



# IOWA ADMINISTRATIVE BULLETIN

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January 7, 2015

NUMBER 14  
Pages 1213 to 1268

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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.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### 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 2015

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 16, 2015	February 4, 2015
17	Friday, January 30, 2015	February 18, 2015
18	Friday, February 13, 2015	March 4, 2015

**PLEASE NOTE:**

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

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

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

**CREDIT UNION DIVISION[189]**

Mergers, ch 16 IAB 1/7/15 <b>ARC 1816C</b>	Conference Room, Division Offices 200 E. Grand Ave., Suite 370 Des Moines, Iowa	January 27, 2015 1 p.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality, amendments to chs 20, 22, 23, 25, 31, 33 IAB 12/24/14 <b>ARC 1795C</b>	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	January 26, 2015 1 p.m.
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Water supply and wastewater treatment operator certification—military service and veteran reciprocity, 81.1, 81.7, 81.9(2), 81.11(3) IAB 12/24/14 <b>ARC 1796C</b>	North Conference Room, Second Floor Water Supply Section Wallace State Office Bldg. Des Moines, Iowa	January 14, 2015 11 a.m.
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**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

Contribution rates; protected occupations; service purchases; benefits; overpayments; reporting; domestic relations orders; records, amendments to chs 4, 8, 9, 11 to 14, 16, 17 IAB 12/24/14 <b>ARC 1800C</b>	7401 Register Dr. Des Moines, Iowa	January 13, 2015 9 a.m.
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**LABOR SERVICES DIVISION[875]**

Federal occupational safety and health standards for cranes—adoption by reference, 26.1 IAB 12/24/14 <b>ARC 1797C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 14, 2015 10 a.m. (If requested)
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Elevators—adoption by reference of ASME A17.3(2011) with specified exceptions, 72.10, 73.1 IAB 12/10/14 <b>ARC 1771C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 9, 2015 8:30 a.m.
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Boilers and pressure vessels, 90.2, 90.6(1), 90.8, 91.1, 91.20 IAB 12/24/14 <b>ARC 1798C</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 14, 2015 9 a.m. (If requested)
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**MEDICINE BOARD[653]**

Standards of practice— telemedicine, 13.11 IAB 12/10/14 <b>ARC 1769C</b>	Auditorium Wallace State Office Bldg. Des Moines, Iowa	January 15, 2015 1:30 p.m.
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**PHARMACY BOARD[657]**

Compounding practices, amend chs 3, 6, 7; rescind chs 13, 20; adopt ch 20 IAB 12/10/14 <b>ARC 1791C</b>	Shared Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	January 15, 2015 1 p.m.
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Assignment of responsibility for pharmacy activities and functions, amendments to chs 6 to 9, 15, 18, 19, 22, 23 IAB 12/10/14 <b>ARC 1793C</b>	Shared Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	January 15, 2015 9 a.m.
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**PHARMACY BOARD[657]** (cont'd)

Grounds for discipline,  
36.1(4)  
IAB 12/10/14 **ARC 1790C**

Shared Conference Room, Suite E  
400 SW 8th St.  
Des Moines, Iowa

January 15, 2015  
11 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Licensure standards for  
substance-related disorder  
and problem gambling treatment  
programs, ch 155  
IAB 1/7/15 **ARC 1814C**  
(See **ARC 1745C**, IAB 12/10/14)

*Origination site:*  
Director's Conference Room, Sixth Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

January 27, 2015  
11 a.m. to 12 noon

*GoToMeeting:*  
<https://www1.gotomeeting.com/join/915040873>  
Or by conference call:  
Toll-free: 1-877-309-2070  
Access Code: 915-040-873

**UTILITIES DIVISION[199]**

Peak alert notification, 20.11  
IAB 12/10/14 **ARC 1768C**

Board Hearing Room 69  
1375 E. Court Ave.  
Des Moines, Iowa

January 28, 2015  
10 a.m.

The following list will be updated as changes occur.

“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 1816C

## CREDIT UNION DIVISION[189]

## 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 533.107(6), the Credit Union Division hereby gives Notice of Intended Action to adopt new Chapter 16, “Mergers,” Iowa Administrative Code.

The rules in this new chapter pertain specifically to spin-offs under the statutory merger guidelines in Iowa Code section 533.401. During the 2013 legislative session, a change which would permit a spin-off was made to Iowa Code section 533.401, but administrative rules are needed for full implementation of that change.

The Division will fully consider any written suggestions or comments on these proposed rules by any interested person on or before January 27, 2015. Written material should be directed to the Iowa Credit Union Division, 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309-1827; fax (515)725-0519.

There will be a public hearing on January 27, 2015, at 1 p.m. in the conference room in the Division’s offices at 200 East Grand Avenue, Suite 370, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed 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 Division and advise of specific needs.

