment will put the Department in compliance with federal law.

Any interested person may make written suggestions or comments on the proposed amendment on or before December 26, 2017. Such written comments or suggestions should be directed to Brian Majeski, Iowa Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319. Email may be sent to brian.majeski@iowa.gov.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 231.45.

The following amendment is proposed.

Rescind paragraph **8.6(10)“c.”**

ARC 3477C

DENTAL BOARD[650]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.2, 153.15A, 153.21, 153.33B, and 153.39, the Dental Board hereby gives Notice of Intended Action to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” and Chapter 20, “Dental Assistants,” Iowa Administrative Code.

The purpose of the proposed amendments is to implement a clearer pathway for the review of applications for license, permit, registration or qualification, which include information requiring additional review prior to issuance; how to determine when a license or registration should be issued; and when an application must be forwarded to the Dental Hygiene Committee or the Board for final review and decision prior to issuance.

Any interested person may make written comments on the proposed amendments on or before January 9, 2018. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by email to phil.mccollum@iowa.gov.

There will be a public hearing on January 9, 2018, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

DENTAL BOARD[650](cont'd)

The proposed amendments to Chapters 11 and 20 are subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147.2, 153.15A, 153.21, 153.33B, and 153.39.

The following amendments are proposed.

ITEM 1. Amend rule 650—11.8(147,153) as follows:

650—11.8(147,153) Review of applications. Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

1. Authorize the issuance of the license, or permit, ~~or registration~~.
2. Refer the license, or permit, ~~or registration~~ application to the license and registration committee for review and consideration when the executive director determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history are relevant in determining the applicants' qualifications for license, or permit, ~~or registration~~.

11.8(1) Following review and consideration of a ~~license, permit, or registration~~ an application referred by the executive director, the license and registration committee may at its discretion:

- a. ~~Recommend to the board issuance of the license, permit, or registration~~ Authorize the executive director to issue the license or permit.
- b. ~~Recommend to the board denial of the license, permit, or registration~~ Send the application to the board for further review and consideration.
- c. ~~Recommend to the board issuance of the license, permit, or registration under certain terms and conditions or with certain restrictions.~~
- d. ~~Refer the license, permit, or registration application to the board for review and consideration without recommendation.~~

11.8(2) Following review and consideration of a license, or permit, ~~or registration~~ application referred by the license and registration committee, the board shall:

- a. Authorize the issuance of the license, or permit, ~~or registration~~,
- b. Deny the issuance of the license, or permit, ~~or registration~~, or
- c. Authorize the issuance of the license, or permit, ~~or registration~~ under certain terms and conditions or with certain restrictions.

11.8(3) The license and registration committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

11.8(4) The license and registration committee or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant, who may otherwise meet the requirements for license, or permit, ~~or registration~~, until such time as the committee or board is satisfied that licensure ~~or registration~~ of the applicant poses no risk to the health and safety of Iowans.

11.8(5) The dental hygiene committee shall be responsible for reviewing any applications submitted by a dental hygienist that require review in accordance with this rule. Following review by the dental hygiene committee, the committee shall make a recommendation to the board regarding issuance of the license or permit. The board's review of the dental hygiene committee's recommendation is subject to 650—Chapter 1.

11.8(6) An application for a license, permit, or reinstatement of a license will be considered complete prior to receipt of the criminal history background check on the applicant by the FBI for purposes of review and consideration by the executive director, the license and registration committee, or the board. However, an applicant is required to submit an additional completed fingerprint packet and fee within 30 days of a request by the board if an earlier fingerprint submission has been determined to be unacceptable by the DCI or FBI.

DENTAL BOARD[650](cont'd)

ITEM 2. Adopt the following **new** rule 650—20.18(147,153):

650—20.18(147,153) Review of applications. Upon receipt of a completed application, the executive director as authorized by the board has discretion to:

1. Authorize the issuance of the registration or qualification.
2. Refer the registration or qualification application to the license and registration committee for review and consideration when the executive director determines that matters including, but not limited to, prior criminal history, chemical dependence, competency, physical or psychological illness, malpractice claims or settlements, or professional disciplinary history are relevant in determining the applicants' qualifications for registration or qualification.

20.18(1) Following review and consideration of an application referred by the executive director, the license and registration committee may at its discretion:

- a. Authorize the executive director to issue the registration or qualification.
- b. Send the application to the board for further review and consideration.

20.18(2) Following review and consideration of a registration or qualification application referred by the license and registration committee, the board shall:

- a. Authorize the issuance of the registration or qualification,
- b. Deny the issuance of the registration or qualification, or
- c. Authorize the issuance of the registration or qualification under certain terms and conditions or with certain restrictions.

20.18(3) The license and registration committee or board may require an applicant to appear for an interview before the committee or the full board as part of the application process.

20.18(4) The license and registration committee or board may defer final action on an application if there is an investigation or disciplinary action pending against an applicant, who may otherwise meet the requirements for registration or qualification, until such time as the committee or board is satisfied that registration or qualification of the applicant poses no risk to the health and safety of Iowans.

ARC 3471C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 16, “Statements of Professional Recognition (SPR),” and Chapter 18, “Issuance of Administrator Licenses and Endorsements”; to rescind Chapter 21, “Conversion Information”; and to amend Chapter 22, “Authorizations,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The proposed amendments address inconsistencies and unnecessary language identified during a review of the Board’s rules. These amendments would clarify language regarding temporary permits and conditional licensure, would eliminate redundant language regarding endorsements, and would make other minor corrections.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, December 29, 2017. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office

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Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by email to kim.cunningham@iowa.gov; or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 27, 2017, at 1 p.m. in Room 3SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

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

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code sections 272.2(1)“a” and 272.28.

The following amendments are proposed.

ITEM 1. Amend subrule 13.1(2) as follows:

13.1(2) Temporary permits. The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check and registries and records check set forth in 13.1(1)“b” and “c.” The temporary permit shall serve as evidence of the applicant’s authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 2. Amend rule 282—13.11(272) as follows:

282—13.11(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

13.11(1) No change.

13.11(2) Program of study for special education endorsement. The college or university must outline the program of study necessary to meet the ~~special education~~ endorsement requirements for specified areas. This program of study must be attached to the application.

13.11(3) and 13.11(4) No change.

ITEM 3. Adopt the following **new** rule 282—13.20(272):

282—13.20(272) Permanent professional certificates. Effective October 1, 1988, the permanent professional certificate will no longer be issued. Any permanent professional certificate issued prior to October 1, 1988, will continue in force with the endorsements and approvals appearing thereon, unless revoked or suspended for cause. If a permanent professional certificate is revoked and if the holder is able at a later date to overcome or remediate the reasons for the revocation, the holder may apply for the appropriate new class of license set forth in this chapter.

ITEM 4. Amend rule 282—15.1(272) as follows:

282—15.1(272) Authorizations requiring a license.

15.1(1) The following licenses are based on teaching endorsements.

a. Special education consultant.

b. ~~Itinerant hospital services or home services teacher.~~

c. ~~Special education media specialist.~~

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~d. b.~~ Supervisor of special education—instructional.

~~e. c.~~ Work experience coordinator.

15.1(2) The following licenses are orientation and mobility specialist license is based on school-centered preparation, but the sequence of coursework does not permit service as a teacher.

~~a.~~ School psychologist.

~~b.~~ Speech-language pathologist.

~~e.~~ School audiologist.

~~d.~~ School social worker.

~~e.~~ Orientation and mobility specialist.

~~f.~~ Supervisor of special education—support.

ITEM 5. Rescind and reserve rule **282—15.3(272)**.

ITEM 6. Rescind and reserve rule **282—15.4(272)**.

ITEM 7. Amend rule 282—15.6(272) as follows:

282—15.6(272) Work experience coordinator.

15.6(1) No change.

15.6(2) *Program requirements.*

a. An applicant must hold a baccalaureate degree.

b. Content. The coursework must include:

(1) A course in career-vocational programming for special education students (if not included in the program for 5-12 endorsement).

(2) A course in coordination of cooperative occupational education programs.

(3) A course in career-vocational assessment and guidance of the handicapped for those with disabilities.

15.6(3) *Other.* An applicant must hold a special education endorsement—grades 5-12.

ITEM 8. Amend rule 282—16.1(272) as follows:

282—16.1(272) Statement of professional recognition (SPR).

16.1(1) The following are authorizations ~~requiring or permitting~~ that require or permit statements of professional recognition and licenses obtained from the professional licensure division, department of public health, or the board of nursing and that do not permit service as a teacher:

a. School audiologist.

b. School nurse.

c. School occupational therapist.

d. School physical therapist.

e. School social worker.

f. Special education nurse.

g. Speech-language pathologist.

16.1(2) No change.

ITEM 9. Amend rule 282—16.2(272) as follows:

282—16.2(272) School audiologist. If an applicant has completed a master's degree in audiology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners. ~~Alternatively, a person may meet the requirements for an endorsement in this area as set forth in 282—Chapter 15.~~

16.2(1) *Authorization.* The holder of this statement of professional recognition ~~(or endorsement)~~ is authorized to serve as a school audiologist to pupils from birth to age 21 who have hearing impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.2(2) to 16.2(4) No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 10. Amend rule 282—16.6(272) as follows:

282—16.6(272) School social worker. A person who meets the requirements set forth below may be issued a statement of professional recognition (SPR) by the board of educational examiners. ~~Alternatively, a person may meet the requirements for an endorsement in this area as set forth in 282—Chapter 15.~~

16.6(1) Authorization. ~~An individual who meets the requirements of 282—subrule 15.7(4) or 16.6(2)~~ The holder of this statement of professional recognition is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.6(2) to 16.6(4) No change.

ITEM 11. Amend rule 282—16.8(272) as follows:

282—16.8(272) Speech-language pathologist. If an applicant has completed a master's degree in speech pathology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners. ~~Alternatively, a person may meet the requirements for an endorsement in this area as set forth in 282—Chapter 21.~~

16.8(1) Authorization. The holder of this statement of professional recognition ~~(or endorsement—see requirements set forth in 282—subrule 15.7(2))~~ is authorized to serve as a speech-language pathologist to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

16.8(2) to 16.8(4) No change.

ITEM 12. Amend rule 282—18.1(272) as follows:

282—18.1(272) All applicants desiring an Iowa administrator license.

18.1(1) No change.

18.1(2) Temporary permits. The executive director may issue a temporary permit to an applicant for any type of license, certification, or authorization issued by the board, after receipt of a fully completed application; determination that the applicant meets all applicable prerequisites for issuance of the license, certification, or authorization; and satisfactory evaluation of the Iowa criminal history background check ~~and registries and records check set forth in 282—paragraphs 13.1(1) “b” and “c.”~~ The temporary permit shall serve as evidence of the applicant's authorization to hold a position in Iowa schools, pending the satisfactory completion of the national criminal history background check. The temporary permit shall expire upon issuance of the requested license, certification, or authorization or 90 days from the date of issuance of the permit, whichever occurs first, unless the temporary permit is extended upon a finding of good cause by the executive director.

ITEM 13. Amend rule 282—18.14(272) as follows:

282—18.14(272) Endorsements.

18.14(1) No change.

18.14(2) The applicant must follow one of these options:

- a. Identify with a recognized Iowa administrator preparing institution, meet that institution's current requirements for the endorsement desired, and receive that institution's recommendation; or
- b. Identify with a recognized non-Iowa administrator preparation institution and receive a statement that the applicant has completed the equivalent of the institution's approved program for the endorsement sought. A transcript evaluation will also be required.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 14. Rescind and reserve **282—Chapter 21**.

ITEM 15. Amend rule 282—22.2(272) as follows:

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in grades PK-12 for no more than 5 consecutive days and no more than 10 days in a 30-day period in one job assignment for a regularly assigned teacher who is absent, except in the driver's education classroom. A school district administrator may file a written request with the board for an extension of the 10-day limit in one job assignment on the basis of documented need and benefit to the instructional program. The licensure committee will review the request and provide a written decision either approving or denying the request. An individual who holds a paraeducator certificate without a bachelor's degree and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. For these individuals, the authorization will appear on the paraeducator certificate and will not include separate renewal requirements.

22.2(1) Application process. Any person interested in the substitute authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at <http://www.boee.iowa.gov/> or from institutions or agencies offering approved courses or contact hours.

a. Requirements. Applicants for the substitute authorization shall meet the following requirements:

- (1) No change.
- (2) Degree or certificate. Applicants must have achieved at least one of the following:
 1. Hold a baccalaureate degree or higher from a regionally accredited institution.
 2. Completed an approved paraeducator certification program and hold a paraeducator certificate.
- (3) and (4) No change.

b. Validity. The substitute authorization shall be valid for five years.

c. Renewal. The authorization may be renewed upon application and verification of successful completion of:

(1) Renewal units. Applicants for renewal of the substitute authorization must provide verification of a minimum of two licensure renewal units or semester hours of renewal credits.

(2) No change.

22.2(2) and 22.2(3) No change.

ITEM 16. Amend rule 282—22.9(272) as follows:

282—22.9(272) Requirements for the career and technical secondary authorization.

22.9(1) and 22.9(2) No change.

22.9(3) Specific requirements for the initial career and technical secondary authorization.

a. to d. No change.

e. Coursework requirements.

(1) Applicants must commit to complete the following requirements within the term of the initial authorization. Coursework must be completed for college credit from a regionally accredited institution.

~~1. A new teachers' workshop of a minimum of 30 clock hours and specified competencies, to be completed during the term of the initial authorization.~~

~~2.~~ 1. Coursework in the methods and techniques of career and technical education.

~~3.~~ 2. Coursework in course and curriculum development.

~~4.~~ 3. Coursework in the measurement and evaluation of programs and students.

~~5.~~ 4. An approved human relations course.

~~6.~~ 5. Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.

(2) No change.

22.9(4) to 22.9(8) No change.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 17. Amend rule 282—27.1(272) as follows:

282—27.1(272) Professional service license. A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the teacher preparation coursework set forth in rule 281—79.15(256). The professional service license may be issued in the following areas but does not permit service as a teacher:

1. School counselor.
2. School psychologist.
3. Speech-language pathologist.
4. Supervisor of special education (support).
5. Director of special education of an area education agency.
6. School social worker.
7. School audiologist.

ARC 3470C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

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

The first proposed amendment aligns with 2017 Iowa Acts, House File 642, which amends Iowa Code section 272.28 to include the Teacher Leadership and Compensation model as an option for new teacher mentoring. The second proposed amendment aligns with 2017 Iowa Acts, Senate File 274, which amends Iowa Code section 272.2 to direct the Iowa Board of Educational Examiners to establish a computer science endorsement.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, December 29, 2017. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or sent by email to kim.cunningham@iowa.gov; or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, December 27, 2017, at 1 p.m. in Room 3SW, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, or at (515)281-5849, prior to the date of the public hearing.

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

These amendments are subject to waiver pursuant to 282—Chapter 6.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code section 272.2 as amended by 2017 Iowa Acts, Senate File 274, and section 272.28 as amended by 2017 Iowa Acts, House File 642.

The following amendments are proposed.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 1. Amend rule 282—13.7(272) as follows:

282—13.7(272) Specific requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in rule 282—13.5(272), and

2. Shows evidence of successful completion of a state-approved mentoring and induction program or mentoring through a state-approved career, leadership, and compensation framework by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years' successful teaching experience within the applicant's approved endorsement area(s). In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful teaching experience within the applicant's approved endorsement area(s) at any of the following:

- An accredited nonpublic school in this state.
- A preschool program approved by the United States Department of Health and Human Services.
- Preschool programs at school districts approved to participate in the preschool program under Iowa Code chapter 256C.
- Shared visions programs receiving grants from the child development coordinating council under Iowa Code section 256A.3.
- Preschool programs receiving moneys from the school ready children grants account of the early childhood Iowa fund created in Iowa Code section 256I.11.
- An out-of-state PK-12 educational setting.

ITEM 2. Amend rule 282—13.28(272) as follows:

282—13.28(272) Minimum content requirements for teaching endorsements.

13.28(1) to 13.28(34) No change.

13.28(35) Computer science. K-8 and 5-12.

a. Authorization. The holder of this endorsement is authorized to teach selected computer science and computer programming courses.

b. Program requirements. Applicants must hold a valid Iowa teaching license with at least one additional teaching endorsement.

c. Content. A minimum of 12 semester hours of computer science to include coursework in the following:

(1) Data representation and abstraction to include primitive data types, static and dynamic data structures, and data types and stores.

(2) Designing, developing, testing and refining algorithms to include proficiency in two or more programming paradigms.

(3) Systems and networks to include operating systems, networks, mobile devices, and machine-level data representation.

d. Methods course. A content area methods course is required pursuant to 13.29(1). The course should include the following effective teaching and learning strategies for information technology:

(1) Curriculum development including recognizing and defining real-world computational problems; computing concepts and constructs; developing and using abstractions; creating, testing, and refining computational artifacts; and problem-solving strategies in computer science.

(2) Project-based methodologies that support active and authentic learning, fostering an inclusive computing culture, collaborative groupings, and opportunities for creative and innovative thinking.

(3) Communication about computing including multiple forms of media.

(4) Digital citizenship including the social, legal, ethical, safe and effective use of computer hardware, software, peripherals, and networks.

e. Computer science specialist. If the requirements in 13.28(35) "c" and "d" are met and the applicant achieves a minimum of 24 semester hours of computer science content, a computer science specialist endorsement will be granted and the additional teaching endorsement set forth in 13.28(35) "b" will not be required.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

f. Waiver of coursework requirements. During the first year of implementation, the coursework requirements may be waived if the practitioner demonstrates relevant content knowledge mastery and successful teaching experience in this endorsement area through criteria established by the board of educational examiners.

ARC 3476C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 93, the Department hereby gives Notice of Intended Action to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments will change the rate-setting methodology used to develop supported community living (SCL), day habilitation, and adult day care service rates in the home- and community-based services (HCBS) intellectual disability waiver. The SCL methodology will change from the current retrospectively limited prospective rate-setting process to a fee schedule using a tiered-rate methodology. Day habilitation and adult day care service rates are currently established through a fee schedule but will be changed to a fee schedule using tiered rates. The tiered-rate methodology establishes a tiered system of reimbursement based on the identified acuity level from the results of the Supports Intensity Scale® (SIS) core standardized assessment.

The move to tiered rates will be cost-neutral to the Department. The tiered-rate funding methodology will assign a standardized service rate based on member need unlike the current methodology of services reimbursement based on provider costs. With this change, some providers will see increased revenues compared to current service reimbursement for the members currently served and other providers will see decreased revenues.

Any interested person may make written comments on the proposed amendments on or before December 26, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by email to policyanalysis@dhs.state.ia.us.

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3481C**. The purpose of this Notice of Intended Action is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 93.

ARC 3472C

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 sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 57, “Residential Care Facilities,” Iowa Administrative Code.

Iowa Code section 135C.2(3)“b” allows the Department to establish by administrative rule special classifications within the residential care facility category for facilities intended to serve individuals who have special health care problems or conditions in common. Currently, Chapter 63 applies to residential care facilities for persons with an intellectual disability (RCFs/ID). After reviewing several chapters, the Department has determined that an entire chapter specific to RCFs/ID is not necessary as many of the provisions of Chapter 63 overlap with those in Chapter 57. These proposed amendments add licensure for RCFs/ID to Chapter 57, “Residential Care Facilities.” In a Notice of Intended Action published simultaneously with this Notice (see **ARC 3475C** herein), the Department is rescinding Chapter 63 and adopting in lieu thereof a new Chapter 63 specific to three- to five-bed residential care facilities.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual. Adoption of the proposed amendments eliminates redundant Iowa Administrative Code language.

The State Board of Health initially reviewed the proposed amendments at its November 8, 2017, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 26, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or emailed to david.werning@dia.iowa.gov.

Additionally, there will be a public hearing on January 3, 2018, at 10 a.m. in Room 319 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135C.14.

The following amendments are proposed.

ITEM 1. Amend rule 481—57.1(135C), introductory paragraph, as follows:

481—57.1(135C) Definitions. ~~For the purposes of these rules, the following terms shall have the meanings indicated in this rule. The following definitions apply to this chapter and to 481—Chapter 62.~~ The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in these rules.

ITEM 2. Amend rule 481—57.6(135C) as follows:

481—57.6(135C) Special classification—memory care classifications.

57.6(1) Memory care.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

57.6(1) a. *Designation and application.* A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of care requirements for a residential care facility. “Memory care” in a residential care facility means the care of persons with early Alzheimer’s-type dementia or other disorders causing dementia. (I, II, III)

~~a.~~ (1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

~~b.~~ (2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

~~c.~~ (3) If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.6(2) b. *Résumé of care.* A résumé of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

~~a.~~ (1) Describe the population to be served;

~~b.~~ (2) State the philosophy and objectives;

~~c.~~ (3) List criteria for transfer to and from the memory care unit or facility;

~~d.~~ (4) Include a copy of the floor plan;

~~e.~~ (5) List the titles of policies and procedures developed for the unit or facility;

~~f.~~ (6) Propose a staffing pattern;

~~g.~~ (7) Set out a plan for specialized staff training;

~~h.~~ (8) State visitor, volunteer, and safety policies;

~~i.~~ (9) Describe programs for activities, social services and families; and

~~j.~~ (10) Describe the interdisciplinary team and the role of each team member.

57.6(3) c. *Policies and procedures.* Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following:

~~a.~~ (1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

~~b.~~ (2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility; and when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility; and explain the manner in which the effectiveness of the security system will be monitored. (II, III)

~~c.~~ (3) Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

~~d.~~ (4) Visitation policies, including suggested times for visitation and ensuring the residents’ rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

~~e.~~ (5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.6(4) d. *Assessment prior to transfer or admission.* Prior to the transfer or admission of a resident applicant to the memory care unit or facility, a complete assessment of the resident applicant’s physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident’s permanent record upon admission. (II, III)

57.6(5) e. *Staff training.* All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

~~a.~~ (1) Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff members shall have at least six hours of

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special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

~~b.~~ (2) Training shall include the following topics: (II, III)

~~(1)~~ 1. An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

~~(2)~~ 2. Skills for communicating with persons with dementia;

~~(3)~~ 3. Skills for communicating with family and friends of persons with dementia;

~~(4)~~ 4. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

~~(5)~~ 5. The importance of planned and spontaneous activities;

~~(6)~~ 6. Skills in providing assistance with activities of daily living;

~~(7)~~ 7. Skills in working with challenging residents;

~~(8)~~ 8. Techniques for cueing, simplifying, and redirecting;

~~(9)~~ 9. Staff support and stress reduction;

~~(10)~~ 10. Medication management and nonpharmacological interventions.

~~e.~~ (3) Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of memory care residents. The six-hour initial training required in ~~paragraph 57.6(5) "a"~~ subparagraph 57.6(1) "e"(1) shall count toward the required annual in-service training. (II, III)

~~57.6(6)~~ f. *Staffing.* There shall be at least one staff person on a memory care unit at all times. (I, II, III)

~~57.6(7)~~ g. *Others living in the memory care unit.* A resident not requiring memory care services may live in the memory care unit if the resident's spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents in writing to the placement. (II, III)

~~57.6(8)~~ h. *Revocation, suspension or denial.* The memory care unit license or facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

57.6(2) Residential care facility for persons with an intellectual disability (RCF/ID).

a. Definition. For purposes of this rule, the following term shall have the meaning indicated.

"Qualified intellectual disability professional" means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has one year's experience working with persons with an intellectual disability.

b. Designation and application. A residential care facility may choose to care for persons with an intellectual disability in a distinct part of the facility or designate the entire residential care facility as a residential care facility for persons with an intellectual disability. Residents shall meet the level of care requirements for a residential care facility. (I, II, III)

(1) Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

(2) Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. Résumé of care. A résumé of care shall be submitted to the department for approval at least 30 days before a residential care facility for persons with an intellectual disability is opened. A new résumé of care shall be submitted when services are substantially changed. The résumé of care shall:

(1) Describe the population to be served;

(2) Include a copy of the floor plan;

(3) List the titles of policies and procedures developed for the unit or facility;

(4) Set out a plan for specialized staff training;

(5) State visitor, volunteer, and safety policies;

(6) Describe programs for activities, social services and families; and

(7) Describe the interdisciplinary team and the role of each team member.

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d. Policies and procedures. Separate written policies and procedures shall be implemented in the residential care facility for persons with an intellectual disability and shall address the following:

(1) Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the primary care provider approving the placement before a resident may be moved into a residential care facility for persons with an intellectual disability. The policy shall require a primary diagnosis of an intellectual disability for admission. (II, III)

(2) Safety, including a description of the actions required of staff in the event of a fire, natural disaster, emergency medical event or catastrophic event. (II, III)

(3) Staffing requirements, including the minimum number, types and qualifications of staff in the facility in accordance with resident needs. (II, III)

(4) Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

(5) The process and criteria which will be used to monitor and to respond to risks specific to the residents, including but not limited to drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

e. Assessment prior to transfer or admission. Prior to the transfer or admission of a resident applicant to the facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

f. Administrator qualifications. In addition to meeting the requirements of subrule 57.10(1), the administrator of a residential care facility for persons with an intellectual disability shall have at least one year's documented experience in direct care or supervision of persons with an intellectual disability. An individual employed as an administrator on [effective date of these amendments] will be deemed to meet the requirements of this subrule.

g. In-service educational programming. The in-service educational programming required by paragraph 57.10(2)"c" shall include educational programming specific to serving persons with an intellectual disability.

h. Revocation, suspension or denial. The facility license may be revoked, suspended or denied pursuant to Iowa Code chapter 135C and 481—Chapter 50.

This rule is intended to implement Iowa Code sections 135C.2(3)"b" and 135C.14.

ARC 3473C

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 sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 57, "Residential Care Facilities," Iowa Administrative Code.

The proposed amendments add definitions of "mechanical restraint," "physical restraint" and "prone restraint" and expressly prohibit the use of mechanical restraints in residential care facilities.

The Department does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual.

The State Board of Health initially reviewed the proposed amendments at its November 8, 2017, meeting.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Any interested person may make written suggestions or comments on the proposed amendments on or before December 26, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or emailed to David.Werning@dia.iowa.gov.

Additionally, there will be a public hearing on January 3, 2018, at 10 a.m. in Room 319 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135C.14.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **481—57.1(135C)**:

“Mechanical restraint” means restriction by the use of a mechanical device of a resident’s mobility or ability to use the hands, arms or legs.

“Physical restraint” means direct physical contact on the part of a staff person to control a resident’s physical activity for the resident’s own protection or for the protection of others.

“Prone restraint” means a restraint in which a resident is in a face down position against the floor or another surface.

ITEM 2. Adopt the following **new** subrule 57.33(8):

57.33(8) Mechanical restraint is prohibited. Staff persons who find themselves involved in the use of a mechanical restraint when responding to an emergency must take immediate steps to end the mechanical restraint. (I, II)

ARC 3474C**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 sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 62, “Residential Care Facilities for Persons with Mental Illness (RCF/PMI),” and to adopt new Chapter 62, “Residential Care Facilities for Persons with Mental Illness (RCFs/PMI),” Iowa Administrative Code.

The Department completed a review of all chapters related to residential care facilities and determined that duplication could be eliminated by using Chapter 57, “Residential Care Facilities,” as a primary chapter containing information common to all residential care facilities. This rule making proposes to rescind Chapter 62 and replace it with a new Chapter 62 that includes only those rules specific to RCFs/PMI and refers to Chapter 57 for general rules pertaining to RCFs.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated entity or individual. The proposed amendment eliminates duplicative rules and streamlines rules, thereby making them more accessible to the public and providers.

The State Board of Health initially reviewed the proposed amendment at its November 8, 2017, meeting.

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Any interested person may make written suggestions or comments on the proposed amendment on or before December 26, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or emailed to david.werning@dia.iowa.gov.

Additionally, there will be a public hearing on January 3, 2018, at 10 a.m. in Room 319 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 135C.14.

The following amendment is proposed.

Rescind 481—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62

RESIDENTIAL CARE FACILITIES FOR PERSONS WITH MENTAL ILLNESS (RCFs/PMI)

481—62.1(135C) Applicability. This chapter relates specifically to the licensing and regulation of residential care facilities for persons with mental illness (RCFs/PMI). Refer to 481—Chapter 57 for the licensing and regulation of all residential care facilities, including RCFs/PMI, and to 481—Chapter 60 for minimum physical standards for all residential care facilities.

481—62.2(135C) Definitions. In addition to the definitions in 481—Chapter 57 and Iowa Code chapter 135C, the following definitions apply.

“*Commission*” means the mental health and disability services commission.

“*Department*” means the Iowa department of inspections and appeals.

“*Dependent adult abuse*” is as defined in rule 481—52.1(235E).

“*Evaluation services*” means those activities designed to identify a person’s current level of functioning and those factors which are barriers to maintaining the current level or achieving a higher level of functioning.

“*Interdisciplinary team process*” means an approach to assessment, service planning, and service implementation in which members of an interdisciplinary team utilize the skills, competencies, insights and perspectives provided by each member’s training and experience to develop a single, integrated, individual program plan to meet a resident’s needs for services.

“*Level of functioning*” means a person’s current physiological and psychological status and current academic, community living, self-care, and vocational skills.

“*Mental health counselor*” means a person who is certified or eligible for certification as a mental health counselor by the National Academy of Certified Clinical Mental Health Counselors.

“*Mental illness*” means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life. Mental disorders include the organic and functional psychoses, neuroses, personality disorders, alcoholism and drug dependence, behavioral disorders and other disorders as defined by the current edition of American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

“*Physical or physiological treatment*” means those activities designed to prevent, halt, control, relieve, or reverse symptoms or conditions which interfere with the physical or physiological functioning of the human body.

“*Psychiatric advanced registered nurse practitioner*” means an individual currently licensed as a registered nurse under Iowa Code chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is licensed by the board of nursing as an advanced registered nurse practitioner.

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“Psychiatric nurse” means a person who meets the requirements of a certified psychiatric nurse, is eligible for certification by the American Nursing Association, and is licensed by the state of Iowa to practice nursing as defined in Iowa Code chapter 152.

“Psychiatrist” means a doctor of medicine or osteopathic medicine and surgery who is certified by the American Board of Psychiatry and Neurology or who is eligible for certification.

“Psychologist” means a person who is licensed to practice psychology in the state of Iowa, or is certified by the Iowa department of education as a school psychologist, or is eligible for certification, or meets the requirements for eligibility for a license to practice psychology in the state of Iowa that were effective prior to July 1, 1985.

“Psychotherapeutic treatment” means those activities designed to assist a person in the identification or modification of beliefs, emotions, attitudes, or behaviors in order to maintain or improve the person’s functioning in response to the physical, emotional and social environment.

“Qualified mental health professional” or *“QMHP”* means a person who:

1. Is a psychiatrist, psychologist, social worker, certified psychiatric nurse, psychiatric advanced registered nurse practitioner, or mental health counselor; or
2. Is a doctor of medicine or osteopathic medicine, a physician assistant, or an advanced registered nurse practitioner and has at least one year’s documented supervised experience in providing mental health services; or
3. Has a master’s degree with coursework focusing on diagnosis, evaluation, and psychotherapeutic treatment of mental health problems and mental illness; or
4. Is employed by a community mental health center or mental health service provider accredited by the commission and has less than a master’s degree but at least a bachelor’s degree and sufficient education and experience as determined by the chief administrative officer of the community mental health center, with the approval of the commission, with coursework and experience focusing on diagnosis and evaluation and treatment of persons with mental health problems and mental illness.

If the person is practicing in a field covered by an Iowa licensure law, the person shall hold a current Iowa license.

“Resident” means a person who has been admitted to the facility to receive care and services.

“Social worker” means a person who is licensed to practice social work in the state of Iowa or who is eligible for licensure.

481—62.3(135C) Personnel. In addition to personnel requirements found in 481—Chapter 57, the RCF/PMI shall provide for services of a qualified mental health professional, by direct employment or contract, whose responsibilities shall include, but not be limited to: (II, III)

1. Approval of each resident’s service plan; (II, III)
2. Monitoring the implementation of each resident’s service plan; (II, III)
3. Recording each resident’s progress; and (II, III)
4. Participating in a periodic review of each resident’s service plan. (II, III)

481—62.4(135C) Admission criteria. In addition to admission criteria found in 481—Chapter 57, the facility’s admission criteria shall include but not be limited to age, sex, diagnosis from the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, substance abuse, dual diagnosis and criteria that are consistent with the résumé of care. (III)

481—62.5(135C) Evaluation services.

62.5(1) Evaluation services shall be provided to each resident. An annual evaluation of each resident shall be completed no later than 12 months from the date of the last available evaluation. For residents who are on leave from a state mental health institution, the institution shall be responsible for the completion of the evaluation. The facility shall ensure the completion of the evaluation of all other residents. The annual evaluation shall identify physical health and current level of functioning and need for services. (II, III)

62.5(2) The portion of the evaluation to identify the resident’s physical health shall:

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a. Result in identification of current illness and disabilities and recommendations for physical and physiological treatment and services. (II, III)

b. Include an evaluation of the resident's ability for health maintenance. (III)

c. Be performed by a primary care provider. (II, III)

62.5(3) Evaluation.

a. The portion of the evaluation to identify the resident's current level of functioning and need for services shall:

(1) Identify the resident's level of functioning and need for services in each of the following areas: self-care, community living skills, psychotherapeutic treatment, vocational skills, and academic skills. (II, III)

(2) Be of sufficient detail to determine the appropriateness of placement according to the skills and needs of the resident. (II, III)

(3) Be made without regard to the availability of services. (III)

(4) Be performed by a QMHP, in consultation with the interdisciplinary team. (II, III)

b. If an evaluation is available from the referral source, the evaluation shall be secured by the facility prior to the admission of the applicant. (III)

c. If an evaluation is not available, or does not contain all the required information, the facility shall ensure an evaluation to the extent necessary to determine if the applicant meets the criteria for admission. For those admitted, the remainder of the evaluation shall be performed prior to the development of a service plan. (III)

d. Results of all evaluations shall be in writing and maintained in the resident's record. Evaluations subsequent to the initial evaluation shall be performed in sufficient detail to determine changes in the resident's physical health, skills and need for services. (II, III)

62.5(4) A narrative social history shall be completed for each resident within 30 days of admission and approved by the qualified mental health professional prior to the development of the service plan. (III)

a. When the social history was secured from another provider, the information contained shall be reviewed within 30 days of admission. The date of the review, signature of the staff reviewing the history, and a summary of significant changes in the information shall be entered in the resident's record. (III)

b. An annual review of the information contained within the social history shall be incorporated into the service plan progress note. (III)

c. The social history shall minimally address the following areas:

(1) Referral source and reason for admission, (II, III)

(2) Legal status, (II, III)

(3) A description of previous living arrangements, (III)

(4) A description of previous services received and summary of current service involvements, (II, III)

(5) A summary of significant medical conditions including, but not limited to, illnesses, hospitalizations, past and current drug therapies, and special diets, (II, III)

(6) Substance abuse history, (II, III)

(7) Work history, (III)

(8) Educational history, (III)

(9) Relationship with family, significant others, and other support systems, (III)

(10) Cultural and ethnic background and religious affiliation, (II, III)

(11) Hobbies and leisure time activities, (III)

(12) Likes, dislikes, habits, and patterns of behavior, (II, III)

(13) Impressions and recommendations.

These rules are intended to implement Iowa Code section 135C.14(7).

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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 sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 63, “Residential Care Facilities for the Intellectually Disabled,” and to adopt a new Chapter 63, “Residential Care Facility—Three- to Five-Bed Specialized License,” Iowa Administrative Code.

Iowa Code section 135C.2(3)“b” allows the Department to establish by administrative rule special classifications within the residential care facility category for facilities intended to serve individuals who have special health care problems or conditions in common. Iowa Code section 135C.2(5) requires the department to establish a special classification within the residential care facility category in order to foster the development of three- to five-bed residential care facilities that serve persons with an intellectual disability, chronic mental illness, a developmental disability, or brain injury.

Currently, Chapter 63 addresses licensure of residential care facilities for the intellectually disabled. After a review of the administrative rules related to licensure of several residential care facility types, the Department determined that an entire chapter specific to residential care facilities for the intellectually disabled was not necessary because many of the provisions of Chapter 63 overlapped with those in Chapter 57, “Residential Care Facilities.”

Additionally, the Department has determined that the current rule regarding licensure of these specialized units (481—63.47(135C)) is confusing as written and should be given its own chapter as the number of this type of facility is increasing in Iowa. Therefore, the proposed amendment rescinds the current Chapter 63 and replaces it with a new Chapter 63, which details the specialized licensure of three- to five-bed residential care facilities serving persons with an intellectual disability, chronic mental illness, a developmental disability, or brain injury.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated entity or individual.

The State Board of Health initially reviewed the proposed amendment at its November 8, 2017, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before December 26, 2017. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or emailed to david.werning@dia.iowa.gov.

Additionally, there will be a public hearing on January 3, 2018, at 10 a.m. in Room 319 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 135C.14.

The following amendment is proposed.

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Rescind 481—Chapter 63 and adopt the following **new** chapter in lieu thereof:

CHAPTER 63
RESIDENTIAL CARE FACILITY—THREE- TO FIVE-BED SPECIALIZED LICENSE

481—63.1(135C) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 135C.1 shall be considered to be incorporated verbatim in the rules.

“Accommodation” means the provision of lodging, including sleeping, dining, and living areas.

“Administrator” means a person approved by the department who administers, manages, supervises, and is in general administrative charge of a three- to five-bed residential care facility, whether or not such individual has an ownership interest in such facility, and whether or not the functions and duties are shared with one or more individuals.

“Ambulatory” means the condition of a person who immediately and without aid of another person is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Basement” means that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

“Board” means the regular provision of meals.

“Change of ownership” means the purchase, transfer, assignment or lease of a licensed three- to five-bed residential care facility.

“Communicable disease” means a disease caused by the presence within a person’s body of a virus or microbial agents which may be transmitted either directly or indirectly to other persons.

“Department” means the state department of inspections and appeals.

“Interdisciplinary team” means the group of persons who develop a single, integrated, individual program plan to meet a resident’s needs for services. The interdisciplinary team consists of, at a minimum, the resident, the resident’s legal guardian if applicable, the resident’s advocate if desired by the resident, a referral agency representative, other appropriate staff members, other providers of services, and other persons relevant to the resident’s needs.

“Legal representative” means the resident’s guardian or conservator if one has been appointed or the resident’s power of attorney.

“Medication” means any drug, including over-the-counter substances, ordered and administered under the direction of the primary care provider.

“Nonambulatory” means the condition of a person who immediately and without the aid of another person is not physically or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

“Personal care” means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help in getting in and out of bed, assistance with personal hygiene and bathing, help with dressing and eating, and supervision over medications which can be self-administered.

“Primary care provider” means any of the following who provide primary care and meet licensure standards:

1. A physician who is a family or general practitioner or an internist.
2. An advanced registered nurse practitioner.
3. A physician assistant.

“Program of care” means all services being provided for a resident in a health care facility.

“Qualified intellectual disability professional” means a psychologist, physician, registered nurse, educator, social worker, physical or occupational therapist, speech therapist or audiologist who meets the educational requirements for the profession, as required in the state of Iowa, and has one year’s experience working with persons with an intellectual disability.

“Rate” means that daily fee charged for all residents equally and shall include the cost of all minimum services required in these rules.

“Records” includes electronic records.

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“*Responsible party*” means the person who signs or cosigns the residency agreement required by rule 481—63.12(135C) or the resident’s legal representative. In the event that a resident has neither a legal representative nor a person who signed or cosigned the resident’s residency agreement, the term “responsible party” shall include the resident’s sponsoring agency, e.g., the department of human services, the U.S. Department of Veterans Affairs, a religious group, fraternal organization, or foundation that assumes responsibility and advocates for its client patients and pays for their health care.

“*Restraints*” means the measures taken to control a resident’s physical activity for the resident’s own protection or for the protection of others.

“*Specialized residential care facility license*” means a license for three- to five-bed residential care facilities serving persons with an intellectual disability, chronic mental illness, a developmental disability or brain injury.

481—63.2(135C,17A) Waiver or variance. A waiver or variance from these rules may be granted by the director of the department in accordance with 481—Chapter 6. A request for waiver or variance will be granted or denied by the director within 120 calendar days of receipt.

481—63.3(135C) Application for licensure.

63.3(1) Application and licensing—new facility or change of ownership. In order to obtain a specialized residential care facility license for a facility not currently licensed as a specialized residential care facility or for a specialized residential care facility when a change of ownership is contemplated, the applicant must:

a. Make application at least 30 days prior to the proposed opening date of the facility. Application shall be made on forms provided by the department.

b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—Chapters 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.

c. Submit a letter of intent and a written résumé of care. The résumé of care shall meet the requirements of subrule 63.3(2).

d. Submit a floor plan of each floor of the residential care facility. The floor plan of each floor shall be drawn on 8½" × 11" paper, show room areas in proportion, room dimensions, window and door locations, designation of the use of each room, and the room numbers for all rooms, including bathrooms.

e. Submit a photograph of the front and side of the residential care facility.

f. Submit the fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2)“a.”

g. Comply with all other local statutes and ordinances in existence at the time of licensure.

h. Submit a certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations.

63.3(2) Résumé of care. The résumé of care shall describe the following:

a. Purpose of the facility;

b. Criteria for admission to the facility;

c. Ownership of the facility;

d. Composition and responsibilities of the governing board;

e. Qualifications and responsibilities of the administrator;

f. Medical services provided to residents, to include the availability of emergency medical services in the area and the designation of a primary care provider to be responsible for residents in an emergency;

g. Dental services provided to residents and available in the area;

h. Nursing services provided to residents, if applicable;

i. Personal services provided to residents, including supervision of or assistance with activities of daily living;

j. Activity program;

k. Dietary services, including qualifications of the person in charge, consultation service (if applicable) and meal service;

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- l.* Other services available as applicable, including social services, physical therapy, occupational therapy, and recreational therapy;
- m.* Housekeeping;
- n.* Laundry;
- o.* Physical plant; and
- p.* Staffing provided to meet residents' needs.