The rules in Chapter 16 do not contain conditions for waiver but would be subject to the process outlined in Chapter 23, “Uniform Waiver and Variance Rules.”

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state.

These rules are intended to implement Iowa Code section 533.401.

The following amendment is proposed.

Adopt the following **new** 189—Chapter 16:

CHAPTER 16  
MERGERS

**189—16.1(533) Spin-offs.** A spin-off occurs during a merger process when, by agreement of the parties to the merger, a portion of the field of membership, assets, liabilities, shares, and capital of one credit union is transferred to another credit union. A spin-off of a well-defined segment or branch of a credit union’s membership to another credit union is an option undertaken to benefit the members of both credit unions. This process may occur with the physical transfer of one or more branches from one credit union to another credit union, but less than a complete merger of the two credit unions occurs. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership, although there may be exceptions where the two credit unions maintain an overlapping field of membership, depending upon the geography of the proposed spin-off. Any spin-off approval is at the discretion of the superintendent of credit unions.

**189—16.2(533) Plan requirements.** All credit unions proposing a merger plan that would result in a spin-off must file, in addition to other merger documents detailed by the division, a plan that addresses the following points, at a minimum, in support for their spin-off plan:

**16.2(1)** Why the spin-off is being requested.

## CREDIT UNION DIVISION[189](cont'd)

**16.2(2)** What part of the field of membership is to be spun off, or if not, then why not.

**16.2(3)** Which assets, liabilities, shares, and capital are to be transferred.

**16.2(4)** The financial impact of the spin-off on the affected credit unions.

**16.2(5)** The ability of the acquiring credit union effectively to serve the new members. If the credit unions are to serve an overlapping field of membership, then both must justify how they will effectively serve their respective memberships.

**16.2(6)** The proposed spin-off date.

**16.2(7)** Disclosure to the members of the requirements set forth in this rule.

**189—16.3(533) Additional requirements.** In addition to the plan, the credit unions must include the most current monthly financial statements from both credit unions and a copy of the proposed voting ballot.

**16.3(1)** Membership notice and voting requirements shall be the same as for regular mergers under rule 189—12.6(533). However, only those members directly affected by a spin-off, that is, those members whose shares are to be transferred to the other credit union, are permitted to vote. All members of the group to be spun off, whether they voted in favor, against, or not at all, will be transferred if the spin-off is approved by the voting membership.

**16.3(2)** Members of the credit union whose shares are not being transferred will not be afforded the opportunity to vote.

These rules are intended to implement Iowa Code section 533.401.

**ARC 1812C****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 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 144, the Department of Human Services gives Notice of Intended Action to amend Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the January 1, 2015, cost-of-living increases to several State Supplementary Assistance categories.

Effective January 1, 2015, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2013, through September 30, 2014. The Social Security Administration has announced that this increase is 1.7 percent. In order to comply with the federal pass-along requirement in calendar year 2015 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except in-home health-related care (IHHRC) provider rates and the supplement for Medicare and Medicaid eligibles) effective January 1, 2015, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

Any interested person may make written comments on the proposed amendments on or before January 27, 2015. 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,

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Des Moines, Iowa 50319-0114. Comments may also be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 1813C**. The purpose of this Notice 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 217.3(6) and 2013 Iowa Acts, chapter 138, section 144(2) and (3), as amended by 2014 Iowa Acts, House File 2463, section 20.

**ARC 1818C****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 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

Pursuant to subrule 79.1(15), providers of home- and community-based services (HCBS) must complete a financial cost report for certain HCBS services annually. The fiscal year cost reports cover the 12 months of July through June, and the cost reports must be submitted to the Department by September 30 each year. The cost report accounts for all direct service and indirect administrative costs that have been incurred by a provider over the previous 12 months of service delivery, and the allowable costs in the report are used to establish future reimbursement rates. Staff training costs have historically been considered an indirect administrative expense for cost reporting purposes. And for Medicaid rate-setting purposes, indirect administrative costs are limited pursuant to 79.1(15)“b”(3) to 20 percent of other costs. The proposed amendment provides that, to the extent funding is appropriated, the reasonable costs of staff training will be treated as direct costs, rather than as indirect administrative costs subject to the 20 percent limit. 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, provides as follows:

“The department of human services shall adopt rules pursuant to chapter 17A to provide that reasonable costs of staff training incurred by providers of home and community-based services under the medical assistance program are reimbursable as direct costs. Such reimbursement shall include reimbursement of the reasonable costs associated with the learning management system utilized under the college of direct support training program.”

Since 2011, the Department has been funding the College of Direct Support training program referenced in the 2013 legislation. Due to that funding, the College of Direct Support has been free to providers and has reduced training costs. Nonetheless, the provider community has estimated that training expenses are 1 to 2 percent of other expenses. And providers have also indicated that other indirect administrative costs equal or exceed the 20 percent limit. Based on that information, the Department estimates that treating the reasonable costs of staff training as direct costs would increase provider reimbursement by \$3.4 to \$6.8 million annually (state share \$1.5 to \$3.0 million). In 2013, the Legislature appropriated \$300,000 for that purpose for the six months of January through June of 2014. See 2013 Iowa Acts, chapter 138 (Senate File 446), section 12(24). But that is just 40 percent of the state share for the minimum estimated six-month cost (\$750,000). Further, the Iowa Association of Community Providers (IACP), which represents HCBS providers, objected to the implementation of a

## HUMAN SERVICES DEPARTMENT[441](cont'd)

change in how costs are allocated in the middle of a cost reporting period, which would have required providers to submit two cost reports for that period. Rather, the IACP requested that any change to cost reporting be postponed until July 1, 2014. Due to the inadequate appropriation and the timing concerns, the Department postponed any change until July 1, 2014.

However, the Department's appropriation for the state fiscal year beginning July 1, 2014, did not include any additional funds for treatment of staff training costs as direct costs. Therefore, the Department has not taken any action to amend the rules as directed by 2013 Iowa Acts, chapter 140 (Senate File 452), section 12, though the Department has continued to fund the College of Direct Support, thus reducing providers staff training costs.

On October 6, 2014, the Department received a petition for rule making to implement 2013 Iowa Acts, chapter 140 (Senate File 452), section 12. The Department believes that the Legislature needs to address the extent to which staff training costs should be treated as direct costs, in light of the College of Direct Support, and provide appropriate funding. Therefore, pursuant to the petition for rule making, the Department is now proposing an amendment providing for treatment of the reasonable costs of staff training as direct costs to the extent funding is specifically appropriated for that purpose.

Any interested person may make written comments on the proposed amendment on or before January 27, 2015. 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 e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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.4 and 2013 Iowa Acts, chapter 140 (Senate File 452), section 12.

The following amendment is proposed.

Adopt the following **new** subparagraph **79.1(15)“b”(9)**:

(9) To the extent funding is specifically appropriated by the legislature for this purpose for a state fiscal year, reasonable costs of staff training shall be treated as direct care costs, rather than as indirect administrative costs, in determining reimbursement rates for the fiscal year.

**ARC 1819C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of these amendments is to ensure that child development home providers remain in compliance with applicable rules and are providing safe care to the children in their environment. Specifically, these amendments identify the required time frame within which a registered child development home provider must inform the Department of changes that have occurred for the following: assistants or substitutes, household members, address changes, and criminal convictions. These amendments also propose new provisions regarding overpayments and recoupments. The new

## HUMAN SERVICES DEPARTMENT[441](cont'd)

provisions set forth tiered consequences for repeated failure to comply with Child Care Assistance (CCA) rules and 50/50 recoupment for overpayments caused by the client and provider.

Any interested person may make written comments on the proposed amendments on or before January 27, 2015. 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 e-mail to [policyanalysis@dhs.state.ia.us](mailto: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).

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

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 110.7(7):

**110.7(7)** Required notifications to the department.

a. The provider shall, within ten days, notify the department of any of the following:

- (1) Changes in assistants or substitutes;
- (2) Changes in household membership;
- (3) Address changes; and
- (4) Criminal convictions.

b. No assistant, substitute, or coprovider shall be utilized in the care of children and no person shall be permitted to reside in the household until approved by the department.

c. If the provider does not notify the department of changes within ten days, the provider may be subject to revocation of registration or to recoupment of child care assistance provided, or both.

ITEM 2. Amend subrule 170.5(1) as follows:

**170.5(1)** Provider agreement. The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), if any of the following occur:

a. The department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the hazard.

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

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

d. The provider does not meet one of the applicable requirements set forth in subrule 170.4(3).

e. The provider fails to comply with any of the terms and conditions of the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S).

f. The provider submits attendance documentation for payment and the provider knows or should have known that the documentation is false or inaccurate.

g. An overpayment of CCA funds with a balance of \$3,000 or more exists for a provider and that provider fails to enter into a repayment agreement with the department of inspections and appeals (DIA) or does not make payments according to the repayment agreement on file with DIA.

h. The provider is found to have more children in care at one time than allowed for the provider type as found at rule 441—110.4(237A) and 441—subrules 110.8(1), 110.9(1), 110.10(1) and 170.4(3).

ITEM 3. Adopt the following **new** subrule 170.5(5):

**170.5(5)** Provider agreement sanction. If a Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), is terminated for any of the reasons in subrule 170.5(1), the agreement shall remain terminated for the time periods set forth below:

a. The first time the agreement is terminated, the provider may reapply for another agreement at any time.

b. The second time the agreement is terminated, the provider may not reapply for another agreement for 12 months from the effective date of termination.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

c. The third or subsequent time the agreement is terminated, the provider may not reapply for another agreement for 36 months from the effective date of termination.

d. The department shall not act on an application for a child care assistance provider agreement submitted by a provider during the sanction period.