63.3(3) *Renewal application.* In order to obtain a renewal of the specialized residential care facility license, the applicant must submit the following:

- a.* The completed application form 30 days prior to the annual license renewal date of the residential care facility license;
- b.* The fee for a specialized residential care facility license in accordance with 481—paragraph 50.3(2) “a”;
- c.* An approved current certificate signed by the state or local fire inspection authority as to compliance with fire safety rules and regulations;
- d.* Changes to the résumé of care, if any; and
- e.* Changes to the current residency agreement, if any.

481—63.4(135C) Issuance of license. Licenses are issued to the person, entity or governmental unit with responsibility for the operation of the facility and for compliance with all applicable statutes, rules and regulations.

481—63.5(135C) General requirements.

63.5(1) The license shall be displayed in the facility in a conspicuous place which is accessible to the public. (III)

63.5(2) The license shall be valid only in the possession of the licensee to whom it is issued.

63.5(3) The posted license shall accurately reflect the current status of the facility. (III)

63.5(4) The license shall expire one year after the date of issuance or as indicated on the license.

63.5(5) The licensee shall:

- a.* Assume the responsibility for the overall operation of the facility. (I, II, III)
- b.* Be responsible for compliance with all applicable laws and with the rules of the department. (I, II, III)
- c.* Provide an organized continuous 24-hour program of care commensurate with the needs of the residents. (I, II, III)

63.5(6) Each citation or a copy of each citation issued by the department for a class I or class II violation shall be prominently posted by the facility in plain view of the residents, visitors, and persons inquiring about placement in the facility. The citation or copy of the citation shall remain posted until the violation is corrected to the satisfaction of the department. (I, II, III)

481—63.6(135C) Required notifications to the department. The department shall be notified:

63.6(1) Thirty days before any proposed change in the residential care facility's functional operation or addition or deletion of required services; (III)

63.6(2) Thirty days before the beginning of the renovation, addition, functional alteration, change of space utilization, or conversion in the residential care facility or on the premises; (III)

63.6(3) Thirty days before closure of the residential care facility; (III)

63.6(4) Within two weeks of any change in administrator; (III)

63.6(5) Ninety days before a change in the category of license; (III)

63.6(6) Thirty days before a change of ownership. The licensee shall:

- a.* Inform the department of the pending change of ownership; (III)
- b.* Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee; (III)

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c. Submit a written authorization to the department permitting the department to release all information of whatever kind from the department's files concerning the licensee's residential care facility to the named prospective purchaser, transferee, assignee, or lessee. (III)

481—63.7(135C) Administrator. Each facility shall have one person in charge, duly approved by the department or acting in a provisional capacity in accordance with these rules. (III)

63.7(1) Qualifications of an administrator.

a. The administrator shall be at least 21 years of age and shall have a high school diploma or equivalent. (III) In addition, this person shall meet at least one of the following conditions:

(1) Have a two-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of two years' experience in the field; or (III)

(2) Have a four-year degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(3) Have a master's degree in human services, psychology, sociology, nursing, health care administration, public administration, or a related field and have a minimum of one year of experience in the field; or (III)

(4) Be a licensed nursing home administrator; or (III)

(5) Have completed a one-year educational training program approved by the department for residential care facility administrators; or (III)

(6) Have passed the National Association of Long Term Care Administrator Boards (NAB) RC/AL administrator licensure examination; or

(7) Have two years of direct care experience and at least six months of administrative experience in a residential care facility. (III)

b. An individual employed as an administrator on [effective date of these rules] will be deemed to meet the requirements of this subrule.

63.7(2) Duties of an administrator. The administrator shall:

a. Select and direct competent personnel who provide services for the residential care program. (III)

b. Provide in-service educational programming for all employees with direct resident contact and maintain records of programs and participants. (III) In-service educational programming offered during each calendar year shall include, at minimum, the following topics: (I, II, III)

(1) Infection control.

(2) Emergency preparedness (e.g., fire, tornado, flood, 911).

(3) Meal time procedures/dietary.

(4) Resident activities.

(5) Mental illness, brain injury or intellectual disabilities, including behavior modification and crisis intervention.

(6) Resident safety/supervision.

(7) Resident rights.

(8) Medication education, to include administration, storage and drug interactions.

(9) Resident service plans/programming/goals.

63.7(3) Administrator serving at more than one residential care facility. The administrator may be responsible for no more than 150 beds in total if the administrator is an administrator of more than one facility. (II)

a. An administrator of more than one facility shall designate in writing an administrative staff person in each facility who shall be responsible for directing programs in the facility.

b. The administrative staff person designated by the administrator shall:

(1) Have at least one year of experience in a supervisory or direct care position in a residential care facility or in a facility for the intellectually disabled, mentally ill, developmentally disabled or brain injured; (II, III)

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- (2) Be knowledgeable of the operation of the facility; (II, III)
- (3) Have access to records concerned with the operation of the facility; (II, III)
- (4) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (II, III)
- (5) Be at least 21 years of age; (III)
- (6) Be empowered to act on behalf of the licensee concerning the health, safety and welfare of the residents; and (II, III)
- (7) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

c. If an administrator serves more than one facility, the administrator must designate in writing regular and specific times during which the administrator will be available to consult with staff and residents to provide direction and supervision of resident care and services. (II, III)

63.7(4) Provisional administrator. A provisional administrator may be appointed on a temporary basis by the residential care facility licensee to assume the administrative responsibilities for a residential care facility for a period not to exceed one year when the facility has lost its administrator and has not been able to replace the administrator, provided that the department has been notified and has approved the provisional administrator prior to the date of the provisional administrator's appointment. (III) The provisional administrator must meet the requirements of paragraph 63.7(3) "b."

63.7(5) Temporary absence of administrator.

a. In the temporary absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. (III) The person designated shall:

- (1) Be knowledgeable of the operation of the facility; (III)
- (2) Have access to records concerned with the operation of the facility; (III)
- (3) Be capable of carrying out administrative duties and of assuming administrative responsibilities; (III)
- (4) Be at least 21 years of age; (III)
- (5) Be empowered to act on behalf of the licensee during the administrator's absence concerning the health, safety, and welfare of the residents; (III)
- (6) Have training in emergency response, including how to respond to residents' sudden illnesses. (II, III)

b. If the administrator is absent for more than six weeks, a provisional administrator must be appointed pursuant to subrule 63.7(4).

481—63.8(135C) Personnel.

63.8(1) Alcohol and drug use prohibited. No person under the influence of intoxicating drugs or alcoholic beverages shall be permitted to provide services in a residential care facility. (I, II)

63.8(2) Job description. There shall be a written job description developed for each category of worker. The job description shall include the job title, responsibilities and qualifications. (III)

63.8(3) Employee criminal record, child abuse and dependent adult abuse checks and employment of individuals who have committed a crime or have a founded abuse. The facility shall comply with the requirements found in Iowa Code section 135C.33 and rule 481—50.9(135C) related to completion of criminal record checks, child abuse checks, and dependent adult abuse checks and to employment of individuals who have committed a crime or have a founded abuse. (I, II, III)

63.8(4) Personnel record. A personnel record shall be kept for each employee and shall include but not be limited to the following information about the employee: name and address; social security number; date of birth; date of employment; position; experience and education; references; results of criminal record checks, child abuse checks and dependent adult abuse checks; and date of discharge or resignation. (III)

63.8(5) Supervision and staffing.

- a. The facility shall provide sufficient staff to meet the needs of the residents served. (I, II, III)
- b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed when residents are awake. (I, II, III)

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c. Direct care staff shall be present in the facility unless all residents are involved in activities away from the facility. (I, II, III)

d. Staff shall be aware of and provide supervision levels based on the present needs of the residents in the staff's care. The facility shall document the supervision of residents who require more than general supervision, as defined by facility policy. (I, II, III)

e. The facility shall maintain an accurate record of actual hours worked by employees. (III)

63.8(6) *Physical examination and screening.* Employees shall have a physical examination within 12 months prior to beginning employment and every four years thereafter. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

481—63.9(135C) *General policies.* The licensee shall establish and implement written policies and procedures as set forth in this rule. The policies and procedures shall be available for review by the department, other agencies designated by Iowa Code section 135C.16(3), staff, residents, residents' families or legal representatives, and the public and shall be reviewed by the licensee annually. (II)

63.9(1) *Facility operation.* The licensee shall establish written policies for the operation of the facility, including but not limited to the following: (III)

- a.* Personnel; (III)
- b.* Admission; (III)
- c.* Evaluation services; (II, III)
- d.* Programming and individual program plans; (II, III)
- e.* Registered sex offender management; (II, III)
- f.* Crisis intervention; (II, III)
- g.* Discharge or transfer; (III)
- h.* Medication management, including self-administration of medications and chemical restraints; (III)
- i.* Resident property; (II, III)
- j.* Resident finances; (II, III)
- k.* Records; (III)
- l.* Health and safety; (II, III)
- m.* Nutrition; (III)
- n.* Physical facilities and maintenance; (III)
- o.* Resident rights; (II, III)
- p.* Investigation and reporting of alleged dependent adult abuse; (II, III)
- q.* Investigation and reporting of accidents or incidents; (II, III)
- r.* Transportation of residents; (II, III)
- s.* Resident supervision; (II, III)
- t.* Smoking; (III)
- u.* Visitors; (III)
- v.* Disaster/emergency planning; (III) and
- w.* Infection control. (III)

63.9(2) *Personnel policies.* Written personnel policies shall include the hours of work and attendance at educational programs. (III)

63.9(3) *Infection control.* The facility shall have a written and implemented infection control program, which shall include policies and procedures based on guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. The infection control program shall address the following:

- a.* Techniques for hand washing; (I, II, III)
- b.* Techniques for the handling of blood, body fluids, and body wastes; (I, II, III)
- c.* Dressings, soaks or packs; (I, II, III)
- d.* Infection identification; (I, II, III)
- e.* Resident care procedures to be used when there is an infection present; (I, II, III)
- f.* Sanitation techniques for resident care equipment; (I, II, III)

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g. Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III) and

h. Techniques for use and disposal of needles, syringes, and other sharp instruments. (I, II, III)

63.9(4) Resident care techniques. The facility shall have written and implemented procedures to be followed if a resident needs any of the following treatment or devices:

a. Intravenous or central line catheter; (I, II, III)

b. Urinary catheter; (I, II, III)

c. Respiratory suction, oxygen or humidification; (I, II, III)

d. Decubitus care; (I, II, III)

e. Tracheostomy; (I, II, III)

f. Nasogastric or gastrostomy tubes; (I, II, III)

g. Sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags. (I, II, III)

63.9(5) Emergency care. The facility shall establish written policies for the provision of emergency medical care to residents and employees in case of sudden illness or accident. The policies shall include a list of those individuals to be contacted in case of an emergency. (I, II, III)

481—63.10(135C) Admission, transfer and discharge.

63.10(1) General admission policies.

a. Residents shall be admitted to a specialized residential care facility only on a written order signed by a primary care provider, specifying the level of care, and certifying that the individual being admitted requires no more than personal care and supervision and does not require routine nursing care. (II, III)

b. No residential care facility shall admit or retain a resident who is in need of greater services than the facility can provide. (I, II, III)

c. No residential care facility shall admit more residents than the number of beds for which the facility is licensed. (II, III)

d. A residential care facility is not required to admit an individual through court order, referral or other means without the express prior approval of the administrator. (III)

e. The admission of a resident shall not grant the residential care facility the authority or responsibility to manage the personal affairs of the resident except as may be necessary for the safety of the resident and the safe and orderly management of the residential care facility as required by these rules. (III)

f. Individuals under the age of 18 shall not be admitted to a residential care facility without prior written approval by the department. A distinct part of a residential care facility, segregated from the adult section, may be established based on a résumé of care that is submitted by the licensee or applicant and is commensurate with the needs of the residents of the residential care facility and that has received the department's review and approval. (III)

g. No health care facility and no owner, administrator, employee or representative thereof shall act as guardian, trustee, or conservator for any resident's property unless such resident is related within the third degree of consanguinity to the person acting as guardian. (III)

63.10(2) Discharge or transfer.

a. Notification shall be made to the legal representative, primary care provider, and sponsoring agency, if any, prior to the transfer or discharge of any resident. (III)

b. The licensee shall not refuse to discharge or transfer a resident when the primary care provider, family, resident, or legal representative requests such transfer or discharge. (II, III)

c. Advance notification will be made to the receiving facility prior to the transfer of any resident. (III)

d. When a resident is transferred or discharged, the appropriate record will accompany the resident to ensure continuity of care. "Appropriate record" includes the resident's face sheet, service plan, most recent orders of the primary care provider and any notifications of upcoming scheduled appointments. (II, III)

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e. When a resident is transferred or discharged, the resident's unused prescriptions shall be sent with the resident or with a legal representative only upon the written order of a primary care provider. (II, III)

481—63.11(135C) Involuntary discharge or transfer.

63.11(1) *Involuntary discharge or transfer permitted.* A facility may involuntarily discharge or transfer a resident for only one of the following reasons:

- a.* Medical reasons;
- b.* The resident's welfare or that of other residents;
- c.* Repeated refusal by the resident to participate in the resident's service plan;
- d.* Due to action pursuant to Iowa Code chapter 229; or
- e.* Nonpayment for the resident's stay, as described in the residency agreement for the resident's stay.

63.11(2) *Medical reasons.* Medical reasons for transfer or discharge shall be based on the resident's needs and shall be determined and documented in the resident's record by the primary care provider. Transfer or discharge may be required in order to provide a different level of care to the resident. (II)

63.11(3) *Welfare of a resident.* Welfare of a resident or that of other residents refers to a resident's social, emotional, or physical well-being. A resident may be transferred or discharged because the resident's behavior poses a continuing threat to the resident (e.g., suicidal) or to the well-being of other residents or staff (e.g., the resident's behavior is incompatible with other residents' needs and rights). Written documentation that the resident's continued presence in the facility would adversely affect the resident's own welfare or that of other residents shall be made by the administrator or designee and shall include specific information to support this determination. (II)

63.11(4) *Notice.* Involuntary transfer or discharge of a resident from a facility shall be preceded by a written notice to the resident and the responsible party. (II, III)

- a.* The notice shall contain all of the following information:
 - (1) The stated reason for the proposed transfer or discharge. (II)
 - (2) The effective date of the proposed transfer or discharge. (II)
 - (3) A statement, in not less than 12-point type, that reads as follows:

You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals (hereinafter referred to as "department") within 7 days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department and you will not be transferred prior to a final decision. In emergency circumstances, extension of the 14-day requirement may be permitted upon request to the department's designee. If you lose the hearing, you will not be transferred before the expiration of (1) 30 days following receipt of the original notice of the discharge or transfer, or (2) 5 days following final decision of such hearing, including exhaustion of all appeals, whichever occurs later. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. The notice required by paragraph 63.11(4) "a" shall be provided at least 30 days in advance of the proposed transfer or discharge unless one of the following occurs: (II)

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(1) An emergency transfer or discharge is mandated by the resident's health care needs and is in accordance with the written orders and medical justification of the primary care provider. Emergency transfers or discharges may also be mandated in order to protect the health, safety, or well-being of other residents and staff from the resident being transferred. (II)

(2) The transfer or discharge is subsequently agreed to by the resident or the resident's responsible party, and notification is given to the responsible party, the resident's primary care provider, and the person or agency responsible for the resident's placement, maintenance, and care in the facility.

d. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(5) *Emergency transfer or discharge.* In the case of an emergency transfer or discharge, the resident must be given a written notice prior to or within 48 hours following transfer or discharge. (II, III)

a. A copy of this notice must be placed in the resident's file. The notice must contain all of the following information:

- (1) The stated reason for the transfer or discharge. (II)
- (2) The effective date of the transfer or discharge. (II)
- (3) A statement, in not less than 12-point type, that reads:

You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing, in writing or verbally, with the Iowa department of inspections and appeals within 7 days after receiving this notice. You have the right to be represented at the hearing by an attorney or any other individual of your choice. If you request a hearing, it will be held no later than 14 days after receipt of your request by the department. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, call the department at (515)281-4115, or write to the department to the attention of: Administrator, Division of Health Facilities, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083. (II)

b. The notice shall be personally delivered to the resident and a copy placed in the resident's record. A copy shall also be transmitted to the department; the resident's responsible party; the resident's primary care provider; the person or agency responsible for the resident's placement, maintenance, and care in the facility; and the department on aging's long-term care ombudsman. The notice shall indicate that a copy has been transmitted to the required parties by using the abbreviation "cc:" and listing the names of all parties to whom copies were sent. (II)

c. A hearing requested pursuant to this subrule shall be held in accordance with subrule 63.11(6).

63.11(6) *Hearing.*

a. Request for hearing.

- (1) The resident must request a hearing within 7 days of receiving the written notice.
- (2) The request must be made to the department, either in writing or verbally.

b. The hearing shall be held no later than 14 days after receipt of the request by the department unless the resident requests an extension due to emergency circumstances.

c. Except in the case of an emergency discharge or transfer, a request for a hearing shall stay a transfer or discharge pending a final decision, including the exhaustion of all appeals. (II)

d. The hearing shall be heard by a department of inspections and appeals administrative law judge pursuant to Iowa Code chapter 17A and 481—Chapter 10. The hearing shall be public unless the resident or the resident's legal representative requests in writing that the hearing be closed. In a determination as to whether a transfer or discharge is authorized, the burden of proof by a preponderance of evidence rests on the party requesting the transfer or discharge.

e. Notice of the date, time, and place of the hearing shall be sent by certified mail or delivered in person to the facility, the resident, the responsible party, and the office of the long-term care ombudsman not later than 5 full business days after receipt of the request. The notice shall also inform the facility and the resident or the responsible party that they have a right to appear at the hearing in person or be

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represented by an attorney or other individual. The appeal shall be dismissed if neither party is present or represented at the hearing. If only one party appears or is represented, the hearing shall proceed with one party present. A representative of the office of the long-term care ombudsman shall have the right to appear at the hearing.

f. The administrative law judge's written decision shall be mailed by certified mail to the licensee, resident, responsible party, and the office of the long-term care ombudsman within 10 working days after the hearing has been concluded.

63.11(7) *Nonpayment.* If nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to make full payment up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (II)

63.11(8) *Discussion of involuntary transfer or discharge.* Within 48 hours after notice of involuntary transfer or discharge has been received by the resident, the facility shall discuss the involuntary transfer or discharge with the resident, the resident's responsible party, and the person or agency responsible for the resident's placement, maintenance, and care in the facility. (II)

a. The facility administrator or other appropriate facility representative serving as the administrator's designee shall provide an explanation and discussion of the reasons for the resident's involuntary transfer or discharge. (II)

b. The content of the explanation and discussion shall be summarized in writing, shall include the names of the individuals involved in the discussion, and shall be made part of the resident's record. (II)

c. The provisions of this subrule do not apply if the involuntary transfer or discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

63.11(9) *Transfer or discharge planning.*

a. The facility shall develop a plan to provide for the orderly and safe transfer or discharge of each resident to be transferred or discharged. (II)

b. To minimize the possible adverse effects of the involuntary transfer, the resident shall receive counseling services by the sending facility before the involuntary transfer and by the receiving facility after the involuntary transfer. Counseling shall be documented in the resident's record. (II)

c. The counseling requirement in paragraph 63.11(9) "b" does not apply if the discharge has already occurred pursuant to subrule 63.11(5) and emergency notice is provided within 48 hours.

d. Counseling, if required, shall be provided by a licensed mental health professional as defined in Iowa Code section 228.1(6).

e. The receiving health care facility of a resident involuntarily transferred shall immediately formulate and implement a plan of care which takes into account possible adverse effects the transfer may cause. (II)

63.11(10) *Transfer upon revocation of license or voluntary closure.* Residents shall not have the right to a hearing to contest an involuntary discharge or transfer resulting from the revocation of the facility's license by the department of inspections and appeals. In the case of the voluntary closure of a facility, a period of 30 days must be allowed for an orderly transfer of residents to other facilities.

63.11(11) *Intrafacility transfer.*

a. Residents shall not be arbitrarily relocated from room to room within a licensed health care facility. (I, II) Involuntary relocation may occur only in the following situations, which shall be documented in the resident's record: (II)

(1) Incompatibility with or disturbing to other roommates.

(2) For the welfare of the resident or other residents of the facility.

(3) To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

(4) In the case of a resident whose source of payment was previously private, but who now is eligible for Title XIX (Medicaid) assistance, the resident may be transferred from a private room to a semiprivate room or from one semiprivate room to another.

(5) Reasonable and necessary administrative decisions regarding the use and functioning of the building.

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b. Unreasonable and unjustified reasons for changing a resident's room without the concurrence of the resident or responsible party include:

(1) Change from private pay status to Title XIX, except as outlined in subparagraph 63.11(11)“a”(4). (II)

(2) As punishment or behavior modification, except as specified in subparagraph 63.11(11)“a”(1). (II)

(3) Discrimination on the basis of race or religion. (II)

c. If intrafacility relocation is necessary for reasons outlined in paragraph 63.11(11)“a,” the resident shall be notified at least 48 hours prior to the transfer and the reason therefor shall be explained. The responsible party shall be notified as soon as possible. The notification shall be documented in the resident's record and signed by the resident or responsible party. (II, III)

d. If emergency relocation is required in order to protect the safety or health of the resident or other residents, the notification requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately or as soon as possible of the condition that necessitates emergency relocation, and such notification shall be documented. (II, III)

e. A transfer to a part of a facility that has a different license must be handled the same way as a transfer to another facility, and not as an intrafacility transfer. (II, III)

481—63.12(135C) Residency agreement.

63.12(1) Each residency agreement shall:

a. State the base rate or scale per day or per month, the services included, and the method of payment. (III)

b. Contain a complete schedule of all offered services for which a fee may be charged in addition to the base rate. (III) Furthermore, the agreement shall:

(1) Stipulate that no further additional fees shall be charged for items not contained in the complete schedule of services; (III)

(2) State the method of payment for additional charges; (III)

(3) Contain an explanation of the method of assessment of such additional charges and an explanation of the method of periodic reassessment, if any, resulting in changing such additional charges; (III)

(4) State that additional fees may be charged to the resident for nonprescription drugs, other personal supplies, and services provided by a barber, beautician, and such. (III)

c. Contain an itemized list of services to be provided to the resident based on an assessment at the time of the resident's admission and in consultation with the administrator and including the specific fee the resident will be charged for each service and the method of payment. (III)

d. Include the total fee to be charged initially to the resident. (III)

e. State the conditions whereby the facility may make adjustments to its overall fees for resident care as a result of changing costs. (II, III) Furthermore, the agreement shall provide that the facility shall give:

(1) Written notification to the resident, or the responsible party when appropriate, of changes in the overall rates of both base and additional charges at least 30 days prior to the effective date of such changes; (II, III)

(2) Notification to the resident, or the responsible party when appropriate, of changes in additional charges, based on a change in the resident's condition. Notification must occur prior to the date such revised additional charges begin. If notification is given orally, subsequent written notification must also be given within a reasonable time, not to exceed one week, listing specifically the adjustments made. (II, III)

f. State the terms of agreement in regard to a refund of all advance payments in the event of the transfer, death, or voluntary or involuntary discharge of the resident. (II, III)

g. State the terms of agreement concerning the holding of and charging for a bed when a resident is hospitalized or leaves the facility temporarily for recreational or therapeutic reasons. The terms shall

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contain a provision that the bed will be held at the request of the resident or the resident's responsible party. (II, III)

(1) The facility shall ask the resident or responsible party whether the resident's bed should be held. This request shall be made before the resident leaves or within 48 hours after the resident leaves. The inquiry and the response shall be documented. (II, III)

(2) The facility shall inform the resident or responsible party that, when requested, the bed may be held beyond the number of days designated by the funding source, as long as payments are made in accordance with the agreement. (II, III)

h. State the conditions under which the involuntary discharge or transfer of a resident would be effected. (II, III)

i. Set forth any other matters deemed appropriate by the parties to the agreement. No agreement or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter. (II, III)

63.12(2) Each party to the residency agreement shall receive a copy of the signed agreement. (II, III)

481—63.13(135C) Medical examinations.

63.13(1) Each resident in a residential care facility shall have a designated primary care provider who may be contacted when needed. (II, III)

63.13(2) Each resident admitted to a residential care facility shall have a physical examination prior to admission. (II, III)

a. If the resident is admitted directly from a hospital, a copy of the hospital admission physical and discharge summary may be a part of the record in lieu of an additional physical examination. A record of the examination, signed by the primary care provider, shall be a part of the resident's record. (II, III)

b. The record of the admission physical examination and medical history shall portray the current medical status of the resident and shall include the resident's name, sex, age, medical history, physical examination, diagnosis, statement of medical concerns, diet, and results of any diagnostic procedures. (II, III)

c. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59. (I, II, III)

63.13(3) The person in charge shall immediately notify the primary care provider of any accident, injury or adverse change in the resident's condition that has the potential for requiring physician intervention. (I, II, III)

63.13(4) Each resident shall be visited by or shall visit the resident's primary care provider at least once each year. The one-year period shall be measured from the date of admission and does not include the resident's preadmission physical. (III)

481—63.14(135C) Records.

63.14(1) *Resident record.* The licensee shall keep a permanent record on all residents admitted to a specialized residential care facility with all entries current, dated, and signed. (III) The record shall include:

- a.* Name and previous address of resident; (III)
- b.* Birth date, sex, and marital status of resident; (III)
- c.* Church affiliation; (III)
- d.* Primary care provider's name, telephone number, and address; (III)
- e.* Dentist's name, telephone number, and address; (III)
- f.* Name, address, and telephone number of next of kin or legal representative; (III)
- g.* Name, address, and telephone number of person to be notified in case of emergency; (III)
- h.* Mortuary's name, telephone number, and address; (III)
- i.* Pharmacist's name, telephone number, and address; (III)
- j.* Physical examination and medical history; (III)

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- k.* Certification by the primary care provider that the resident requires no more than personal care and supervision, but does not require nursing care; (III)
 - l.* Primary care provider's orders for medication, treatment, and diet in writing and signed by the primary care provider; (III)
 - m.* A notation of yearly or other visits to primary care provider or other professional services; (III)
 - n.* Any change in the resident's condition; (II, III)
 - o.* If the primary care provider has certified that the resident is capable of taking prescribed medications, the resident shall be required to keep the administrator advised of current medications, treatments, and diet. The administrator shall keep a listing of medication, treatments, and diet prescribed by the primary care provider for each resident; (III)
 - p.* If the primary care provider has certified that the resident is not capable of taking prescribed medication, it must be administered by a qualified person of the facility. A qualified person shall be defined as either a registered or licensed practical nurse or an individual who has completed the state-approved training course in medication administration, including a medication manager or certified medication aide; (II)
 - q.* Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication; (II, III)
 - r.* A notation describing the resident's condition on admission, transfer, and discharge; (III)
 - s.* In the event of a resident's death, notations in the resident's record shall include the date and time of the resident's death, the circumstances of the resident's death, the disposition of the resident's body, and the date and time that the resident's family and primary care provider were notified of the resident's death; (III)
 - t.* A copy of instructions given to the resident, legal representative, or facility in the event of discharge or transfer; (III)
 - u.* Disposition of valuables; (III)
 - v.* Current individual program plans. (II, III)
- 63.14(2) Confidentiality of resident records.**
- a.* Each resident shall be ensured confidential treatment of all information contained in the resident's records, including information contained in an automatic data bank. The resident's written consent shall be required for the release of information to persons not otherwise authorized under law to receive it. (II)
 - b.* The facility shall limit access to any medical records to staff and consultants providing professional service to the resident. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)
 - c.* Similar procedures shall safeguard the confidentiality of residents' personal records, e.g., financial records and social services records. Only those personnel concerned with the financial affairs of the residents may have access to the financial records. This is not meant to preclude access by representatives of state and federal regulatory agencies. (II)
 - d.* The resident or the resident's responsible party shall be entitled to examine all information contained in the resident's record and shall have the right to secure full copies of the record at reasonable cost upon request, unless the primary care provider determines the disclosure of the record or section thereof is contraindicated in which case this information will be deleted before the record is made available to the resident or responsible party. This determination and the reasons for it must be documented in the resident's record. (II)
- 63.14(3) Incident record.**
- a.* Each residential care facility shall maintain an incident record report and shall have available incident report forms. (II, III)
 - b.* Report of incidents shall be in detail on an incident report form. (III)
 - c.* The person in charge at the time of the incident shall oversee the preparation of and sign the incident report. The administrator or designee shall review, sign and date the incident report within 72 hours of the accident, incident or unusual occurrence. (II, III)

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d. An incident report shall be completed for every accident or incident where there is apparent injury or where an injury of unknown origin may have occurred. (II)

e. An incident report shall be completed for every accident, incident or unusual occurrence within the facility or on the premises that affects a resident, visitor, or employee. (II, III)

f. A copy of the incident report shall be kept on file in the facility. (II, III)

63.14(4) Retention of records.

a. Records shall be retained in the facility for five years following the termination of services to a resident. (III)

b. Records shall be retained within the facility upon change of ownership. (III)

c. When the facility ceases to operate, a copy of the resident's record shall be released to the facility to which the resident is transferred. (III)

d. When the facility ceases to operate, records shall be maintained for five years in a clean, dry secured storage area. (III)

63.14(5) Electronic records. In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the residents of the facility. (II, III)

a. If access to an electronic record is requested by the authorized representative of the department, the facility may provide a tutorial on how to use its particular electronic system or may designate an individual who will, when requested, access the system, respond to any questions or assist the authorized representative as needed in accessing electronic information in a timely fashion. (II, III)

b. The facility shall provide a terminal where the authorized representative may access records. (II, III)

c. If the facility is unable to provide direct print capability to the authorized representative, the facility shall make available a printout of any record or part of a record on request in a time frame that does not intentionally prevent or interfere with the department's survey or investigation. (II, III)

63.14(6) Reports to the department. The licensee shall furnish statistical information concerning the operation of the facility to the department on request. (III)

63.14(7) Personnel record.

a. An employment record shall be kept for each employee consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the facility, job description, date of discharge or resignation, and if the employee was discharged, the reason therefor. (III)

b. The personnel records shall be made available for review upon request by the department. (III)

481—63.15(135C) Resident care and personal services.

63.15(1) A complete change of bed linens shall be provided at least once a week and more often if necessary. (III)

63.15(2) Residents shall receive sufficient supervision to promote personal cleanliness. (II, III)

63.15(3) Residents shall have clean clothing as needed. Clothing shall be appropriate to residents' activities and to the weather. (III)

63.15(4) Residents shall be encouraged to bathe at least twice a week. (II, III)

63.15(5) All nonambulatory residents shall be housed on the grade level floor unless the facility has a suitably sized elevator. (II)

481—63.16(135C) Drugs.

63.16(1) Drug storage.

a. Residents who have been certified in writing by their primary care provider as capable of taking their own medications may retain these medications in their bedroom, but locked storage must be provided, with staff and the resident having access, and the drug storage shall be kept locked when not in use. Monitoring of the storage, administration, and documentation by the resident shall be carried out by a person who meets the requirements of subrule 63.16(3) and is responsible for administering medications. (II, III)

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b. Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

- (1) Locked storage for drugs, solutions, and prescriptions shall be provided. (III)
- (2) A bathroom shall not be used for drug storage. (III)
- (3) The drug storage shall be kept locked when not in use. (III)
- (4) The drug storage key shall be secured and available only to those employees charged with the responsibility of administering medications. (II, III)
- (5) Schedule II drugs, as defined by Iowa Code chapter 124, shall be kept in a locked box within the locked drug storage. (II, III)
- (6) Medications requiring refrigeration shall be kept locked in a refrigerator and separated from food and other items. (II, III)
- (7) Drugs for external use shall be stored separately from drugs for internal use. (II, III)
- (8) All potent, poisonous, or caustic materials shall be stored separately from drugs, shall be plainly labeled and stored in a specific, well-illuminated cabinet, closet, or storeroom, and shall be made accessible only to authorized persons. (I, II)
- (9) Inspection of drug storage shall be made by the administrator or designee and a registered pharmacist not less than once every three months. The inspection shall be verified by a report signed by the administrator and the pharmacist and filed with the administrator. The report shall include, but not be limited to, certification of the absence of the following: expired drugs, deteriorated drugs, improper labeling, drugs for which there is no current primary care provider's order, and drugs improperly stored. (III)
- (10) Bulk supplies of prescription drugs for multiresident use shall not be kept in a residential care facility. (III)

63.16(2) Drug safeguards.

a. All prescribed medications shall be clearly labeled indicating the resident's full name, primary care provider's name, prescription number, name and strength of drug, dosage, directions for use, date of issue, and name and address and telephone number of pharmacy or primary care provider issuing the drug. Where unit dose is used, prescribed medications shall, at a minimum, indicate the resident's full name, primary care provider's name, name and strength of drug, and directions for use. Standard containers shall be utilized for dispensing drugs. (III)

b. Sample medications provided by the resident's primary care provider shall clearly identify to whom the medications belong. (III)

c. Medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or primary care provider for relabeling or disposal. (III)

d. The medication for each resident shall be kept or stored in the original containers unless the resident is participating in an individualized medication program. (II, III)

e. Unused prescription drugs shall be destroyed by the person in charge, in the presence of a witness, and with a notation made on the resident's record or shall be returned to the supplying pharmacist. (III)

f. Prescriptions shall be refilled only with the permission of the resident's primary care provider. (II, III)

g. Medications prescribed for one resident shall not be administered to or allowed in the possession of another resident. (I, II)

h. Instructions shall be requested from the Iowa board of pharmacy concerning disposal of unused Schedule II drugs prescribed for a resident who has died or for whom the Schedule II drug was discontinued. (III)

i. Discontinued medications shall be destroyed within a specified time by a responsible person, in the presence of a witness, and with a notation made to that effect or shall be returned to the pharmacist for destruction. Drugs listed under the Schedule II drugs shall be destroyed in accordance with the requirements established by the Iowa board of pharmacy. (II, III)

j. All medication orders which do not specifically indicate the number of doses to be administered or the length of time the drug is to be administered shall be stopped automatically after a given time

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period. The automatic-stop order may vary for different types of drugs. The resident's primary care provider, in conjunction with the pharmacist, shall institute these policies and provide procedures for review and endorsement. (II, III)

k. No resident shall be allowed to possess any medications unless the primary care provider has certified in writing on the resident's medical record that the resident is mentally and physically capable of doing so. (II)

l. No medications or prescription drugs shall be administered to a resident without a written order signed by the primary care provider. (II)

m. The facility shall establish a policy to govern the distribution of prescribed medications to residents who are on leave from the facility. (II, III)

(1) Medications may be issued to residents who will be on leave from a facility for less than 24 hours. Only those medications needed for the time period that the resident will be on leave from the facility may be issued. Non-child-resistant containers may be used. Instructions shall be provided and include the date, the resident's name, the name of the facility, and the name of the medication, its strength, dose and time of administration. (II, III)

(2) Medication for residents on leave from a facility for longer than 24 hours shall be obtained in accordance with requirements established by the Iowa board of pharmacy. (II, III)

(3) Medication for residents on leave from a facility may be issued only by facility personnel responsible for administering medication. (II, III)

63.16(3) Drug administration—authorized personnel.

a. A properly trained person shall be charged with the responsibility of administering medications as ordered by a primary care provider. (II, III)

b. The person shall have knowledge of the purpose of the drugs and their dangers and contraindications. (II, III)

c. The person shall be a licensed nurse or primary care provider or an individual who has completed the state-approved training course in medication administration, including a medication manager or certified medication aide. (II, III)

d. Prior to taking a department-approved medication aide course, the person shall:

(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)

(2) Have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

e. A person who is a nursing student or a graduate nurse may take the medication aide challenge examination in place of taking a course. The person shall do all of the following before taking the challenge examination:

(1) Complete a clinical or nursing theory course within six months before taking the challenge examination; (III)

(2) Successfully complete a nursing program pharmacology course within one year before taking the challenge examination; (III)

(3) Provide to the community college a written statement from the nursing program's pharmacology or clinical instructor indicating that the person is competent in medication administration. (III)

f. A person who has written documentation of certification as a medication aide in another state may become a medication aide in Iowa by successfully completing a department-approved nurse aide competency examination and a medication aide challenge examination. The requirements of paragraph 63.16(3) "d" do not apply to this person. (III)

63.16(4) Drug administration.

a. Unless the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by personally preparing the dose, observing the actual act of swallowing the oral medication, and charting the medication. In facilities where the unit dose system is used, the person assigned the responsibility of medication administration must complete the procedure by observing the actual act of swallowing the oral medication and by charting the medication.

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Medications shall be prepared on the same shift of the same day that they are administered unless the unit dose system is used. (II)

b. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, primary care provider or pharmacist. For purposes of this subrule, “injectable medications” does not include an epinephrine autoinjector, e.g., an EpiPen. (II, III)

c. A resident certified by the resident’s primary care provider as capable of injecting the resident’s own insulin may do so. Insulin may be administered pursuant to paragraph 63.16(4) “*b*” or as otherwise authorized by the resident’s primary care provider. (II, III) Authorization shall:

- (1) Be in writing,
- (2) Be maintained in the resident’s record,
- (3) Be renewed quarterly,
- (4) Include the name of the person authorized to administer the insulin,
- (5) Include documentation by the primary care provider that the authorized person is qualified to administer insulin to that resident. (II, III)

d. A resident may participate in the administration of the resident’s own medication if the primary care provider has certified in writing in the resident’s medical record that the resident is mentally and physically capable of participating and has explained in writing in the resident’s medical record what the resident’s participation may include.

e. An individual inventory record shall be maintained for each Schedule II drug prescribed for each resident, with an accurate count and authorized signatures at every shift. (II)

f. The facility may use a unit dose system.

g. Medication aides and medication managers may administer PRN medications without contacting a licensed nurse or primary care provider if all of the following apply: (I, II, III)

- (1) A written order from the resident’s primary care provider specifies the purpose of the PRN medication and the frequency, dosage and strength of the PRN medication.
- (2) The resident’s primary care provider provides in writing specific criteria for administering PRN medications.
- (3) The pharmacist assesses the resident’s use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1) “*b*”(9).

h. The pharmacist shall assess the use of PRN medications when conducting the inspection of drug storage as required by subparagraph 63.16(1) “*b*”(9). (II, III)

i. Medications administered by an employee of the facility shall be recorded on a medication record by the individual who administers the medication. (I, II, III)

481—63.17(135C) Dental services.

63.17(1) The residential care facility personnel shall assist residents in obtaining annual and emergency dental services and shall arrange transportation for such services. (III)

63.17(2) Dental services shall be performed only on the request of the resident, responsible party, legal representative, or primary care provider. The resident’s primary care provider shall be advised of the resident’s dental problems. (III)

63.17(3) All dental reports or progress notes shall be included in the resident record as available. The facility shall make reasonable efforts to obtain the records following the provision of services. (III)

63.17(4) Personal care staff shall assist the resident in carrying out the dentist’s recommendations. (III)

481—63.18(135C) Dietary.**63.18(1) Dietary staffing.**

a. A minimum of one person directly responsible for food preparation shall successfully complete a course meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code section 137F.2. Another course may be substituted if the course’s curriculum includes substantially similar competencies to a course that meets the requirements of the Food Code

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and the provider of the course files with the department a statement indicating that the course provides substantially similar instruction as it relates to sanitation and safe food handling. (III)

b. If the person is in the process of completing the food protection program in paragraph 63.18(1)“a,” the requirement relating to the completion of a state-approved food protection program shall be considered to have been met.

c. In addition to the requirement of paragraph 63.18(1)“a,” personnel who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection. (III)

63.18(2) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of residents in accordance with the primary care provider’s orders. Diet orders should be reviewed as necessary, but at least quarterly, by the primary care provider. (II, III)

b. Menus shall be planned and served to include foods and amounts necessary to meet federal dietary guidelines. (II, III)

c. At least three meals or their equivalent shall be served daily, at regular hours. (II, III)

(1) There shall be no more than a 14-hour span between offering a substantial evening meal and breakfast. (II, III)

(2) Unless contraindicated, evening snacks shall be offered routinely to all residents. Special nourishments shall be available when ordered by the primary care provider. (II, III)

d. Menus shall include a variety of foods prepared in various ways. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place for easy use by persons purchasing, preparing, and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by departmental personnel. When substitutions are necessary or requested, they shall be of similar nutritive value and recorded on the menu or in a notebook. (III)

g. The facility shall provide an alternative choice at scheduled meal times. (III)

63.18(3) Dietary storage, food preparation, and service.

a. All food shall be handled, prepared, served and stored in compliance with the Food Code adopted pursuant to Iowa Code section 137F.2. (I, II, III)

b. Supplies of staple foods for a minimum of a one-week period and of perishable foods for a minimum of a two-day period shall be maintained on the premises. Minimum food portion requirements for a low-cost plan shall conform to information supplied by the bureau of nutrition and health promotion of the department of public health. (II, III)

c. Dishes shall be free of cracks, chips, and stains. (III)

d. If family-style service is used, all leftover prepared food that has been on the table shall be properly handled. (III)

63.18(4) Sanitation in food preparation area. There shall be written procedures established for cleaning all work and serving areas. (III)

481—63.19(135C) Orientation and service plan.