ITEM 4. Adopt the following new paragraph **170.9(6)“f”**:

f. Recoupment for overpayments caused by both the provider and client shall be collected from both the provider and client equally, 50 percent from the client and 50 percent from the provider.

**ARC 1817C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.46, the Department of Human Services proposes to amend Chapter 187, “Aftercare Services and Supports,” Iowa Administrative Code.

This proposed amendment of Chapter 187 will allow access to aftercare services and the preparation for adult living (PAL) stipend to youth aging out of the Iowa state training school and court-ordered Iowa juvenile detention centers.

Youth between 17½ and 18 years of age who are exiting from the Iowa state training school or from a court-ordered Iowa juvenile detention center are eligible (effective July 1, 2014) for the Iowa Aftercare Services Program, which will provide services and supports to these youth between the ages of 18 and 21, just as youth who exited foster care at those same ages have been eligible for the past 12 years. Additionally, youth who exit the Iowa state training school or a court-ordered Iowa juvenile detention center, who were in either placement when they reached the age of 18 and who have not reached the age of 21 are eligible for the PAL Program component. The PAL component includes a monthly stipend, based upon need, in addition to aftercare case management supports. The PAL component for youth who exit the state training school or a detention center is modeled after PAL for youth formerly in state-paid foster care, who have been eligible for the past eight years.

Any interested person may make written comments on the proposed amendment on or before January 27, 2015. 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 e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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 234.46.

The following amendment is proposed.

Amend **441—Chapter 187** as follows:

CHAPTER 187  
AFTERCARE SERVICES AND SUPPORTS PROGRAM

PREAMBLE

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These rules define and structure the aftercare services program, which assists youth leaving foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in their successful transition to adulthood. The aftercare services program, including the preparation for adult living (PAL) program component, helps ~~former foster care~~ youth formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center to continue preparing for the challenges and opportunities presented by adulthood while receiving services and supports. The program also offers financial benefits to eligible youth up to the age of 21. All services and supports are voluntary.

DIVISION I  
AFTERCARE SERVICES

**441—187.1(234) Purpose.** The purpose of the aftercare services program is to provide services and supports to youth aged 18, 19 or 20 who were formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center. The primary goal of the program is for participants to achieve self-sufficiency and to recognize and accept their personal responsibility for the transition from adolescence to adulthood.

**441—187.2(234) Eligibility Aftercare services program eligibility requirements.** To be eligible for aftercare services, a youth must meet the following requirements:

**187.2(1) Residence.** The youth must ~~reside in~~ be a resident of Iowa.

**187.2(2) Age.** The youth must be at least 18 years of age but less than 21 years of age.

**187.2(3) Foster care Out-of-home placement experience.**

a. The youth must ~~leave foster care~~:

(1) Leave foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center:

(1) 1. On or after the youth's eighteenth birthday; or

(2) 2. Between the ages of 17½ and 18 after being in ~~foster care continuously for at least six months~~ any combination of foster care, the Iowa state training school, or a court-ordered detention center in at least 6 of the last 12 months before the youth left placement; or

(3) ~~For placement in a subsidized guardianship arrangement on or after October 7, 2008, and on or after the youth's sixteenth birthday; or~~

(4) ~~(2) Due to adoption on or after October 7, 2008, and on or after the youth's sixteenth birthday. Have been adopted from foster care on or after the youth's sixteenth birthday; or~~

(3) Have entered a subsidized guardianship arrangement from foster care on or after the youth's sixteenth birthday.

b. For purposes of this division, "foster care" is defined as 24-hour substitute care for a child who is placed away from the child's parents or guardians and for whom the department or juvenile court services has placement and care responsibility through either court order or voluntary agreement.

c. A placement may meet the definition of foster care regardless of whether:

(1) The placement is licensed and the state or a local agency makes payments for the child's care;

(2) Adoption subsidy payments are being made before the finalization of adoption; or

(3) There is federal matching of any payments made.

d. Foster care may include, but is not limited to, placement in:

(1) A foster family home; or

~~(2) A foster home of relatives;~~

~~(3) (2) A foster care group home; or~~

(4) ~~(3) An emergency shelter; or~~

~~(5) (4) A preadoptive home; or~~

~~(6) A residential facility; or~~

~~(7) (5) The home of an unlicensed a relative or suitable person-; or~~

~~(8) (6) A psychiatric medical institution for children (PMIC).~~

e. ~~Foster care does not include placement in:~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~(1) A detention facility;~~
- ~~(2) A forestry camp;~~
- ~~(3) A training school; or~~
- ~~(4) Any other facility operated primarily for the detention of children who are determined to be delinquent.~~

**187.2(4) Responsibility.** The youth must:

- a. Actively take part in developing and participating in a self-sufficiency plan; and
- b. Indicate recognition and acceptance of personal responsibility in the transition toward self-sufficiency.