63.19(1) Orientation. Within 24 hours of admission, each resident shall receive orientation to the facility. The orientation program shall be documented in the resident’s file and shall include, but shall not be limited to, a review of the resident’s rights, the daily schedule, house rules and the facility’s evacuation plan. (II, III)

63.19(2) Initial service plan. Within 48 hours of admission, the administrator or the administrator’s designee shall develop an initial service plan to address any immediate health and safety needs. The plan shall be based on information gathered from the resident, family, referring party, primary care provider, and other significant persons. The plan shall be followed until the service plan required in subrule 63.19(3) is complete. (I, II, III)

63.19(3) Service plan. Within 30 days of admission, the administrator or the administrator’s designee, in conjunction with the resident, the resident’s responsible party, the interdisciplinary team,

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and any organization that works with or serves the resident, shall develop a written, individualized, and integrated service plan for the resident. The service plan shall be developed and implemented to address the resident's priorities and assessed needs, such as activities of daily living, rehabilitation, activity, and social, behavioral, emotional, physical and mental health. (I, II, III)

a. The service plan shall include measurable goals and objectives and the specific service(s) to be provided to achieve the goals. Each goal shall include the date of initiation and anticipated duration of service(s). Any restriction of rights shall be included in the service plan. (I, II, III)

b. The service plan shall include the documentation procedure for each goal and objective. (II, III)

c. The service plan should be modified to add or delete goals and objectives as the resident's needs change. Communications related to service plan changes or changes in the resident's condition shall occur within five working days of the change and shall be conveyed to all individuals inside and outside the residential care facility who work with the resident, as well as to the resident's responsible party. (I, II, III)

d. The service plan shall be reviewed at least quarterly by relevant staff, the resident and appropriate others, such as the resident's family, case manager and responsible party. The review shall include a written report which addresses a summary of the resident's progress toward goals and objectives and the need for continued services. (I, II, III)

481—63.20(135C) Resident activities program.

63.20(1) *Activities program.* Each residential care facility shall provide an organized resident activities program for the group and for the individual resident which shall include suitable activities. (III)

a. The activities program shall be designed to meet the needs and interests of each resident and to assist residents in continuing normal activities within limitations set by the resident's primary care provider. This shall include helping residents continue in their individual interests or hobbies. (III)

b. The activities program shall include both group and individual activities. (III)

c. Residents shall be encouraged, but not required, to participate in activities. (III)

63.20(2) Each resident may participate in activities of social, religious, and community groups at the resident's discretion unless contraindicated for reasons documented by the primary care provider or interdisciplinary team as appropriate in the resident's record. (II)

63.20(3) Residents who wish to meet with or participate in activities of social, religious, or other community groups in or outside of the facility shall be informed, encouraged, and assisted to do so. (II)

63.20(4) *Supplies, equipment, and storage.*

a. Each facility shall provide a variety of supplies and equipment of a nature calculated to fit the needs and interests of the residents. (III)

b. Storage shall be provided for recreational equipment and supplies. (III)

481—63.21(135C) Residents' rights.

63.21(1) Each facility shall ensure that policies and procedures are written and implemented which include, at a minimum, the provisions of this rule and which govern all areas of service provided by the facility. These policies and procedures shall be available to staff, residents, residents' families or legal representatives and the public and shall be reviewed annually. (II, III)

63.21(2) Policies and procedures shall include a method for submitting complaints and recommendations by residents or their responsible parties and for ensuring a response and disposition by the facility. (II, III) The written procedures shall:

a. Ensure the provision of assistance to residents as necessary to complete and submit complaints and recommendations; (II, III)

b. Ensure protection of the resident from any form of reprisal or intimidation; (II, III)

c. Include designation of an employee responsible for handling grievances and recommendations; (II, III)

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d. Include a method of investigating and assessing the validity of a grievance or recommendation; (II, III) and

e. Include methods of recording grievances and actions taken. (II, III)

63.21(3) Policies and procedures shall include provisions governing access to, duplication of, and dissemination of information from the residents' records. (II, III)

63.21(4) Policies and procedures shall include a provision that each resident shall be fully informed of the resident's rights and responsibilities as a resident and of all rules governing resident conduct and responsibilities. This information must be provided upon the resident's admission or, in the case of residents already in the facility, upon the facility's adoption or amendment of residents' rights policies. (II, III)

a. The facility shall communicate to residents prior to or within five days after admission what residents may expect from the facility and its staff, and what is expected from residents. The communication shall be in writing, e.g., in a separate handout or brochure describing the facility, and interpreted verbally, e.g., as part of a preadmission interview, resident counseling, or in individual or group orientation sessions following the resident's admission. (II, III)

b. Residents' rights and responsibilities shall be presented in language understandable to the resident. If the facility serves residents who are non-English-speaking or deaf, steps shall be taken to translate the information into a foreign or sign language. In the case of blind residents, either Braille or a recording shall be provided. Residents shall be encouraged to ask questions about their rights and responsibilities, and these questions shall be answered. (II, III)

c. A statement shall be signed by the resident, or the resident's responsible party if applicable, indicating an understanding of these rights and responsibilities and shall be maintained in the resident's record. The statement shall be signed no later than five days after admission, and a copy of the signed statement shall be given to the resident or responsible party. (II, III)

d. In order to ensure that residents continue to be aware of these rights and responsibilities during their stay, a written copy shall be prominently posted in a location that is available to all residents. (II, III)

e. All residents shall be advised within 30 days following changes made in the statement of residents' rights and responsibilities. Appropriate means shall be utilized to inform non-English-speaking, deaf or blind residents of changes. (II, III)

63.21(5) Choice of primary care provider. Each resident shall be permitted free choice of a primary care provider, and pharmacy, if accessible. The facility may require the selected pharmacy to utilize a drug distribution system compatible with the system currently used by the facility. (II)

63.21(6) Each resident shall be afforded the opportunity to participate in the planning of the resident's total care and treatment, which may include, but shall not be limited to, medical care, nutritional needs, activities, and social work services. Each resident has the right to refuse treatment except as provided by Iowa Code chapter 229. In the case of a resident with impaired decision-making skills, the responsible party shall be afforded the opportunity to participate in the planning of the resident's total care and medical treatment and to be informed of the resident's medical condition. (II, III)

63.21(7) Each resident shall be encouraged and assisted throughout the resident's period of stay to exercise the resident's rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to administrative staff or to outside representatives of the resident's choice, free from interference, coercion, discrimination, or reprisal. (II)

63.21(8) The facility shall provide ongoing opportunities for residents to be aware of and to exercise their rights as residents. Residents shall be kept informed of changes in policies and services that are more restrictive, and their views shall be solicited prior to action. (II)

63.21(9) The facility shall post in a prominent area the text of Iowa Code section 135C.46 (Retaliation by facility prohibited) and the name, telephone number, and address of the long-term care ombudsman, the department, and the local law enforcement agency to provide residents a further course of redress. (II)

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63.21(10) All rights and responsibilities of the resident devolve to the resident's responsible party or any legal surrogate designated in accordance with state law, to the extent permitted by state law. This subrule is not intended to limit the authority of any individual acting pursuant to Iowa Code chapter 144A. (II, III)

481—63.22(135C) Dignity preserved. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. (I, II)

63.22(1) Staff shall display respect for residents when speaking with, caring for, or talking about them, as constant affirmation of their individuality and dignity as human beings. (I, II)

63.22(2) Schedules of daily activities shall allow maximum flexibility for residents to exercise choice about what they will do and when they will do it. Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, entertainment, sleeping and eating, also times to retire at night and arise in the morning shall be elicited and considered by the facility. (II)

63.22(3) Residents shall be examined and treated in a manner that maintains the privacy of their bodies. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents shall not be present without the resident's consent while the resident is being examined or treated. (II)

63.22(4) Privacy of a resident's body also shall be maintained during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. (II)

63.22(5) Staff shall knock and be acknowledged before entering a resident's room unless the resident is not capable of a response. This shall not apply under emergency conditions. (II)

481—63.23(135C) Communications. Each resident may communicate, associate, and meet privately with persons of the resident's choice, unless to do so would infringe upon the rights of other residents, and may send and receive personal mail unopened. (II)

63.23(1) Subject to reasonable scheduling restrictions, visiting policies and procedures shall permit residents to receive visits from anyone they wish. Visiting hours shall be posted. (II)

63.23(2) Reasonable, regular visiting hours shall not be less than 12 hours per day and shall take into consideration the special circumstances of each visitor. A particular visitor(s) may be restricted by the facility for one of the following reasons:

- a. The resident refuses to see the visitor(s). (II)
- b. The resident's primary care provider documents specific reasons why such a visit would be harmful to the resident's health. (II)
- c. The visitor's behavior is unreasonably disruptive to the functioning of the facility. This judgment must be made by the administrator, and the reasons shall be documented and kept on file. (II)

63.23(3) Decisions to restrict a visitor are reviewed and reevaluated:

- a. Each time the medical orders are reviewed by the primary care provider;
- b. At least quarterly by the facility's staff; or
- c. At the resident's request. (II)

63.23(4) Space shall be provided for residents to receive visitors in reasonable comfort and privacy. (II)

63.23(5) Telephones shall be available and accessible for residents to make and receive calls with privacy. Residents who need help shall be assisted in using the telephone. (II)

63.23(6) Arrangements shall be made to provide assistance to residents who require help in reading or sending mail. (II)

63.23(7) Residents, including residents court-ordered to the facility, shall be permitted to leave the facility at reasonable times unless there are justifiable reasons established in writing by court order, the primary care provider, the interdisciplinary team, or the facility administrator for refusing permission. (II)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

63.23(8) Residents shall not have their personal lives regulated beyond reasonable adherence to meal schedules, bedtime hours, and other written policies which may be necessary for the orderly management of the facility and as required by these rules. However, residents shall be encouraged to participate in recreational programs. (II)

481—63.24(135C) Resident property.

63.24(1) Residents shall be permitted to keep reasonable amounts of personal clothing and possessions for their use while in the facility. The facility shall offer the resident the opportunity to have personal property itemized and documented on an inventory sheet upon the resident's admission. The inventory sheet shall be kept in a safe location which is convenient to the resident and shall be updated at least annually. At discharge, residents may sign off on a list of the personal property they are taking with them. (II, III)

63.24(2) The facility shall provide for the safekeeping of personal effects, funds and other property of its residents. The facility may require that items of exceptional value or that would convey unreasonable responsibilities to the licensee be removed from the premises of the facility for safekeeping. (III)

63.24(3) Funds or properties received by the facility, belonging or due a resident, expendable for the resident's account, shall be trust funds. (III)

481—63.25(135C) Financial affairs—management. Each resident who has not been assigned a guardian or conservator by the court may manage the resident's own personal financial affairs. To the extent the facility assists in management, under written authorization by the resident, the management shall be carried out in accordance with Iowa Code section 135C.24. (II)

63.25(1) The facility shall maintain a written account of all residents' funds received by or deposited with the facility. (II)

63.25(2) An employee shall be designated in writing to be responsible for resident accounts. (II)

63.25(3) The facility shall keep on deposit personal funds over which the resident has control in accordance with Iowa Code section 135C.24. Should the resident request these funds, they shall be given to the resident on request with receipts maintained by the facility and a copy to the resident. In the case of a resident with impaired decision-making skills, the resident's legal representative shall designate a method of disbursing the resident's funds. (II)

63.25(4) If the facility makes financial transactions on a resident's behalf, the facility must document that it has prepared and sent an itemized accounting of disbursements and current balances at least quarterly. A copy of this statement shall be maintained in the resident's financial or business record. (II)

63.25(5) A resident's personal funds shall not be used without the written consent of the resident or the resident's legal representative. (I, II)

63.25(6) A resident's personal funds shall be returned to the resident when the funds have been used without the written consent of the resident or the resident's legal representative. The department may report findings that resident funds have been used without written consent to the department's investigations division or to the local law enforcement agency, as appropriate. (II)

481—63.26(135C) Resident work. No resident may be required to perform services for the facility, except as provided by Iowa Code section 347B.5. (II)

63.26(1) Residents may not be used to provide a source of labor for the facility against their will. Approval by the primary care provider is required for all work programs. (I, II)

63.26(2) Residents who perform work for the facility must receive compensation unless the work is part of their approved training program. Persons on the resident census who perform work shall not be used to replace paid employees in fulfilling staffing requirements. (II)

481—63.27(135C) Resident abuse prohibited. Each resident shall receive kind and considerate care at all times and shall be free from mental, physical, sexual, and verbal abuse, exploitation, neglect, and physical injury. (I, II)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

63.27(1) Mental abuse includes, but is not limited to, humiliation, harassment, and threats of punishment or deprivation. (I, II)

63.27(2) Physical abuse includes, but is not limited to, corporal punishment and the use of restraints as punishment. (I, II)

63.27(3) Drugs such as tranquilizers shall only be used in accordance with orders of the primary care provider. (I, II)

63.27(4) Allegations of dependent adult abuse. Allegations of dependent adult abuse shall be reported and investigated pursuant to Iowa Code chapter 235E and 481—Chapter 52. (I, II, III)

481—63.28(135C) Crisis intervention. If a facility utilizes physical restraints, there shall be written policies that define the uses of physical restraints, designate the administrator or designee as the person who may authorize their use, and establish a mechanism for monitoring and controlling their use. (I, II)

63.28(1) Temporary physical restraint of residents shall be used only under the following conditions: (I, II)

a. An emergency to prevent injury to the resident or to others; or (I, II)

b. For crisis intervention, but shall not be used for punishment, for the convenience of staff or as a substitution for supervision or programming; (I, II) and

c. No staff person shall use any restraint that obstructs the airway of the resident. (I, II)

63.28(2) Authorization for the use of physical restraints must be prior to or immediately after application of the restraint. (I, II)

63.28(3) Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint. (I, II)

63.28(4) The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the resident's rights and to ensure safety shall be clearly set forth in the resident's record by the responsible staff persons. (I, II)

63.28(5) The primary care provider, the interdisciplinary team and the resident's responsible party shall be notified of any restraints administered. (I, II, III)

63.28(6) The facility shall provide to the staff a department-approved training program by qualified professionals on physical restraint techniques. (I, II)

a. The facility shall keep a record of training for review by the department and shall include attendance. (II, III)

b. Only staff with documented training in physical restraint and techniques shall be authorized to assist with physical restraint of a resident. (I, II)

c. Under no circumstances shall a resident be allowed to actively or passively assist in the restraint of another resident. (I, II)

63.28(7) Residents shall not be kept behind locked doors. (I, II)

481—63.29(135C) Safety. The licensee of a residential care facility shall be responsible for the provision and maintenance of a safe environment for residents and personnel. (I, II, III)

63.29(1) Fire safety.

a. All residential care facilities shall meet the fire safety rules and regulations as promulgated by the state fire marshal. (I, II)

b. The size of the facility and needs of the residents shall be taken into consideration in evaluating safety precautions and practices.

63.29(2) Safety duties of administrator. The administrator shall have a written emergency plan to be followed in the event of fire, tornado, explosion, or other emergency. (III)

a. The plan shall be prominently posted in a common area of the building. (III)

b. In-service shall be provided to ensure that all employees are knowledgeable of the emergency plan. (II, III)

63.29(3) Resident safety.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

- a.* Smoking shall be prohibited, except as allowed by Iowa Code chapter 142D, the smokefree air Act. (II, III)
- b.* Whenever full or empty tanks of oxygen are being used or stored, they shall be securely supported in an upright position. (II, III)
- c.* Residents shall receive adequate supervision to ensure against hazard from themselves, others, or elements in the environment. (I, II, III)
- d.* Storage areas for cleaning agents, bleaches, insecticides, or any other poisonous, dangerous, or flammable materials shall be locked. Residents permitted to access these materials shall be supervised by staff as identified in the resident's service plan. (I, II, III)
- e.* Sufficient numbers of noncombustible trash containers with covers shall be available. (III)
- f.* Residents' personal possessions that may constitute a hazard to residents or others shall be removed and stored. (III)

63.29(4) First-aid kit. A first-aid emergency kit shall be available on each floor in every facility. (II, III)

481—63.30(135C) Housekeeping.

- 63.30(1)** Each resident room shall be cleaned on a routine schedule. (III)
- 63.30(2)** All rooms, corridors, storage areas, linen closets, attics, and basements shall be kept in a clean, orderly condition, free of unserviceable furniture and equipment and accumulations of refuse. (II, III)
- 63.30(3)** A hallway or corridor shall not be used for storage of equipment. (II, III)
- 63.30(4)** All odors shall be kept under control by cleanliness and proper ventilation. (III)
- 63.30(5)** Clothing worn by personnel shall be clean and washable. (III)
- 63.30(6)** All furniture, bedding, linens, and equipment shall be cleaned periodically and before use by another resident. (II, III)
- 63.30(7)** Polishes used on floors shall provide a nonslip finish. (II, III)
- 63.30(8)** Throw or scatter rugs shall have nonskid backing. (II, III)
- 63.30(9)** Entrances, exits, steps, and outside walkways shall be kept free from ice, snow, and other hazards. (II, III)

481—63.31(135C) Maintenance.

- 63.31(1)** The building, grounds, and other buildings shall be maintained in a clean, orderly condition and in good repair. (II, III)
- 63.31(2)** Window treatments and furniture shall be clean and in good repair. (II, III)
- 63.31(3)** Cracks in plaster, peeling wallpaper or paint, and tears or splits in floor coverings shall be promptly repaired or replaced in a professional manner. (II, III)
- 63.31(4)** The electrical systems, including appliances, cords, and switches, shall be maintained to guarantee safe functioning and comply with the National Electric Code. (II, III)
- 63.31(5)** All plumbing fixtures shall function properly and comply with the state plumbing code. (II, III)
- 63.31(6)** Yearly inspections of the heating and cooling systems shall be made to guarantee safe operation. (II, III)
- 63.31(7)** The building, grounds, and other buildings shall be kept free of breeding areas for flies, other insects, and rodents. (II, III)
- 63.31(8)** The facility shall be kept free of flies, other insects, and rodents. (II, III)

481—63.32(135C) Laundry.

- 63.32(1)** Residents' personal laundry shall be marked with an identification if commingled with other residents' personal laundry. (III)
- 63.32(2)** Bed linens, towels, and washcloths shall be clean and stain-free. (III)
- 63.32(3)** If laundry is done in the facility, a clean, dry, well-lit area to accommodate a washer and dryer of adequate size to serve the needs of the facility shall be provided. (III)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

481—63.33(135C) Garbage and waste disposal.

63.33(1) All garbage shall be gathered, stored, and disposed of in a manner that will not permit transmission of disease, create a nuisance, or provide a breeding or feeding place for vermin or insects. (III)

63.33(2) All containers for refuse shall be watertight and rodent-proof and have tight-fitting covers. (III)

63.33(3) All unlined containers shall be thoroughly cleaned each time the containers are emptied. (III)

63.33(4) All waste shall be properly disposed of in compliance with local ordinances and state codes. (III)

481—63.34(135C) Supplies.**63.34(1) Linen supplies.**

a. There shall be an adequate supply of linens so that each resident shall have at least three washcloths, hand towels, and bath towels per week. (III)

b. A complete change of bed linens shall be available in the linen storage area for each bed. (III)

c. Sufficient lightweight, clean, serviceable blankets shall be available. All blankets shall be laundered as often as necessary for cleanliness and freedom from odors. (III)

d. Each bed shall be provided with clean, washable bedspreads. There shall be a supply available when changes are necessary. (III)

e. Adequate storage shall be provided for linens, pillows, and bedding. (III)

63.34(2) Supplies, equipment and storage.

a. All equipment shall be properly cleaned and sanitized before use by another resident. (III)

b. Clean and sanitary storage shall be provided for equipment and supplies. (III)

c. Locked storage should be available for potentially dangerous items such as scissors, knives, and toxic materials. (III)

481—63.35(135C) Buildings, furnishings, and equipment.**63.35(1) Buildings—general requirements.**

a. All windows shall be supplied with window treatments that are kept clean and in good repair. (III)

b. Whenever glass sliding doors or transparent panels are used, they shall be marked conspicuously. (III)

c. The facility shall meet the equivalent requirements of the appropriate group occupancy of the state building code. (III)

63.35(2) Furnishings and equipment.

a. All furnishings and equipment shall be durable, cleanable, and appropriate to their function. (III)

b. All resident areas shall be decorated, painted, and furnished to provide a homelike atmosphere. (III)

63.35(3) Dining areas and living rooms.

a. Living rooms shall be maintained for the use of residents and their visitors and may be used for recreational activities. Living rooms shall be suitably furnished. (III)

b. Dining areas shall be furnished with dining tables and chairs appropriate to the size and function of the facility. Dining rooms and furnishings shall be kept clean and sanitary. (III)

63.35(4) Bedrooms.

a. Each resident shall be provided with a standard, single, or twin bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

b. Each bed shall be equipped with the following: casters or glides; clean springs in good repair; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; and clean, comfortable pillows of average bed size. (III)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

- c. There shall be a comfortable chair, either a rocking chair or armchair, per resident bed. The resident's personal wishes shall be considered. (III)
- d. There shall be drawer space for each resident's clothing. In a bedroom in which more than one resident resides, drawer space shall be assigned to each resident. (III)
- e. Beds and other furnishings shall not obstruct free passage to and through doorways. (III)
- f. Beds shall not be placed in such a manner that the side of the bed is against the radiator or in close proximity to it unless the radiator is covered so as to protect the resident from contact with it or from excessive heat. (III)
- g. There shall be a wardrobe or closet in each resident's room. Minimum clear dimensions shall be 1 foot 10 inches deep by 1 foot 8 inches wide with full hanging space and provide a clothes rod and shelf. In a multiple bedroom, closet or wardrobe space shall be assigned each resident sufficient for the resident's needs. (III)
- h. Each room shall have sufficient accessible mirrors to serve resident's needs. (III)
- i. Useable floor space of a room shall be no less than 8 feet in any major dimension. (III)
- j. Bedrooms shall have a minimum of 60 square feet of useable floor space per bed for a double room, 80 square feet of useable floor space for a single room. (III)
- k. There shall be no more than two residents per room. (III)

63.35(5) Bath and toilet facilities.

- a. All sinks shall have paper towel dispensers and an available supply of soap. (III)
- b. Toilet paper shall be readily available to residents. (III)
- c. There shall be a minimum of one toilet and bath facility for five residents. (III)

63.35(6) Heating. A centralized heating system shall be maintained in good working order and capable of maintaining a comfortable temperature for residents of the facility. Portable units or space heaters are prohibited from being used in the facility except in an emergency. (II, III)

63.35(7) Water supply.

- a. Private sources of water supply shall be tested annually and the report made available for review by the department upon request. (III)
- b. A bacterially unsafe source of water supply shall be grounds for denial, suspension, or revocation of license. (III)
- c. The department may require testing of private sources of water supply at its discretion in addition to the annual test. The facility shall supply reports of such tests as directed by the department. (III)
- d. Hot and cold running water under pressure shall be available in the facility. (II, III)
- e. Prior to construction of a new facility or new water source, private sources of water supply shall be surveyed and shall comply with the requirements of the department. (III)

481—63.36(135C) Family and employee accommodations. If the family or employees live within the facility, separate living quarters and recreation facilities shall be required for the family or employees distinct from such areas provided for the residents. (III)

481—63.37(135C) Animals. No animals shall be allowed to reside in the facility except with written approval of the department and under controlled conditions. (II, III)

These rules are intended to implement Iowa Code chapter 135C.

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax

REVENUE DEPARTMENT(cont'd)

rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2017 by each taxpayer to determine the tax due for each taxpayer in the 2018-2019 fiscal year.

2017 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00005331
3201	Algona Municipal Utilities	0.00025144
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00010389
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00008331
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00008788
3228	Bigelow Municipal Electric Utility	0.00243936
3229	Bloomfield Municipal Electric Utility	0.00003481
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00162223
3216	Buffalo Municipal Electric System	0.00000215
3217	Burt Municipal Electric Utility	0.00000199
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000539
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004608
3237	Coon Rapids Municipal Utilities	0.00052157
3242	Corning Municipal Utilities	0.00031761
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00006206
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00130143
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000214
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000456
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00137185
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000812
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00135315
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00043024
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011092

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3112	Manning Municipal Electric	0.00022981
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695
3291	Milford Municipal Utilities	0.00018034
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009962
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006632
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000
3315	Primghar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light & Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00013490
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00029879
3327	Story City Municipal Electric Utility	0.00011022
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00128625
3328	Sumner Municipal Light Plant	0.00020357
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00066520
3337	Villisca Municipal Power Plant	0.00022186

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00043808
3345	West Bend Municipal Power Plant	0.00082391
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00012951
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

CO. #	IOU's — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00054439
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00264702
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00133761
7334	Union Electric	0.00000000

CO. #	REC's	DELIVERY TAX RATE
4319	Access Energy Coop	0.00069346
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00085628
4214	Boone Valley Electric Coop	0.00085075
4218	Butler County REC	0.00068865
4219	Calhoun County Electric Coop	0.00115952
4220	Cass Electric Coop	0.00004057
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00252219
4287	Consumers Energy	0.00189833
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00193233
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00292299

REVENUE DEPARTMENT(cont'd)

CO. #	REC's	DELIVERY TAX RATE
4249	Farmers Electric Coop - Kalona	0.00047818
4251	Federated Rural Electric	0.00032175
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00135477
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00086958
4260	Grundy Electric Cooperative	0.00050220
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00103984
4265	Harrison County REC	0.00072127
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00034579
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00142321
4280	Lyon Rural Electric Coop	0.00053384
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00116065
4299	Nishnabotna Valley REC	0.00059726
4300	North West Rural Electric Coop	0.00034671
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00029779
4310	Pella Cooperative Electric	0.00194961
4313	Pleasant Hill Community Line	0.00023453
4316	Rideta Electric Coop	0.00274284
4320	Sac County Rural Electric Coop	0.00069402
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00122351
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00108823
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00048449

REVENUE DEPARTMENT(cont'd)

2017 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00677346
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00005707
5241	Corning Municipal Gas	0.00000627
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000
5275	Lamoni Municipal Gas	0.00084610
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00032775
5283	Manning Municipal Gas	0.00015233
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00003126
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00013552
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000

REVENUE DEPARTMENT(cont'd)

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5340	Wayland Municipal Gas	0.00025660
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00001900
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00062826
5066	Woodbine Gas	0.00000000

CO. #	IOU's — GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.02359319
5270	IES Utilities	0.00677129
5272	Interstate Power	0.00252602
5289	MidAmerican Energy	0.00913634
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00871092

2017 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
3226	Akron Municipal Utilities	0.01937509
3201	Algona Municipal Utilities	*
3205	Alta Municipal Power Plant	0.00272687
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00189797
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00460435
3227	Anthon Municipal Electric Utility	0.00219653
3209	Atlantic Municipal Utilities	0.00384971
3073	Auburn Municipal Utility	0.00740609
3074	Aurelia Municipal Electric Utility	0.00144823
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.01874373
3228	Bigelow Municipal Utilities	0.00000000
3229	Bloomfield Municipal Electric Utility	*
3075	Breda Municipal Electric System	0.00696065
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	*
3217	Burt Municipal Electric Utility	*
3077	Callender Electric	0.02094024
3078	Carlisle Municipal Utilities	*
3079	Cascade Municipal Utilities	*

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3221	Cedar Falls Mun. Electric Utility	0.00440163
3068	City of Afton	0.00466855
3072	City of Aplington	0.01079369
3082	City of Dike	0.00000000
3088	City of Estherville	0.01880631
3089	City of Fairbank	*
3090	City of Farnhamville	*
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00205526
3108	City of Lehigh	*
3113	City of Marathon	0.00000000
3311	City of Pella	0.00351477
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	*
3139	City of Westfield	*
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	*
3237	Coon Rapids Municipal Utilities	0.00491617
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00304911
3081	Dayton Light & Power	*
3244	Denison Municipal Utilities	0.00171094
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.02174412
3085	Earlville Municipal Utilities	0.00000000
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00637294
3091	Fonda Municipal Electric	0.00835447
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	*
3231	Glidden Municipal Electric Utility	0.01311387
3093	Gowrie Municipal Utilities	*
3256	Graettinger Municipal Light Plant	0.00227013
3094	Grafton Municipal Utilities	0.01175527
3258	Grand Junction Municipal Utilities	0.00203243
3095	Greenfield Municipal Utilities	0.00256476
3096	Grundy Center Light & Power	0.00130179
3232	Guttenberg Municipal Electric	0.01016259
3263	Harlan Municipal Utilities	0.00255387
3097	Hartley Municipal Utilities	0.01687156
3098	Hawarden Municipal Utility	0.00749813

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3099	Hinton Municipal Electric/Water	0.00122313
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	*
3101	Independence Light & Power	*
3271	Indianola Municipal Utilities	0.00524675
3102	Keosauqua Light & Power	*
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00980034
3105	Lake Park Municipal Utilities	0.00342197
3233	Lake View Municipal Utilities	0.01022109
3274	Lamoni Municipal Utilities	0.00267174
3276	LaPorte City Utilities	0.00303037
3277	Laurens Municipal Utilities	0.00368595
3109	Lenox Municipal Light & Power	0.00000000
3110	Livermore Municipal Utilities	0.01389226
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.07263514
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00454230
3285	Maquoketa Municipal Electric	0.00249862
3288	McGregor Municipal Utilities	0.00443608
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00191994
3115	Mount Pleasant Municipal Utilities	0.00140498
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00280178
3298	New London Municipal Utility	0.00525993
3304	Ogden Municipal Utilities	0.00269040
3234	Onawa Municipal Utilities	*
3117	Orange City Municipal Utilities	0.00267644
3118	Orient Municipal Utilities	*
3307	Osage Municipal Utilities	0.00248190
3309	Panora Municipal Electric Utility	*
3119	Paton Municipal Utilities	*
3120	Paullina Municipal Utilities	0.01622769
3121	Pocahontas Municipal Utilities	0.00552570
3122	Preston Municipal Utilities	0.00645111
3315	Primghar Municipal Light Plant	0.00031992
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	*
3318	Rock Rapids Municipal Utilities	0.00453831
3126	Rockford Municipal Light Plant	*
3127	Sabula Municipal Utilities	0.03024487

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3128	Sanborn Municipal Light & Plant	*
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.03570358
3321	Sioux Center Municipal Utilities	0.00389787
3324	Spencer Municipal Utilities	0.00477487
3132	Stanhope Municipal Utilities	*
3360	Stanton Municipal Utilities	0.00472260
3326	State Center Municipal Light Plant	0.00939468
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.02661973
3135	Strawberry Point Electric Utility	*
3136	Stuart Municipal Utilities	0.00618556
3328	Sumner Municipal Light Plant	0.00028679
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00798650
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00149134
3138	Wall Lake Municipal Utilities	0.00485240
3338	Waverly Light & Power	0.00652092
3342	Webster City Municipal Utilities	0.00618756
3345	West Bend Municipal Power Plant	0.00191837
3346	West Liberty Municipal Electric Util.	*
3347	West Point Municipal Utility System	0.00456620
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	*
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00326226
3143	Woolstock Municipal Utilities	0.00000000

*No rate provided to the Department by the Municipal

2017 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	0.00000000
5021	Bedford Municipal Gas	0.55371359
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	*
5025	Cedar Falls Municipal Gas	0.01216031
5022	City of Bloomfield	*
5026	City of Clearfield	0.00000000
5028	City of Everly	*

REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	0.00593170
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.03234289
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.04881242
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.92309923
5034	Hartley Municipal Gas	0.06421190
5035	Hawarden Municipal Gas	0.79227075
5036	Lake Park Municipal Gas	0.00830387
5275	Lamoni Municipal Gas	0.01928801
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.18293437
5283	Manning Municipal Gas	0.05914986
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	0.00000000
5369	Orange City Municipal Gas	0.02533141
5306	Osage Municipal Gas	0.00656210
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	0.90496132
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01790223
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.18880378
5058	Sac City Municipal Gas	0.02068878
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.01042554
5061	Tipton Municipal Gas	0.18015875
5067	Wall Lake Municipal Gas	0.07079547
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.04551233
5064	Wellman Municipal Gas	0.10611185
5344	West Bend Municipal Gas	0.02840807
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	*

*No rate provided to the Department by the Municipal

REVENUE DEPARTMENT(cont'd)

Notice of Rate-Regulated Water Utilities Delivery Tax Rate

Pursuant to the authority of Iowa Code section 437B.3, the Director of Revenue hereby gives notice of the rate-regulated water utility delivery tax rate. This rate will be used in conjunction with the total gallons of water delivered to consumers in calendar year 2017 by each taxpayer for replacement taxes payable in the 2018-2019 fiscal year.

2017 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

CO. #	RATE-REGULATED WATER	DELIVERY TAX RATE
6020	Iowa American Water	0.00057387

ARC 3482C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.449 and 321.450, the Iowa Department of Transportation (Department) hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

The Department is amending rule 761—520.8(321), planting and harvesting periods. The Federal Motor Carrier Safety regulations established by the Federal Motor Carrier Safety Administration (FMCSA) impose hours-of-service limits on drivers of commercial motor vehicles, but exempt certain agricultural operations from those hours-of-service limits during the planting and harvesting period. 49 CFR 395.1(k) states that the hours-of-service limits imposed by 49 CFR Part 395, "Hours of Service of Drivers," do not apply "during planting and harvesting periods, as determined by each State, to drivers transporting

"(1) Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

"(2) Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

"(3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point."

The Department implements this exception through rule 761—520.8(321). Rule 761—520.8(321) currently sets the planting and harvesting period in Iowa as the period from March 15 through June 30 and October 4 through December 14.

This set and limited time period has proved too restrictive and inflexible, as it often does not align to changing weather and other conditions that may accelerate, delay, extend, or otherwise alter the planting and harvesting period. To remedy this, other states have defined their planting and harvesting period for this purpose to extend throughout the calendar year, January 1 to December 31, and the FMCSA has accepted this approach. The Department is amending rule 761—520.8(321) to take the same approach and define the planting and harvesting period in Iowa as January 1 to December 31. This change will allow Iowa drivers engaged in the subject agricultural operations to take advantage of the federal hours-of-service exemption whenever they are engaged in those operations, regardless of fluctuations in the actual planting and harvesting period in a given year. The change will also make this declaration of the planting and harvesting period match the declaration of the planting and harvesting

TRANSPORTATION DEPARTMENT[761](cont'd)

period made for restricted commercial driver's licenses (CDLs), which are licenses issued to suppliers or employees of suppliers of agricultural inputs that allow the license holder to operate commercial motor vehicles for the purpose of supplying agricultural inputs during planting and harvesting without applying and testing for a full CDL. In January 2017, the Department amended rule 761—607.49(321) to similarly change the planting and harvesting period declared for operation under restricted CDLs from March 15 through June 30 and October 4 through December 14 to January 1 to December 31. Making these declarations match will ensure that agricultural input drivers with restricted CDLs will not be subjected to inconsistent regulations that unnecessarily require them to comply with hours-of-service requirements while performing subject agricultural operations.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; email: tracy.george@iowadot.us.
5. Be received by the Department's rules administrator no later than December 26, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, December 28, 2017, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

This amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A shall be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; email address: tracy.george@iowadot.us. The request must be received by the Department's rules administrator no later than February 14, 2018.

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

After analysis and review of this rule making, the Department finds that this amendment is expected to have a positive impact on private sector jobs and employment opportunities in Iowa. Drivers engaged in agricultural operations subject to the exemption and businesses that employ them will have more flexibility to conduct those operations throughout the year, regardless of year-to-year fluctuations in the planting and harvesting period, and will be able to avoid unnecessarily investing in and using electronic logging devices, which should improve performance, profitability, and opportunity for employment.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 3483C**. The purpose of this Notice of Intended Action is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

This amendment is intended to implement Iowa Code sections 321.449 and 321.450.

ARC 3480C**WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]****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 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 1, “Workforce Development Board,” and Chapter 6, “Regional Advisory Boards,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the rules under which the State Workforce Board operates.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before December 26, 2017, by sending them to David Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend rule 877—1.1(84A) as follows:

877—1.1(84A,PL113-128) Composition.

1.1(1) Voting members. ~~The board consists of nine voting members appointed by the governor. One member shall represent a nonprofit organization involved in workforce development, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed to represent nonsupervisory employees, two members shall be from statewide organized labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with work experience in worker training programs.~~ shall have voting members in accordance with Iowa Code section 84A.1A(1)“a” and Section 101(b) of the Workforce Innovation and Opportunity Act (WIOA), Public Law No. 113-128. For purposes of the board’s membership criteria, the following terms shall have the following meanings:

“Community-based organization” means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

“Competitive integrated employment” shall have the meaning given the term in Section 7 of the Rehabilitation Act of 1973 (29 United States Code Section 705), for individuals with disabilities.

“Demonstrated expertise and effectiveness” means that an individual has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function, which may include individuals with experience in education or the training of job seekers with barriers to employment, as defined in Section 3(24) of WIOA, including but not limited to serving veterans; providing or supporting competitive integrated employment for individuals with disabilities; or serving eligible youth.

“Eligible youth” means, except as provided in subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

“In-demand industry sector” means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state economy and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

“In-demand occupation” means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state.

“Optimum policymaking authority” means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

“Veteran” has the meaning given the term in 38 United States Code Section 101.

~~1.1(2) Nonvoting members. The board consists of eight ex officio, nonvoting members. Of the eight members, four members shall be members of the general assembly; one member shall be a president or president’s designee of one of the three state universities, designated by the board of regents on a rotating basis; one member shall represent the largest statewide public employees’ organization representing state employees; one member shall be a superintendent or superintendent’s designee of a community college, appointed by the Iowa association of community college presidents; and one member shall represent the independent colleges and universities in Iowa. shall have nonvoting members in accordance with Iowa Code section 84A.1A(1) “b.”~~

1.1(3) Chairperson. The governor shall select a chairperson for the board from among the members who are representatives of business.

ITEM 2. Amend rule 877—1.2(84A) as follows:

~~877—1.2(84A) Meetings. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. The chairperson and vice chairperson shall not be of the same political party or gender, or represent the same group of persons. The board shall meet at the call of the chairperson or when five a majority of members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.~~

ITEM 3. Amend rule 877—1.3(84A) as follows:

~~877—1.3(84A, PL113-128) Duties Purpose and duties. The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities. The board approves contracts and administrative rules for the programs administered by the division of workforce development center administration.~~

1.3(1) Purpose. The purpose of the board is to convene state, regional, and local workforce system and partners to:

- a. Enhance the capacity and performance of the workforce development system;
- b. Align and improve the outcomes and effectiveness of federally funded and other workforce programs and investments and, through these efforts, promote economic growth;
- c. Engage public workforce system representatives, including businesses, education providers, economic development, labor representatives, and other stakeholders to help the workforce development system achieve the purpose of the Workforce Innovation and Opportunity Act, Public Law No. 113-128; and
- d. Assist to achieve the state’s strategic and operational vision and goals as outlined in the state plan under Iowa Code section 84A.1 and the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

1.3(2) Duties. The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities under the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

ITEM 4. Amend rule 877—1.4(84A) as follows:

877—1.4(84A) Records. Agendas, minutes, and materials presented to the board are available from the ~~Division of Policy and Information~~ Public Records Custodian, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(4) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(5). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier. ~~Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.~~

ITEM 5. Rescind rule 877—6.1(84A,PL105-220) and adopt the following new rule in lieu thereof:

877—6.1(84A,PL113-128) Definitions.

“Chief elected official” means designated representatives of the units of local government joined through a 28E agreement, pursuant to Section 107(c)(1)(B) of WIOA, for the purpose of sharing liability and responsibility in accordance with Title I of the WIOA.

“Community-based organization” means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

“Department” means the department of workforce development.

“Eligible youth” means, except as provided in Subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

“In-demand industry sector” means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

“In-demand occupation” means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

“Local workforce development board” means a local workforce development board established in accordance with Section 107 of the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

“Optimum policymaking authority” means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

“Representative with demonstrated expertise and effectiveness on a local workforce development board” means an individual who is a workplace learning advisor as defined in Section 3(70) of WIOA; who contributes to the field of workforce development, human resources, training and development, or a function of a core program as defined in Section 3(12) of WIOA; or whom the local workforce development board recognizes for valuable contributions in education or workforce development-related fields.

“Veteran” has the meaning given the term in Section 101 of Title 38, United States Code.

“WIOA” means the federal Workforce Innovation and Opportunity Act, Public Law No. 113-128.

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER
ADMINISTRATION DIVISION[877](cont'd)

ITEM 6. Amend rule ~~877—6.2(84A,PL105-220)~~, parenthetical implementation statute, as follows:

~~877—6.2(84A,PL105-220 PL113-128)~~ **Number of boards.**

ITEM 7. Rescind rule ~~877—6.3(84A,PL105-220)~~ and adopt the following new rule in lieu thereof:

~~877—6.3(84A,PL113-128)~~ **Composition—voting members.** Each regional local workforce development board shall meet the membership criteria in Section 107(b) or Section 107(i) of WIOA.

ITEM 8. Amend rule ~~877—6.4(84A,PL105-220)~~ as follows:

~~877—6.4(84A,PL105-220 PL113-128)~~ **Nomination process for voting members.** The following procedures shall be used in soliciting nominations for voting members.

6.4(1) All nominations for members which represent business shall be made by local or regional business organizations or trade associations. Business representatives should be owners of businesses, chief executive or operating officers of business and other business executives or employers with optimum ~~policy-making~~ policymaking or hiring authority and represent businesses with employment opportunities that reflect the employment opportunities of the region.

6.4(2) All nominations for members which represent labor shall be made by appropriate local federations of labor, union councils, or state federations of labor.

6.4(3) All nominations for members ~~which represent local school districts or community colleges shall be made by local school districts or community colleges, respectively~~ representing an eligible provider of adult education and literacy where there is more than one such eligible provider in the local workforce development area shall be made by such eligible providers.

6.4(4) All nominations for members ~~who are county or city officials shall be made individually or collectively by the region's county boards of supervisors or mayors and city councils, respectively~~ representing a vocational rehabilitation program shall be made by Iowa vocational rehabilitation services or the Iowa department for the blind.

6.4(5) All nominations shall be made in writing with the signed approval of the required nominating organization.

6.4(6) The overall membership of the board shall be balanced by gender and political affiliation consistent with Iowa Code sections 69.16 and 69.16A. To the extent possible, the members should represent all counties within a region served by the board and both voting and nonvoting members should represent persons with disabilities, minorities and older workers of the region.