**441—187.3(234) Services and supports provided.** The aftercare services program shall provide the following services and supports to eligible youth:

**187.3(1) Individual self-sufficiency plan.** Each youth shall have an individual self-sufficiency plan based on an assessment of the youth's strengths and needs. The plan shall identify:

- a. The youth's goals for achieving self-sufficiency;
- b. The target date for reaching the goals; and
- c. The tasks, responsible parties, time frames, and desired outcomes needed to reach the goals.

**187.3(2) ~~Life skills services~~ Case management.** ~~The program shall provide life skills services to enable youth to maintain a safe, healthy, and stable home.~~ Case management activities shall include, but not be limited to, all of the following:

a. Connection to community involvement services to enable the youth to access community resources.

b. Assistance in development and maintenance of healthy support systems, including services to assist the youth in establishing or reestablishing relationships with significant adults.

c. Services, supports, and life skills training, which shall be provided as defined in the youth's self-sufficiency plan and according to the youth's needs. Services shall be offered at a location convenient for the youth. Life skills training shall include but not be limited to the youth's establishing and maintaining safe and stable housing; education goals; employment goals; health and health care coverage; and healthy relationships.

d. Additional case management activities necessary for youth participating in the preparation for adult living (PAL) program component as outlined in rules 441—187.10(234) through 441—187.15(234) below.

e. Follow-up. The case manager shall maintain individual face-to-face contact with the youth at the frequency defined in the youth's self-sufficiency plan and according to the youth's changing needs. If a youth is a resident of Iowa but attending a postsecondary education program in another state, the program administrator or designee shall approve an alternative method for maintaining contact with the youth if and when it is a hardship for the youth to physically be in Iowa.

f. Ongoing assessment. Ongoing assessment activities shall be directed toward the coordination and evaluation of the services, supports, and life skills training being provided to assist the youth in reaching self-sufficiency goals and to determine if and what progress is being made. The case manager shall amend any goals, outcomes, tasks, responsible parties, and time frames in the plan along with services, supports, and life skills training provided as necessary to assist the youth in achieving self-sufficiency.

**187.3(3) Vendor payments.** The program shall make vendor payments to meet direct expenses of the participant that are necessary in order to meet goals of the participant's self-sufficiency plan.

a. *Need.* To receive a vendor payment, the youth must demonstrate that there are no other means to meet these needs. Youth receiving a PAL stipend are not eligible for a vendor payment.

b. *Scope.* Vendor payments may include but are not limited to:

- (1) ~~Life skills training~~ Health care-related expenses;
- (2) Transportation assistance;
- (3) ~~Employment~~ Costs related to employment and education assistance;
- (4) Clothing; and

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Room and board.

*c. Maximum payment.* The amount available for a 12-month period of service shall not exceed \$1200 per youth.

~~187.3(4) Follow-up.~~ The program shall maintain individual face-to-face contact with the youth at a frequency as defined in the youth's self-sufficiency plan to ensure that the youth is meeting the goals of the plan.

~~187.3(5) Ongoing assessment.~~ Ongoing assessment activities shall be directed toward:

*a.* Monitoring the progress being made in the youth's ability to achieve self-sufficiency; and

*b.* Coordination and evaluation of the services and supports being provided to reach the self-sufficiency goal.

~~187.3(6) Case management.~~ Case management activities shall include, but not be limited to:

*a.* Community involvement services to enable the youth to access community resources; and

*b.* Development of support systems, including services to assist the youth in establishing or reestablishing relationships with significant adults.

**441—187.4(234) Termination.** Aftercare services and supports shall be terminated when any of the following conditions apply:

**187.4(1)** The youth fails to follow self-sufficiency plan components and expectations as determined by the program administrator.

**187.4(2)** The youth voluntarily withdraws from the aftercare services program.

**187.4(3)** The youth is no longer residing in a resident of Iowa.

**187.4(4)** The youth reaches 21 years of age.

**187.4(5)** There are insufficient funds to continue the services.

**441—187.5(234) Waiting list.** The program administrator or designee shall create a waiting list when all funds for the aftercare services program are committed for the fiscal year. Names shall be entered on the waiting list on a first-come, first-served basis once the youth is determined eligible.

**441—187.6(234) Administration.** The department may contract with another state agency or a private organization to perform the administrative and case management functions necessary to administer this the aftercare services program.

~~187.6(1) The contractor and any subcontractors shall meet the standards in 441—subrule 150.5(3) and paragraph 150.3(3)“i.”~~

**187.6(2)** Agencies and organizations providing services or supports shall meet the standards in rules 441—108.2(238) through 441—108.6(238).