6.4(7) ~~Existing and future regional advisory board members that represent business, labor or education do not have to be renominated as outlined in this subrule unless required to do so by the local elected officials of a region~~ All nominations for members representing the employment service program under the Wagner-Peyser Act shall be made by the department.

6.4(8) Nominations are valid for an unlimited time period unless the local elected officials of a region set a specific time limit in the local annual plan.

ITEM 9. Amend rule ~~877—6.5(84A,PL105-220)~~ as follows:

~~877—6.5(84A,PL105-220 PL113-128)~~ **Appointment process.**

6.5(1) In making appointments to the boards, the chief local elected officials shall submit a ~~list of nominees~~ nominee for a board vacancy to the department within 45 days of the vacancy. ~~Chief elected officials shall submit at least two nominees for each vacancy for the governor to review.~~

6.5(2) The governor shall ~~review the list, add or delete nominees from the list, and return the revised list to the chief elected officials within 45 days of receipt of the list by the department~~ a nominee for a vacancy on a local workforce development board and either appoint or reject such nominee. The governor shall notify the chief elected officials within 45 days of a nominee's appointment or rejection.

6.5(3) ~~The chief elected officials will review the revised list and make the final selection of a person to fill a vacancy from the revised list. If the revised list of candidates is not acceptable to the chief elected officials, the chief elected officials may submit new candidates to the governor for consideration within~~

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~~45 days and repeat the process specified in subrules 6.5(1) and 6.5(2) until a candidate is appointed~~ If the governor rejects a nominee, the chief elected officials shall submit the name of a new nominee to the department within 45 days of such rejection.

~~6.5(4) The chief elected officials will send an appointment letter to the person selected to fill the vacancy on behalf of the chief elected officials and the governor within 30 days of receipt of the revised list and send a copy of the letter to the department.~~

~~6.5(5)~~ 6.5(4) If the chief elected officials fail to submit ~~nominations~~ the name of a nominee for a vacancy within the 45-day time period or fail to reach agreement locally on appointments to the board, the governor may appoint a person to fill the vacancy.

ITEM 10. Amend rule 877—6.6(84A,PL105-220) as follows:

~~877—6.6(84A,PL105-220)~~ **PL113-128) Meetings.** The board shall meet in May of each year ~~for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson.~~ The chief elected official for the local workforce development area will name a chairperson from among the local workforce development board's representatives of business. The chairperson and vice chairperson shall not be of the same political party. The board shall meet at the call of the chairperson or when a majority of the members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

ITEM 11. Rescind rule 877—6.7(84A,PL105-220) and adopt the following new rule in lieu thereof:

877—6.7(84A,PL113-128) Duties. The local workforce development board shall perform the following duties and other functions as necessary and proper to carry out its responsibilities under Title I of WIOA and listed in Iowa Code section 84A.4(2).

1. Conduct a needs assessment to identify the workforce development needs of the region.
2. Recommend to the state workforce development board and the department of workforce development awards of grants and contracts administered by the department in the region.
3. Monitor the performance of grants and contracts awarded in the region.
4. File an annual report with the department as required by Iowa Code section 84A.1B.
5. Recommend to the state workforce development board and department of workforce development the services to be delivered in the region.
6. Fulfill the responsibilities of a local workforce investment board as required by the WOIA, subsequent amendments and all related regulations.
7. Enter into an agreement with the region's chief elected officials board to delineate their respective duties related to administration of the WOIA.

ITEM 12. Rescind rule 877—6.8(84A,PL105-220) and adopt the following new rule in lieu thereof:

877—6.8(84A,PL113-128) Board certification and decertification. The governor will certify each local workforce development board in accordance with Section 107(c)(2) of WIOA and may decertify a board pursuant to Section 107(c) of WIOA.

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ADMINISTRATION DIVISION[877](cont'd)

ITEM 13. Rescind and reserve rule **877—6.9(84A,PL105-220)**.

ITEM 14. Amend rule **877—6.10(84A,PL105-220)**, parenthetical implementation statute, as follows:

877—6.10(84A,PL105-220 PL113-128) Member travel expenses.

ITEM 15. Amend rule 877—6.11(84A,PL105-220) as follows:

877—6.11(84A,PL105-220 PL113-128) Records. Agendas, minutes, and materials presented to the board are available from the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(4) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

ITEM 16. Amend **877—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 84A.4 and the federal Workforce Investment Act of 1998 (P.L. 105-220) Innovation and Opportunity Act, Public Law No. 113-128.

ARC 3481C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 93, the Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments will change the rate-setting methodology used to develop supported community living (SCL), day habilitation, and adult day care service rates in the home- and community-based services (HCBS) intellectual disability waiver. The SCL methodology will change from the current retrospectively limited prospective rate-setting process to a fee schedule using a tiered-rate methodology. Day habilitation and adult day care service rates are currently established through a fee schedule but will be changed to a fee schedule using tiered rates. The tiered-rate methodology establishes a tiered system of reimbursement based on the identified acuity level from the results of the Supports Intensity Scale® (SIS) core standardized assessment.

The move to tiered rates will be cost-neutral to the Department. The tiered-rate funding methodology will assign a standardized service rate based on member need unlike the current methodology of services reimbursement based on provider costs. With this change, some providers will see increased revenues compared to current service reimbursement for the members currently served and other providers will see decreased revenues.

The Council on Human Services adopted these amendments on November 8, 2017.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because emergency rule making is authorized by 2017 Iowa Acts, House File 653, section 93.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Department also finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective December 1, 2017, because 2017 Iowa Acts, House File 653, section 93, authorizes the Department to adopt emergency rules.

These amendments are also published herein under Notice of Intended Action as **ARC 3476C** to allow for public comment.

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

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 93.

These amendments became effective December 1, 2017.

The following amendments are adopted.

ITEM 1. Amend paragraph **78.41(1)“f,”** introductory paragraph, as follows:

f. Provider budgets shall reflect all staff-to-member ratios and shall reflect costs associated with members’ specific support needs for travel and transportation, consulting, instruction, and environmental modifications and repairs, as determined necessary by the interdisciplinary team for each member. The specific support needs must be identified in the Medicaid case manager’s service plan, ~~the total costs shall not exceed \$1570 per member per year,~~ and the provider must maintain records to support the expenditures. A unit of service is:

ITEM 2. Amend subrule 78.41(11) as follows:

78.41(11) Transportation. Transportation services may be provided for members to conduct business errands and essential shopping, to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip. Transportation may not be reimbursed ~~simultaneously with~~ when HCBS intellectual disability waiver daily supported

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community living service ~~when the transportation costs are included within the supported community living reimbursement rate~~ is authorized in a member's service plan.

ITEM 3. Amend paragraph 79.1(1)“c” as follows:

c. *Fee schedules.* Fees for the various procedures involved are determined by the department with advice and consultation from the appropriate professional group. The fees are intended to reflect the amount of resources (time, training, experience) involved in each procedure. Individual adjustments will be made periodically to correct any inequity or to add new procedures or eliminate or modify others. If product cost is involved in addition to service, reimbursement is based either on a fixed fee, wholesale cost, or on actual acquisition cost of the product to the provider, or product cost is included as part of the fee schedule. Providers on fee schedules are reimbursed the lower of:

- (1) The actual charge made by the provider of service.
- (2) The maximum allowance under the fee schedule for the item of service in question.

Payment levels for fee schedule providers of service will be increased on an annual basis by an economic index reflecting overall inflation as well as inflation in office practice expenses of the particular provider category involved to the extent data is available. Annual increases will be made beginning July 1, 1988.

There are some variations in this methodology which are applicable to certain providers. These are set forth below in subrules 79.1(3) to 79.1(9) and 79.1(15).

Fee schedules in effect for the providers covered by fee schedules can be obtained from the department's Web site at: http://www.ime.state.ia.us/Reports_Publications/FeeSchedules.html dhs.iowa.gov/ime/providers/csrp/fee-schedule.

ITEM 4. Amend subrule 79.1(2), provider category “HCBS waiver service providers,” paragraphs “1,” “18,” “25” and “26,” as follows:

79.1(2) Basis of reimbursement of specific provider categories.

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
1. Adult day care	<p><u>For AIDS/HIV, brain injury, elderly, and ill and handicapped waivers:</u> Fee schedule</p>	<p>Effective 7/1/16, for AIDS/HIV, brain injury, elderly, and ill and handicapped waivers: Provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/16 rate: Veterans Administration contract rate or \$1.47 per 15-minute unit, \$23.47 per half day, \$46.72 per full day, or \$70.06 per extended day if no Veterans Administration contract.</p>
	<p><u>For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)</u></p>	<p>Effective 7/1/16 7/1/17, for intellectual disability waiver: County contract rate or, in the absence of a contract rate, The provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute, or half-day, full-day, or extended-day rate. If no 6/30/16 rate, \$1.96 per 15-minute unit, or \$31.27 per half day, \$62.42 per full day, or \$79.59 per extended day.</p>

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		<u>For daily services, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).</u>
18. Supported community living	<u>For brain injury waiver: Retrospectively limited prospective rates. See 79.1(15)</u>	<u>For intellectual disability and brain injury waiver effective 7/1/16: \$9.28 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 3.927%.</u>
	<u>For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)</u>	<u>For intellectual disability waiver effective 7/1/17: \$9.28 per 15-minute unit. For daily service, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).</u>
25. Residential-based supported community living	<u>Retrospectively limited prospective rates. See 79.1(15) Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)</u>	<u>Effective 7/1/16 7/1/17: Not to exceed the maximum ICF/ID rate per day plus 3.927%. The fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).</u>
26. Day habilitation	<u>Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)</u>	<u>Effective 7/1/16 7/1/17: Provider's rate in effect 6/30/16 plus 1%, converted to a 15-minute or daily rate. If no 6/30/16 rate: \$3.51 per 15-minute unit or \$68.23 per day. For daily service, the fee schedule rate published on the department's website, pursuant to 79.1(1) "c," for the member's acuity tier, determined pursuant to 79.1(30).</u>

ITEM 5. Amend subrule 79.1(15) as follows:

79.1(15) *HCBS retrospectively limited prospective rates.* This methodology applies to reimbursement for HCBS brain injury waiver supported community living; HCBS family and community support services; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency.

a. No change.

b. *Home- and community-based general rate criteria.*

(1) to (4) No change.

(5) Consumer transportation, consumer consulting, consumer instruction, consumer environmental modification and repairs and consumer environmental furnishings shall not exceed \$1,570 per consumer per year for supported community living services in the brain injury waiver.

(6) to (9) No change.

c. to g. No change.

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ITEM 6. Adopt the following **new** subrule 79.1(30):

79.1(30) Tiered rates. For supported community living services, residential-based supported community living services, day habilitation services, and adult day care services provided under the intellectual disabilities waiver, the fee schedule published by the department pursuant to paragraph 79.1(1) “c” provides rates based on the acuity tier of the member, as determined pursuant to this subrule.

a. Acuity tiers are based on the results of the Supports Intensity Scale® (SIS) core standardized assessment. The SIS assessment tool and scoring criteria are available on request from the Iowa Medicaid enterprise, bureau of long-term care.

b. The assignment of members to acuity tiers is based on a mathematically valid process that identifies meaningful differences in the support needs of the members based on the SIS scores.

c. For supported community living daily services paid through a per diem, there are two reimbursement sublevels within each tier based on the number of hours of day services a member receives monthly. Day services include enhanced job search services, supported employment, prevocational services, adult day care, day habilitation and employment outside of Medicaid reimbursable services. The two reimbursement sublevels reflect reimbursement for:

- (1) Members who receive an average of 40 hours or more of day services per month.
- (2) Members who receive an average of less than 40 hours of day services per month.

d. For this purpose, the “SIS activities score” is the sum total of scores on the following subsections:

- (1) Subsection 2A: Home Living Activities;
- (2) Subsection 2B: Community Living Activities;
- (3) Subsection 2E: Health and Safety Activities; and
- (4) Subsection 2F: Social Activities.

e. Also used in determining a member’s acuity tier, as provided in paragraphs 79.1(30) “f” and “g,” are the subtotal scores on the following subsections:

- (1) Subsection 1A: Exceptional Medical Support Needs, excluding questions 16 through 19; and
- (2) Subsection 1B: Exceptional Behavioral Support Needs, excluding question 13.

f. Subject to adjustment pursuant to paragraph 79.1(30) “g,” acuity tiers are the highest applicable tier pursuant to the following:

- (1) Tier 1: SIS activities score of 0 – 25.
- (2) Tier 2: SIS activities score of 26 – 40.
- (3) Tier 3: SIS activities score of 41 – 44 or SIS activities score of 0 – 40 and a SIS subsection 1B subtotal score of 6 or higher.
- (4) Tier 4: SIS activities score of 45 or higher.
- (5) Tier 5: SIS activities score of 41 or higher and a subsection 1B subtotal score of 7 or higher.
- (6) Tier 6: SIS subsection 1A or 1B subtotal score of 14 or higher.
- (7) RCF tier: Members residing in a residential care facility (RCF) licensed for six or more beds.
- (8) RBSCCL tier: Members residing in a residential-based supported community living (RBSCCL) facility.

(9) Enhanced tier: An individual member rate negotiated between the department and the provider.

g. The tier determined pursuant to paragraph 79.1(30) “f” shall be adjusted as follows:

(1) For members with a subsection 1A subtotal score of 2 or 3, as provided in subparagraph 79.1(30) “e”(1), but with a response of “extensive support needed” (score = 2) in response to any prompt in subsection 1A, as provided in subparagraph 79.1(30) “e”(1) and an otherwise applicable tier of 1 to 4 pursuant to paragraph 79.1(30) “f,” the tier is increased by one tier.

(2) For members with a subsection 1A subtotal score of 4 – 9, and an otherwise applicable tier of 1 to 4 pursuant to paragraph 79.1(30) “f,” the tier is increased by one tier.

(3) For members with a subsection 1A subtotal score of 10 – 13, and an otherwise applicable tier of 1 to 3 pursuant to paragraph 79.1(30) “f,” the tier is increased by two tiers.

(4) For members with a subsection 1A subtotal score of 10 – 13, and an otherwise applicable tier of 4 pursuant to paragraph 79.1(30) “f,” the tier is increased by one tier.

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(5) Any member may receive an enhanced tier rate when approved by the department for fee-for-service members.

h. Tier redetermination. A member's acuity tier may be changed in the following circumstances:

(1) There is a change in the member's SIS activity scores as determined in the annual level of care redetermination process pursuant to rule 441—83.64(249A).

(2) A completed DHS Form 470-5486, Emergency Needs Assessment, indicates a change in the member's support needs. A member's case manager may request an emergency needs assessment when a significant change in the member's needs is identified. When a completed emergency needs assessment indicates significant changes that are likely to continue in three of the five domains assessed, a full SIS core standardized assessment shall be conducted and any change in the SIS scores will be used to determine the member's acuity tier.

(3) A member's acuity tier assignment does not affect the services that the member will receive and is not considered an adverse action, and therefore there are no appeal rights.

i. New providers, provider acquisitions, mergers and change in ownership. Any change in provider enrollment status including, but not limited to, new providers, enrolled providers merging into one or more consolidated provider entities, acquisition or takeover of existing HCBS providers, or change in the majority ownership of a provider on or after December 1, 2017, shall require the new provider entity to use the tiered rate fee schedule in accordance with paragraph 79.1(1)“c.”

ITEM 7. Adopt the following new paragraph **83.67(4)“i”**:

i. For members receiving daily supported community living, day habilitation or adult day care: the following scores from the most recently completed SIS assessment:

- (1) Score on subsection 1A: Exceptional Medical Support Needs.
- (2) Score on subsection 1B: Exceptional Behavioral Support Needs.
- (3) Sum total of scores on the following subsections:
 1. Subsection 2A: Home Living Activities;
 2. Subsection 2B: Community Living Activities;
 3. Subsection 2E: Health and Safety Activities; and
 4. Subsection 2F: Social Activities.

[Filed Emergency 11/8/17, effective 12/1/17]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3483C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 307.12, 307A.2, 321.449 and 321.450, the Iowa Department of Transportation (Department), on November 14, 2017, adopted an amendment to Chapter 520, “Regulations Applicable to Carriers,” Iowa Administrative Code.

The Department is amending rule 761—520.8(321), planting and harvesting periods. The Federal Motor Carrier Safety regulations established by the Federal Motor Carrier Safety Administration (FMCSA) impose hours-of-service limits on drivers of commercial motor vehicles, but exempt certain agricultural operations from those hours-of-service limits during the planting and harvesting period. 49 CFR 395.1(k) states that the hours-of-service limits imposed by 49 CFR Part 395, “Hours of Service of Drivers,” do not apply “during planting and harvesting periods, as determined by each State, to drivers transporting

“(1) Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;

TRANSPORTATION DEPARTMENT[761](cont'd)

“(2) Farm supplies for agricultural purposes from a wholesale or retail distribution point of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

“(3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.”

The Department implements this exception through rule 761—520.8(321). Rule 761—520.8(321) currently sets the planting and harvesting period in Iowa as the period from March 15 through June 30 and October 4 through December 14.

This set and limited time period has proved too restrictive and inflexible, as it often does not align to changing weather and other conditions that may accelerate, delay, extend, or otherwise alter the planting and harvesting period. To remedy this, other states have defined their planting and harvesting period for this purpose to extend throughout the calendar year, January 1 to December 31, and the FMCSA has accepted this approach. The Department is amending rule 761—520.8(321) to take the same approach and define the planting and harvesting period in Iowa as January 1 to December 31. This change will allow Iowa drivers engaged in the subject agricultural operations to take advantage of the federal hours-of-service exemption whenever they are engaged in those operations, regardless of fluctuations in the actual planting and harvesting period in a given year. The change will also make this declaration of the planting and harvesting period match the declaration of the planting and harvesting period made for restricted commercial driver's licenses (CDLs), which are licenses issued to suppliers or employees of suppliers of agricultural inputs that allow the license holder to operate commercial motor vehicles for the purpose of supplying agricultural inputs during planting and harvesting without applying and testing for a full CDL. In January 2017, the Department amended rule 761—607.49(321) to similarly change the planting and harvesting period declared for operation under restricted CDLs from March 15 through June 30 and October 4 through December 14 to January 1 to December 31. Making these declarations match will ensure that agricultural input drivers with restricted CDLs will not be subjected to inconsistent regulations that unnecessarily require them to comply with hours-of-service requirements while performing subject agricultural operations.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and participation are impracticable. 49 CFR 395.20 provides that a driver subject to the hours-of-service requirements set forth in 49 CFR Part 395 must use an electronic logging device that meets functional specifications established by the FMCSA in Part 395 to record the driver's hours of service, beginning December 18, 2017. Making this change by emergency rule making will ensure that the change is effective beginning December 18, 2017, which will ensure that drivers engaged in agricultural operations who are otherwise exempt from the hours-of-service requirements will not have to unnecessarily invest in and use electronic logging devices.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its November 14, 2017, meeting reviewed the Department's determination and the amendment and approved the emergency adoption.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective December 18, 2017. This amendment confers a benefit on the public and again ensures that drivers engaged in agricultural operations who are otherwise exempt from the hours-of-service requirements will not have to unnecessarily invest in and use electronic logging devices.

This amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A shall be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Strategic Communications and Policy, 800 Lincoln Way, Ames, Iowa 50010; email address: tracy.george@iowadot.us. The request must be received by the Department's rules administrator no later than February 14, 2018.

This amendment is also published herein under Notice of Intended Action as **ARC 3482C** to allow for public comment.

TRANSPORTATION DEPARTMENT[761](cont'd)

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

After analysis and review of this rule making, the Department finds that this amendment is expected to have a positive impact on private sector jobs and employment opportunities in Iowa. Drivers engaged in agricultural operations subject to the exemption and businesses that employ them will have more flexibility to conduct those operations throughout the year, regardless of year-to-year fluctuations in the planting and harvesting period, and will be able to avoid unnecessarily investing in and using electronic logging devices, which should improve performance, profitability, and opportunity for employment.

This amendment is intended to implement Iowa Code sections 321.449 and 321.450.

This amendment will become effective on December 18, 2017.

The following amendment is adopted.

Amend rule 761—520.8(321) as follows:

761—520.8(321) Planting and harvesting periods period. In accordance with the provisions of 49 CFR ~~395.4~~ 395.1(k), the planting and harvesting ~~periods~~ period pertaining to agricultural operations ~~are March 15 through June 30 and October 4 through December 14~~ is January 1 through December 31.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

[Filed Emergency 11/14/17, effective 12/18/17]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3484C**AGING, DEPARTMENT ON[17]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 231E.4(6) and 17A.3, the Department on Aging hereby amends Chapter 22, "Office of Substitute Decision Maker," Iowa Administrative Code.

This amendment changes the staffing level for substitute decision makers by increasing the number of consumers per full-time equivalent position from 10 to 40. The change will create staffing levels consistent with those in neighboring states and allow for a more efficient substitute decision-maker program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3324C** on September 27, 2017. The Department received public comments from two respondents regarding these amendments.

Comments: The first respondent suggested that the impact on jobs was incorrect, other states' ratios are irrelevant, and the ratio will not affect efficiency. The second respondent expressed concern about the ratio being too great and expressed the opinion that additional funding was needed instead of increasing the span of control of substitute decision makers.

Department response: Even if what other states are doing is irrelevant, the initial ratio of 10 wards per substitute decision maker set by administrative rule was an arbitrary number and should not be involved in any analysis related to the provision of substitute decision-making services. The National Guardianship Association (NGA) has set the standard at 20 wards per substitute decision maker. According to Ericka Wood, Assistant Director of the American Bar Association Commission on Law and Aging, the NGA-suggested ratio is a "gold standard." "Gold standard" guardianship services provide both guardianships and conservatorships and also usually include Medicaid targeted case management. In Iowa, substitute decision makers do not provide any Medicaid case management service. Currently, the Office of Substitute Decision Maker is only serving as both guardian and conservator for less than 33 percent of the Office's wards in Iowa and only one case is likely to have a long-term conservatorship.

It is also important to note that the ward-to-substitute decision maker staffing ratio is a cap and not a floor. In the recently released request for proposal (RFP) for a pilot project to create a local office of substitute decision maker, a local office of substitute decision maker stated that it would cap its ratio at 25 to 1. The Department found this to be an appropriate ratio for the structure of that organization. However, larger agencies with more support staff would likely be able to handle more than a 25-to-1 ratio. As the Office of Substitute Decision Maker moves to create more local offices in different regions, it would be unfair to limit organizations from competing based upon structure.

The Office of Substitute Decision Maker is still in the startup phase of development, and thus, changes to a ward-to-substitute decision maker staffing ratio will not impact jobs. It is merely setting the stage for the creation of local offices of substitute decision maker in accordance with Iowa Code chapter 231E. Having substitute decision makers stationed locally will provide a much more efficient model than a Des Moines-based model.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 231E.4(6)"c."

This amendment will become effective on January 10, 2018.

The following amendment is adopted.

AGING, DEPARTMENT ON[17](cont'd)

Amend rule 17—22.5(231E,633), introductory paragraph, as follows:

17—22.5(231E,633) Staffing ratio. SDMs shall be responsible for no more than ~~ten~~ 40 consumers per full-time equivalent position at any one time. The state office shall notify the state court administrator when the maximum number of appointments is reached.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3485C

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.14 and 17A.3, the Department on Aging hereby amends Chapter 23, "Aging and Disability Resource Center," Iowa Administrative Code.

This amendment adds two new subrules to provide for a requirement that individuals providing the service of options counseling shall complete training that was developed in partnership with the Administration for Community Living. This training will standardize the service of options counseling within the state of Iowa and ensure that the service is consistent with the agreed-upon national standard. The training requirement also furthers the mandate that the Aging and Disability Resource Center be administered consistent with the federal Act.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3376C** on October 11, 2017. The Department received one public comment regarding this amendment. The respondent suggested that an options counselor be given six months to complete the training due to cost and the time commitment. The Department's deliberation concerning an options counselor's successful completion of training within 30 days of employment instead of prior to employment is to allow the area agency on aging to include the cost of training within the options counseling service taxonomy. The Department is concerned that individuals without training could hold themselves out as options counselors, and the general public could receive improper information related to options for long-term services and supports. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code section 231.64.

This amendment will become effective on January 10, 2018.

The following amendment is adopted.

Adopt the following **new** subrules 23.7(5) and 23.7(6):

23.7(5) Position-specific training. The options counselor shall provide to the ADRC coordination center documentation of successful completion of the person-centered counseling core curriculum provided by Elsevier, or an equivalent that is approved by the department, within 30 days of employment as an options counselor. Documentation shall be included in the individual's personnel record.

23.7(6) Continuing education requirements for an options counselor. An options counselor shall:

a. Obtain during the term of employment eight hours of relevant training annually as required by the department.

b. Document training related to the provision of options counseling if eight hours of training are not obtained in accordance with paragraph 23.7(6)"a." Documentation shall be included in the individual's personnel record.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3486C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(10) and 199.11, the Department of Agriculture and Land Stewardship hereby amends Chapter 40, “Agricultural Seeds,” Iowa Administrative Code.

This amendment eliminates the requirement that small packages of vegetable seed have the germination rate on the label, which only applies to packets of one pound or less which are prepared for use in home gardens or household plantings or for vegetable seeds in preplanted containers, mats, tapes or other planting devices in containers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3359C** on October 11, 2017. No comments were received from the public. The adopted amendment is identical to the noticed amendment.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 189.9(1) and 199.3.

This amendment will become effective January 10, 2018.

The following amendment is adopted.

Amend rule 21—40.3(199) as follows:

21—40.3(199) Labeling. Agricultural and vegetable seeds in package or wrapped form shall be labeled in accordance with Iowa Code section 189.9(1). In addition, labeling requirements appearing in Title 7, C.F.R., Subchapter K, Part 201, Sections 201.8 through and including 201.36(c), revised as of January 1, 1982, are hereby adopted by this reference and shall be the labeling requirements for agricultural and vegetable seeds in Iowa. However, the germination rate is not required for small packages of vegetable seed in packets of one pound or less which are prepared for use in home gardens or household plantings or for vegetable seeds in preplanted containers, mats, tapes or other planting devices in containers.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3487C**DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76, 153.15 and 153.33, the Dental Board hereby amends Chapter 10, “General Requirements,” Iowa Administrative Code.

2017 Iowa Acts, Senate File 479, was signed into law by the Governor during the recent 2017 Legislative Session. The law, which went into effect on July 1, 2017, allows dental hygienists to provide educational services without the supervision of a licensed dentist.

These amendments change the scope of practice of dental hygienists to include the provision of educational services without the supervision of a licensed dentist.

Notice of Intended Action was published in Iowa Administrative Bulletin on August 15, 2017, as **ARC 3253C**. A public hearing was held on September 12, 2017, at 2 p.m. at the office of the Iowa Dental Board. There were not any attendees at the public hearing, nor were any written comments received.

The Board reviewed and discussed the amendments during its October 13, 2017, open session Board meeting and, after allowing additional comments from the public, adopted the amendments. These amendments are identical to those published under Notice.

These amendments are not subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

DENTAL BOARD[650](cont'd)

These amendments are intended to implement Iowa Code section 153.15 as amended by 2017 Iowa Acts, Senate File 479.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend subrule 10.3(1) as follows:

10.3(1) “Practice of dental hygiene” as defined in Iowa Code section 153.15 as amended by 2017 Iowa Acts, Senate File 479, means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene ~~procedures which are~~ services. Such services, except educational services, shall be delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

a. to e. No change.

ITEM 2. Amend subrule 10.3(2) as follows:

10.3(2) All authorized services provided by a dental hygienist, except educational services, shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).

ITEM 3. Amend rule 650—10.4(153), introductory paragraph, as follows:

650—10.4(153) Unauthorized practice of a dental hygienist. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental ~~service(s)~~ services, except educational services, directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally.

ITEM 4. Amend subrule 10.4(3) as follows:

10.4(3) A dental hygienist shall not ~~practice~~ provide services, except for educational services, independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

[Filed 11/13/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3488C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.34 and 153.21, the Dental Board hereby amends Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 12, “Dental and Dental Hygiene Examinations,” and Chapter 15, “Fees,” Iowa Administrative Code.

The purpose of these amendments is to implement an alternative examination for licensure pursuant to 2016 Iowa Acts, House File 2387, signed by the Governor on March 30, 2016.

The amendments to Chapter 11 add an alternative examination for students at the University of Iowa College of Dentistry. These amendments allow students or graduates of the University of Iowa to complete a portfolio examination and submit it for the purposes of licensure on the basis of examination. These amendments also establish the time period during which an application on the basis of portfolio examination would be accepted.

DENTAL BOARD[650](cont'd)

The amendments to Chapter 12 establish the basis of the portfolio examination, the criteria for administering the portfolio examination and related procedures, and the scoring requirements for successful completion of the portfolio examination.

The amendments to Chapter 15 establish the fee for examination for licensure by portfolio. The fee is intended to cover the anticipated costs of proctoring the examination. These amendments also update several cross references within Chapter 15.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2017, as **ARC 3252C**. A public hearing was held on September 12, 2017, at 2 p.m. at the office of the Dental Board. There were not any attendees at the public hearing, nor were any written comments received. Since publication of the Notice, one change has been made. The amendment in Item 9, which proposed to update cross references in renumbered rule 650—15.7(147,153), was not adopted. As a result, the amendment proposed in Item 9 is now incorporated in Item 3 of **ARC 3490C**, published herein.

The Board reviewed and discussed the amendment during its October 13, 2017, open session Board meeting and, after allowing additional comments from the public, adopted the amendments.

The amendments to Chapters 11 and 12 are subject to waiver or variance pursuant to 650—Chapter 7. The amendments to Chapter 15 are not subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2016 Iowa Acts, House File 2387.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend subrule 11.2(2) as follows:

11.2(2) Applications for licensure must be filed with the board along with:

a. to c. No change.

d. *Documentation of passage of a ~~regional~~ clinical examination.*

(1) Successful passage of a regional board-approved clinical examination within the previous five-year period with a grade of at least 75 percent.

(2) The following regional clinical examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

(3) Beginning January 1, 2018, the 2014 California portfolio examination is approved by the board for the purposes of licensure by examination. To be eligible for licensure on the basis of portfolio examination, an applicant must be a student at the University of Iowa College of Dentistry or have graduated from the University of Iowa College of Dentistry within one year of the date of application.

e. to i. No change.

ITEM 2. Amend subrule 11.3(2) as follows:

11.3(2) Applications must be filed with the board along with:

a. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Evidence of attaining a grade of at least 75 percent on the examination of the Joint Commission on National Dental Examinations or evidence of attaining a grade of at least 75 percent on a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

DENTAL BOARD[650](cont'd)

c. A statement of any dental examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dentist who has lawfully practiced dentistry in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of attaining a grade of at least 75 percent on a ~~regional~~ board-approved clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by credentials: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), ~~and~~ the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA), and the 2014 California portfolio examination; or

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dentistry in such other state, territory or district of the United States.

f. Evidence from the state board of dentistry, or equivalent authority, from each state in which applicant has been licensed to practice dentistry, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

i. *Current CPR certification.* A statement:

(1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;

(2) Providing the expiration date of the CPR certificate; and

(3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

ITEM 3. Renumber rules **650—12.3(147,153)** and **650—12.4(147,153)** as **650—12.4(147,153)** and **650—12.5(147,153)**.

ITEM 4. Adopt the following **new** rule 650—12.3(147,153):

650—12.3(147,153) Portfolio examination procedure for dentistry.

12.3(1) Completion of a portfolio examination. The 2014 California portfolio examination is accepted for licensure by examination for University of Iowa graduates. To meet the requirements for dental licensure and portfolio examination, applicants shall complete the portfolio examination as administered at the University of Iowa College of Dentistry (College of Dentistry).

12.3(2) Compliance with testing requirements and procedures.

a. The board shall oversee all aspects of the portfolio examination process but shall not interfere with the College of Dentistry’s authority to establish and deliver an accredited curriculum. The board shall determine an end-of-year deadline, in consultation with the College of Dentistry, to determine

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when the portfolio examinations shall be completed and submitted to the board for review by the board's examiners.

b. The portfolio examination shall be conducted while the applicant is actively enrolled as a student at the College of Dentistry. This examination shall utilize uniform standards of clinical experiences and competencies as outlined in the 2014 California portfolio examination. The applicant shall pass a final assessment of the submitted portfolio at the end of the applicant's dental school education at the College of Dentistry.

c. Before any portfolio examination may be submitted to the board, the applicant shall remit to the board the required portfolio examination fee as specified in 650—Chapter 15 and a letter of good standing signed by the dean of the College of Dentistry stating that the applicant has graduated or will graduate with no pending ethical issues.

12.3(3) Scoring requirements.

a. Final clinical competencies performed by the applicant must be evaluated by two examiners who have participated in standardization, calibration and training. The examiners shall be approved by the board and may include faculty, board members or board member designees. Board members or board member designees shall have priority as examiners at all times. The College of Dentistry shall submit to the board the names of the portfolio examiners for consideration by January 1 of each calendar year.

b. The College of Dentistry shall provide a minimum of a seven-day notice for all final competencies. In the event that a seven-day notice cannot be provided, the College of Dentistry must notify the board immediately. In the event that no board members or designees are available to participate in an evaluation, the College of Dentistry may use two board-approved portfolio examiners.

c. Successful completion of each competency shall result in a score that meets minimum competence-level performance. Scoring criteria for each competency is outlined in the 2014/2015 California Examiner Training Manual.

d. The board shall monitor and audit the standardization and calibration of examiners at least biennially to ensure standardization and an acceptable level of calibration in the grading of the examination. The College of Dentistry's competency examinations with regard to the portfolio examination shall be audited annually by the board.

12.3(4) Compliance with clinical operation requirements.

a. The board shall require and verify the successful completion of a minimum number of clinical experiences for the portfolio examination.

b. The board shall require and verify the successful completion of a set number of competency examinations performed on a patient of record. The clinical experiences include, but are not limited to, the following:

- (1) Comprehensive oral diagnosis and treatment planning;
- (2) Periodontics;
- (3) Direct restorations;
- (4) Indirect restorations;
- (5) Removable prosthodontics; and
- (6) Endodontics.

ITEM 5. Amend renumbered subrule 12.5(1) as follows:

12.5(1) Method of counting failures.

a. No change.

b. A dental hygiene examinee who has two examination failures will be required to complete the remedial education requirements set forth in subrule ~~12.4(2)~~ 12.5(2).

ITEM 6. Renumber rules ~~650—15.3(153)~~ to ~~650—15.14(17A,147,153,272C)~~ as ~~650—15.4(153)~~ to ~~650—15.15(17A,147,153,272C)~~.

ITEM 7. Adopt the following new rule 650—15.3(153):

650—15.3(153) Examination fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

DENTAL BOARD[650](cont'd)

15.3(1) *Portfolio dental examination fee.* The fee for dental examination on the basis of portfolio is \$1500.

15.3(2) Reserved.

ITEM 8. Amend renumbered rule 650—15.4(153) as follows:

650—15.4(153) Application fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.4(1) *Dental licensure on the basis of examination.* The fees for a dental license issued on the basis of examination include an application fee, a fee for evaluation of a fingerprint packet and criminal background check and, if the applicant is applying within three months or less of a biennial renewal due date, the renewal fee.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(2) *Dental hygiene licensure on the basis of examination.* The fees for a dental hygiene license issued on the basis of examination include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(3) and **15.4(4)** No change.

15.4(5) *Dental licensure on the basis of credentials.* The fees for a dental license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(6) *Dental hygiene licensure on the basis of credentials.* The fees for a dental hygiene license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

DENTAL BOARD[650](cont'd)

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(7) to 15.4(12) No change.

15.4(13) *Dental assistant registration only application.*

a. No change.

b. Initial registration period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the registration application fee. A dental assistant registration shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a registrant shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

15.4(14) *Combined application—dental assistant registration and qualification in radiography.*

a. No change.

b. Initial combined registration and radiography qualification period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the combined registration/radiography qualification application fee. A dental assistant registration and radiography qualification shall not be issued for a period less than three months or longer than two years and three months. Thereafter, the applicant shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

15.4(15) to 15.4(17) No change.

[Filed 11/14/17, effective 1/10/18]

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ARC 3489C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.10, 147.11, 153.15A, 153.39 and 272C.2, the Dental Board hereby amends Chapter 14, "Renewal and Reinstatement," and Chapter 20, "Dental Assistants," and rescinds Chapter 25, "Continuing Education," Iowa Administrative Code, and adopts a new Chapter 25 with the same title.

These amendments rescind Chapter 25 and replace it with a new Chapter 25 pertaining to updated continuing education requirements and standards. The purpose of these amendments is to clarify continuing education requirements for renewal of licenses and registrations and to simplify requirements for continuing education course and sponsor review.

These amendments place all continuing education requirements for the purposes of renewal in a single chapter. Currently, continuing education requirements for dental assistants are found in Chapter 20. The continuing education requirements for dental assistants are being stricken from Chapter 20 and moved to Chapter 25.

These amendments update and add definitions to the chapter to clarify intent and to allow the approval of programs and activities when content clearly meets established requirements for approval.

The amendments clarify when proof of continuing education shall be submitted, as the result of a registrant's or licensee's being selected for an audit.

These amendments update and clarify the list of acceptable and unacceptable topics for continuing education credit and add a provision to allow credit for those who complete the Dental Assisting National Board (DANB) examination during the current reporting period.

These amendments establish a new rule 650—25.9(153), "Designation of continuing education hours," which sets forth the number of continuing education hours that will be awarded for certain specific activities.

DENTAL BOARD[650](cont'd)

These amendments establish new requirements for continuing education in the areas of infection control and jurisprudence for all Iowa licensees and registrants.

These amendments put a limit on the length of time for which continuing education courses would be eligible for credit following review and approval by the Board. This provision will ensure that courses for which credit is awarded are current and include relevant concepts and information.

These amendments update the notification requirement following the Board's decision regarding continuing education requests. Current requirements require notification by ordinary mail. The new rule requires written notification by email.

The purposes of the amendments to Chapter 14 are to clarify the provisions for placing a license or registration on inactive status and to update provisions regarding the reactivation or reinstatement of an inactive or lapsed license or registration.

These amendments move the rules relating to reinstatement of an inactive practitioner from Chapter 25 to Chapter 14 to allow renewal and reinstatement requirements to be addressed in a single chapter.

The amendments to Chapter 14 add a provision that a practitioner who has not actively practiced clinically for a period of five years or more may be required to complete an examination or assessment to prove competency.

The amendments to Chapter 14 lower from 50 hours to 30 hours the cap on the number of continuing education hours that a dental assistant is required to submit for reinstatement or reactivation.

The amendments eliminate the need for submission of a separate signed form in cases where a licensee or registrant renews on inactive status. The amendments to Chapter 20 add definitions to refine the roles of dental assistants in the dental office. The amendments also clarify the procedures that may be completed under general supervision and the requirements of personal supervision.

The amendments to Chapter 20 clarify the timeline for dental assistant trainee status and application for dental assistant registration. These amendments add a rule to Chapter 20 for applicant responsibilities regarding the submission of applications, the time period for applications, and the information being submitted, using language currently in Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene."

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 5, 2017, as **ARC 3157C**. A public hearing was held on July 27, 2017, at 2 p.m. at the office of the Iowa Dental Board. There were not any attendees at the public hearing, nor were any written comments received. Since publication of the Notice, two changes were made. In subrules 25.4(4) and 25.4(5), the beginning date was changed from July 1, 2018, to September 1, 2018. In subrule 25.4(5), the jurisprudence was specified as "Iowa jurisprudence."

The Board reviewed and discussed these amendments during its October 13, 2017, open session board meeting and, after allowing additional comments from the public, adopted the amendments.

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

After analysis and review of this rule making, no impact on jobs has been found.

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

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend rule 650—14.1(147,153,272C), introductory paragraph, as follows:

650—14.1(147,153,272C) Renewal of license to practice dentistry or dental hygiene. A license to practice dentistry or a license to practice dental hygiene must be renewed prior to the expiration date of the license. Dental hygiene licenses expire on August 31 of every odd-numbered year. Dental licenses expire August 31 of every even-numbered year. A licensee who is not engaged in practice in the state of Iowa may place the license on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a license on inactive status until application for reactivation is made. A request to place a license on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all rules governing reactivation of inactive licenses.

DENTAL BOARD[650](cont'd)

ITEM 2. Amend subrule 14.1(1) as follows:

14.1(1) Application renewal procedures.

a. Renewal notice. The board office will send a renewal notice by ~~regular mail or~~ e-mail to each licensee at the licensee's last-known ~~mailing or~~ e-mail address.

b. Licensee and permit holder obligation. The licensee or permit holder is responsible for renewing the license or permit prior to its expiration. Failure of the licensee or permit holder to receive the notice does not relieve the licensee or permit holder of the responsibility for renewing that license or permit in order to continue practicing in the state of Iowa.

c. Renewal application form. Application for renewal must be made on forms provided by the board office. Licensees and permit holders may renew their licenses and permits online or via paper application.

d. Complete and timely filed application. No renewal application shall be considered timely and sufficient until received by the board office and accompanied by all material required for renewal and all applicable renewal and late fees. Incomplete applications will ~~be~~ not be accepted. For purposes of establishing timely filing, the postmark on a paper submittal will be used, and for renewals submitted online, the electronic timestamp will be deemed the date of filing.

ITEM 3. Amend rule 650—14.2(153), introductory paragraph, as follows:

650—14.2(153) Renewal of registration as a dental assistant. A certificate of registration as a registered dental assistant must be renewed biennially. Registration certificates shall expire on August 31 of every odd-numbered year. A registrant who is not engaged in practice in the state of Iowa may place the registration on inactive status by submitting a renewal form and paying the required renewal fee. No continuing education hours are required to renew a registration on inactive status until application for reactivation is made. A request to place a registration on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant's profession in Iowa without first complying with all rules governing reactivation of inactive registrations.

ITEM 4. Amend paragraph **14.2(1)“a”** as follows:

a. Renewal notice. The board office will send a renewal notice by ~~regular mail or~~ e-mail to each registrant at the registrant's last-known ~~mailing address or~~ e-mail address. ~~The board will notify each registrant by mail or e-mail of the expiration of the registration certificate.~~

ITEM 5. Amend subrule 14.2(3) as follows:

14.2(3) Continuing education requirements. Completion of continuing education as specified in ~~rule~~ 650—20.11(153) and 650—Chapter 25 is required for renewal of an active registration. Failure to meet the requirements of renewal in the time specified by rule will automatically result in a lapsed registration.

ITEM 6. Amend rule 650—14.6(147,153,272C) as follows:

650—14.6(147,153,272C) Reinstatement of a lapsed license or registration.

14.6(1) A licensee or a registrant who allows a license or registration to lapse by failing to renew may have the license or registration reinstated at the discretion of the board by submitting the following:

a. A completed application for reinstatement of a lapsed license or registration to practice dentistry, or dental hygiene or dental assisting, on forms provided by the board, in addition to the required fee or application for reinstatement of a lapsed registration on the form provided by the board.

b. Dates and places of practice.

c. A list of other states in which licensed or registered and the identifying number of each license or registration.

d. Reasons for seeking reinstatement and why the license or registration was not maintained.

e. Payment of all renewal fees past due, as specified in 650—Chapter 15, plus the reinstatement fee as specified in 650—Chapter 15.

f. Evidence of completion of a total of 15 hours of continuing education for each lapsed year or part thereof in accordance with 650—Chapter 25, up to a maximum of 75 hours. Dental assistants shall be required to submit evidence of completion of a total of 10 hours of continuing education for each

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lapsed year or part thereof in accordance with ~~650—20.12(153)~~ 650—Chapter 25, up to a maximum of ~~50~~ 30 hours, or evidence of the full-time or part-time practice of the profession in another state of the United States or the District of Columbia, for a minimum of two years within the previous five-year period, and a statement verifying that continuing education requirements in that state of practice have been met.

g. If licensed or registered in another state, the licensee or registrant shall provide certification by the state board of dentistry or equivalent authority of such state that the licensee or registrant has not been the subject of final or pending disciplinary action.

h. A statement disclosing and explaining any disciplinary actions, investigations, claims, complaints, judgments, settlements, or criminal charges.

i. Evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation. The course must include a clinical component.

j. For reinstatement of a lapsed license, a completed fingerprint packet to facilitate a criminal history background check by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), including the fee for the evaluation of the fingerprint packet and the criminal history background checks by the DCI and FBI, as specified in 650—Chapter 15.

14.6(2) The board may require a licensee or registrant who is applying for reinstatement, and has not actively practiced clinically within the previous five years, to successfully complete an examination designated by the board prior to reinstatement if necessary to ensure the licensee or registrant is able to practice the licensee's or registrant's respective profession with reasonable skill and safety a regional clinical examination, or other board-approved examination or assessment, for the purpose of ensuring that the applicant possesses sufficient knowledge and skill to practice safely.

14.6(3) When the board finds that a practitioner applying for reinstatement is or has been subject to disciplinary action taken against a license or registration held by the applicant in another state of the United States, District of Columbia, or territory, and the violations which resulted in such actions would also be grounds for discipline in Iowa in accordance with rule 650—30.4(153), the board may deny reinstatement of a license or registration to practice dentistry, dental hygiene, or dental assisting in Iowa or may impose any applicable disciplinary sanctions as specified in rule 650—30.2(153) as a condition of reinstatement.

14.6(4) The dental hygiene committee may, in its discretion, review any applications for reinstatement of a lapsed dental hygiene license and make recommendations to the board. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1.

This rule is intended to implement Iowa Code sections 147.10, 147.11, and 272C.2.

ITEM 7. Adopt the following new rule 650—14.8(153):

650—14.8(153) Reactivation of an inactive license or registration.

14.8(1) Inactive practitioners shall, prior to engaging in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa, satisfy all of the following requirements for reactivation:

a. Submit application for reactivation to the board upon forms provided by the board, in addition to the required fee.

b. Provide evidence of one of the following:

(1) The full-time or part-time practice of the profession in another state of the United States or the District of Columbia for a minimum of two years within the previous five-year period; or

(2) Completion of a total number of hours of approved continuing education computed by multiplying 15 by the number of years the license has been on inactive status for a dentist or dental hygienist, up to a maximum of 75 hours for a dentist or dental hygienist, or by multiplying 10 by the number of years the registration has been on inactive status for a dental assistant, up to a maximum of 30 hours for a dental assistant.

c. Submit evidence that the applicant possesses a current certificate in a nationally recognized course in cardiopulmonary resuscitation (CPR). The course must include a clinical component.

14.8(2) The board may require a licensee or registrant who is applying for reactivation and has not actively practiced clinically in the previous five years to successfully complete a regional clinical

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examination, or other board-approved examination or assessment, to ensure the licensee or registrant is able to practice with reasonable skill and safety.

14.8(3) Applications must be filed with the board along with the following:

a. Certification by the state board of dentistry or equivalent authority of the state in which the applicant has been licensed or has engaged in the practice of the applicant's profession that the applicant has not been the subject of final or pending disciplinary action.

b. Statement as to any claims, complaints, judgments or settlements made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as a dentist, dental hygienist, or dental assistant.

ITEM 8. Amend rule 650—20.2(153) as follows:

650—20.2(153) Definitions. As used in this chapter:

“Dental assistant” means any person who, under the supervision of a dentist, performs any extraoral services including infection control or the use of hazardous materials or performs any intraoral services on patients. The term “dental assistant” does not include persons otherwise actively licensed in Iowa to practice dental hygiene or nursing who are engaged in the practice of said profession.

“Dental assistant trainee” means any person who is engaging in on-the-job training to meet the requirements for registration and who is learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153).

“Direct supervision” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the registered dental assistant is performing acts assigned by the dentist.

“General supervision” means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light, intraoral digital imaging and intraoral camera. The dentist need not be present in the facility while these services are being provided.

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

“Public health supervision” means all of the following:

1. The dentist authorizes and delegates the services provided by a registered dental assistant to a patient in a public health setting, with the exception that services may be rendered without the patient's first being examined by a licensed dentist;

2. The dentist is not required to provide future dental treatment to patients served under public health supervision;

3. The dentist and the registered dental assistant have entered into a written supervision agreement that details the responsibilities of each licensee/registrant, as specified in subrule 20.16(2); and

4. The registered dental assistant has an active Iowa registration and a minimum of one year of clinical practice experience.

“Registered dental assistant” means any person who has met the requirements for registration and has been issued a certificate of registration.

“Trainee status expiration date” means ~~the date established by the board office which is 12 months from a person's first date of employment as a dental assistant. The trainee status expiration date is the date by which a trainee must successfully complete requirements and become registered as a dental assistant, pursuant to Iowa Code section 153.39~~ 12 months from the date of issuance.

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ITEM 9. Renumber rules **650—20.3(153)** to **650—20.5(153)** as **650—20.4(153)** to **650—20.6(153)**.

ITEM 10. Adopt the following new rule 650—20.3(153):

650—20.3(153) Applicant responsibilities. An applicant for dental assistant trainee status or dental assistant registration bears full responsibility for each of the following:

20.3(1) Providing accurate, up-to-date, and truthful information on the application including, but not limited to, prior professional experiences, education, training, examination scores, and disciplinary history.

20.3(2) Submitting complete application materials. An application for trainee status will be considered active for 90 days from the date the application is received. An application for dental assistant registration, reactivation, or reinstatement will be considered valid for 180 days from the date the application is received. If the applicant does not submit all materials within this time period, or if the applicant does not meet the requirements for trainee status, dental assistant registration, or reinstatement, the application shall be considered incomplete and the applicant must submit a new application and application fee.

ITEM 11. Amend renumbered subparagraph **20.5(4)“c”(3)** as follows:

(3) Notwithstanding 650—paragraph 10.3(1)“e” and paragraph ~~20.3(2)“e,”~~ 20.4(2)“e,” for the purposes of this chapter, the removal of adhesives by hand instrumentation does not constitute the removal of “hard natural or synthetic material.”

ITEM 12. Rescind existing rule **650—20.6(153)**.

ITEM 13. Amend renumbered rule 650—20.6(153) as follows:

650—20.6(153) Categories of dental assistants: dental assistant trainee, registered dental assistant. There are two categories of dental assistants. Both the supervising dentist and the registered dental assistant or dental assistant trainee are responsible for maintaining documentation of training. Such documentation must be maintained in the office of practice and shall be provided to the board upon request.

20.6(1) Registered dental assistant. Registered dental assistants are individuals who have met the requirements for registration and have been issued a certificate of registration. A registered dental assistant may, under general supervision, perform dental radiography, intraoral suctioning, use of a curing light and intraoral camera, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

20.6(1) 20.6(2) Dental assistant trainee. Dental assistant trainees are all individuals who are engaging in on-the-job training to meet the requirements for registration and who are learning the necessary skills under the personal supervision of a licensed dentist. Trainees may also engage in on-the-job training in dental radiography pursuant to 650—22.3(136C,153).

a. *General requirements.* The dental assistant trainee shall meet the following requirements:

(1) ~~Prior to the trainee status expiration date, the dental assistant trainee shall successfully~~ Successfully complete a course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study shall be prior approved by the board and sponsored by a board-approved postsecondary school.

(2) ~~Prior to the trainee status expiration date, the trainee must apply to the board office to be reclassified as a registered dental assistant.~~

~~(3)~~ (2) If a trainee fails to become registered by the trainee status expiration date, the trainee must stop work as a dental assistant trainee. If the trainee has not yet met the requirements for registration, the trainee may reapply for trainee status but may not work until a new dental assistant trainee status certificate has been issued by the board.

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b. New trainee application required if trainee not registered prior to trainee status expiration date
~~*Trainee restart.*~~ Pursuant to Iowa Code section 153.39, a person employed as a dental assistant has a 12-month period following the person's first date of employment to become registered. If not registered by the trainee status expiration date, the trainee must stop work as a dental assistant and reapply for trainee status.

(1) Reapplying for trainee status. A trainee may "start over" as a dental assistant trainee provided the trainee submits an application in compliance with subrule 20.7(1).

(2) Examination scores valid for three years. A "repeat" trainee is not required to retake an examination (jurisprudence, infection control/hazardous materials, radiography) if the trainee has successfully passed the examination within three years of the date of application. If a trainee has failed two or more examinations, the trainee must satisfy the remedial education requirements in subrule 20.11(1). The trainee status application will not be approved until the trainee successfully completes any required remedial education.

(3) New trainee status expiration date issued. If the repeat trainee application is approved, the board office will establish a new trainee status expiration date by which registration must be completed.

(4) Maximum of two "start over" periods allowed. In addition to the initial 12-month trainee status period, a dental assistant is permitted up to two start over periods as a trainee. If a trainee seeks an additional start over period beyond two, the trainee shall submit a petition for rule waiver under 650—Chapter 7.

c. Trainees enrolled in cooperative education or work study programs. The requirements stated in this subrule apply to all dental assistant trainees, including a person enrolled in a cooperative education or work-study program through an Iowa high school. In addition, a trainee under 18 years of age shall not participate in dental radiography.

~~**20.6(2) Registered dental assistant.** A registered dental assistant may perform under general supervision dental radiography, intraoral suctioning, use of a curing light and intraoral camera, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.~~

ITEM 14. Amend subrule 20.7(1) as follows:

20.7(1) Dental assistant trainee.

a. On or after May 1, 2013, a dentist supervising a person performing dental assistant duties must ensure that the person has been issued a trainee status certificate from the board office prior to the person's first date of employment as a dental assistant. A dentist who has been granted a temporary permit to provide volunteer services for a qualifying event of limited duration pursuant to 650—subrule 13.3(3), or an Iowa-licensed dentist who is volunteering at such qualifying event, is exempt from this requirement for a dental assistant who is working under the dentist's supervision at the qualifying event.

b. Applications for registration as a dental assistant trainee must be filed on official board forms and include the following:

- (1) The fee as specified in 650—Chapter 15.
- (2) Evidence of high school graduation or equivalent.
- (3) Evidence the applicant is 17 years of age or older.
- (4) Any additional information required by the board relating to the character and experience of the applicant as may be necessary to evaluate the applicant's qualifications.
- (5) If the applicant does not meet the requirements of (2) and (3) above, evidence that the applicant is enrolled in a cooperative education or work-study program through an Iowa high school.

c. Prior to the trainee status expiration date, the dental assistant trainee is required to successfully complete a board-approved course of study and examination in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved postsecondary school or on the job using curriculum approved by the board for such purpose. Evidence of meeting this requirement prior to the trainee status expiration date shall be submitted by the employer dentist.

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d. Prior to the trainee status expiration date, the dental assistant trainee's supervising dentist must ensure that the trainee has received a certificate of registration or has been issued start-over trainee status in accordance with rule 650—20.6(153) before performing any further dental assisting duties.

ITEM 15. Amend rule 650—20.12(153) as follows:

650—20.12(153) Continuing education. ~~Beginning July 1, 2001, each~~ Each person registered as a dental assistant shall complete ~~20 hours of~~ continuing education ~~approved by the board during the biennium period as a condition of registration renewal requirements as specified in 650—Chapter 25.~~

~~20.12(1) At least two continuing education hours must be in the subject area of infection control.~~

~~20.12(2) A maximum of three hours may be in cardiopulmonary resuscitation.~~

~~20.12(3) For dental assistants who have radiography qualification, at least two hours of continuing education must be obtained in the subject area of radiography.~~

~~20.12(4) For the renewal period July 1, 2001, to June 30, 2003, at least one hour of continuing education must be obtained in the subject area of jurisprudence.~~

ITEM 16. Rescind 650—Chapter 25 and adopt the following new chapter in lieu thereof:

CHAPTER 25 CONTINUING EDUCATION

650—25.1(153) Definitions. For the purpose of this chapter, these definitions shall apply:

“Advisory committee” means a committee on continuing education formed to review and advise the board with respect to applications for approval of sponsors or activities. The committee's members shall be appointed by the board and consist of at least one member of the board, two licensed dentists with expertise in the area of professional continuing education, two licensed dental hygienists with expertise in the area of professional continuing education, and two registered dental assistants with expertise in the area of professional continuing education. The advisory committee on continuing education may recommend approval or denial of applications or requests submitted to it pending final approval or disapproval of the board at its next meeting.

“Board” means the dental board.

“Continuing dental education” consists of education activities designed to review existing concepts and techniques and to update knowledge on advances in dental and medical sciences. The objective of continuing dental education is to improve the knowledge, skills, and ability of the individual to deliver the highest quality of service to the public and professions.

Continuing dental education should favorably enrich past dental education experiences. Programs should make it possible for practitioners to attune dental practice to new knowledge as it becomes available. All continuing dental education should strengthen the skills of critical inquiry, balanced judgment and professional technique.

“Dental public health” is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice in which the community serves as the patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, with the administration of group dental care programs, and with the prevention and control of dental diseases on a community basis.

“Hour of continuing education” means one unit of credit which shall be granted for each hour of contact instruction and shall be designated as a “clock hour.” This credit shall apply to either academic or clinical instruction.

“Licensee” means any person who has been issued a certificate to practice dentistry or dental hygiene in the state of Iowa.

“Registrant” means any person registered to practice as a dental assistant in the state of Iowa.

“Self-study activities” means the study of something by oneself, without direct supervision or attendance in a class. “Self-study activities” may include Internet-based coursework, television viewing, video programs, correspondence work or research, or computer programs that are interactive

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and require branching, navigation, participation and decision making on the part of the viewer. Internet-based webinars which include the involvement of an instructor and participants in real time and which allow for communication with the instructor through messaging, telephone or other means shall not be construed to be self-study activities.

“*Sponsor*” means a person, educational institution, or organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time a person, educational institution, or organization is an approved sponsor, all continuing education activities of such person or organization may be deemed automatically approved provided the continuing education activities meet the continuing education guidelines of the board.

650—25.2(153) Continuing education administrative requirements.

25.2(1) Each person licensed to practice dentistry or dental hygiene in this state shall complete during the biennium renewal period a minimum of 30 hours of continuing education approved by the board.

25.2(2) Each person registered to practice dental assisting in this state shall complete during the biennium renewal period a minimum of 20 hours of continuing education approved by the board.

25.2(3) Each person who holds a qualification in dental radiography in this state shall complete during the biennium renewal period a minimum of two hours of continuing education in the area of dental radiography.

25.2(4) The continuing education compliance period shall be the 24-month period commencing September 1 and ending on August 31 of the renewal cycle.

25.2(5) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity either previously approved by the board or which otherwise meets the requirements herein and is approved by the board pursuant to rule 650—25.5(153).

25.2(6) It is the responsibility of each licensee or registrant to finance the costs of continuing education.

650—25.3(153) Documentation of continuing education hours.

25.3(1) Every licensee or registrant shall maintain a record of all courses attended by keeping the certificates of attendance for four years. The board reserves the right to require any licensee or registrant to submit the certificates of attendance for the continuing education courses attended. If selected for continuing education audit, the licensee or registrant shall file a signed continuing education form and submit certificates or other evidence of attendance.

25.3(2) Licensees and registrants are responsible for obtaining proof of attendance forms when attending courses. Clock hours must be verified by the sponsor with the issuance of proof of attendance forms to the licensee or registrant.

25.3(3) Each licensee or registrant shall report the number of continuing education credit hours completed during the current renewal cycle in compliance with this chapter. Such report shall be filed with the board at the time of application for renewal of a dental or dental hygiene license or renewal of dental assistant registration.

25.3(4) No carryover of credits from one biennial period to the next will be allowed.

650—25.4(153) Required continuing education courses.

25.4(1) The following courses are required for licensees and registrants:

- a. Mandatory reporter training for child abuse and dependent adult abuse.
- b. Cardiopulmonary resuscitation.
- c. Infection control.
- d. Jurisprudence.

25.4(2) Mandatory reporter training for child abuse and dependent adult abuse.

a. Licensees or registrants who regularly examine, attend, counsel or treat children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph “f” of this

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subrule, pursuant to Iowa Code chapter 232. Completion of training in this course shall result in two hours of continuing education credit.

b. Licensees or registrants who regularly examine, attend, counsel or treat adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or conditions for exemptions as identified in paragraph “*f*” of this subrule, pursuant to Iowa Code chapter 235B.

c. Licensees or registrants who regularly examine, attend, counsel or treat both children and adults in Iowa shall indicate on the renewal application completion of at least two hours of training on the identification and reporting of abuse in children and dependent adults in the previous five years or conditions for exemptions as identified in paragraph “*f*” of this subrule, pursuant to Iowa Code chapters 232 and 235B. Training may be completed through separate courses or in one combined course that includes curricula for identifying and reporting child abuse and dependent adult abuse. Completion of training in this combined course shall result in three hours of continuing education credit.

d. The licensee or registrant shall maintain written documentation for five years after completion of the mandatory training, including program date(s), content, duration, and proof of participation. The board may audit this information at any time within the five-year period.

e. Training programs in child and dependent adult abuse identification and reporting that are approved by the board are those that use a curriculum approved by the abuse education review panel of the department of public health or a training program offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, an Iowa college or university, or a similar state agency.

f. Exemptions. Licensees and registrants shall be exempt from the requirement for mandatory training for identifying and reporting child and dependent adult abuse if the board determines that it is in the public interest or that at the time of the renewal the licensee or registrant is issued an extension or exemption pursuant to rule 650—25.10(153).

25.4(3) Cardiopulmonary resuscitation (CPR). Licensees and registrants shall furnish evidence of valid certification for CPR, which shall be credited toward the continuing education requirement for renewal of the license, faculty permit or registration. Such evidence shall be filed at the time of renewal of the license, faculty permit or registration. Valid certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the licensee or registrant has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component. Credit hours awarded for certification in CPR shall not exceed three hours of required continuing education hours per biennium.

25.4(4) Infection control. Beginning September 1, 2018, licensees and registrants shall complete continuing education in the area of infection control. Licensees and registrants shall furnish evidence of continuing education completed within the previous biennium in the area of infection control standards, as required by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. Completion of continuing education in the area of infection control shall be credited toward the required continuing education requirement in the renewal period during which it was completed. A minimum of one hour shall be submitted.

25.4(5) Jurisprudence. Beginning September 1, 2018, licensees and registrants shall complete continuing education in the area of Iowa jurisprudence related to the practice of dentistry, dental hygiene and dental assisting. Licensees and registrants shall furnish evidence of continuing education completed within the previous biennium in the area of Iowa jurisprudence. Completion of continuing education in the area of Iowa jurisprudence shall be credited toward the required continuing education requirement in the renewal period during which it was completed. A minimum of one hour shall be submitted.

650—25.5(153) Acceptable programs and activities.

25.5(1) A continuing education activity shall be acceptable and not require board approval if it meets the following criteria:

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a. It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of the licensee or registrant and is of value to dentistry and applicable to oral health care; and

b. It pertains to common subjects or other subject matters which relate to the practice of dentistry, dental hygiene, or dental assisting which are intended to refresh and review, or update knowledge of new or existing concepts and techniques, and enhance the dental health of the public; and

c. It is conducted by individuals who have sufficient special education, training and experience to be considered experts concerning the subject matter of the program. The program must include a written outline or manual that substantively pertains to the subject matter of the program.

25.5(2) Types of activities acceptable for continuing dental education credit may include:

a. A dental science course that includes topics which address the clinical practice of dentistry, dental hygiene, dental assisting and dental public health.

b. Courses in record keeping, medical conditions which may have an effect on oral health, ergonomics related to clinical practice, HIPAA, risk management, sexual boundaries, communication with patients, OSHA regulations, and the discontinuation of practice related to the transition of patient care and patient records.

c. Sessions attended at a multiday convention-type meeting. A multiday convention-type meeting is held at a national, state, or regional level and involves a variety of concurrent educational experiences directly related to the practice of dentistry.

d. Postgraduate study relating to health sciences.

e. Successful completion of a recognized specialty examination or the Dental Assisting National Board (DANB) examination.

f. Self-study activities.

g. Original presentation of continuing dental education courses.

h. Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting.

25.5(3) Credit may be given for other continuing education activities upon request and approval by the board.

650—25.6(153) Unacceptable programs and activities.

25.6(1) Unacceptable subject matter and activity types include, but are not limited to, personal development, business aspects of practice, business strategy, financial management, marketing, sales, practice growth, personnel management, insurance, collective bargaining, and events where volunteer services are provided. While desirable, those subjects and activities are not applicable to dental skills, knowledge, and competence. Therefore, such courses will receive no credit toward renewal. The board may deny credit for any course.

25.6(2) Inquiries relating to acceptability of continuing dental education activities, approval of sponsors, or exemptions should be directed to Advisory Committee on Continuing Dental Education, Iowa Dental Board, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

650—25.7(153) Prior approval of activities. A person or organization, other than an approved sponsor, that desires prior approval for a course, program or other continuing education activity or that desires to establish approval of the activity prior to attendance may apply for approval to the board, using board-approved forms, at least 90 days in advance of the commencement of the activity. Within 90 days after receipt of such application, the board shall advise the licensee or registrant in writing whether the activity is approved and the number of hours allowed. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. An application fee as specified in 650—Chapter 15 is required. Continuing education course approval shall be valid for a period of five years following the date of board approval. Thereafter, courses may be resubmitted for approval. Courses which clearly meet the criteria listed under acceptable programs and activities are not required to be submitted for approval.

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650—25.8(153) Postapproval of activities. A licensee or registrant seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved and which does not clearly meet the acceptable programs and activities listed in rule 650—25.5(153) may apply for approval to the board using board-approved forms. Within 90 days after receipt of such application, the board shall advise the licensee or registrant in writing whether the activity is approved and the number of hours allowed. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. An application fee as specified in 650—Chapter 15 is required.

650—25.9(153) Designation of continuing education hours. Continuing education hours shall be determined by the length of a continuing education course in clock hours. For the purpose of calculating continuing education hours for renewal of a license or registration, the following rules shall apply:

25.9(1) Attendance at a multiday convention.

a. Attendees at a multiday convention may receive a maximum of 1.5 hours of credit per day with the maximum of six hours of credit allowed per biennium.

b. Sponsors of multiday conventions shall submit to the board for review and prior approval guidelines for awarding credit for convention attendance.

25.9(2) Presenters or attendees of table clinics at a meeting.

a. Four hours of credit shall be allowed for presentation of an original table clinic at a meeting as verified by the sponsor when the subject matter conforms with rule 650—25.5(153).

b. Attendees at the table clinic session of a dental, dental hygiene, or dental assisting meeting shall receive two hours of credit as verified by the sponsor when the subject matter conforms with rule 650—25.5(153).

25.9(3) Postgraduate study relating to health sciences shall receive 15 credits per semester.

25.9(4) Successful completion of a specialty examination or the Dental Assisting National Board (DANB) shall result in 15 hours of credit.

25.9(5) Self-study activities shall result in a maximum of 12 hours of continuing education credit per biennium.

25.9(6) An original presentation of continuing dental education shall result in credit double that which the participants receive. Additional credit will not be granted for the repeating of presentations within the biennium. Credit is not given for teaching that represents part of the licensee's or registrant's normal academic duties as a full-time or part-time faculty member or consultant.

25.9(7) Publication of scientific articles in professional journals related to dentistry, dental hygiene, or dental assisting shall result in 5 hours of credit per article with the maximum of 20 hours allowed per biennium.

650—25.10(153) Extensions and exemptions.

25.10(1) *Illness or disability.* The board may, in individual cases involving physical disability or illness, grant an exemption of the continuing education requirements or an extension of time within which to fulfill the same or make the required reports. No exemption or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee or registrant and a licensed health care professional. Extensions or exemptions of the continuing education requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which an exemption has been granted continues beyond the period granted, the licensee or registrant must apply for an extension of the exemption. The board may, as a condition of the exemption, require the applicant to make up a certain portion or all of the continuing education requirements.

25.10(2) *Other extensions or exemptions.* Extensions or exemptions of continuing education requirements will be considered by the board on an individual basis. Licensees or registrants will be exempt from the continuing education requirements for:

a. Periods that the person serves honorably on active duty in the military services;

DENTAL BOARD[650](cont'd)

- b.* Periods that the person practices the person's profession in another state or district having a continuing education requirement and the licensee or registrant meets all requirements of that state or district for practice therein;
- c.* Periods that the person is a government employee working in the person's licensed or registered specialty and assigned to duty outside the United States;
- d.* Other periods of active practice and absence from the state approved by the board;
- e.* The current biennium renewal period, or portion thereof, following original issuance of the license;
- f.* For dental assistants registered pursuant to rule 650—20.7(153), the current biennium renewal period, or portion thereof, following original issuance of the registration.

650—25.11(153) Exemptions for inactive practitioners. No continuing education hours are required to renew a license or registration on inactive status until application for reactivation is made. A licensee or registrant with a license or registration on inactive status is prohibited from practicing unless and until the license or registration is restored to active status.

650—25.12(153) Approval of sponsors.

25.12(1) An organization or person which desires approval as a sponsor of courses, programs, or other continuing education activities shall apply for approval to the board stating its education history, including approximate dates, subjects offered, total hours of instruction presented, and names and qualifications of instructors. All applications shall be reviewed by the advisory committee on continuing education prior to final approval or denial by the board.

25.12(2) Prospective sponsors must apply to the board using approved forms in order to obtain approved sponsor status. An application fee as specified in 650—Chapter 15 is required. Sponsors must pay the biennial renewal fee as specified in 650—Chapter 15 and file a sponsor recertification record report biennially.

25.12(3) The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees or registrants in attendance, maintain the written record for a minimum of five years, and submit the record upon the request of the board. The sponsor of the continuing education activity shall also provide proof of attendance and the number of credit hours awarded to the licensee or registrant who participates in the continuing education activity.

25.12(4) Sponsors must be formally organized and adhere to board rules for planning and providing continuing dental education activities. Programs sponsored by individuals or institutions for commercial or proprietary purposes, especially programs in which the speaker advertises or urges the use of any particular dental product or appliance, may be recognized for credit on a prior-approval basis only. When courses are promoted as approved continuing education courses which do not meet the requirements as defined by the board, the sponsor will be required to refund the registration fee to the participants. Approved sponsors may offer noncredit courses provided the participants have been informed that no credit will be given. Failure to meet this requirement may result in loss of approved sponsor status.

650—25.13(153) Review of programs or sponsors. The board on its own motion or at the recommendation of the advisory committee on continuing education may monitor or review any continuing education program or sponsors already approved by the board. Upon evidence of a failure to meet the requirements of rule 650—25.12(153), the board may revoke the approval status of the sponsor. Upon evidence of significant variation in the program presented from the program approved, the board may deny all or any part of the approved hours granted to the program. A provider that wishes to appeal the board's decision regarding revocation of approval status or denial of continuing education credit shall file an appeal within 30 days of the board's decision. A timely appeal shall initiate a contested case proceeding. The contested case shall be conducted pursuant to Iowa Code chapter 17A and 650—Chapter 51. The written decision issued at the conclusion of a contested case hearing shall be considered final agency action.

DENTAL BOARD[650](cont'd)

650—25.14(153) Noncompliance with continuing dental education requirements. It is the licensee's or registrant's personal responsibility to comply with these rules. The license or registration of individuals not complying with the continuing dental education rules may be subject to disciplinary action by the board or nonrenewal of the license or registration.

650—25.15(153) Dental hygiene continuing education. The dental hygiene committee, in its discretion, shall make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The dental hygiene committee may utilize the continuing education advisory committee as needed. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 1. The following items pertaining to dental hygiene shall be forwarded to the dental hygiene committee for review.

1. Dental hygiene continuing education requirements and requests for approval of programs, activities and sponsors.
2. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.
3. Requests for exemptions from inactive dental hygiene practitioners.
4. Requests for reinstatement from inactive dental hygiene practitioners.
5. Appeals of denial of dental hygiene continuing education and conduct of hearings as necessary.

These rules are intended to implement Iowa Code sections 147.10, 153.15A, and 153.39 and chapter 272C.

[Filed 11/13/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3490C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.80 and 272C.6, the Dental Board hereby amends Chapter 15, "Fees," Iowa Administrative Code.

These amendments update the definition of "fee" to reflect the definition of "overpayment" provided in Chapter 1.

These amendments reduce the total back renewal fees owed for the reinstatement of a lapsed dental assistant registration, and eliminate the fee for notification of public orders if provided via email.

These amendments clarify the types of items available for purchase and the formats in which the items may be provided. These amendments update the types of data provided in the standard mailing and data lists. These amendments also seek to clarify the types of costs that may be recovered following a disciplinary hearing.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 5, 2017, as **ARC 3156C**. A public hearing was held on July 27, 2017, at 2 p.m. at the office of the Iowa Dental Board. There were not any attendees at the public hearing, nor were any written comments received. Due to further discussion by staff, a change has been made to the definition of "fee" to better address the issue of overpayment. Also, cross references in Item 3 have been updated to reflect the renumbering of rules 650—15.3(153) to 650—15.14(17A,147,153,272C) in **ARC 3488C**, published herein.

The Board reviewed and discussed the amendments during its October 13, 2017, open session Board meeting and, after allowing additional comments from the public, adopted the amendments.

These amendments are not subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147.80 and 272C.6.

These amendments will become effective January 10, 2018.

DENTAL BOARD[650](cont'd)

The following amendments are adopted.

ITEM 1. Amend rule 650—15.2(147,153) as follows:

650—15.2(147,153) Definitions. The following definitions apply to this chapter:

“*Fee*” means the amount charged for the services described in this chapter. All fees are nonrefundable. ~~The board office will refund any overpayment of fees.~~ Overpayment of the fee will result in return of the original request and payment, prior to processing, with a clarification of the total amount due.

“*Service charge*” means the amount charged for making a service available online and is in addition to the actual fee for a service itself. For example, a licensee who renews a license online will pay the license renewal fee and a service charge.

ITEM 2. Amend subrule 15.3(8) as follows:

15.3(8) Reinstatement of ~~an inactive lapsed~~ license or registration. The fee for a reinstatement application for a lapsed license or registration is \$150.

ITEM 3. Amend rule 650—15.6(147,153) as follows:

650—15.6(147,153) Reinstatement fees. If a license, registration or permit lapses or is inactive, a licensee, registrant or permit holder may submit an application for reinstatement. Licensees, registrants or permit holders are subject to reinstatement fees as described in this rule.

15.6(1) Reinstatement of a dental license. In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in ~~15.7(4)~~ subrule 15.8(4).

15.6(2) Reinstatement of a dental hygiene license. In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in ~~15.7(4)~~ subrule 15.8(4).

15.6(3) Reinstatement of a dental assistant registration. In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750 ~~\$115~~) to reinstate a registration as a registered dental assistant.

15.6(4) Combined reinstatement application—dental assistant registration and qualification in radiography. ~~The fee~~ In addition to the reinstatement application fee specified in subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$175) for a combined application to reinstate both a registration as a registered dental assistant and a radiography qualification ~~is specified in 15.3(8).~~

15.6(5) Reinstatement of qualification in radiography. In addition to the reinstatement application fee ~~specified in 15.3(8)~~ of \$40, the applicant must pay all back renewal fees (not to exceed \$750 ~~\$60~~) to reinstate a qualification in dental radiography without registration as a dental assistant.

ITEM 4. Amend subrule 15.7(2) as follows:

15.7(2) Certification or verification. The fee for a written certification or written verification of an Iowa license, permit or registration is \$25.

ITEM 5. Amend subrule 15.7(7) as follows:

15.7(7) Disciplinary hearings—fees and costs.

a. No change.
b. The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

(1) ~~Transcript~~ Court reporter and transcript.

(2) 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

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may assess a licensee the witness fees and expenses incurred by witnesses called to testify on behalf of the state of Iowa.

(3) Depositions. Deposition costs for the purposes of allocating costs against a licensee include only those deposition costs incurred by the state of Iowa. The licensee is directly responsible for the payment of deposition costs incurred by the licensee.

(4) Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147. All costs of physical or mental examinations or substance abuse evaluations or drug screening or clinical competency evaluations ordered by the board pursuant to Iowa Code section 272C.9(1) as part of an investigation or pending complaint or as a sanction following a contested case shall be paid directly by the licensee.

ITEM 6. Adopt the following **new** subrules 15.7(8) to 15.7(11):

15.7(8) Certification of reimbursable costs. The executive director or designee shall certify any reimbursable costs incurred by the board. The executive director shall calculate the specific costs, certify the cost calculated, and file the certification as part of the record in the contested case. A copy of the certification shall be served on the party responsible for payment of the certified costs at the time of the filing.

15.7(9) Assessment of fees and costs. A final decision of the board imposing disciplinary action against a licensee shall include the amount of any disciplinary hearing fee assessed, which shall not exceed \$75. If the board also assesses reimbursable costs against the licensee, the board shall file a certification of reimbursable costs which includes a statement of costs delineating each category of costs and the amount assessed. Fees and costs that cannot be calculated at the time of the issuance of the board's final disciplinary order may be invoiced to the licensee at a later time, provided the board's final disciplinary order states that the fees and costs will be invoiced at a later date. The board shall specify the time period in which the fees and costs must be paid by the licensee.

15.7(10) Board treatment of collected fees, costs. Fees and costs collected by the board shall be considered repayment receipts as defined in Iowa Code section 8.2.

15.7(11) Failure to pay assessed fees, costs. Failure of a licensee to pay the fees and costs assessed herein within the time period specified in the board's final disciplinary order shall constitute a violation of an order of the board and shall be grounds for disciplinary action.

ITEM 7. Amend subrule 15.10(3) as follows:

15.10(3) Electronic files of statements of charges, final orders and consent agreements from each board meeting ~~delivered via e-mail may be available for an annual subscription fee of \$24 delivered via email, upon written request, at no cost.~~

ITEM 8. Amend rule 650—15.11(22,147,153) as follows:

650—15.11(22,147,153) Purchase of a mailing list or data list. Payment made to the Iowa Dental Board, which shall be considered a repayment receipt as defined in Iowa Code section 8.2, shall be received in the board office prior to the release of a list.

15.11(1) Mailing list for dentists, hygienists or assistants. ~~The standard mailing list for all active dental and dental hygiene licensees and dental assistant licensees and registrants includes the full name, address, city, state, and ZIP code, and Iowa county. The standard mailing list of dentists or dental hygienists does not include~~ includes resident licensees or and faculty permit holders.

- a. Printed mailing list, \$65 per profession requested.
- b. Mailing list on disc or DVD, \$45 per profession requested.
- c. Mailing list in an electronic file, \$35 per profession requested.

15.11(2) Data list for dentists, hygienists, or assistants. The standard data list for active licensees or registrants includes full name, address, Iowa county (if applicable), original issue date, expiration date, license or registration number, ~~and~~ license or registration status, specialty (if applicable), and whether public disciplinary action has been taken. The standard data list includes resident licensees and faculty permit holders. Additional data elements, programming or sorting increases the following fees by \$25.

- a. Printed standard data list, \$75 per profession requested.

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- b. Standard data list on disc or DVD, \$55 per profession requested.
- c. Standard data list in an electronic file, \$45 per profession requested.

[Filed 11/14/17, effective 1/10/18]

[Published 12/6/17]

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ARC 3491C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 153.33, the Dental Board hereby amends Chapter 29, "Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

These amendments define "hospitalization" for the purpose of reporting an adverse occurrence, update requirements for the use of moderate sedation and deep sedation/general anesthesia in accordance with newly issued American Dental Association (ADA) guidelines for the use of sedation, and clarify the type of Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certification courses allowed for the purposes of application and renewal of a sedation permit.

These amendments clarify situations wherein a licensee would be required to report an adverse occurrence. The current rules require a report in the case of hospitalization, but hospitalization is not currently defined in the Board's rules; this has led to some uncertainty about requirements for reporting of adverse occurrences.

The amendments update sedation guidelines to match the new guidelines issued by the ADA. Comments received during past rule making related to this chapter urged the Board to wait for guidelines to be issued by the ADA prior to implementing changes. In the fall of 2016, the ADA issued new guidelines recommended for use in moderate sedation and deep sedation/general anesthesia. The Anesthesia Credentials Committee, a committee of the Board, reviewed the recommendations and advocated their adoption in order to have additional safeguards in place during the administration of moderate sedation or deep sedation/general anesthesia. The amendments require general anesthesia permit holders to maintain and be trained on equipment that monitors end-tidal CO₂ and on a pretracheal or precordial stethoscope during the use of deep sedation/general anesthesia in order to monitor auscultation of breath sounds.

These amendments update the requirements for certification in ACLS and PALS, which is a requirement for moderate sedation and general anesthesia permits. The amendments require acceptable certification courses to include a clinical component wherein the practitioner must demonstrate competency in life support services. Online-only certification courses will not be accepted. These amendments make the ACLS and PALS certification requirements consistent with the requirements for CPR certification for licensure and registration.

These amendments update the requirements for moderate sedation training. The ADA has recommended that moderate sedation training courses include training on rescuing a patient from a deeper level of sedation than intended, including training in airway management and the use of reversal medications.

These amendments require moderate sedation permit holders to maintain and be trained on equipment that monitors end-tidal CO₂ and on a pretracheal or precordial stethoscope unless precluded or invalidated by the nature of the patient, procedure or equipment.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 15, 2017, as **ARC 3261C**. A public hearing was held on September 12, 2017, at 2 p.m. at the office of the Iowa Dental Board. There were not any attendees at the public hearing, nor were any written comments received.

The Board reviewed and discussed the amendments during its October 13, 2017, open session Board meeting and, after allowing additional comments from the public, adopted the amendments. These amendments are identical to those published under Notice.

DENTAL BOARD[650](cont'd)

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

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 153.20.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Adopt the following new definition of “Hospitalization” in rule **650—29.1(153)**:

“Hospitalization” means in-patient treatment at a hospital or clinic. Out-patient treatment at an emergency room or clinic is not considered to be hospitalization for the purposes of reporting adverse occurrences.

ITEM 2. Amend subrule 29.3(2) as follows:

29.3(2) A dentist using deep sedation/general anesthesia shall maintain a properly equipped facility at each facility where sedation is administered. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography to monitor end-tidal CO₂, pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

ITEM 3. Amend subrule 29.3(4) as follows:

29.3(4) A dentist administering deep sedation/general anesthesia must document and maintain ~~current, successful completion of an~~ certification in Advanced Cardiac Life Support (ACLS) course. Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

ITEM 4. Amend subrule 29.4(1) as follows:

29.4(1) A permit may be issued to a licensed dentist to use moderate sedation for dental patients provided the dentist meets the following requirements:

a. Has successfully completed a training program approved by the board that meets the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and that consists of a minimum of 60 hours of instruction and management of at least 20 patients; and

b. ~~Has formal training in airway management~~ Has successfully completed a training program that includes rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications; or

c. Has submitted evidence of successful completion of an accredited residency program that includes formal training and clinical experience in moderate sedation, which is approved by the board; and

d. Has completed a peer review evaluation, as may be required by the board, prior to issuance of a permit.

ITEM 5. Amend subrule 29.4(2) as follows:

29.4(2) A dentist utilizing moderate sedation shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography or pretracheal/precordial to monitor end-tidal CO₂ unless precluded or invalidated by the nature of the patient, procedure or equipment, pretracheal or precordial stethoscope, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

DENTAL BOARD[650](cont'd)

ITEM 6. Amend subrule 29.4(4) as follows:

29.4(4) A dentist administering moderate sedation must document and maintain current, ~~successful completion of an~~ certification in Advanced Cardiac Life Support (ACLS) ~~course~~. A dentist administering moderate sedation to pediatric patients may maintain current certification in Pediatric Advanced Life Support (PALS) in lieu of ACLS. Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

ITEM 7. Amend subrule 29.5(11) as follows:

29.5(11) ~~Use of capnography required beginning January 1, 2014.~~ Use of capnography and pretracheal or precordial stethoscope.

a. Consistent with the practices of the American Association of Oral and Maxillofacial Surgeons (AAOMS), all general anesthesia/deep sedation permit holders shall use capnography at all facilities where they provide sedation beginning January 1, 2014.

b. All general anesthesia/deep sedation permit holders shall use a pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds beginning January 1, 2018.