**441—187.7 to 187.9** Reserved.

These rules are intended to implement Iowa Code section 234.6 234.46 and Public Law 106-169, the Foster Care Independence Act of 1999.

DIVISION II  
PREPARATION FOR ADULT LIVING (PAL) PROGRAM COMPONENT

**441—187.10(234) Purpose.** The purpose of the PAL program component is to provide financial support to eligible youth who are receiving eligible for the aftercare services program. Youth receiving a PAL stipend are not eligible to receive aftercare services program vendor payments as specified in subrule 187.3(3).

**441—187.11(234) Eligibility PAL program component eligibility requirements.** A monthly stipend may be provided to a youth receiving who meets the aftercare services who left foster care after May 1, 2006, and who meets all of the following criteria: program eligibility requirements in Division I of this chapter and the criteria in subrule 187.11(1) or 187.11(2).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~187.11(1) *Ineligibility for foster care.* The youth must be ineligible for voluntary foster care placement under 441—Chapter 202.~~

~~187.11(2) 187.11(1) *Foster care experience.* The youth must:~~

~~a. Leave Was in foster care paid for by the state under Iowa Code section 234.35 on or after the youth's eighteenth birthday; and~~

~~b. Have been in foster care paid for by the state under Iowa Code section 234.35 Exited foster care after having been in any combination of foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in at least 6 of the last 12 months before the youth left foster care placement; and~~

~~c. Is ineligible for voluntary foster care placement under 441—Chapter 202.~~

~~187.11(2) *Iowa state training school or Iowa court-ordered juvenile detention center experience:* The youth:~~

~~a. Was in the Iowa state training school or a court-ordered Iowa juvenile detention center on the youth's eighteenth birthday; and~~

~~b. Exited the Iowa state training school or a court-ordered Iowa juvenile detention center after May 1, 2014; and~~

~~c. Exited the state training school or a court-ordered Iowa juvenile detention center after having been in any combination of foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in at least 6 of the last 12 months before the youth left placement.~~

~~187.11(3) *Living arrangement.* The youth must have a living arrangement other than a parent's home, which may include a former foster family, an apartment, a college dormitory, or another approved arrangement. The program administrator or designee is responsible for approving the living arrangement.~~

~~187.11(4) *Activity.* The youth must meet one or more of the following criteria:~~

~~a. Be enrolled in or actively pursuing enrollment in a postsecondary education or training program or work training;~~

~~b. Be employed for 80 hours per month or be actively seeking that level of employment; or~~

~~c. Be attending an accredited school full-time pursuing a course of study leading to a high school diploma; or~~

~~d. Be attending an instructional program leading to a high school equivalency diploma.~~

~~187.11(5) *Financial need.* Initial and ongoing eligibility shall be based on the youth's income and need as determined according to rule 441—187.12(234).~~

**441—187.12(234) Payment.** The program administrator or designee shall issue payment to each participant according to the following guidelines:

**187.12(1) Need.** The amount of the PAL stipend shall be based on the needs of the youth as documented in the youth's self-sufficiency plan. Eligibility and the stipend amount shall be based on the best estimate of the youth's income, as determined at least quarterly.

a. All earned and unearned income received by the youth during the 30 days before the determination shall be used to project future income.

(1) If the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(2) Nonrecurring lump-sum payments are excluded as income. Nonrecurring lump-sum payments include but are not limited to one-time payments received for such things as income tax refunds, rebates, credits, refunds of security deposits on rental property or utilities, and retroactive payments for past months' benefits such as SSI social security, unemployment insurance, or public assistance.

b. The youth shall timely report the beginning or ending of earned or unearned income. A report shall be considered timely when made within ten days from the receipt of income or the date income ended.

c. When the youth timely reports a change in income, prospective eligibility and stipend amount for the following month shall be determined based on the change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

*d.* Recoupment shall be made for any overpayment due to failure to timely report a change in income or for benefits paid during an administrative appeal if the department's action is ultimately upheld. Recoupment shall be done through a reasonable reduction of any future stipends.

*e.* Recoupment shall not be made when a youth timely reports a change in income and the change is timely acted upon, but the timely notice policy in rule 441—7.7(17A) requires that the action be delayed until the second calendar month following the month of change.

**187.12(2) Amount of monthly stipend.** The maximum monthly stipend shall be \$602.70.

*a.* The stipend shall be prorated based on the date of entry.

*b.* Effect of income.

(1) When the monthly unearned income of the youth exceeds the maximum monthly stipend, the youth is not eligible for a stipend.

(2) When the net earnings of the youth exceed the maximum monthly stipend, the stipend shall be reduced the following month by 50 cents for every dollar earned over the maximum monthly stipend.