ITEM 8. Amend subrule 29.5(12) as follows:

29.5(12) Use of capnography or pretracheal/precordial stethoscope required for moderate sedation permit holders. ~~Beginning January 1, 2015~~ 2018, all moderate sedation permit holders shall use capnography ~~or a pretracheal/precordial~~ to monitor end-tidal CO₂ unless precluded or invalidated by the nature of the patient, procedure or equipment. In cases where the use of capnography is precluded or invalidated for the reasons listed previously, a pretracheal or precordial stethoscope must be used to continually monitor the auscultation of breath sounds at all facilities where they permit holders provide sedation.

[Filed 11/13/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3492C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

This rule making incorporates changes to the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431, et seq.), as reauthorized in December 2015 by the Every Student Succeeds Act (ESSA). Changes as a result of ESSA include modifying the requirements of the State Plan to include procedures that ensure that homeless students do not face barriers to accessing extracurricular activities because of their homelessness. As a result of these changes, subrule 36.15(3) is being amended to ensure that homeless students are provided an exception to the 90 consecutive school days of ineligibility under the General Transfer Rule if they are determined to meet the definition of a homeless child or youth under McKinney-Vento as determined by the attending district.

Notice of Intended Action was published in the October 11, 2017, Iowa Administrative Bulletin as **ARC 3364C**. Public comments were allowed until 4:30 p.m. on October 31, 2017. A public hearing was held on that date. No one attended the public hearing, and no public comments were received. The adopted amendment is identical to the noticed amendment.

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

After analysis and review of this rule making, no impact on jobs has been found.

EDUCATION DEPARTMENT[281](cont'd)

This amendment is intended to implement the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431, et seq.), as reauthorized in December 2015 by the Every Student Succeeds Act (ESSA).

This amendment will become effective January 10, 2018.

The following amendment is adopted.

Amend subrule 36.15(3) as follows:

36.15(3) General transfer rule. A student who transfers from a school in another state or country or from one member or associate member school to another member or associate member school shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days, as defined in rule 281—12.1(256), exclusive of summer enrollment, unless one of the exceptions listed in paragraph 36.15(3)“a” applies. The period of ineligibility applies only to varsity level contests and competitions. (“Varsity” means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) In ruling upon the eligibility of transfer students, the executive board shall consider the factors motivating student changes in residency. Unless otherwise provided in these rules, a student intending to establish residency must show that the student is physically present in the district for the purpose of making a home and not solely for school or athletic purposes.

a. Exceptions. The executive officer or executive board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

(1) Upon a contemporaneous change in parental residence, a student is immediately eligible if the student transfers to the new district of residence or to an accredited nonpublic member or associate member school located in the new school district of residence. In addition, if with a contemporaneous change in parental residence, the student had attended an accredited nonpublic member or associate member school immediately prior to the change in parental residence, the student may have immediate eligibility if the student transfers to another accredited nonpublic member or associate member school.

(2) If the student is attending in a school district as a result of a whole-grade sharing agreement between the student’s resident district and the new school district of attendance, the student is immediately eligible.

(3) A student who has attended high school in a district other than where the student’s parent(s) resides, and who subsequently returns to live with the student’s parent(s), becomes immediately eligible in the parent’s resident district.

(4) Pursuant to Iowa Code section 256.46, a student whose residence changes due to any of the following circumstances is immediately eligible provided the student meets all other eligibility requirements in these rules and those set by the school of attendance:

1. Adoption.
2. Placement in foster or shelter care.
3. Participation in a foreign exchange program, as evidenced by a J-1 visa issued by the United States government, unless the student attends the school primarily for athletic purposes.
4. Placement in a juvenile correction facility.
5. Participation in a substance abuse program.
6. Participation in a mental health program.
7. Court decree that the student is a ward of the state or of the court.
8. The child is living with one of the child’s parents as a result of divorce, separation, death, or other change in the child’s parents’ marital relationship, or pursuant to other court-ordered decree or order of custody.

(5) A transfer student who attends in a member or associate member school that is a party to a cooperative student participation agreement, as defined in rule 281—36.20(280), with the member or associate member school the student previously attended is immediately eligible in the new district to compete in those interscholastic athletic activities covered by the cooperative agreement.

EDUCATION DEPARTMENT[281](cont'd)

(6) Any student whose parents change district of residence but who remains in the original district without interruption in attendance continues to be eligible in the member or associate member school of attendance.

(7) A special education student whose attendance center changes due to a change in placement agreed to by the district of residence is eligible in either the resident district or the district of attendance, but not both.

(8) A student who is found by the attending district to be a homeless child or youth as defined in rule 281—33.2(256).

~~(8)~~ (9) In any transfer situation not provided for elsewhere in this chapter, the executive board shall exercise its administrative authority to make any eligibility ruling which it deems to be fair and reasonable. The executive board shall consider the motivating factors for the student transfer. The determination shall be made in writing with the reasons for the determination clearly delineated.

b. In ruling upon the transfer of students who have been emancipated by marriage or have reached the age of majority, the executive board shall consider all circumstances with regard to the transfer to determine if it is principally for school or athletic purposes, in which case participation shall not be approved.

c. A student who participates in the name of a member or associate member school during the summer following eighth grade is ineligible to participate in the name of another member or associate member school in the first 90 consecutive school days of ninth grade unless a change of residence has occurred after the student began participating in the summer.

d. A school district that has more than one high school in its district shall set its own eligibility policies regarding intradistrict transfers.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3493C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

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

This amendment regarding the Health Insurance Premium Payment (HIPP) Program rule is being implemented to compare cost to managed care organizations (MCO) capitation fees. This amendment replaces existing rule 441—75.21(249A) with a new rule and also provides for some technical cleanup, definition enhancements, and revisions due to changes in the health insurance environment.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3323C** on September 27, 2017. The Department received no comments during the public comment period. However, the Department made a technical change to revise subparagraph 75.21(10)"g"(1) to state that Form 470-3037 "may be used" for employer verification of COBRA eligibility, instead of "shall be used." This change was made because the information provided by the form for COBRA eligibility may have already been provided to the HIPP applicant by the employer or former employer.

The Council on Human Services adopted this amendment on November 8, 2017.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

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

This amendment will become effective January 10, 2018.

The following amendment is adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rescind rule 441—75.21(249A) and adopt the following new rule in lieu thereof:

441—75.21(249A) Health insurance premium payment (HIPP) program. Under the HIPP program, the department shall pay for the cost of premiums, coinsurance, copayments, and deductibles for Medicaid-eligible individuals when the department determines that those costs will be less than the cost of paying for the individual's care through Medicaid including managed care capitation fees. Payment shall include only the cost to the Medicaid-eligible individual or household.

75.21(1) Definitions.

"Absent parent" means a noncustodial parent, or a parent who is not living with the member.

"Authorized representative" means an individual or organization authorized by a competent applicant or member, authorized by a responsible person acting for an incompetent applicant or member pursuant to 441—subrule 76.9(2), or with other legal authority to represent the applicant or member in the application process, renewal of eligibility and other ongoing communications with the department.

"Capitation payment" means a monthly payment to the managed care contractor on behalf of each member for the provision of health services under the managed care entity contract. Payment is made by the department regardless of whether the member receives services during the month. The managed care capitation payment varies based on the eligible member's sex, age, and eligibility aid type.

"Cost-effective" means a determination has been made that a savings will accrue to the department by paying the insurance premium, cost sharing, wrap benefits, and administrative cost.

"Cost sharing" means the member's portions of in-network health care costs not covered by an insurance plan. "Cost sharing" includes copayments, coinsurance and deductibles, which vary among health care plans.

"Custodian" means the person recognized as representing the interests of the member for Medicaid assistance. When the member reaches the age of 18 and the custodian is not used in determining Medicaid eligibility, there shall be legal documentation in place that the custodian is now the responsible person or authorized representative.

"Department" means the Iowa department of human services.

"Employer-sponsored insurance" or *"ESI"* means any health insurance plan paid for by a business on behalf of its employees.

"High-deductible health plan" or *"HDHP"* means a health insurance plan that meets the definition found in Section 223(c)(2) of the Internal Revenue Code.

"HIPP-eligible member" means a person whose Medicaid eligibility is calculated in the cost-effective determination for HIPP. "HIPP-eligible member" is also referred to as HIPP enrollee.

"Household" means the group of people who are used in the budgeting and size when determining Medicaid eligibility.

"Individual plan" means an insurance plan purchased through a government-run health insurance marketplace or through a local broker or agent.

"Insurance plan" means major medical comprehensive health coverage provided through an employer, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), a government-run health insurance marketplace, or a local broker or agent. Dental and vision plans are not considered to be insurance plans for purposes of this definition.

"Member" means an individual who has been determined eligible for Medicaid assistance and is enrolled to receive assistance.

"Policyholder" means the person in whose name an insurance policy is registered.

"Responsible person" means an individual recognized by the department pursuant to 441—subrule 76.9(1) as acting for an applicant or member who is unable to act on the applicant's or member's own behalf because the applicant or member is a minor or is incompetent, incapacitated, or deceased.

"Wrap benefits" means the services covered under the Medicaid state plans that are not paid for by insurance plans (i.e., waiver services, transportation).

75.21(2) Insurance plans. Participation in an insurance plan is not a condition of Medicaid eligibility. The department shall pay for the cost of the insurance plan premiums, coinsurance, copayment, and deductibles of an insurance plan for a member if:

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- a. A member is enrolled in or can be added to the insurance plan; and
- b. The insurance plan is cost-effective as defined in subrule 75.21(3).

75.21(3) Cost-effectiveness. An insurance plan shall be considered cost-effective when the amount the department would pay for the member's insurance premiums, cost sharing, wrap benefits, and administrative costs is likely to be less than the amount the department would pay through Medicaid including managed care capitation fees. When determining the cost-effectiveness of an insurance plan, the following data shall be considered:

- a. The cost to the member or household for the insurance premium, coinsurance, copayments and deductibles. No costs paid by an employer or other plan sponsor shall be considered in the cost-effectiveness determination.
- b. The cost of care through Medicaid including managed care capitation fees the department would pay for the member.
- c. The estimated cost of wrap benefits per member based on the member's sex, age, and eligibility aid type.
- d. The specific health-related circumstances of the members covered under the health plan. Form 470-2868, HIPP Medical History Questionnaire, shall be used to obtain this information. When the information indicates any health conditions that could be expected to result prospectively in higher-than-average bills for any Medicaid member:

(1) If the member is currently covered by the insurance plan, the department shall request from the policyholder, or the responsible person for the member, an insurance summary of the member's paid claims for the previous 12 months. If there is sufficient evidence to indicate that such claims can be expected to continue in the next 12 months, the claims will be considered in determining the cost-effectiveness of the insurance plan. The cost of the insurance plan premium, member's cost sharing, and administrative cost are compared to the actual claims to determine the cost-effectiveness of providing the coverage.

(2) If the member was not covered by the health plan in the previous 12 months, fee-for-service paid Medicaid claims may be used to project the cost-effectiveness of the plan.

- e. Annual administrative expenditures of \$150 per HIPP member covered under the health plan.
- f. Whether the estimated savings to the department for members covered under the health insurance plan is at least \$5 per month per household.

75.21(4) Coverage of non-Medicaid-eligible family members. When an insurance plan is determined to be cost-effective, the department shall pay for insurance premiums for non-Medicaid-eligible family members if a non-Medicaid-eligible family member must be enrolled in the insurance plan in order to obtain coverage for the Medicaid-eligible family members. However:

- a. The needs of the non-Medicaid-eligible family members shall not be taken into consideration when determining cost-effectiveness; and
- b. Payments for deductibles, coinsurances or other cost-sharing obligations shall not be made on behalf of family members who are not Medicaid-eligible.

75.21(5) Insurance plans ineligible for reimbursement. Premiums shall not be paid for insurance plans under any of the following circumstances:

- a. The insurance plan is that of an absent parent.
- b. The insurance plan is an indemnity policy which supplements the policyholder's income or pays only a predetermined amount for services covered under the policy (e.g., \$50 per day for hospital services instead of 80 percent of the charge).
- c. The insurance plan is a school plan offered on the basis of attendance or enrollment at the school.
- d. The insurance premium is used to meet a spenddown obligation under the medically needy program, as provided in subrule 75.1(35), when all persons in the household are eligible or potentially eligible only under the medically needy program. When some of the household members are eligible for full Medicaid benefits under coverage groups other than medically needy, the premium shall be paid if it is determined to be cost-effective when considering only the persons receiving full Medicaid coverage. In

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those cases, the insurance premium shall not be allowed as a deduction to meet the spenddown obligation for those persons in the household participating in the medically needy program.

e. The insurance plan is designed to provide coverage only for a temporary period of time (e.g., 30 to 180 days).

f. The persons covered under the insurance plan are not Medicaid-eligible on the date the decision regarding eligibility for the HIPP program is made. No retroactive payments shall be made if the case is not Medicaid-eligible on the date of decision.

g. The person is eligible only for a coverage group that does not provide full Medicaid services.

h. Insurance coverage is provided through the health insurance plan of Iowa (HIPIOWA), in accordance with Iowa Code chapter 514E.

i. Insurance on the member(s) is maintained by someone who does not live with the member(s), is not the legal guardian of the member(s), is not a responsible person, or does not have legal permission to access the Medicaid information of the member(s) (e.g., self-supporting adult children).

j. The member has Medicare. If other members in the household are covered by the insurance plan, cost-effectiveness is determined without including the Medicare-covered member.

k. The insurance plan does not provide major medical coverage but pays only for specific situations (i.e., accident plans) or illnesses (i.e., cancer policy).

l. The health plan pays secondary to another plan.

m. The only Medicaid member is in foster care.

n. The member is active for Medicaid under Medicaid for children with disabilities (i.e., Medicaid for kids with special needs (MKSN)), pursuant to subrule 75.1(43). Any other Medicaid members in the household who are covered by the health plan shall be determined for cost-effectiveness.

o. The insurance plan is limited due to preexisting conditions.

p. The insurance plan is a subsidized insurance plan purchased through a government-run health insurance exchange.

q. On the date the decision regarding eligibility for the HIPP program is made, the insurance is no longer available.

r. The insurance plan is an HDHP.

75.21(6) *Department evaluation of ESI plans.* When evaluating ESI plans available through an employer, if there is more than one cost-effective insurance plan available, the department shall pay the premium for only one plan. The member may choose the cost-effective plan in which to enroll.

75.21(7) *Effective date of premium payment.* The effective date of premium payments for a cost-effective health plan shall be determined as follows:

a. Premium payments shall begin the later of:

(1) The first day of the month in which Form 470-2844, Employer's Statement of Earnings; Form 470-2875, Health Insurance Premium Payment (HIPP) Program Application; or Form H301-1, the automated HIPP referral; is received by the HIPP unit; or

(2) The first day of the first month in which the health plan is determined to be cost-effective.

b. If the person is not enrolled in the insurance plan when eligibility for participation in the HIPP program is established, premium payments shall begin in the month in which the first premium payment is due after enrollment occurs.

c. If there was a lapse in coverage during the application process (e.g., the health plan is dropped and reenrollment occurs at a later date), premium payments shall not be made for any period of time before the current effective date of coverage.

d. In no case shall payments be made for premiums that were used as a deduction to income for determining client participation or the amount of the spenddown obligation.

e. Form 470-3036, Employer Verification of Insurance Coverage, shall be used to verify the effective date of coverage and costs for persons enrolled in group health plans through an employer.

f. The effective date of coverage of an insurance plan not obtained through an employer shall be verified by a copy of the certificate of coverage for the plan or by some other verification from the insurer.

75.21(8) *Method of premium payment.* Payments of premiums will be made directly to the insurance carrier except as follows:

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a. The department may arrange for payment to an employer in order to circumvent a payroll deduction.

b. When an employer will not agree to accept premium payments from the department in lieu of a payroll deduction to the employee's wages, the department shall reimburse the employee directly for payroll deductions or for payments made directly to the employer for the payment of premiums. The department shall issue reimbursement to the employee five working days before the employee's pay date.

c. When premium payments are occurring through an automatic withdrawal from a bank account by the insurance carrier, the department may reimburse the policyholder for those withdrawals.

d. Payments for COBRA coverage shall be made directly to the insurance carrier, the COBRA administrator, or the former employer. Payments may be made directly to the former employee only in those cases where:

- (1) Information cannot be obtained for direct payment; or
- (2) The department pays for only part of the total premium.

75.21(9) *Payment of claims.* Claims from medical providers for persons participating in this program shall be paid in the same manner as claims are paid for other persons with a third-party resource in accordance with the provisions of 441—Chapters 79 and 80.

75.21(10) *Reviews of cost-effectiveness and eligibility.* Reviews of cost-effectiveness and eligibility shall be completed annually and may be conducted more frequently at the discretion of the department.

a. Annual review of ESI cost-effectiveness and eligibility shall be completed using Form 470-3016, Health Insurance Premium Payment (HIPP) Program Review.

b. Annual review of individual health plan cost-effectiveness and eligibility shall be completed using Form 470-3017, HIPP Private Policy Review.

c. Failure of the household to cooperate in the annual review process shall result in cancellation of premium payment.

d. Redeterminations shall be completed whenever:

- (1) A premium rate, copayment, deductible, or coinsurance changes;
- (2) A person covered under the policy loses full Medicaid eligibility;
- (3) Changes in employment or hours of employment affect the availability of an insurance plan;
- (4) The insurance carrier changes;
- (5) The policyholder leaves the Medicaid home;
- (6) There is a decrease in the services covered under the policy; or
- (7) The Medicaid category of coverage changes.

e. The policyholder shall report changes that may affect the availability of the insurance plan reimbursed by the HIPP program, or changes that affect the cost-effectiveness of the policy, within ten calendar days from the date of the change.

f. If a change in the number of members in the Medicaid household causes the health plan not to be cost-effective, lesser health plan options, as defined in paragraph 75.21(15) "a," shall be considered if available and cost-effective.

g. When employment ends, hours of employment are reduced, or some other qualifying event affecting the availability of the group health plan occurs, the department shall verify whether coverage may be continued under the provisions of COBRA.

(1) Form 470-3037, Employer Verification of COBRA Eligibility, may be used for this purpose.

(2) If cost-effective to do so, the department shall pay premiums to maintain insurance coverage for members after the occurrence of the event which would otherwise result in termination of coverage.

75.21(11) *Time frames for determining cost-effectiveness.* The department shall determine cost-effectiveness of the insurance plan and notify the applicant of the decision regarding payment of the premiums within 65 calendar days from the date an application or referral (as defined in subrule 75.21(7)) is received. Additional time may be taken when, for reasons beyond the control of the department or the applicant, information needed to establish cost-effectiveness cannot be obtained within the 65-day period.

75.21(12) *Notices.*

a. Adequate notice shall be provided to the household under the following circumstances:

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- (1) To inform the household of the initial decision on cost-effectiveness and premium payment.
- (2) To inform the household that premium payments are being discontinued because Medicaid eligibility has been lost by all persons covered under the health plan.

(3) The insurance plan is no longer available to the family (e.g., the employer no longer provides health insurance coverage or the policy is terminated by the insurance company).

b. The department shall provide timely and adequate notice as defined in 441—subrule 7.7(1) to inform the household of a decision to discontinue payment of the health insurance premium because:

- (1) The department has determined the insurance plan is no longer cost-effective; or
- (2) The member has failed to cooperate in providing information necessary to establish continued eligibility for the HIPP program.

75.21(13) *Rate refund.* The department shall be entitled to any rate refund made when the insurance carrier determines a return of premiums to the policyholder is due for any time period for which the department paid the premium.

75.21(14) *Reinstatement of HIPP eligibility.*

a. When eligibility for the HIPP program is canceled because the persons covered under the insurance plan lose Medicaid eligibility, HIPP eligibility shall be reinstated when Medicaid eligibility is reestablished if all other eligibility factors are met.

b. When HIPP eligibility is canceled because of the policyholder's failure to cooperate in providing information necessary to establish continued eligibility for the HIPP program, benefits shall be reinstated the first day of the first month in which cooperation occurs, if all other eligibility factors are met.

75.21(15) *Amount of insurance premium paid.*

a. For ESI plans, the policyholder shall provide verification of the cost of all possible insurance plan options (i.e., single, employee/children, family).

(1) The HIPP program shall pay only for the option that provides coverage to the cost-effective members of the household.

(2) The HIPP program shall not pay the portion of the premium cost which is the responsibility of the employer or other plan sponsor.

b. For individual health plans, the HIPP program shall pay the cost of covering the cost-effective members covered by the plan.

c. For insurance plans, if another household member must be covered to obtain coverage for the members, the HIPP program shall pay the cost of covering that household member if the coverage is cost-effective as determined pursuant to subrules 75.21(3) and 75.21(4).

75.21(16) *Reporting changes.* Failure to report and verify changes may result in cancellation of HIPP benefits.

a. The policyholder shall verify changes by providing a pay stub, a summary of benefits and coverage, a rate sheet, or a letter from the insurance carrier reflecting the change.

b. Changes in employment or the employment-related insurance carrier shall be verified by the employer.

c. Any benefits paid during a period in which there was ineligibility for HIPP due to unreported changes shall be subject to recovery in accordance with the provisions of 441—Chapter 11.

d. Any underpayment that results from an unreported change shall be paid effective the first day of the month in which the change is reported.

75.21(17) *Discontinuation of premium payments.*

a. When the household loses Medicaid eligibility, premium payments shall be discontinued as of the month of Medicaid ineligibility.

b. When only part of the household loses Medicaid eligibility, the department shall complete a review in order to ascertain whether payment of the health insurance premium continues to be cost-effective. If the department determines that the insurance plan is no longer cost-effective, premium payment shall be discontinued pending timely and adequate notice.

c. If the household fails to cooperate in providing information necessary to establish ongoing eligibility for the HIPP program, the department shall discontinue premium payment after timely and

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adequate notice. The department shall request all information in writing and allow the household ten calendar days in which to provide it.

d. If the policyholder leaves the Medicaid household, premium payments shall be discontinued pending timely and adequate notice.

e. If the insurance plan is no longer available or the policy has lapsed, premium payments shall be discontinued as of the effective date of the termination of the coverage.

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

[Filed 11/8/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3494C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 80, "Procedure and Method of Payment," Iowa Administrative Code.

These amendments add two new Medicaid provider types for the purpose of members' cost-sharing protections related to qualified Medicare beneficiary (QMB) members and health insurance premium payment (HIPP) members.

These amendments ensure that anytime a QMB or HIPP member is seen by an out-of-network Iowa Medicaid provider, the provider may enroll for the limited purpose of billing the Department for coinsurance, copayments, and deductibles.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3321C** on September 27, 2017. The Department received no comments during the public comment period.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 8, 2017.

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

After analysis and review of this rule making, no impact on jobs has been found.

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

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 441—77.53(249A):

441—77.53(249A) Qualified Medicare beneficiary (QMB) providers. Any Medicare provider not enrolled as an Iowa Medicaid provider for the general Medicaid population may enroll to be a QMB provider.

77.53(1) Reimbursement. A QMB provider may only bill the department for the QMB-eligible member's Medicare cost-sharing obligations. Reimbursement is limited to coinsurance, copayments, and deductibles for Medicare-covered services.

77.53(2) Definitions.

"*Coinsurance*" means a percentage of costs of a covered health care service that has to be paid.

"*Copayment*" means a fixed amount a member pays for a covered health care service.

"*Deductible*" means the amount paid for covered health care services before the insurance plan will effect payment.

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“Medicare cost sharing” means the Medicare member’s responsibility for a Medicare-covered service. “Medicare cost sharing” includes coinsurance, copayments, and deductibles.

“Qualified Medicare beneficiary” or *“QMB”* means an individual who has been determined eligible for the QMB program pursuant to 441—subrule 75.1(29). Under the QMB program, Medicaid pays the individual’s Medicare Part A and B premiums; coinsurance; copayment; and deductible (except for Part D).

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

ITEM 2. Adopt the following **new** rule 441—77.54(249A):

441—77.54(249A) Health insurance premium payment (HIPP) providers. Any provider not enrolled as an Iowa Medicaid provider for the general Medicaid population may enroll to be a HIPP provider. A HIPP provider may bill the department for the HIPP-eligible member’s out-of-pocket cost-sharing obligations. Reimbursement is limited to in-network coinsurance, copayments, and deductibles of the HIPP-eligible member’s health insurance paid for through the HIPP program.

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

ITEM 3. Adopt the following **new** rule 441—78.58(249A):

441—78.58(249A) Qualified Medicare beneficiary (QMB) provider services.

78.58(1) Payment. Payment will be made to QMB providers for a QMB-eligible member’s coinsurance, copayment, and deductible for Medicare-covered services. The eligible member may be responsible for copayments pursuant to 441—subrule 79.1(13).

78.58(2) Definitions.

“Coinsurance” means a percentage of costs of a covered health care service that has to be paid.

“Copayment” means a fixed amount a member pays for a covered health care service.

“Deductible” means the amount paid for covered health care services before the insurance plan will effect payment.

“Medicare cost sharing” means the Medicare member’s responsibility for a Medicare-covered service. “Medicare cost sharing” includes coinsurance, copayments, and deductibles.

“Qualified Medicare beneficiary” or *“QMB”* means an individual who has been determined eligible for the QMB program pursuant to 441—subrule 75.1(29). Under the QMB program, Medicaid pays the individual’s Medicare Part A and B premiums; coinsurance; copayment; and deductible (except for Part D).

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

ITEM 4. Adopt the following **new** rule 441—78.59(249A):

441—78.59(249A) Health insurance premium payment (HIPP) provider services.

78.59(1) Reimbursement. A HIPP provider may bill the department for the HIPP-eligible member’s out-of-pocket cost-sharing obligations. Reimbursement of claims is limited to in-network coinsurance, copayments, and deductibles of the HIPP-eligible member’s health insurance, paid for through the HIPP program. The HIPP-eligible member may be responsible for a copayment pursuant to 441—subrule 79.1(13).

78.59(2) Definitions.

“Coinsurance” means a percentage of costs of a covered health care service that has to be paid.

“Copayment” means a fixed amount a member pays for a covered health care service.

“Cost sharing” means the member’s health insurance in-network responsibility for a covered service. “Cost sharing” includes coinsurance, copayments, and deductibles.

“Deductible” means the amount paid for covered health care services before the insurance plan will effect payment.

“Eligible member” means an individual eligible for Medicaid pursuant to rule 441—75.1(249A) et seq. and who qualifies for and is participating in the department’s HIPP program prescribed under rule 441—75.21(249A).

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“*Health insurance premium payment (HIPP) program*” or “*HIPP program*” has the same meaning as provided in rule 441—75.21(249A).

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

ITEM 5. Adopt the following **new** definitions of “Coinsurance,” “Copayment,” “Deductible,” “Medicare cost sharing” and “Qualified Medicare beneficiary” in paragraph **79.1(22)“a”**:

“*Coinsurance*” means a percentage of costs of a covered health care service that has to be paid.

“*Copayment*” means a fixed amount a member pays for a covered health care service.

“*Deductible*” means the amount paid for covered health care services before the insurance plan will effect payment.

“*Medicare cost sharing*” means the Medicare member’s responsibility to pay for a Medicare-covered service. “Medicare cost sharing” includes coinsurance, copayments, and deductibles.

“*Qualified Medicare beneficiary*” or “*QMB*” means an individual who has been determined eligible for the QMB program pursuant to 441—subrule 75.1(29). Under the QMB program, Medicaid pays the individual’s Medicare Part A and B premiums; coinsurance; copayment; and deductible (except for Part D).

ITEM 6. Adopt the following **new** subrule 79.1(29):

79.1(29) Reimbursement for health insurance premium payment (HIPP) program providers. Reimbursement for HIPP program providers shall be provided only when such provider is enrolled with Iowa Medicaid for the sole purpose of billing HIPP-eligible in-network coinsurance, copayments, and deductibles.

a. Definitions. For purposes of this subrule:

“*Coinsurance*” means a percentage of costs of a covered health care service that has to be paid.

“*Copayment*” means a fixed amount a member pays for a covered health care service.

“*Deductible*” means the amount paid for covered health care services before the insurance plan starts to pay.

“*Eligible member*” means an individual eligible for Medicaid pursuant to rule 441—75.1(249A) et seq. and who qualifies for and is participating in the department’s HIPP program prescribed under rule 441—75.21(249A).

“*Health insurance premium payment (HIPP) program*” or “*HIPP program*” has the same meaning as provided in rule 441—75.21(249A).

b. Claim submission. To submit a claim for reimbursement, a HIPP provider shall use Form 470-5475, Health Insurance Premium Payment (HIPP) Provider Invoice.

(1) Payment shall be made to eligible providers for a HIPP-eligible member’s coinsurance, copayment, and deductible, when the HIPP-eligible member is active on the date of service.

(2) Member responsibility. The eligible member may be responsible for a copayment pursuant to subrule 79.1(13).

ITEM 7. Adopt the following **new** paragraph **79.14(1)“f”**:

f. Qualified Medicare beneficiary (QMB) providers shall enroll using Form 470-5262, Qualified Medicare Beneficiaries (QMB) or Health Insurance Premium Payment (HIPP) Program Provider Enrollment Application.

ITEM 8. Adopt the following **new** paragraph **79.14(1)“g”**:

g. Health insurance premium payment (HIPP) providers shall enroll using Form 470-5262, Qualified Medicare Beneficiaries (QMB) or Health Insurance Premium Payment (HIPP) Program Provider Enrollment Application.

ITEM 9. Adopt the following **new** subparagraph **80.2(2)“a”(10)**:

(10) Health insurance premium payment (HIPP) providers.

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ITEM 10. Adopt the following new paragraph **80.2(2)“j”**:

j. Health insurance premium payment (HIPP) providers shall submit Form 470-5475, Health Insurance Premium Payment (HIPP) Provider Invoice, along with an explanation of benefits (EOB).

[Filed 11/8/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3495C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 155, “Child Abuse Prevention Program,” Iowa Administrative Code.

These amendments allow the Department to partner with the Iowa Department of Public Health (IDPH) through utilization of the Family Support Statewide Database (FSSD) maintained by IDPH for the Department’s Iowa Child Abuse Prevention Program (ICAPP).

Program grantees will cease use of the contractor-created system and transition to the IDPH system. It is anticipated that this change will occur during state fiscal year (SFY) 2018. The majority of the grantees who will be impacted by this change (approximately two-thirds of them) are already utilizing the FSSD system due to other funding received under Early Childhood Iowa. The other one-third will have their programs entered into the system and will receive training and technical assistance on the switch before it goes “live.”

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3322C** on September 27, 2017. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 8, 2017.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 235A.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 155**, preamble, as follows:

These rules define and structure the child abuse prevention program. Services are provided through multiple local grant projects, as well as a single statewide performance-based contract for the administration of funds to be used at the local level for community-based child abuse prevention projects.

ITEM 2. Amend rule **441—155.1(235A)**, definitions of “Contractor” and “Grant project,” as follows:

“*Contractor*” means the single agency or organization with which the department contracts for the administration of the child abuse prevention program funds.

“*Grant project*” means a project funded under the child abuse prevention program as awarded by the ~~contractor~~ department.

ITEM 3. Amend rule 441—155.2(235A) as follows:

441—155.2(235A) Contract for program administration. The department shall contract for the administration of the child abuse prevention program through formal competitive procurement conducted according to ~~the requirements of 11—Chapters 106 and 107~~ all applicable state and federal procurement laws.

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155.2(1) No change.

155.2(2) Duties. The department shall contract with a single agency or organization to:

a. Administer the grant projects awarded through the appropriated funds and any grants, gifts or bequests to the department that are specifically designated by their source for use in the child abuse prevention program; and

b. Study and evaluate community-based prevention projects and educational programs for the problems of families and children in accordance with the provisions of Iowa Code section 235A.1 and this chapter.

ITEM 4. Amend rule 441—155.3(235A) as follows:

441—155.3(235A) Awarding of grants. In any year in which funding is appropriated or otherwise made available for the child abuse prevention program, the contractor shall solicit new grant project proposals or renew existing projects when eligible and in accordance with all applicable state and federal procurement laws. Funds for the grant projects shall be applied for and received by community-based volunteer coalitions or councils. Grant projects may be awarded to fund the establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.

155.3(1) The advisory committee shall establish specific program goals for each fiscal year in which program funds are appropriated and new contracts are issued. These program goals shall address the current and emerging needs of children and families throughout the state.

155.3(2) The contractor shall assist the department in widely disseminate disseminating a request for grant project proposals consistent with all state and federal procurement requirements. The request for grant project proposals shall fully describe the child abuse prevention program goals and the procedures for applying for and receiving program funds, ~~as agreed upon in the administration contract.~~

155.3(3) All grant project proposals shall be reviewed by ~~the contractor, who~~ an independent review committee in accordance with all applicable state and federal procurement laws. The contractor shall assist the department in the review and shall consult with the advisory committee on grant project selection award recommendations. The department will consider the recommendations of the committee but will have final decision-making authority on the awarding of grantee contracts. The committee shall advise the department as to the contractor's compliance with the established program goals.

ITEM 5. Adopt the following new rule 441—155.4(235A):

441—155.4(235A) Grantee requirements. In order to receive funding from the department, community councils must be legal entities or must designate a legal entity to receive the project funds directly (e.g., a local service provider).

155.4(1) Grantees, or the identified service providers, shall participate in program evaluation as required by the contractor and the department.

155.4(2) Grantees, or the identified service providers, that provide family support services under the program shall enter participant data in the state-administered, Internet-based data collection system identified in Iowa Code section 256I.13(3) and maintained by the Iowa department of public health.

[Filed 11/8/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3496C**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 521B.105 as amended by 2017 Iowa Acts, House File 311, the Iowa Insurance Division hereby adopts new Chapter 112, “Term and Universal Life Insurance Reserve Financing,” Iowa Administrative Code.

Consistent with Iowa Code chapter 521B as amended by 2017 Iowa Acts, House File 311, the rules in Chapter 112 prescribe the requirements which the commissioner may use to establish standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees. Cross references in these rules to provisions in Iowa Code chapter 521B should be understood to include the amendments enacted in 2017 Iowa Acts, House File 311.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 11, 2017, as **ARC 3362C**. A public hearing was held on November 1, 2017, at 1:30 p.m. in Conference Room 4 North of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, and written comments were accepted through November 1, 2017. The Division received two comments and two written statements at the public hearing in support of new Chapter 112. These rules are identical to those published under Notice.

Chapter 112 does not provide for waivers.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code sections 521B.102, 521B.103 and 521B.105 as amended by 2017 Iowa Acts, House File 311.

These rules will become effective January 10, 2018.

The following amendment is adopted.

Adopt the following **new** 191—Chapter 112:

CHAPTER 112**TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING**

191—112.1(521B) Authority. This chapter is promulgated by the commissioner of insurance pursuant to Iowa Code sections 521B.102, 521B.103 and 521B.105.

191—112.2(521B) Purpose and intent. The purpose and intent of this chapter is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, life insurance policies containing guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of primary security and other security, as defined in rule 191—112.5(521B), are held by or on behalf of ceding insurers in the forms and amounts required herein. In general, reinsurance ceded for reserve financing purposes has one or more of the following characteristics: some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer (1) are issued by the ceding insurer or its affiliates; or (2) are not unconditionally available to satisfy the general account obligations of the ceding insurer; or (3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any of its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty).

191—112.3(521B) Applicability. This chapter shall apply to reinsurance treaties that cede liabilities pertaining to covered policies, as that term is defined in rule 191—112.5(521B), issued by any life insurance company domiciled in this state. This chapter and rule 191—5.33(510) shall both apply to

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such reinsurance treaties; provided, that in the event of a direct conflict between a rule of this chapter and rule 191—5.33(510), the rules of this chapter shall apply, but only to the extent necessary in order to resolve the conflict.

191—112.4(521B) Exemptions. This chapter does not apply to:

112.4(1) Reinsurance of:

a. Policies that satisfy the criteria for exemption set forth in 191—subrule 47.5(6) or 47.5(7); and which are issued before the later of:

(1) January 10, 2018, and

(2) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020.

b. Portions of policies that satisfy the criteria for exemption set forth in 191—subrule 47.5(5) and which are issued before the later of:

(1) January 10, 2018, and

(2) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020.

c. Any universal life policy that meets all of the following requirements:

(1) Secondary guarantee period, if any, is five years or less;

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the commissioners standard ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and

(3) The initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period.

d. Credit life insurance.

e. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

f. Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

112.4(2) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Iowa Code section 521B.102(4).

112.4(3) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Iowa Code sections 521B.102(1) to 521B.102(3), and that, in addition:

a. Prepares statutory financial statements in compliance with the National Association of Insurance Commissioners (NAIC) Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to Statement of Statutory Accounting Principles No. 1 (SSAP 1); and

b. Is not in a company-action-level event, regulatory-action-level event, authorized-control-level event, or mandatory-control-level event as those terms are defined in Iowa Code section 521E.1 et seq. when its risk-based capital (RBC) is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation.

112.4(4) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Iowa Code sections 521B.102(1) to 521B.102(3), and that, in addition:

a. Is not an affiliate of, as that term is defined in Iowa Code section 521A.1(1):

(1) The insurer ceding the business to the assuming insurer, or

(2) Any insurer that directly or indirectly ceded the business to that ceding insurer;

b. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;

c. Is both:

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- (1) Licensed or accredited in at least ten states (including its state of domicile), and
- (2) Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and

d. Is not, or would not be, below 500 percent of the authorized-control-level RBC as that term is defined in Iowa Code section 521E.1(12)“c” when its RBC is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from the NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer’s reported surplus.

112.4(5) Reinsurance ceded to an assuming insurer that meets the requirements of Iowa Code section 521B.102(5) pertaining to certain certified reinsurers that meet threshold size and licensing requirements.

112.4(6) Reinsurance not otherwise exempt under subrules 112.4(1) to 112.4(5) if the commissioner, after consulting with the NAIC financial analysis working group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:

a. The risks are clearly outside of the intent and purpose of this chapter (as described in rule 191—112.2(521B)),

b. The risks are included within the scope of this chapter only as a technicality, and

c. The application of this chapter to those risks is not necessary to provide appropriate protection to policyholders. The commissioner shall post on the insurance division’s public Web site a notice of any decision made pursuant to this subrule to exempt a reinsurance treaty from this chapter, as well as the general basis therefor (including a summary description of the treaty).

191—112.5(521B) Definitions.

“*Actuarial method*” means the methodology used to determine the required level of primary security, as described in rule 191—112.6(521B).

“*Covered policies*” means the following: Subject to the exemptions described in rule 191—112.4(521B), covered policies are those policies, other than grandfathered policies, of the following policy types:

1. Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits or both, except for flexible premium universal life insurance policies; or
2. Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

“*Grandfathered policies*” means policies of the types described in the definition of “covered policies” above that were:

1. Issued prior to January 1, 2015; and
2. Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in rule 191—112.4(521B) had that rule then been in effect.

“*Noncovered policies*” means any policy that does not meet the definition of “covered policies,” including grandfathered policies.

“*Other security*” means any security acceptable to the commissioner other than security meeting the definition of “primary security.”

“*Primary security*” means the following forms of security:

1. Cash meeting the requirements of Iowa Code section 521B.103(2)“a”;
2. Securities listed by the NAIC Securities Valuation Office meeting the requirements of Iowa Code section 521B.103(2)“b,” but excluding any synthetic letter of credit, contingent note, credit-linked note or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and
3. For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:
 - Commercial loans in good standing of CM3 quality and higher;

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- Policy loans; and
- Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

“Required level of primary security” means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

“Valuation manual” means the valuation manual adopted by the NAIC as described in Iowa Code section 508.36(14) “b”(1), with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.

“VM-20” means “Requirements for Principle-Based Reserves for Life Products,” including all relevant definitions, from the valuation manual.

191—112.6(521B) The actuarial method.

112.6(1) The actuarial method that is used to establish the required level of primary security for each reinsurance treaty subject to this chapter shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the valuation manual as then in effect, applied as follows:

a. For covered policies described in paragraph “1” of the definition of “covered policies,” the actuarial method is the greater of the deterministic reserve or the net premium reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the covered policies do not meet the requirements of the stochastic reserve exclusion test in the valuation manual, then the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the NPR. In addition, if such covered policies are reinsured in a reinsurance treaty that also contains covered policies described in paragraph “2” of the definition of “covered policies,” the ceding insurer may elect to instead use paragraph 112.6(1) “b” as the actuarial method for the entire reinsurance agreement. Regardless of whether paragraph 112.6(1) “a” or 112.6(1) “b” is used, the actuarial method must comply with any requirements or restrictions that the valuation manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.

b. For covered policies described in paragraph “2” of the definition of “covered policies,” the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the NPR regardless of whether the criteria for exemption testing can be met.

c. Except as provided in paragraph 112.6(1) “d,” the actuarial method is to be applied on a gross basis to all risks with respect to the covered policies as originally issued or assumed by the ceding insurer.

d. If the reinsurance treaty cedes less than 100 percent of the risk with respect to the covered policies, then the required level of primary security may be reduced as follows:

(1) If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, as well as any adjustment under subparagraph 112.6(1) “d”(3), may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;

(2) If the reinsurance treaty in a nonexempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to covered policies, except that for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, provided that the retained reserve of those covered policies shall be reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;

(3) If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may be reduced by the amount resulting by applying the actuarial method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for covered policies issued prior to January 1, 2017, this adjustment is not to exceed $[c_x / (2 * \text{number of reinsurance premiums per year})]$ where c_x is calculated using the same mortality table used in calculating the net premium reserve; and

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(4) For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss and other non-proportional reinsurance treaties, there will be no reduction in the required level of primary security.