~~(3) A youth receiving Supplemental Security Income payments is not eligible for a stipend.~~

**187.12(3) Payee.** The PAL stipend may be paid to the youth, the foster family, or another payee other than a department employee. The payee shall be agreed upon by the parties involved and specified in the self-sufficiency plan under 187.3(1).

**187.12(4) Start-up allowance.** When a youth is approved for the PAL program component, the program administrator or designee may authorize a ~~one-time~~ start-up allowance in addition to the monthly stipend. The start-up allowance:

*a.* Is intended to assist in covering the initial costs of establishing the youth's living arrangement, such as rental and utility deposits, purchase of food, and purchase of necessary household items.

*b.* Shall be based on the youth's income and need as determined according to subrule 187.12(1).

*c.* Shall not exceed the maximum monthly stipend amount.

**441—187.13(234) Termination of stipend.** The PAL stipend shall be terminated according to rule 441—187.4(234) in addition to when any of the following conditions apply:

**187.13(1)** ~~The youth reaches the age of 21~~ fails to meet work or education eligibility requirements for 30 consecutive days without good cause as determined by the program administrator or designee.

**187.13(2)** ~~The youth fails to meet work or education eligibility requirements for 30 consecutive days without good cause as determined by the program administrator or designee~~ maintain satisfactory progress as defined by the education or training program in which the youth is enrolled. A youth who is not making satisfactory progress may stay in the PAL program component by choosing the work option.

**187.13(3)** ~~The youth fails to follow self-sufficiency plan components and expectations as determined by the program administrator or designee~~ chooses to live in a nonapproved living arrangement.

**187.13(4)** ~~The youth fails to maintain satisfactory progress as defined by the education or training program in which the youth is enrolled. A youth who is not making satisfactory progress may stay in the PAL program by choosing the work option~~ youth's budget demonstrates lack of need for the PAL stipend.

**187.13(5)** ~~The youth chooses to live in a nonapproved setting~~ voluntarily withdraws from the PAL program component.

**187.13(6)** ~~The youth no longer resides in Iowa~~ misrepresents income. A PAL stipend shall not be reinstated for at least 30 days if the stipend was terminated due to the youth's misrepresentation of income.

**187.13(7)** ~~The youth lives with a parent~~ There are insufficient funds to continue the stipend.

**187.13(8)** ~~There are insufficient funds to continue the stipend.~~

**441—187.14(234) Waiting list.** The program administrator or designee shall create a waiting list when all funds for the PAL program component are committed for the fiscal year. Names shall be entered on the waiting list on a first-come, first-served basis once the youth is determined eligible.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—187.15(234) Administration.** The department may contract with another state agency or a private organization to perform the administrative and case management functions necessary to administer the PAL program component.

**187.15(1)** ~~The contractor and any subcontractors shall meet the standards in 441—subrule 150.5(3) and paragraph 150.3(3)“i.”~~

**187.15(2)** Agencies providing support or services shall meet the standards in rules 441—108.2(238) through 441—108.6(238).

These rules are intended to implement Iowa Code section 234.46.

## ARC 1814C

### PUBLIC HEALTH DEPARTMENT[641]

#### Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 125.7, 135.150, and 136.3, the Department of Public Health hereby amends the Notice of Intended Action to rescind Chapter 155, “Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs,” and to adopt new Chapter 155, “Licensure Standards for Substance-Related Disorder and Problem Gambling Treatment Programs,” Iowa Administrative Code.

The original Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as **ARC 1745C**. This Amended Notice of Intended Action provides for a public hearing to be held on January 27, 2015. The content of new Chapter 155 has not changed from the original Notice.

The rules in Chapter 155 describe procedures and programs related to licensure standards for substance-related disorder and problem gambling treatment programs. The rules in proposed new Chapter 155 implement changes that have been made to Iowa Code chapter 125. In these new rules, the standards conform to statutory changes, match revisions to national practice standards, align with national accreditation standards for similar programs, and are simplified compared to the current standards. The rules clarify and add detail to the program licensure application process, policies and procedures manual requirements, and corrective action plan requirements. The rules include updated references and Iowa Code citations, a reduction in the Department’s time frames for processing inspection reports from 80 business days to 60 business days and for processing complaints from 30 working days to 30 calendar days, an increase from \$75,000 to \$100,000 in the program budget threshold for requiring an annual financial audit, and an increase in a program’s time frame to comply with a corrective action plan from 60 days to 90 days. Language in the existing rules that allowed a “sole practitioner” to operate as a private practice without meeting the general program standards or being professionally licensed in accordance with state law has been removed from the proposed rules.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 27, 2015. Such written comments should be directed to Robert Kerksieck, Division of Behavioral Health, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [robert.kerksieck@idph.iowa.gov](mailto:robert.kerksieck@idph.iowa.gov).