It is possible for any combination of subparagraphs 112.6(1) “d”(1) to 112.6(1) “d”(4) to apply. Such adjustments to the required level of primary security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer shall document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100 percent of the risk.

The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

e. In no event will the required level of primary security resulting from application of the actuarial method exceed the amount of statutory reserves ceded.

f. If the ceding insurer cedes risks with respect to covered policies, including any riders, in more than one reinsurance treaty subject to this chapter, in no event will the aggregate required level of primary security for those reinsurance treaties be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to this chapter.

g. If a reinsurance treaty subject to this chapter cedes risk on both covered and noncovered policies, credit for the ceded reserves shall be determined as follows:

(1) The actuarial method shall be used to determine the required level of primary security for the covered policies, and rule 191—112.7(521B) shall be used to determine the reinsurance credit for the covered policy reserves; and

(2) Credit for the noncovered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of subparagraph 112.6(1) “g”(1), is held by or on behalf of the ceding insurer in accordance with Iowa Code sections 521B.102 and 521B.103. Any primary security used to meet the requirements of this subparagraph may not be used to satisfy the required level of primary security for the covered policies.

112.6(2) For the purposes of both calculating the required level of primary security pursuant to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

a. For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer’s general account and without taking into consideration the effect of any prescribed or permitted practices; and

b. For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the actuarial method if adopted by the NAIC’s life actuarial (A) task force no later than the December 31st on or immediately preceding the valuation date for which the required level of primary security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the actuarial method in the manner specified in VM-20.

191—112.7(521B) Requirements applicable to covered policies to obtain credit for reinsurance; opportunity for remediation.

112.7(1) Subject to the exemptions described in rule 191—112.4(521B) and the provisions of subrule 112.7(2), credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies pursuant to Iowa Code sections 521B.102 and 521B.103 if, and only if, in addition to all other requirements imposed by law or rules, the following requirements are met on a treaty-by-treaty basis:

a. The ceding insurer’s statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of Iowa Code section 508.36

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and related rules and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this chapter does not exceed the proportionate share of those reserves ceded under the contract; and

b. The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to this chapter and provides support for its calculation as determined to be acceptable to the commissioner; and

c. Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of Iowa Code section 521B.103, on a funds-withheld, trust, or modified coinsurance basis; and

d. Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to paragraph 112.7(1)“*c*,” are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of Iowa Code section 521B.103; and

e. Any trust used to satisfy the requirements of rule 191—112.7(521B) shall comply with all of the conditions and qualifications of 191—subrule 5.33(10), except that:

(1) Funds consisting of primary security or other security held in trust shall, for the purposes identified in subrule 112.6(2), be valued according to the valuation rules set forth in subrule 112.6(2), as applicable; and

(2) There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of paragraph 112.7(1)“*c*”; and

(3) The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust (when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by paragraph 112.7(1)“*c*”) below 102 percent of the level required by paragraph 112.7(1)“*c*” at the time of the withdrawal or substitution; and

(4) The determination of reserve credit under 191—subparagraphs 5.33(10)“*d*”(3) to 5.33(10)“*d*”(5) shall be determined according to the valuation rules set forth in subrule 112.6(2), as applicable; and

f. The reinsurance treaty has been approved by the commissioner.

112.7(2) Requirements at inception date and on an ongoing basis; remediation.

a. The requirements of subrule 112.7(1) must be satisfied as of the date that risks under covered policies are ceded (if such date is on or after January 10, 2018) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under paragraph 112.7(1)“*c*” or 112.7(1)“*d*” with respect to any reinsurance treaty under which covered policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

b. Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of rule 191—112.3(521B) shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of paragraphs 112.7(1)“*c*” and 112.7(1)“*d*” were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to paragraph 112.7(1)“*c*,” unless either:

(1) The requirements of paragraphs 112.7(1)“*c*” and 112.7(1)“*d*” were fully satisfied as of the valuation date as to such reinsurance treaty; or

(2) Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security or other security or both, as the case may be, in such amount and in such form as would have caused the requirements of paragraphs 112.7(1)“*c*” and 112.7(1)“*d*” to be fully satisfied as of the valuation date.

c. Nothing in paragraph 112.7(2)“*b*” shall be construed to allow a ceding company to maintain any deficiency under paragraph 112.7(1)“*c*” or 112.7(1)“*d*” for any period of time longer than is reasonably necessary to eliminate the deficiency.

INSURANCE DIVISION[191](cont'd)

191—112.8(521B) Severability. If any provision of this chapter shall be held invalid, the remainder of the chapter shall not be affected.

191—112.9(521B) Prohibition against avoidance. No insurer that has covered policies as to which this chapter applies, as set forth in rule 191—112.3(521B), shall take any action or series of actions, or enter into any transaction or arrangement or series of transactions or arrangements, if the purpose of such action, transaction or arrangement or series thereof is to avoid the requirements of this chapter, or to circumvent its purpose and intent, as set forth in rule 191—112.2(521B).

These rules are intended to implement Iowa Code sections 521B.102, 521B.103, and 521B.105.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3497C

NURSING BOARD[655]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 2, "Nursing Education Programs," Iowa Administrative Code.

These amendments to Chapter 2:

- Clarify existing definitions in the chapter.
- Add definitions to the chapter.
- Streamline the provisional approval process.
- Add a process for denial and withdrawal of Board approval.
- Streamline the process for closure of an approved program.
- Clarify the role and expectation of the head of the program to have two years of teaching experience in a nursing education program.
 - Clarify language regarding the nursing curriculum.
 - Add language regarding application of a standardized examination in a nursing education program.
 - Add language on the use of simulation in a nursing education program based on National Council of State Boards of Nursing (NCSBN) model rules.
 - Clarify the expectation of nursing education programs in regard to providing program-related information to prospective and current students (i.e., NCLEX® passing percentages).
 - Clarify the nursing program's responsibility concerning changes to the program.
 - Streamline the process for programs that fall below 95 percent of the national NCLEX® passing percentage.
 - Clarify language concerning reports to the Board (i.e., annual reports).
 - Clarify language concerning changes requiring Board notification and approval.

Notice of Intended Action was published in the June 27, 2017, Iowa Administrative Bulletin as **ARC 3127C**. A public hearing was held on July 11, 2017. The Board received no public comment on the amendments published under Notice and made no changes to the amendments.

The Board of Nursing adopted these amendments on October 4, 2017.

After analysis and review of this rule making, no fiscal impact has been found.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 152.

These amendments will become effective on January 10, 2018.

The following amendments are adopted.

NURSING BOARD[655](cont'd)

ITEM 1. Amend rule 655—2.1(152) as follows:

655—2.1(152) Definitions.

“Approval” means recognition status given to nursing education programs based on the programs’ compliance with the criteria specified in this chapter. Approval may be granted or continued ~~within~~ for any time frame period determined by the board for up to six years.

“Clinical facilities” means locations where students directly care for patients/clients under the supervision of a qualified faculty member ~~so that program outcomes are met.~~

“Clinical instruction” means hands-on learning situations in which students directly care for patients/clients within a relevant setting, under the supervision of a qualified faculty member, ~~so that program outcomes are met.~~

“Content” means the subject matter in a given area of study.

“Controlling institution” means the institution that has authority over and administrative accountability for the program(s).

“Curriculum” means content, lab/simulation, observation and clinical experiences developed, implemented and evaluated by faculty to facilitate achievement of program outcomes and to meet the learning needs of students.

“Debriefing” means an activity that follows a simulation experience and that is led by a faculty member, encourages a participant’s reflective thinking, and provides feedback regarding the participant’s performance.

“Faculty” means the teaching staff in a nursing education program. ~~“Faculty” also means individuals who teach nursing in a nursing education program or who are hired to teach in a program on the basis of education, licensure or practice as a registered nurse.~~ This definition includes anyone who provides didactic, simulation, laboratory, or clinical instruction in nursing when assigned by the program to provide this instruction for courses included in the nursing curriculum. The definition applies regardless of the amount of time spent teaching, the level of payment, the type of contract, the temporary nature of the position, or the location of the learner.

~~*“First professional degree”* means the title conferred by a college or university that signifies completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a baccalaureate degree.~~

“Head of program” means the dean, chairperson, director, or coordinator of the nursing education program(s) who is responsible for the administration of the program(s).

“Improvement status” means the status on which a program is placed after three consecutive years of NCLEX® results below the 95 percent of the national NCLEX® passing percentage.

“Interim approval” means approval granted to a new nursing program, at which time students may be admitted into the program.

“Lab/simulation” means activities that mimic the reality of a clinical environment and that are designed to demonstrate procedures, decision making and critical thinking through ~~techniques such as role playing and through the use of devices such as interactive videos or mannequins.~~ “Lab/simulation” shall not take the place of clinical experiences with actual patients interactive experiences.

“Learning experiences” means experiences that shall include content and clinical instruction and that may include components of lab/simulation, practicum, and observation.

“Located in Iowa” means a college or university that is accredited by the Higher Learning Commission ~~of the North Central Association of Colleges and Schools~~, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

“Master’s degree” means the title conferred by a college or university upon completion of a program of graduate study that requires a level of academic accomplishment and subject mastery substantially beyond that required for a baccalaureate degree.

“National NCLEX® passing percentage” means the percentage of first-time testers who achieve a passing score on the NCLEX® examination for licensed practical nurse or registered nurse licensure, calculated on a calendar year basis.

NURSING BOARD[655](cont'd)

“*NCLEX®*” means the National Council Licensure Examination, the examination currently used for initial licensure as a registered nurse or licensed practical nurse.

“*NCLEX® passing percentage*” means the percentage of first-time testers who achieve a passing score on the *NCLEX®* examination for licensed practical nurse or registered nurse licensure within six months of graduation from a nursing program, calculated on a calendar year basis.

“*Observation*” means learning experiences in a relevant setting; ~~that meet program outcomes but do not require on-site faculty supervision and~~ where the student does not directly care for patients/clients; ~~that meet program outcomes but do not require on-site faculty supervision.~~

“*Out-of-state program*” means an approved nursing program within U.S. United States jurisdiction that provides clinical experiences in Iowa.

“*Practicum*” means a course of study designed especially for the preparation of nurses that involves the supervised practical application of previously studied theory.

“*Preceptor*” means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the educational facility in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

“*Preceptorship*” means an optional experience between a preceptor and a nursing student over a period of time that is congruent with program outcomes.

“*Program*” means a course of study by any method of instruction or delivery that leads to a nursing diploma, degree or certificate. Multiple-site programs offered by one controlling institution shall be considered one program if the philosophy and curriculum of all the sites are the same. ~~Programs eligible for board approval shall include all of the following:~~

~~1. — At least a one-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.~~

~~2. — At least a two-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a degree in nursing and to eligibility to apply for registered nurse licensure by examination as described in 655—Chapter 3.~~

~~3. — A course of study designed for registered nurses that leads to a baccalaureate degree with a major in nursing.~~

~~4. — A postbaccalaureate course of study that leads to a master’s degree with a major in nursing.~~

~~5. — A course of study designed for registered nurses that leads to a master’s degree with a major in nursing.~~

~~6. — A course of study designed for registered nurses who hold a master’s degree in nursing that leads to a certificate in advanced practice nursing. When the certificate is in a clinical specialty area, the course of study shall lead to eligibility to apply for certification in the clinical specialty by a national professional nursing organization approved by the board and to eligibility for registration as an advanced registered nurse practitioner as described in 655—Chapter 7.~~

~~7. — A post-master’s course of study that leads to a doctoral degree with a major in nursing.~~

~~8. — A course of study that leads to a doctorate in nursing practice.~~

“*Qualified nursing faculty*” means individuals who meet Iowa board of nursing faculty qualifications as specified in this chapter as well as and the qualifications of the parent institution.

ITEM 2. Renumber rules ~~655—2.2(152) to 655—2.4(152)~~ as ~~655—2.3(152) to 655—2.5(152)~~, and renumber rules ~~655—2.5(152) to 655—2.15(152)~~ as ~~655—2.7(152) to 655—2.17(152)~~.

ITEM 3. Adopt the following new rule 655—2.2(152):

655—2.2(152) Programs eligible for board approval. Programs eligible for board approval shall include all of the following:

1. At least a one-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.

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2. At least a two-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a degree in nursing and to eligibility to apply for registered nurse licensure by examination as described in 655—Chapter 3.

3. A course of study designed for registered nurses that leads to a baccalaureate degree with a major in nursing.

4. A course of study designed for registered nurses that leads to a master's degree with a major in nursing.

5. A course of study designed for registered nurses who hold a master's degree in nursing that leads to a certificate in advanced practice nursing and eligibility for licensure as an advanced registered nurse practitioner as described in 655—Chapter 7. When the certificate is in a population focus, the course of study shall lead to eligibility to apply for certification in the population focus by a national professional nursing organization recognized by the board.

6. A post-master's course of study that leads to a doctoral degree with a major in nursing.

7. A course of study that leads to a doctorate in nursing practice.

ITEM 4. Amend renumbered subrule 2.3(2) as follows:

2.3(2) The board shall approve or deny the program application to establish a nursing program. If the board approves the program application, the controlling institution shall then submit to the board a program proposal within one year of the application that includes, but is not limited to, the following:

a. Evidence of employment of the head of the program, including the individual's qualifications, at least six months prior to the beginning of the first nursing course.

b. Program philosophy, objectives and outcomes that reflect the proposed level of education.

c. Organizational chart of the educational institution documenting the relationship of the nursing program within the institution.

d. Curriculum plan that meets the criteria in rule ~~2.8(152)~~ 655—2.10(152).

e. Letter of intent from clinical facilities securing clinical opportunities and documentation of the facility type, size, number of beds, and type of patients.

f. Evidence of provision of qualified faculty. Faculty shall be employed by the controlling institution prior to the beginning of teaching assignments. Faculty members who teach nursing shall meet the qualifications outlined in subrule ~~2.9(2)~~ 2.11(2).

g. Updated time schedule.

h. Proposed five-year budget for the nursing education program.

ITEM 5. Amend renumbered subrules 2.3(4) and 2.3(5) as follows:

2.3(4) Interim approval may be granted to the program based on the program proposal and a site visit.

a. The controlling institution shall publish the interim approval status of the program.

b. The head of the program shall submit ~~nine copies~~ one electronic copy and one hard copy of a program progress report ~~three~~ four weeks prior to each regularly scheduled board meeting until full approval as described in rule ~~2.3(152)~~ 655—2.4(152) is granted by the board. The progress report shall include the following:

(1) Updated information in all areas identified in the initial proposal.

(2) Current number of admissions and enrollments.

(3) Current number of qualified faculty.

(4) ~~Course~~ New course offerings, including descriptions, credit hours, outcomes/objectives, placement of course and curriculum submitted six months prior to the offering of courses.

~~(5) Detailed course syllabi submitted six months prior to the offering of courses.~~

~~(6)~~ (5) Changes requiring board notification and approval as outlined in subrule ~~2.15(3)~~ 2.17(3).

c. Interim approval shall continue until the board conducts a review of program materials, completes a site visit, and grants approval to the program following graduation of the first class and submission of results of the national examination for licensure or advanced practice certification, if applicable.

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d. The board may at any time seek additional program information from the controlling institution and head of the program.

2.3(5) The board may deny interim approval based on the program proposal and a site visit.

a. In order to be reconsidered, the controlling institution shall resubmit a program proposal within six months from the time of program application.

b. One year from the initial application, the controlling institution ~~shall~~ may resubmit a program application to the board in order to be reconsidered.

ITEM 6. Amend renumbered subrule 2.4(2) as follows:

2.4(2) The program shall provide to the board the nursing education program report and requested materials addressing all aspects of the program outlined in rules ~~2.6(152)~~ 655—2.8(152) to ~~2.15(152)~~ 655—2.17(152) and documenting how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

ITEM 7. Amend renumbered rule 655—2.5(152) as follows:

655—2.5(152) Provisional approval.

2.5(1) Provisional approval may be granted at the board's discretion to a program if the board determines that the program does not meet the criteria for approval: during the full approval procedure or at any time during the progression of the program.

~~*a.* At any time during the progression of the program.~~

~~*b.* During the full approval procedure of the program.~~

2.5(2) At the time of provisional approval, the board:

a. Shall notify the president of the academic institution and head of the nursing program, in writing, of the program's provisional approval status;

~~*a. b.* Shall meet with representatives of the program and controlling institution to ~~determine~~ discuss the length of provisional approval, set conditions for achieving full approval, and identify expected outcomes. ~~The program shall notify students of provisional approval;~~ and~~

~~*b. c.* May require progress reports and a site visit.~~

~~*e.* Shall meet with representatives of the program and controlling institution prior to the expiration of the program's provisional approval to determine if outcomes are met.~~

~~*d.* Shall deny or withdraw approval if the board determines that the program failed to meet the conditions for full approval.~~

2.5(3) Throughout provisional approval:

a. The program shall notify all students and prospective students of the program's provisional approval status; and

b. The board may require progress reports, conduct site visits, and request board appearances.

2.5(4) Prior to the expiration of a program's provisional approval, the board shall meet with representatives of the program and controlling institution to determine if the outcomes are met. The board shall determine whether to grant the program full approval, extend provisional approval, or initiate proceedings to deny or withdraw approval.

ITEM 8. Adopt the following new rule 655—2.6(152):

655—2.6(152) Denial or withdrawal of board approval.

2.6(1) If a program does not meet the conditions imposed during provisional approval to return to full approval within the time period specified, the board may initiate proceedings to deny or withdraw approval of the program. To initiate proceedings, the board shall issue to the program a notice of intent to deny or withdraw approval. The notice of intent shall set forth the basis for the denial or withdrawal and describe the process for appealing the notice. If a program appeals, a contested case hearing shall be scheduled. The hearing shall be governed by the rules found in 655—Chapter 20.

2.6(2) If, after a contested case proceeding, the board denies or withdraws approval of a program, the program shall immediately notify all enrolled students of the denial or withdrawal of approval. Such notification must include the date of denial or withdrawal of approval and a statement that students must

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graduate from an approved program to be eligible for licensure. The program shall assist all enrolled students with transferring to an approved program.

ITEM 9. Amend renumbered rule 655—2.7(152) as follows:

655—2.7(152) Closure of an approved program.

2.7(1) Prior to program closure, the controlling institution shall submit a written plan for board approval. The plan shall include reasons for closure and the date of closure, which is defined as the date when the last student graduates. The plan shall also address a provision for the graduation of enrolled students, retention of adequate numbers of qualified faculty, retention of approved curriculum, maintenance of educational resources and student services, and a provision for student and graduate transcripts. When a program intends to close prior to the graduation of enrolled students who are actively taking nursing courses, the plan shall be submitted to the board at least 12 months prior to closure, except when closure is occurring as a result of an emergency or unforeseen circumstances. The board may shorten the 12-month time period if the board determines that the controlling institution has made adequate provisions for enrolled students.

~~2.7(1)~~ **2.7(2)** *Voluntary closure.* The program shall continue to meet the criteria for board approval until all enrolled students have graduated or the board has approved a plan for closure prior to graduation of the students. The board may require progress reports during the closure process. Prior to closure, the controlling institution shall notify the board regarding the location and maintenance of student and graduate transcripts and records to enable retrieval after the program closes.

~~2.7(2)~~ *Closure as a result of denial or withdrawal of board approval.* ~~The controlling institution shall implement the time frame established by the board for transfer of enrolled students to an approved program and report to the board the date of transfer for each student by name. Program closure shall occur when the last student has transferred. The board may require progress reports during the closure process.~~

~~2.7(3)~~ *Record storage.* ~~Prior to closure, the controlling institution shall notify the board regarding the location and maintenance of student and graduate transcripts and records.~~

ITEM 10. Amend renumbered subrules 2.8(1) and 2.8(2) as follows:

2.8(1) The program shall meet the following criteria:

a. *Authorization.* Authorization for conducting a program is granted in accordance with Iowa Code chapter 261B. ~~Such authorization is provided by the Iowa secretary of state.~~

b. *Authority and administrative responsibility.* The authority and administrative responsibility of the program shall be vested in the head of the program, who is responsible to the controlling institution.

c. *Organizational chart.* The organizational chart(s) shall clearly indicate the lines of authority and communication within the program and with the central administration, other units within the controlling institution, cooperating agencies, and advisory committees.

d. *Finances.*

(1) The controlling institution shall allocate adequate funds to carry out the purposes of the program.

(2) The head of the program shall prepare the budget with the assistance of the faculty.

e. *Ethical practices.* Ethical practices and standards, including those for recruitment and advertising, shall be consistent with those of the controlling institution and shall be made available to students and prospective students.

f. *Contractual agreements.* Written contractual agreements shall exist between the program and the clinical facilities. The agreements shall include:

(1) Identification of responsibilities of both parties related to patient or client services.

(2) ~~Faculty~~ Provision for faculty control, selection and guidance of student learning experiences.

(3) Provision for termination of the agreement.

(4) Provision for annual review.

(5) ~~Documentation~~ Provision that the facility is in good standing with its regulatory agency.

g. *Accrediting and approving agencies.*

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(1) The controlling institution or program shall be accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.

(2) When the program is located at a community college, the controlling institution shall be approved by the Iowa department of education.

(3) When the program is offered under the auspices of the United States armed forces, it shall be accredited by the U.S. Department of the Army.

h. Philosophy/mission and program outcomes. The faculty shall develop a philosophy or mission statement and program outcomes that shall be:

- (1) Consistent with the philosophy or mission of the controlling institution.
- (2) Reflective of faculty beliefs about nursing, education and professional standards.
- (3) A guide in the development, implementation and evaluation of the program.
- (4) Available to students and prospective students.

i. Program evaluation. A written plan shall outline the evaluation process for all aspects of the program and shall identify the methodology, tools, responsible parties and time frame. Evidence of implementation shall reflect achievement of program outcomes.

2.8(2) The head of a program shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa. An individual is currently licensed when licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Two years of teaching experience in a nursing education program.

d. Academic qualifications:

(1) The head of a program who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that person remains in that position.

(2) The head of a program hired after July 1, 1992, shall have a master's or doctoral degree with a major in nursing at either level at the time of hire. ~~A first professional degree as defined in rule 2.1(152) does not meet this requirement.~~ The date of hire is the first day of employment as head of the program with compensation at a particular nursing education program.

(3) If a program offers a baccalaureate or higher degree in nursing, the head of the program shall have a doctoral degree at the time of hire.

e. Submission of qualifications to the board office within one month of appointment.

ITEM 11. Amend renumbered rule 655—2.9(152) as follows:

655—2.9(152) Resources of the controlling institution. The controlling institution is responsible for provision of resources adequate to meet program needs and outcomes.

2.9(1) Human resources. Human resources shall include the following:

a. Head of program.

b. Faculty.

c. Secretarial and other support and staff services to ensure appropriate use of faculty time and expertise.

d. Support staff for online or distance education or both.

2.9(2) Physical resources. Physical resources may include the following:

a. Classrooms, conference rooms, laboratories, simulation laboratories, offices, and equipment.

b. Student facilities.

2.9(3) Learning resources. Learning resources shall include the following:

a. Library.

b. Print media.

c. Computer-mediated resources.

d. Laboratory/simulation laboratory equipment.

2.9(4) Financial resources. Financial resources shall be adequate to support and carry out the mission of the controlling institution.

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ITEM 12. Amend renumbered rule 655—2.10(152) as follows:

655—2.10(152) Curriculum.

2.10(1) The curriculum of a program shall:

- a. Reflect the philosophy/mission and program outcomes supported by the nursing faculty.
- b. Identify program outcomes and define how learning experiences support outcomes.
- c. Reflect current standards of nursing practice and education.
- d. Be consistent with laws governing the practice of nursing.
- e. Ensure sufficient preparation for the safe and effective practice of nursing.
- f. Include planned learning experiences and strategies that meet demonstrate integration of knowledge and attainment of the program outcomes.
- g. Reflect the roles for which the student is being prepared.
- h. Be evaluated on a regular basis by the faculty and reflect achievement of student outcomes as demonstrated in the program evaluation plan.

~~g- i.~~ When offered within a college or university:

- (1) Be comparable in quality and requirements to other degree programs within the college or university.
- (2) Be planned in accordance with the college or university calendar.
- (3) Assign credit hours for learning experiences that are consistent with the college or university pattern.
- (4) Provide a teaching/learning environment (classroom, clinical, laboratory, or simulation) that supports achievement of expected outcomes.

2.10(2) Standardized examinations may be used to supplement a program's curriculum but shall not prevent a student's academic progression or graduation. At the time of enrollment, students shall be informed of the schedule and procedure for any standardized examinations utilized in the curriculum. The program shall have a process and procedure for remediation of students who do not pass the standardized examinations.

~~2.10(2)~~ **2.10(3)** Prelicensure programs.

a. The curriculum of a program leading to eligibility for initial licensure as a licensed practical nurse or registered nurse shall include:

- (1) Content that is consistent with the practice of nursing as defined in Iowa Code section 152.1.
- (2) Content in medical, surgical, gerontological, mental health, and nursing of childbearing families and children that reflects current nursing practice and that encompasses health needs throughout the life span.
- (3) Opportunities to participate in the nursing process and to develop competencies in direct patient care, problem-solving methodologies, clinical judgment, communication, and the use of current equipment and technology.
- (4) Content in nursing history and trends, including professional, legal, and ethical aspects.
- (5) Supporting content from the natural and social sciences.

b. In addition to the requirements identified in paragraph "~~a~~" of this subrule, 2.10(3) "a," the curriculum of a program leading to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination shall:

- (1) Be consistent with ~~the legal implications within~~ the scope of practice of a licensed practical nurse as outlined in rules 655—6.3(152) and 655—6.6(152).
- (2) Focus on supportive or restorative care provided under the supervision of a registered nurse or physician pursuant to Iowa Code section 152.1(4).
- (3) Provide learning experiences in medical, surgical and gerontological nursing.
- (4) Provide content in nursing of childbearing families and children and mental health that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

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c. In addition to the requirements identified in paragraph "~~a~~" of this subrule, 2.10(3) "a," the curriculum of a program leading to a degree in nursing and to eligibility to apply for registered nurse licensure by examination shall:

(1) Be consistent with ~~the legal implications within~~ the scope of practice of a registered nurse as outlined in rules 655—6.2(152) and 655—6.7(152).

(2) Focus on attaining, maintaining and regaining health and safety for individuals and groups by utilizing the principles of leadership, management, nursing informatics, and client education.

(3) Provide learning experiences in medical, surgical, mental health and gerontological nursing.

(4) Provide content in nursing of childbearing families and children that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

(5) Provide content in nursing research when the program leads to a baccalaureate, master's or doctoral degree.

(6) Provide learning experiences in community health nursing when the program leads to a baccalaureate, master's or doctoral degree.

~~2.10(3)~~ **2.10(4)** Postlicensure programs for registered nurses who do not hold a baccalaureate degree in nursing.

a. The curriculum of a program that leads to a baccalaureate degree in nursing shall include learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education, including content in nursing research and learning experiences in community health nursing.

b. The curriculum of a program that leads to a master's degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education and master's education, including content in nursing research and learning experiences in community health nursing.

~~2.10(4)~~ **2.10(5)** Master's, post-master's, and doctoral programs for registered nurses who hold a baccalaureate degree in nursing.

a. The curriculum of a program leading to a master's or doctoral degree in nursing shall include in-depth study of:

(1) Nursing science, which includes content, practicum experiences and research.

(2) Advanced role areas in nursing.

b. The curriculum of a program leading to a master's degree or post-master's certificate in a nursing ~~clinical specialty area~~ population focus, eligibility to apply for certification in the ~~specialty area~~ population focus by a national professional nursing organization approved by the board, and ~~registration licensure~~ as an advanced registered nurse practitioner shall:

(1) Be consistent with ~~the legal implications within~~ the scope of practice of the advanced registered nurse practitioner as described in 655—Chapter 7.

(2) Include advanced learning experiences in a specialty area of nursing.

~~2.10(5)~~ **2.10(6)** Nursing courses with a clinical or practicum component or both. The nursing program shall notify students and prospective students in writing that nursing courses with a clinical or practicum component may not be taken by a person:

a. Who has been denied licensure by the board.

b. Whose license is currently suspended, surrendered or revoked in any United States jurisdiction.

c. Whose ~~license/registration~~ license is currently suspended, surrendered or revoked in another country due to disciplinary action.

2.10(7) Nursing programs with a simulation component shall:

a. Ensure that the simulation component does not exceed 50 percent of total clinical hours in a course.

b. Demonstrate that the simulation activities are linked to program outcomes.

c. Demonstrate that simulation activities are based on evidence-based practices.

d. Have written policies and procedures regarding the method of debriefing each simulated activity and a plan for orienting faculty to simulation.

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e. Have short-term and long-term plans for integration and maintenance of simulation in the curriculum.

f. Have faculty educated in the use of simulation and who demonstrate ongoing expertise and competence.

g. Evaluate simulation activities based on faculty and student feedback.

ITEM 13. Amend renumbered rule 655—2.11(152) as follows:

655—2.11(152) Faculty.

2.11(1) Program requirements. The program shall provide:

a. A sufficient number of faculty who satisfy the requirements in subrule ~~2.9(2)~~ 2.11(2).

b. Written personnel policies and position descriptions.

c. A faculty development program that furthers the competence of individual faculty members and the faculty as a whole.

d. A written teaching-load policy.

e. A nursing faculty organization that operates according to written bylaws and that meets on a regular basis. Minutes shall be available for reference.

f. In a prelicensure program, a ratio of one faculty member to a maximum of eight students in practice situations involving clinical instruction for hands-on learning situations in which students directly care for clients in a relevant setting.

2.11(2) Faculty member requirements. A faculty member who teaches nursing shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa prior to teaching. An individual is currently licensed when licensed in another state and recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Academic qualifications:

(1) A faculty member who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that faculty member remains in that position. A faculty member who was hired to teach in a prelicensure registered nurse program after July 1, 1992, shall have at least a baccalaureate degree with a major in nursing or an applicable field at the time of hire. This person shall make annual progress toward the attainment of a master's or doctoral degree with a major in nursing or an applicable field. ~~An individual who has earned a first professional degree as defined in rule 2.1(152) but who does not hold a master's degree as defined in rule 2.1(152) must meet the requirement for annual progress. One~~ At least one degree shall be in nursing.

1. Applicable fields include but are not limited to education, anthropology, gerontology, counseling, psychology, sociology, health education, health administration, and public health. A person who wishes to fulfill this requirement with education in an applicable field not listed may petition the board for a determination of applicability.

2. The date of hire is the first day of employment with compensation at a particular nursing education program.

3. "Annual progress" means a minimum of one course per year taken as part of an organized plan of study. A written plan of study shall be kept in the employee's file.

(2) A faculty member who was hired to teach after July 1, 1992, in a practical nursing program or at the first level of an associate degree nursing program with a ladder concept shall have a baccalaureate or higher degree in nursing or an applicable field at the time of hire.

(3) A registered nurse hired to teach in a master's program shall hold a master's or doctoral degree with a major in nursing at the time of hire. ~~A first professional degree as defined in rule 2.1(152) does not meet this requirement.~~ A registered nurse teaching in a clinical specialty area population focus shall hold a master's degree with a major in nursing, advanced level certification by a national professional nursing organization approved by the board in the clinical specialty population focus area in which the individual teaches, and current ~~registration~~ licensure as an advanced registered nurse practitioner according to the

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laws of the state(s) in which the individual teaches. Faculty preparation at the doctoral or terminal degree level shall be consistent with the mission of the program.

(4) A faculty member hired only to teach in the clinical setting shall be exempt from subparagraphs (1) and (2) if the faculty member is closely supervised to ensure proper integration of didactic content into the clinical setting. If hired after July 1, 1992, a faculty member hired to teach only in the clinical setting shall have a baccalaureate degree in nursing or an applicable field or shall make annual progress toward the attainment of such a degree.

~~(5) Pursuant to 655—Chapter 15, the head of a program may petition the board for a waiver of the requirements in subrules 2.6(2) and 2.9(2). Following a review of the circumstances and efforts by the program to meet the requirements, the board may issue a waiver for a specified period of time and indicate conditions that must be met.~~

2.11(3) Functions of faculty. Faculty members shall:

a. Develop, implement, and evaluate the purpose, philosophy/mission, and outcomes of the program.

b. Design, implement, evaluate, and revise the curriculum as demonstrated in the program evaluation plan.

c. Provide students with written policies as specified in subrule ~~2.10(4)~~ 2.12(1).

d. Participate in academic advisement and guidance of students.

e. Provide for admission, progression, and graduation of students.

f. Provide for student evaluation, self-evaluation, and peer evaluation of teaching effectiveness.

g. Participate in activities to ensure competency in area(s) of responsibility.

ITEM 14. Amend renumbered rule 655—2.12(152) as follows:

655—2.12(152) Program responsibilities.

2.12(1) Policies affecting students. Programs shall provide for the development, implementation and communication of the following student policies on an annual basis:

a. Admission/enrollment. Licensure if applicable according to 655—subrule 3.2(1).

b. Transfer or readmission.

c. Withdrawal.

d. Progression.

e. Grading system.

f. Suspension or dismissal.

g. Graduation.

h. Health.

i. Counseling.

j. Grievance procedure.

2.12(2) Information about the program and controlling institution. The following information shall be published at least every two years and provided to prospective and current students on an annual basis:

a. Philosophy/mission and outcomes of the program.

b. General description of the program.

c. Curriculum plan.

d. Course descriptions.

e. Resources.

f. Faculty.

g. Tuition, fees and refund policies.

h. Ethical practices, including recruitment and advertising.

i. Official dates.

j. The program's NCLEX® passing percentage for the prior calendar year, as published by the board of nursing.

2.12(3) Changes to program. A nursing program may not make a change to a program during a student's academic plan of study unless the change confers the benefit to the student.

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~~2.12(3)~~ **2.12(4)** *Program records.* The following records shall be dated and maintained according to the policies of the controlling institution:

- a. Course syllabi.
- b. Minutes.
- c. Faculty personnel records.
- d. Catalogs and program bulletins.
- e. Curriculum revisions and reports to the board.
- f. Graduate nursing file excluding the final transcript and summative performance statements.

~~2.12(4)~~ **2.12(5)** *Student and graduate records.*

a. Policies shall specify methods for permanent maintenance and protection of records against loss, destruction and unauthorized use.

b. The final record shall include the official transcript and summative performance statement.

(1) The final official transcript shall include:

1. Legal name of student.
2. Dates of admission, completion of the program and graduation.
3. Courses that were accepted for transfer.
4. Evidence of authenticity.
5. Degree granted.

(2) The final official transcript shall be maintained permanently.

(3) The summative performance statement shall relate the performance of the student at the time of graduation to the program outcomes and shall be maintained for three years.

ITEM 15. Amend renumbered subrule 2.15(2) as follows:

2.15(2) The qualifications of a preceptor shall be appropriate to support the philosophy/mission and outcomes of the program.

a. The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.

b. The preceptor shall be currently licensed as a registered nurse, ~~or~~ licensed practical nurse, or advanced registered nurse practitioner according to the laws of the state in which the preceptor practices.

c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications shall address educational preparation, experience, and clinical competence.

d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students. The program shall retain ultimate responsibility for student learning and evaluation.

ITEM 16. Amend renumbered rule 655—2.16(152) as follows:

655—2.16(152) Results of graduates who take the licensure examination for the first time. The program shall notify the board when the ~~program or district national licensure examination program's~~ NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage for ~~two consecutive~~ one calendar years year. The NCLEX® passing percentage shall be based on all first-time applicants for registered nurse or licensed practical nurse licensure in any jurisdiction who take the examination within six months of graduation. Upon notification by the program, the board shall implement the following process:

~~2.16(1)~~ **2.16(1)** The program shall submit to the board within six months an institutional plan for assessment and improvement of NCLEX® results, including outcomes and time lines. The plan shall address administration, faculty, students, curriculum, resources, policies, and the nursing advisory committee.

~~2.16(2)~~ **2.16(2)** The program shall submit annual progress reports to the board as long as the NCLEX® passing percentage remains below 95 percent of the national passing percentage.

~~2.16(3)~~ **2.16(3)** The program shall provide a brief description including outcomes of all institutional plans submitted to the board in the nursing education program report during the reapproval process, if applicable.

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2.16(1) A program whose NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage shall submit an institutional plan using the board's template and appear before the board as directed.

2.16(2) After submission of the institutional plan, for each consecutive calendar year that a program's NCLEX® passing percentage is lower than 95 percent of the national NCLEX® passing percentage, the program shall submit an institutional plan evaluation using the board's template and appear before the board as directed.

2.16(3) Programs with a NCLEX® passing percentage that falls below 95 percent of the national NCLEX® passing percentage for three consecutive calendar years shall be placed on improvement status after the third year.

2.16(4) A program on improvement status shall:

a. Notify all current and prospective students of the program's improvement status.

b. Submit quarterly reports using the board's template and present the reports to the board as directed.

2.16(5) Board staff may conduct a site visit to the program at any time while the program is on improvement status.

2.16(6) Programs that remain on improvement status for two consecutive calendar years shall submit a revised institutional plan and appear before the board as directed. The board shall:

a. Review the revised institutional plan and formulate an action plan for the program on improvement status.

b. Individualize the action plan for each program.

2.16(7) A program shall be removed from improvement status when the program's NCLEX® passing percentage is above 95 percent of the national NCLEX® passing percentage for one calendar year.

ITEM 17. Amend renumbered rule 655—2.17(152) as follows:

655—2.17(152) Reports to the board.

~~2.17(1) Annual reports. The board shall provide information to the program about the requirements of the annual report.~~ The head of the program shall submit an annual report that includes:

a. Progress toward achievement of goals identified by the program for the previous academic year.

b. Qualifications and major responsibilities of the head of the program and each faculty member.

c. Policies for admission, enrollment, progression and graduation of students.

d. Policies for student health and welfare.

e. Current enrollment by class/cohort.

f. Number of admissions and graduations per year for the past five years.

g. Attrition and retention data by class/cohort.

~~*h.*~~ *h.* Passing percentages of graduates on the national licensure examinations for the past five years.

i. Passing percentages of graduates on the advanced registered nurse practitioner certification examinations for the past five years.

~~*j.*~~ *j.* Employment data for graduates.

~~*k.*~~ *k.* Curriculum plan.

~~*l.*~~ *l.* Descriptions of resources, clinical facilities, preceptorship experiences and contractual arrangements.

~~*m.*~~ *m.* Copy of audited fiscal reports, including a Audited statement of income and expenditures of the nursing program.

~~*n.*~~ *n.* Goals for the current academic year.

~~*o.*~~ *o.* Catalog or equivalent of the controlling institution or program.

2.17(2) Special reports. The program shall notify the board of the following:

a. Change of controlling institution. Information shall include official name of the program(s) and controlling institution, organizational chart of the controlling institution, and names of administrative officials.

b. Changes in administrative personnel in the program or controlling institution.

NURSING BOARD[655](cont'd)

c. Opening of a new site or campus.

2.17(3) *Changes requiring board notification and approval.* The program shall submit ~~nine copies~~ one electronic copy and one hard copy of a proposed change for board approval at least ~~three~~ four weeks prior to the next scheduled board meeting when the outcome will:

a. Lengthen or shorten the ~~course plan~~ plan of study.

b. Add or delete academic credit in a course required for graduation.

c. ~~Add or delete a course required for graduation.~~ Delete a course required for graduation.

d. Add a new course. A program shall submit the following to be implemented within six months of an offering of a course:

(1) Course description.

(2) Outcomes/objectives.

(3) Placement of course.

(4) Curriculum plan.

~~e.~~ e. Alter graduation requirements.

~~f.~~ f. Reduce the human, physical or learning resources provided by the controlling institution to meet program needs as described in rule ~~2.7(152)~~ 655—2.9(152).

~~g.~~ g. Substantively alter the philosophy/mission of the program.

~~h.~~ h. Revise the predominant method of instruction or delivery, including transition from on-site to self-study or distance learning.

~~i.~~ i. Entail delivery of a cooperative program of study with an institution that does not provide a degree in nursing.

~~j.~~ j. Increase the number of student admissions by 20 percent or more.

2.17(4) If a program makes changes as part of a plan to improve the program's NCLEX® passing percentage, pursuant to rule 655—2.16(152), such changes must also be separately submitted to the board for approval pursuant to this rule.

[Filed 11/2/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3498C

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,
IOWA COMPREHENSIVE[591]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 455G.4, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby rescinds Chapter 5, "Determination or Adjustment of Cost Factor," Chapter 6, "Administration of the Environmental Protection Charge Imposed upon Petroleum Diminution," Chapter 10, "Restructuring of Insurance Board and Transfer of Assets and Liabilities of Insurance Fund," Chapter 12, "Guaranteed Loan Program," and Chapter 14, "Aboveground Petroleum Storage Tank Fund," Iowa Administrative Code.

The rescissions of Chapters 5 and 6 implement 2016 Iowa Acts, House File 2464, which removed the authority to collect or administer the environmental protection charge (EPC). Chapters 10, 12 and 14 were created to implement Iowa Code sections 455G.11, 455G.10, and 455G.23, respectively, and each of these sections has since been repealed.

The purpose of these amendments is to rescind rules for which the implementing statutes have been repealed.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3267C** on August 30, 2017. No public comments were received. These amendments are identical to those published under Notice of Intended Action.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA
COMPREHENSIVE[591](cont'd)

The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board adopted these amendments on October 25, 2017.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 424 and sections 455G.11, 455G.10, and 455G.23; and 2016 Iowa Acts, House File 2464, sections 6, 7 and 8.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

- ITEM 1. Rescind and reserve **591—Chapter 5.**
- ITEM 2. Rescind and reserve **591—Chapter 6.**
- ITEM 3. Rescind and reserve **591—Chapter 10.**
- ITEM 4. Rescind and reserve **591—Chapter 12.**
- ITEM 5. Rescind and reserve **591—Chapter 14.**

[Filed 11/3/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3499C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 691.6, the Iowa Department of Public Health hereby amends Chapter 126, “State Medical Examiner,” Iowa Administrative Code.

The Office of the State Medical Examiner changes the recommended autopsy fee from \$1,400 to \$1,900 to cover the increasing costs of medical supplies, personnel, information management (costs associated with case management, application maintenance, data storage, and security requirements), and maintaining accreditation with the National Association of Medical Examiners (NAME). The base autopsy fee is retained by the Office of the State Medical Examiner and is applied toward providing forensic pathology and death investigation services. The autopsy fee increase becomes effective on July 1, 2018.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3212C** on July 19, 2017. No public comments were received. The amendment was revised from the Notice of Intended Action to indicate that the autopsy fee increase goes into effect on July 1, 2018.

The State Board of Health adopted this amendment on November 8, 2017.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 691.6.

This amendment will become effective January 10, 2018.

The following amendment is adopted.

Amend subrule 126.3(1) as follows:

126.3(1) Fee schedule. The fees collected under this subrule shall be considered repayment receipts as defined in Iowa Code section 8.2.

a. The following fees shall apply to autopsies conducted by the state medical examiner:

Autopsy	\$1400 — <u>Beginning July 1, 2018, \$1900</u>
Copies of reports	\$20

EXCEPTIONS: A copy of the autopsy report is automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate

PUBLIC HEALTH DEPARTMENT[641](cont'd)

next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

b. The following fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

State, deputy, or associate medical examiner(s)
time for all court cases \$450 per hour with a one-hour minimum

c. A cremation permit fee of \$75 will be assessed for each permit investigated and authorized by the state medical examiner’s office.

[Filed 11/9/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3500C

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby amends Chapter 7, “Offices and Management,” Chapter 16, “Prelicense Education and Continuing Education,” and Chapter 17, “Approval of Schools, Courses and Instructors,” Iowa Administrative Code.

These amendments implement 2017 Iowa Acts, House File 541, section 4, which amends Iowa Code section 543B.31 to allow for a real estate broker to be the designated broker of more than one branch office within the state. The amendments are also a result of the five-year rolling review of administrative rules outlined in Iowa Code section 17A.7(2), along with input from and concerns expressed by leadership of the professional association of real estate licensees in regard to the prelicense education requirements for real estate brokers and in regard to establishing a passing score standard for distance learning courses and paper and pencil home-study courses.

Chapter 7 describes the general requirements for real estate offices and management. The amendments to Chapter 7 allow for a real estate broker to be the designated broker of more than one branch office within the state, allow for licenses to be electronically submitted to the Commission, and provide for a general cleanup of the chapter. Chapter 16 describes the general requirements for prelicense education and continuing education for real estate licensees. The amendments to Chapter 16 remove old education requirements that have since been updated, change the prelicense education courses for real estate brokers beginning January 1, 2020, and provide for a general cleanup of the chapter. Chapter 17 describes the general requirements for approval of schools, courses, and instructors that provide prelicense and continuing education to real estate licensees. The amendments to Chapter 17 give instructors discretion on whether or not to issue an attendance certificate to a student and establish a passing score standard for distance learning courses and paper and pencil home-study courses.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3154C** on July 5, 2017. A public hearing was held on July 25, 2017, and no comments were received. Since publication of the Notice, one change has been made in subrule 16.5(2) to change the word “approved” to “granted.”

These rules are subject to waiver or variance pursuant to 193—Chapter 5.

The Real Estate Commission adopted these amendments on September 7, 2017.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 543B.9 and section 543B.31 as amended by 2017 Iowa Acts, House File 541.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

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

ITEM 1. Amend rule 193E—7.1(543B) as follows:

193E—7.1(543B) Real estate offices and licenses required.

7.1(1) and **7.1(2)** No change.

7.1(3) Branch office. A ~~resident licensed~~ Iowa real estate firm or ~~proprietor~~ sole-proprietor broker maintaining a branch office shall display ~~two~~ a commission-issued branch office license in that location. ~~One~~ The branch office license is issued in the name of the firm or proprietor sole-proprietor broker and one is issued in the name of the designated broker or broker associate assigned to supervise the branch office shall include the license number and the physical address of the branch office. (EXCEPTION: A sole-proprietor broker who is the designated broker for a branch office location and not the main office location is required to display only one branch office license in that location.) The main office and every branch office shall be directly supervised by a broker or broker associate assigned to that location as the designated broker. No broker or broker associate shall be the designated broker of more than one location. The branch office license shall be issued at a reduced fee and shall have the same expiration date of the primary license.

7.1(4) No change.

7.1(5) A licensed officer of a corporation or partnership may be licensed as an officer or partner of more than one corporation or partnership. The main or primary license for which the full license fee was paid must be maintained in active status to keep any additional licenses that were issued at a reduced fee active and in effect. A broker officer licensed to more than one corporation or partnership may be the designated broker of more than one corporation or partnership.

Continuing education is required only for renewal of the main or primary license.

7.1(6) ~~When the designated broker of a branch office transfers to a different office, terminates employment, or otherwise ceases to be in charge of the branch location, the branch office license must be returned to the commission. A new designated broker for the branch must be assigned before a new branch license can be issued. If the branch office is assigned to a corporation or partnership, the corporation or partnership license displayed in the branch office must also be returned to the commission~~ a branch office closes, notice in writing, electronic or otherwise, shall be given to the commission.

~~**7.1(7)** A broker associate employed or engaged to be in charge of the branch office shall have the same responsibilities of supervision of the licensees working from that location as are imposed on the employing, sponsoring, or affiliated broker.~~

~~**7.1(8)**~~ **7.1(7)** Each actively licensed broker associate and salesperson shall be licensed under a broker.

~~**7.1(9)**~~ **7.1(8)** A broker associate or salesperson shall not be licensed under more than one broker during the same period of time.

ITEM 2. Amend rule 193E—7.2(543B) as follows:

193E—7.2(543B) Notification required.

7.2(1) Partnerships, associations, and corporations are required to obtain a license before acting as a real estate broker. Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days that the broker has formed a new partnership, association or corporation, or has changed the type of the business, is prima facie evidence of a violation of Iowa Code section 543B.1.

7.2(2) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change in type of license as ~~proprietor~~ sole-proprietor broker, partner, officer or broker associate is prima facie evidence of a violation of Iowa Code sections 543B.1 and 543B.29(1).

7.2(3) Failure of a broker to inform the commission in writing, electronic or otherwise, within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32.

7.2(4) Failure of a broker to return a license or make a reasonable effort to deliver, ~~or mail, preferably by certified mail,~~ a or electronically submit the license to the commission office to ensure that it is received within 72 hours after a salesperson or broker associate is discharged or terminates employment is prima facie evidence of a violation of Iowa Code section 543B.33.

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

~~7.2(5)~~ Each real estate broker who returns a license to the commission office shall include the last known permanent mailing address of the licensee.

~~7.2(6)~~ 7.2(5) Failure of a licensee to inform the commission in writing, electronic or otherwise, within five working days of a change of residence address or mailing address is prima facie evidence of a violation of Iowa Code sections 543B.16 and 543B.18.

~~7.2(7)~~ 7.2(6) When a broker is notified that a license is inactive, suspended, revoked, or canceled, the broker shall ~~return the license or mail the license, preferably by certified mail, to the commission office and make every~~ make a reasonable effort to deliver, mail, or electronically submit the license to ensure that the license is received by the commission within 72 hours after notification.

ITEM 3. Amend rule 193E—7.3(543B) as follows:

193E—7.3(543B) Suspended and revoked licenses. A suspended or revoked license must be returned to the commission as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ 7.2(6).

7.3(1) No change.

7.3(2) When a sole-proprietor broker, corporation or partnership license is suspended or revoked, all licensees associated with or assigned to that sole-proprietor broker, corporation or partnership shall automatically be placed on inactive status for the duration of the suspension or revocation, unless transferred to another sole-proprietor broker, corporation or partnership.

a. The broker whose license is suspended or revoked shall return, before or immediately upon the effective date of the suspension or revocation, all licenses that are assigned to or associated with the broker or the firm as provided in Iowa Code section 543B.33 and subrule ~~7.2(7)~~ 7.2(6).

b. When a suspension or revocation is determined, the commission shall also determine if the corporation or partnership license shall be automatically ~~placed on inactive status or~~ canceled.

~~c.~~ c. If the broker whose license is suspended or revoked is also the designated broker of a firm or branch office, that firm or branch office shall automatically be placed on inactive status until a new broker is designated.

~~d.~~ c. If the broker whose license is suspended or revoked is the only licensed broker officer of a corporation, the corporation license will automatically be ~~placed on inactive status~~ canceled.

7.3(3) to 7.3(6) No change.

ITEM 4. Amend rule **193E—16.1(543B)**, definitions of “Distance education” and “Live instruction,” as follows:

“~~Distance education~~ learning” means a planned teaching/learning experience with a geographic separation of student and instructor that utilizes a wide spectrum of technology-based systems, including computer-based instruction, to reach learners at a distance. Home-study courses that include written materials, exercises and tests mailed to the provider for review are included in this definition.

“Live instruction” means an educational program delivered in a traditional classroom setting or by electronic means whereby the instructor and student have real-time visual and audio contact to carry out their essential tasks ~~while together~~.

ITEM 5. Amend rule 193E—16.2(543B) as follows:

193E—16.2(543B) Salesperson prelicense and postlicense requirements.

16.2(1) Required course of study.

a. The required course of study for the salesperson licensing examination shall consist of 60 ~~classroom~~ live instruction or ~~computer-based~~ distance learning hours of real estate principles and practices to comply with the requirements of Iowa Code section 543B.15. The curriculum shall include, but not be limited to, the following subjects:

- Introduction to Real Estate and Iowa License Law 12 hours
- Ownership, Encumbrances, Legal Descriptions, Transfer of Title and Closing 12 hours
- Contracts, Agency and Antitrust 12 hours
- Valuation, Finance and Real Estate Math 12 hours
- Property Management/Leasing, Fair Housing, Environmental Risks

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

and Health Issues 12 hours

b. At the time of submission of an application, an applicant applying for an original salesperson license must also provide evidence of the following live instruction courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. All the required education must be completed during the 12 months prior to the date the application is postmarked or received.

~~16.2(2)~~ Maintaining active status. All first-time salespersons renewing licenses to maintain active status shall complete 36 commission-approved classroom hours by December 31 of the third year of licensure. The following courses satisfy the first license renewal continuing education requirement:

- Developing Professionalism and Ethical Practices 12 hours
- Buying Practices 12 hours
- Listing Practices 12 hours

~~16.2(3)~~ Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to the date of application.

~~16.2(4)~~ All salespersons licensed on January 1, 2009, or thereafter, as a requirement of license renewal and to maintain active status, must complete a minimum of 36 hours of approved courses. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. Approved courses in the following subjects shall be completed to renew to active status: 8 hours of Law Update, 4 hours of Ethics and 24 hours of electives:

~~16.2(5)~~ ~~16.2(2)~~ Completion of prelicense education. Successful completion of the salesperson prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction.

~~16.2(6)~~ ~~16.2(3)~~ Substitution of courses. Written requests for substitution of the salesperson prelicense and postlicense education courses specified in 16.2(1), 16.2(2) and 16.2(3) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.2(1), 16.2(2) and 16.2(3). Any course Courses completed more than 12 months prior to commission consideration for approval shall not qualify for substitution.

ITEM 6. Renumber subrules ~~16.3(2)~~ and ~~16.3(3)~~ as ~~16.3(3)~~ and ~~16.3(4)~~.

ITEM 7. Adopt the following new subrule 16.3(2):

~~16.3(2)~~ *Required course of study beginning January 1, 2020.* Beginning January 1, 2020, the required course of study to take the broker examination shall consist of at least 60 classroom hours. Approved courses shall be completed within 24 months prior to the applicant's taking the broker examination and shall include the following subjects:

- Contract Law and Contract Writing 6 hours
- Iowa Real Estate Trust Accounts 6 hours
- Principles of Appraising and Market Analysis 6 hours
- Real Estate Law and Agency Law 6 hours
- Real Estate Finance 6 hours
- Federal and State Laws Affecting Iowa Practice 6 hours
- Real Estate Office Organization, Administration and Human Resources 12 hours
- Real Estate Technology and Data Security 6 hours
- Ethics and Safety Issues for Brokers 6 hours

ITEM 8. Amend renumbered subrule 16.3(3) as follows:

~~16.3(3)~~ *Completion of prelicense education.* Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student's knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction. ~~Effective January 1, 2005, and thereafter,~~

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

~~all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.~~

ITEM 9. Amend rule 193E—16.4(543B) as follows:

193E—16.4(543B) Continuing education requirements.

16.4(1) No change.

16.4(2) As a requirement of license renewal in an active status, each real estate licensee shall complete a minimum of 36 hours of approved programs, courses or activities. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license. Approved courses in the following subjects shall be completed to renew a license to active status, except in accordance with 16.2(2):

- Law Update 8 hours
- Ethics 4 hours
- Electives 24 hours

16.4(3) No change.

16.4(4) A maximum of 24 hours of continuing education may be taken by distance ~~education~~ learning each three-year renewal period.

16.4(5) A licensee unable to attend educational offerings because of a disability may make a written request to the commission setting forth an explanation and verification of the disability. Licensees making requests must meet the definition of a person with a disability found in the Americans with Disabilities Act as amended by the ADA Amendments Act of 2008 (ADAAA).

16.4(6) No change.

ITEM 10. Amend rule 193E—16.5(543B) as follows:

193E—16.5(543B) Continuing education records. Applicants for license renewal pursuant to Iowa Code section 543B.15 shall certify that the number of hours of continuing education required to renew a license was completed as described in ~~16.2(2) and~~ 193E—16.4(543B).

16.5(1) The commission will verify by random audit or on a test basis the education claimed by the licensee. It shall be the responsibility of the licensee to maintain records that support the continuing education claimed and the validity of the credits. Documentation shall be retained by the licensee for a period of three years after the effective date of the license renewal.

16.5(2) It will not be acceptable for a licensee to ~~complete the required continuing education after the fact, pursuant to 16.2(5) and 16.3(3)~~ include on a renewal application continuing education which has not yet been completed, is outside the renewal period, or for which prior approval or postapproval has not been previously granted.

16.5(3) No change.

16.5(4) Filing a false affirmation is prima facie evidence of a violation of Iowa Code ~~sections~~ section 543B.29(1) and (3).

ITEM 11. Amend rule 193E—16.7(543B) as follows:

193E—16.7(543B) Full-time attendance. Successful completion of continuing education requires full-time attendance throughout the program, course or activity. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive a certificate.

ITEM 12. Amend rule 193E—16.8(543B) as follows:

193E—16.8(543B) Education requirements for out-of-state licensees. ~~Subrules 16.2(2) and Subrule 16.4(2) shall apply to every Iowa real estate licensee unless exempted by Iowa Code subsection~~ section 272C.2(5).

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

ITEM 13. Amend rule 193E—16.9(543B) as follows:

193E—16.9(543B) Examination as a substitute for continuing education.

16.9(1) A salesperson may satisfy all continuing education deficiencies by taking and passing the real estate salesperson examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator.

a. and b. No change.

16.9(2) A broker may satisfy all continuing education deficiencies by taking and passing the real estate broker examination. An authorization letter must be obtained from the commission prior to scheduling the examination with the examination administrator. If the broker takes and passes the broker examination within the six months immediately preceding the expiration of the license, the broker examination score report may be substituted for the required hours of continuing education credits for the current license term and will satisfy all previous deficiencies.

ITEM 14. Amend rule 193E—16.10(543B) as follows:

193E—16.10(543B) Use of prelicense and postlicense courses as continuing education.

16.10(1) Salespersons and brokers may take up to 24 hours of the salesperson prelicense ~~and postlicense~~ courses specified in 16.2(1) ~~and 16.2(2)~~ as continuing education. However, a newly licensed salesperson cannot use credits from the salesperson prelicense course(s) to meet the continuing education requirement of the first renewal term.

16.10(2) and **16.10(3)** No change.

ITEM 15. Amend rule 193E—16.11(543B) as follows:

193E—16.11(543B) Requests for prior approval or postapproval of a course(s). A licensee seeking credit for attendance and participation in a course, program, or other continuing education activity that is to be conducted by a school not otherwise approved by the commission may apply for approval to the commission at least 21 days in advance of the beginning of the activity. The commission shall approve or deny the application in writing within 14 days of receipt of the application.

16.11(1) The application for prior approval of a course or an activity shall include the following information:

1. School or organization or person conducting the activity.
2. Location of the activity.
3. Title and brief description of the activity or title and course outline.
4. Credit hours requested.
5. Date of the activity.
6. Principal instructor(s).

16.11(2) The application for postapproval of a course or an activity shall include the following information:

1. School, firm, organization or person conducting the activity.
2. Location of the activity.
3. Title, ~~and~~ description of activity, and course outline.
4. Credit hours requested for approval.
5. Date of the activity.
6. Principal instructor(s).
7. Verification of attendance.

ITEM 16. Amend subrule 17.1(3) as follows:

17.1(3) Evidence of compliance with or exemption from Iowa Code sections ~~714.14~~ 714.18 to 714.25 must be furnished to the commission.

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

ITEM 17. Amend rule 193E—17.2(543B) as follows:

193E—17.2(543B) Certificates of attendance.

17.2(1) Each approved school under rule 193E—17.1(543B) shall provide an individual certificate of attendance to each licensee upon completion of the program, course, or activity. The certificate shall contain the following information:

- a. School name and number;
- b. Program, course or activity name and number;
- c. Name and address of licensee;
- d. Date on which the program, course or activity was completed;
- e. Number of approved credit hours;
- f. Signature of coordinator or other person authorized by the commission; and
- g. A notation as to whether credit hours are to be used as ~~prelicense~~ distance learning or as ~~continuing education~~ live instruction.

17.2(2) and **17.2(3)** No change.

17.2(4) An attendance certificate shall not be issued to a licensee who is absent from a continuing education program, course, or activity. The program, course, or activity must be completed in its entirety. A student who arrives late, leaves during class or leaves early ~~shall~~ may not receive an attendance certificate.

ITEM 18. Rescind subrule **17.6(3)**.

ITEM 19. Renumber subrules **17.6(4)** to **17.6(6)** as **17.6(3)** to **17.6(5)**.

ITEM 20. Amend rule 193E—17.10(543B) as follows:

193E—17.10(543B) Standards for approval of distance ~~education~~ learning courses. The commission may approve distance ~~education~~ learning courses, subject to the following requirements:

17.10(1) to **17.10(3)** No change.

17.10(4) The course must be designed to ensure that student progress is evaluated at appropriate intervals and mastery of the material is achieved before a student can progress through the course material.

a. Students completing distance learning continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

b. A passing score of 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

17.10(5) to **17.10(12)** No change.

ITEM 21. Amend rule 193E—17.11(543B) as follows:

193E—17.11(543B) Standards for approval of paper and pencil home-study courses. The commission may approve paper and pencil home-study courses, subject to the following requirements:

17.11(1) to **17.11(3)** No change.

~~Final examinations must contain a minimum of 30 questions for a three-hour course and 60 questions for a six-hour course.~~ Students completing paper and pencil home-study continuing education must complete a final examination containing 10 questions for a one-hour course, 20 questions for a two-hour course, 30 questions for a three-hour course, 40 questions for a four-hour course, and 60 questions for a six- or eight-hour course.

17.11(5) A passing score of ~~90~~ 80 percent is required for course credit to be granted. There is no limit to the number of times a final examination may be taken to achieve a passing score.

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

17.11(6) to 17.11(11) No change.

[Filed 11/6/17, effective 1/10/18]

[Published 12/6/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3501C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation, on November 15, 2017, adopted amendments to Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code.

The Department is amending Chapter 150 to improve the overall quality of the language in the chapter as well as to provide more positive guidance and remove ambiguities. There are currently 13 separate occurrences in Chapter 150 which include "expect" and "expected" language in the form of "the department shall expect the city to" or "the city shall be expected to." Couching responsibilities in the form of "expectations" creates ambiguity about whether action is required, which diminishes the ability to attain consistent standards, and accordingly, the Department determined that this language should be amended to better define the responsibilities for the Department and for cities. To address this, the Department is amending these rules to strike "expect" language and replace it with "shall" language (see Items 4, 5, 7, 8, 10 and 12).

In Item 15, the Department is adding new rule 761—150.5(307) to reference 761—Chapter 11, Waiver of rules, to assist the Department and cities in unforeseen special circumstances. A city may submit a petition to the Department's rules administrator to request a waiver of specific requirements of Chapter 150, and the petition for waiver must follow the procedures set out in 761—subrule 11.5(2). If the waiver request involves the interstate highway system, the request must also be approved by the Federal Highway Administration.

The Department is also making the following changes to Chapter 150:

- Item 1 amends the definition of "federal control limits" to replace "federal" with "access" because "federal" is no longer used in this context. The term "federal control limit" came from the governance for the construction of the interstate highway system in Iowa in the early 1960s. Over time the concept of access control was extended to noninterstate roads too, and the term "access control limits" came into use. The new term "access control limits" is used in paragraphs 150.2(1)"b" and 150.2(1)"c" (see Item 4).

- Item 2 adds new definitions for "encroachment," "obstruction," "urban-state traffic engineering program," and "utility" to rule 761—150.1(306) because these terms are used several times in the chapter and the definitions assist in the understanding of the rules.

- Items 3, 9 and 14 amend the implementation sentences for rules 761—150.1(306), 761—150.3(306) and 761—150.4(306) to reflect the correct Iowa Code citations.

- Item 5 amends introductory language in subrule 150.2(2) to be consistent with the introductory language in subrule 150.3(2).

- Item 6 strikes "thereto" to improve readability, adds new paragraph 150.2(3)"g" to clarify the responsible jurisdiction for certain types of lighting installations, and references the current roadway lighting design guide.

- Item 7 references the current standard practice in roadway design.

- Item 8 updates the Iowa Code reference because "bridge" is now defined in Iowa Code section 309.1. Also, the word "that" is removed from paragraph 150.3(2)"b" to improve readability, and a new subparagraph is added to paragraph 150.3(2)"c" to clarify that the city is responsible for maintenance and repair of bicycle overpasses and underpasses including snow removal, painting and structural repairs on primary roads constructed with a curbed cross section.

TRANSPORTATION DEPARTMENT[761](cont'd)

- Item 10 updates the heading of subrule 150.4(2) to read “Encroachments and obstructions” and amends the language to better define cities’ responsibilities concerning encroachments and obstructions. Iowa Code chapter 318, Obstructions in Highway Rights-of-Way, is now referenced to emphasize public safety.

- Item 11 addresses pedestrian, equestrian and bicycle routes (sidewalks) and the Americans with Disabilities Act (ADA). Existing paragraph 150.4(3)“c” is divided into two paragraphs to draw a process distinction between Department projects and local projects. The types of Department projects and local projects the Department may fund have been expanded to clarify that the Department will also fund turning spaces, transitions, sidewalks, curb drops and pedestrian signals to meet the requirements of the ADA if such improvements are in the project.

- Item 12 strikes paragraph 150.4(5)“b” because the language in the paragraph is already included in Iowa Code sections 306A.10 and 306A.12. Item 12 also strikes paragraph 150.4(5)“d” because the term “utility” is defined in rule 761—150.1(306).

- Item 13 corrects the name for this Department program.

Notice of Intended Action for these amendments was published in the October 11, 2017, Iowa Administrative Bulletin as **ARC 3367C**. These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 17A.9A, 306.4, 307.12, 309.1, and 321E.3 and chapters 306A and 318.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend rule **761—150.1(306)**, definition of “Federal control limits,” as follows:

“*Federal Access control limits*” means the area within the primary highway right-of-way limits, including right-of-way lines extended across side streets and roads. The term includes areas on side streets and roads where the department has acquired access control rights in accordance with 761—Chapter 112.

ITEM 2. Adopt the following **new** definitions of “Encroachment,” “Obstruction,” “Urban-state traffic engineering program” and “Utility” in rule **761—150.1(306)**:

“*Encroachment*” means an item which is supported or located on the highway right-of-way or which overhangs into the airspace of the highway right-of-way.

“*Obstruction*” means the same as defined in Iowa Code section 318.1.

“*Urban-state traffic engineering program*” or “*U-STEP*” refers to a department program that is intended for use by any Iowa city in order to solve traffic operations and safety problems on primary roads in Iowa cities as documented in the department’s “Guide to Transportation Funding Programs.”

“*Utility*” means the same as defined in Iowa Code section 306A.13.

ITEM 3. Amend rule **761—150.1(306)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.2, 306.3, 306A.13, 318.1 and 362.2.

ITEM 4. Amend subrule 150.2(1) as follows:

150.2(1) Construction. Except as otherwise provided, the department shall be responsible for all right-of-way and construction costs associated with the construction of freeways and their extensions.

a. The ~~department city~~ shall ~~expect the city to~~ be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) and (2) No change.

b. Outside the ~~federal~~ access control limits, the department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction in the proportion that the street right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall ~~be expected to~~ be responsible for the remaining portion of storm sewer costs not paid for by the department.

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c. The department shall be responsible for all storm-sewer related costs within the ~~federal~~ access control limits.

ITEM 5. Amend subrule 150.2(2) as follows:

150.2(2) Maintenance. The department shall ~~have enter into~~ an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. and b. No change.

c. Where city streets cross the freeway, the ~~department~~ city shall ~~expect the city to~~ be responsible for:

(1) to (5) No change.

d. The ~~department~~ city shall ~~expect the city to~~ be responsible for maintenance and repair of pedestrian overpasses and underpasses including snow removal, painting, lighting and structural repairs.

e. No change.

ITEM 6. Amend subrule 150.2(3) as follows:

150.2(3) Lighting.

a. and b. No change.

c. The department shall be responsible for the energy and maintenance costs of lighting through interchange areas and ramps ~~thereto~~ at interchanges between freeways which do not provide service to local streets.

d. to f. No change.

g. The department shall not be responsible for the installation, energy and maintenance costs of any lighting on pedestrian overpasses, pedestrian underpasses, bicycle overpasses or bicycle underpasses. The city may elect to provide lighting at its own expense.

~~g- h.~~ Warrants for the lighting of freeways shall be according to the 1984 2005 "AASHTO Information Guide for Roadway Lighting Design Guide."

ITEM 7. Amend subrule 150.3(1) as follows:

150.3(1) Construction.

a. The department shall be responsible for all right-of-way and construction costs to construct nonfreeway primary highways and their extensions to the minimum design criteria as established by the department. Construction improvement costs beyond minimum design criteria shall be the responsibility of the city, as specified in the project agreement. Minimum design criteria shall be in accordance with "A Policy on Geometric Design of Highways and Streets, 2004 2011" (~~Fourth~~ Sixth Edition AASHTO Green Book).

b. The ~~department~~ city shall ~~expect the city to~~ be responsible for providing, without cost to the department, all necessary right-of-way which involves:

(1) and (2) No change.

c. The city shall ~~be expected to~~ take all necessary legal action to discontinue and prohibit any past or present use of project right-of-way for private purposes. The city shall ~~be expected to~~ prevent any future encroachment or obstruction within the limits of project right-of-way.

d. The department shall be responsible for the costs of construction of longitudinal and outlet storm sewers made necessary by highway construction and construction of local service roads developed as a part of the construction or reconstruction of the through traffic lanes in the proportion that the right-of-way of the primary road extension bears to the total drainage area to be served by the proposed sewers. The city shall ~~be expected to~~ be responsible for the remaining portion of storm sewer costs not paid for by the department.

e. No change.

ITEM 8. Amend subrule 150.3(2) as follows:

150.3(2) Maintenance. The department shall enter into an agreement with a city regarding the maintenance of primary roads within the corporate city limits. This is intended to include corporate

TRANSPORTATION DEPARTMENT[761](cont'd)

line roads, when appropriate. Unless otherwise mutually agreed to and specified in the agreement, maintenance responsibilities shall be as follows:

a. On primary roads constructed with a curbed cross section, the department shall be responsible for:

(1) to (4) No change.

(5) Inspection, painting and structural maintenance of bridges as defined in Iowa Code section ~~309.75~~ 309.1.

b. On primary roads constructed with a rural cross section (no curb), the department shall be responsible for all maintenance, except that tree removal, sidewalks, retaining walls and repairs due to utility construction and maintenance shall be the city's responsibility.

c. On primary roads constructed with a curbed cross section, the city shall be responsible for:

(1) to (7) No change.

(8) Maintenance and repair of bicycle overpasses and underpasses including snow removal, painting and structural repairs.

d. ~~The department shall expect the city to~~ shall comply with the access control policy of the department as adopted in 761—Chapter 112, and ~~to~~ obtain prior approval from the department for any changes to existing entrances or for the construction of new entrances.

e. and f. No change.

~~g.—Rescinded IAB 10/2/02, effective 11/6/02.~~

ITEM 9. Amend rule **761—150.3(306)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 313.5, 313.21 to 313.24, 313.27, 313.36, 314.5, 314.6 and ~~321E.2~~ 321E.3 and chapter 306A.

ITEM 10. Amend subrule 150.4(2) as follows:

150.4(2) Encroachments ~~or~~ and obstructions.

a. ~~The department city shall expect the city to remove any existing encroachment or obstruction~~ obstructions within the highway right-of-way and prevent any further encroachment or obstruction ~~future obstructions from occurring within the highway right-of-way, in a manner consistent with Iowa Code chapter 318. This includes private signs within the right-of-way.~~

b. ~~The department city shall expect the city to prevent the erection on private property of any private sign, awning, marquee, etc., which will overhang the right-of-way and obstruct the view of any portion of the road or the traffic signs or traffic control devices located thereon in such a manner as to render it dangerous within the meaning of Iowa Code section 319.10~~ remove any existing encroachments and prevent any future encroachments from occurring within the highway right-of-way, except those authorized or permitted by the highway authority. Under no circumstances shall an overhanging sign or awning be allowed within two feet of the inside edge of the curb (also known as the face of the curb, which is that part of the curb that is next to traffic) or within two feet of the edge of the pavement in the absence of a curb. Any encroachments authorized or permitted by the highway authority shall be in accordance with Iowa Code chapter 318.

~~e.—No overhanging sign shall be permitted within two feet of the inside edge of the curb.~~

ITEM 11. Amend subrule 150.4(3) as follows:

150.4(3) Pedestrian, equestrian, and bicycle routes (sidewalks).

a. and b. No change.

c. If a project is initiated by the department, the department shall fund 100 percent of all curb ramps, turning spaces, transitions, sidewalks, curb drops and pedestrian signals within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act if such improvements are in the project.

d. If a project is initiated by a local jurisdiction, the department may participate by funding 55 percent of the cost of constructing curb ramps, turning spaces, transitions, sidewalks, curb drops and pedestrian signals on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act if such improvements are in the project. However,

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departmental participation shall not exceed \$250,000 per year for any one local jurisdiction and \$5 million per year in total.

ITEM 12. Amend subrule 150.4(5) as follows:

150.4(5) Utility relocation and removal.

~~a. Except as otherwise provided by paragraph “b” of this subrule, the department~~ The city shall expect the city to relocate or cause to be relocated, without cost to the department, all city-owned utilities necessary for construction when these utilities are within the existing street or alley right-of-way. The department shall reimburse the owner of a utility which is located on private right-of-way for the costs of relocation or removal, including the costs of installation in a new location.

~~b. Iowa Code section 306A.10 authorizes the department to pay the costs of relocation or removal, including the costs of installation in a new location, of utilities within existing street right-of-way when determined necessary for the construction of a project on routes of the national system of interstate and defense highways or resulting from interstate substitutions in a qualified metropolitan area. In accordance with Iowa Code section 306A.12, no reimbursement shall be made for any relocation or removal of facilities unless funds to be provided by federal aid amount to at least 85 percent of each reimbursement payment.~~

~~c. b.~~ The department city shall expect the city to comply with the utility accommodation policy of the department, as adopted in 761—Chapter 115.

~~d. The term “utility” shall be as defined in Iowa Code section 306A.13.~~

ITEM 13. Amend paragraph **150.4(6)“a”** as follows:

~~a. As early as possible after an urban project is included in the department’s “Five-Year Construction~~ Iowa Transportation Improvement Program,” a concept statement for the project shall be developed and shall be reviewed with the officials of the city prior to the public hearing.

ITEM 14. Amend rule **761—150.4(306)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 306.4, 313.21 to 313.24, 313.27, 313.36, 314.5 and 314.6; and chapters 306A and ~~349~~ 318.

ITEM 15. Adopt the following new rule 761—150.5(307):

761—150.5(307) Special circumstances.

150.5(1) Waivers. The director of transportation may, in response to a written petition, waive provisions of this chapter in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Rules Administrator, Strategic Communications and Policy, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

150.5(2) Waivers involving interstate highways. The director of transportation shall not waive these rules if the request involves the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

This rule is intended to implement Iowa Code sections 17A.9A and 307.12.

[Filed 11/15/17, effective 1/10/18]

[Published 12/6/17]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.

ARC 3502C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 474.5, 476.2 and 17A.4, the Utilities Board (Board) gives notice that on November 13, 2017, the Board issued an “Order Adopting Amendments” in Docket No.

UTILITIES DIVISION[199](cont'd)

RMU-2016-0031, In re: Review of Rule Making Rules [199 IAC Chapter 3], amending the Board's Chapter 3 rules governing rule making.

The Board is undertaking a comprehensive review of its rules and, as part of that review, is attempting to make the rules more readable, streamline reporting requirements in the rules, ensure the rules are current, and transition away from providing forms within the rules. The intent of these amendments is to promote ease of access for those interacting with the Board.

The adopted amendments update and streamline the filing rules related to rule-making dockets and further clarify the processes used by the Board for petitions for rule making made by interested persons. The amendments also clarify the filing of comments once formal rule-making procedures have been commenced. The amendments also update outdated statutory references and formalize the Board's process for complying with the comprehensive rules review process in future years.

Notice of Intended Action was published in the September 27, 2017, Iowa Administrative Bulletin as **ARC 3326C**. The Board received comments from the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); and the Iowa Communications Alliance (ICA). OCA stated it has no objections to the amendments. IPL stated it specifically supports the change to rule 199—3.11(17A,474) to adopt an ongoing rules review process over each five-year period. ICA also supports the amendments as filed.

The adopted amendments are identical to those published under the Notice of Intended Action, except for two additional minor revisions. Subrule 3.1(4) has been further amended to make compliance with Board-provided forms permissive rather than mandatory and to strike a cross reference to Chapter 2 of the Board's rules. Also, the catchwords of rule 199—3.2(17A,474) have been changed to more clearly articulate the purpose of the rule.

The order approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) website, efs.iowa.gov, in Docket No. RMU-2016-0031.

After analysis and review of this rule making, the Board concludes that the amendments will not have a detrimental effect on employment in Iowa.

These amendments are intended to implement Iowa Code sections 17A.1, 17A.7, 474.5, 476.1, and 476.2.

These amendments will become effective January 10, 2018.

The following amendments are adopted.

ITEM 1. Amend rule 199—3.1(17A,474) as follows:

199—3.1(17A,474) Purpose and scope.

3.1(1) ~~*In general Scope.*~~ These rules shall govern the practice and procedure in all rule-making proceedings of the ~~Iowa utilities board (board) board~~ board.

3.1(2) *Rules of construction.* If any provision of a rule or the application of a rule to any person or circumstance is itself or through its enabling statute held invalid, the invalidity ~~does~~ shall not affect other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of the rule ~~are~~ shall be severable.

3.1(3) *Waiver.* The board may waive the application of any of these rules pursuant to ~~199 IAC 1.3(17A,474)~~ rule 199—1.3(17A,474,476).

3.1(4) *Forms and filing requirements.* All rule-making filings shall ~~substantially~~ may comply with the forms ~~prescribed in 199 IAC 2.2(17A,474)~~ provided by the board. All filings shall include an original and ten copies. All filings shall be made electronically except as otherwise permitted by the board.

ITEM 2. Amend rule 199—3.2(17A,474) as follows:

199—3.2(17A,474) Notice of inquiry Initial stakeholder input. In addition to seeking information by other methods, the board may solicit comments from the public on the subject matter of possible rule making by ~~the board~~ issuing an order through its electronic filing system or by causing notice of the subject matter to be published in the Iowa Administrative Bulletin, indicating where, when, and how persons may comment.

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend rule 199—3.3(17A,474) as follows:

199—3.3(17A,474) Petition for adoption of rules.

3.3(1) *Petitions.* Any interested person may petition the board for the adoption, amendment, or repeal of a rule.

3.3(2) *Stakeholder comments.* Other interested persons may file written comments containing data, views, or arguments concerning the petition within 20 days of the filing of the petition. Reply comments may be filed within 27 days of the filing of the petition. The board may allow additional time for filing comments and reply comments at its discretion.

3.3(3) *Board action on petition.* Pursuant to Iowa Code section 17A.7(1), the board, by written order within 60 days after the filing of a petition for rule making, shall either deny the petition on the merits and state the reasons for the denial, commence a rule-making proceeding in accordance with Iowa Code section 17A.4, or, if exempt from the procedures of Iowa Code section 17A.4(1), adopt a rule.

ITEM 4. Rescind and reserve subrule **3.4(2)**.

ITEM 5. Adopt the following **new** subrules 3.4(5) and 3.4(6):

3.4(5) *Written comments.* Upon the commencement of a rule-making proceeding, any interested person may file written comments containing data, views, or arguments concerning the proposed adoption, amendment, or repeal of a rule within 20 days after the publication of the notice of rule making in the Iowa Administrative Bulletin or as otherwise ordered by the board. Comments shall be filed electronically unless otherwise permitted by the board.

3.4(6) *Reply comments.* The board may, in its discretion, allow for the filing of reply comments by interested persons.

ITEM 6. Rescind and reserve rules **199—3.5(17A,474)** and **199—3.6(17A,474)**.

ITEM 7. Amend subrule 3.7(1) as follows:

3.7(1) *Filing.* ~~The time period, as directed by the board, for filing of requests for oral presentation shall be not less than~~ Interested persons shall have 20 calendar days after the publication of the notice of rule making in the Iowa Administrative Bulletin to file a request for an oral presentation. The board may, in its discretion, extend the time period for making such requests.

ITEM 8. Amend subrule 3.7(2) as follows:

3.7(2) *Action on proper request.* ~~Within 15 calendar days of the filing of a request for oral presentation, the board shall determine if the request is in accordance with Iowa Code section 17A.4. If the board determines that the a request complies with Iowa Code section 17A.4, the board shall by written order schedule oral presentation on the rule making and shall cause a notice of the oral presentation to be published in the Iowa Administrative Bulletin. The notice shall state the date, time and place of the oral presentation and shall briefly describe the subject matter of the rule-making proceeding. The oral presentation on the rule making shall be not less than ten 20 calendar days after the publication of the notice. The board shall serve a similar notice on the party requesting oral presentation, on any other persons filing written comments, and on the petitioner, if any all parties by filing the notice in the board's electronic filing system.~~

ITEM 9. Amend subrule 3.8(3) as follows:

3.8(3) *Rebuttal Comments and limitations.* The board may, in its discretion, permit ~~rebuttal statements of position~~ reply comments and request the filing of written ~~statements of position~~ comments subsequent to the adjournment of the rule-making oral presentation. The board may limit the time of any oral presentation and the length of any written presentation.

ITEM 10. Amend subrule 3.9(3) as follows:

3.9(3) *Statements.* Upon the adoption, amendment, or repeal of a rule or termination of a rule-making proceeding, and if timely written request is filed by any interested person pursuant to Iowa Code section ~~17A.4(1)~~ "b," 17A.4(2), the board shall, within 35 days of the request, issue a formal written statement of the principal reasons for and against the adoption, amendment, or repeal of the

UTILITIES DIVISION[199](cont'd)

rule, or termination of the rule-making proceeding, including the reasons why the board overruled the positions in opposition to the board's decision.

ITEM 11. Amend subrule 3.10(1) as follows:

3.10(1) *Regulatory analysis.* The board shall issue a regulatory analysis of a proposed rule, or of a rule adopted without prior notice and opportunity for public participation, when required by ~~1998 Iowa Acts, chapter 1202, section 10~~ Iowa Code section 17A.4A.

ITEM 12. Amend rule 199—3.11(17A,474) as follows:

199—3.11(17A,474) Review of rules.

3.11(1) *Ongoing review.* Pursuant to Iowa Code section ~~17A.7~~ 17A.7(2), upon receipt from the administrative rules coordinator of a request for formal review of a specified rule, the board will determine whether the rule has been reviewed within the preceding five years. If such a review was conducted, the board will report that fact to the administrative rules coordinator. If no such review has been conducted, the board will consider whether the rule should be repealed or amended or a new rule adopted in its place. The board will prepare a written report summarizing its findings, supporting reasons, and proposed course of action. Copies of the report will be sent to the administrative rules review committee and the administrative rules coordinator, and will be made available for public inspection.

3.11(2) *Process.* To facilitate the requirement to review its rules every five years, the board shall review a portion of its chapters each fiscal year over each five-year period.

a. In fiscal year 2018 and every fifth year thereafter, the board shall review Chapters 1 through 9 of its rules.

b. In fiscal year 2019 and every fifth year thereafter, the board shall review Chapters 10 through 18 of its rules.

c. In fiscal year 2020 and every fifth year thereafter, the board shall review Chapters 19 through 27 of its rules.

d. In fiscal year 2021 and every fifth year thereafter, the board shall review Chapters 28 through 36 of its rules.

e. In fiscal year 2022 and every fifth year thereafter, the board shall review Chapters 37 through 45 of its rules.

f. If the board adopts additional chapters in its rules, such chapters shall be reviewed every fifth fiscal year from the fiscal year in which they are made effective.

[Filed 11/13/17, effective 1/10/18]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/6/17.