Also, a public hearing will be held on Tuesday, January 27, 2015, from 11 a.m. to 12 noon on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/join/915040873>. The use of microphone and speakers (VoIP) or a headset is recommended. Interested persons may also join the meeting by telephone in the U.S. and Canada, toll-free, at 1-877-309-2070; the access code is 915-040-873, and an audio PIN will be shown after the person joins the meeting. Interested persons may also attend the public hearing in person at the Director’s Conference Room on the sixth floor of the Lucas State Office Building, Department of Public Health, 321 East 12th Street, Des Moines, Iowa.

Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Any persons who intend to attend the public hearing and have special requirements, such as those

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

relating to hearing impairments, should contact the Department of Public Health and advise of specific needs.

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

**USURY**

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%

## ARC 1813C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the January 1, 2015, cost-of-living increases to several State Supplementary Assistance categories.

Effective January 1, 2015, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2013, through September 30, 2014. The Social Security Administration has announced that this increase is 1.7 percent. In order to comply with the federal pass-along requirement in calendar year 2015 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except in-home health-related care (IHHRC) provider rates and the supplement for Medicare and Medicaid eligibles) effective January 1, 2015, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

The Council on Human Services adopted these amendments on December 10, 2014.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments increase payment amounts and income limits under the State Supplementary Assistance program in accordance with cost-of-living increases in SSI benefits and are required in order to meet federal pass-along requirements. In addition, 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, permits the Department to adopt emergency rules for this purpose.

Pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2015. These amendments confer a benefit on the public and are in compliance with 2013 Iowa Acts, chapter 138, section 144(2) and (3), as amended by 2014 Iowa Acts, House File 2463, section 20.

These amendments are also published herein under Notice of Intended Action as **ARC 1812C** to allow for public comment.

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

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

These amendments are intended to implement Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144(2) and (3), as amended by 2014 Iowa Acts, House File 2463, section 20.

These amendments became effective January 1, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

**51.4(1) Income.** Income of a dependent relative shall be less than ~~\$370~~ \$377. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

**441—51.7(249) Income from providing room and board.** In determining profit from furnishing room and board or providing family life home care, ~~\$370~~ \$377 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend subrule 52.1(1) as follows:

**52.1(1) Protective living arrangement.** The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

\$783	\$794	Care allowance
<u>\$100</u>	<u>\$101</u>	Personal allowance
<u>\$883</u>	<u>\$895</u>	Total

ITEM 4. Amend subrule 52.1(2) as follows:

**52.1(2) Dependent relative.** The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient’s home.

a. Aged or disabled client and a dependent relative	<del>\$1,091</del>	<u>\$1,110</u>
b. Aged or disabled client, eligible spouse, and a dependent relative	<del>\$1,452</del>	<u>\$1,477</u>
c. Blind client and a dependent relative	<del>\$1,113</del>	<u>\$1,132</u>
d. Blind client, aged or disabled spouse, and a dependent relative	<del>\$1,474</del>	<u>\$1,499</u>
e. Blind client, blind spouse, and a dependent relative	<del>\$1,496</del>	<u>\$1,521</u>

ITEM 5. Amend subrule 52.1(3) as follows:

**52.1(3) Residential care.** Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$29.66~~ \$30.05. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) No change.
  - (2) An allowance of ~~\$100~~ \$101 to meet personal expenses and Medicaid copayment expenses.
  - (3) to (6) No change.
- b. to g. No change.

[Filed Emergency 12/10/14, effective 1/1/15]

[Published 1/7/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

## ARC 1810C

## DENTAL BOARD[650]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby amends Chapter 29, "Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

These amendments include:

- Requiring all moderate sedation permit holders to use capnography or a pretracheal/precordial stethoscope at all facilities where they provide sedation beginning January 1, 2015; and
- Allowing moderate sedation permit holders who sedate pediatric patients to maintain Pediatric Advanced Life Support (PALS) certification in lieu of Advanced Cardiac Life Support (ACLS) certification.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1658C**. A public hearing was held on October 21, 2014, at 2 p.m. at the office of the Iowa Dental Board. There were no attendees. One written comment was received in support of the amendment to require capnography or a pretracheal/precordial stethoscope. These amendments are identical to those published under Notice of Intended Action.

These amendments were approved by the Board by teleconference on December 9, 2014.

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

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

These amendments will become effective on February 11, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 650—29.4(153) as follows:

**650—29.4(153) Requirements for the issuance of moderate sedation permits.**

**29.4(1)** No change.

**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 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.

**29.4(3)** No change.

**29.4(4)** A dentist administering moderate sedation must document and maintain current, successful completion of an 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.

**29.4(5) to 29.4(8)** No change.

ITEM 2. Adopt the following **new** subrule 29.5(12):

**29.5(12)** Use of capnography or pretracheal/precordial stethoscope required for moderate sedation permit holders. Beginning January 1, 2015, all moderate sedation permit holders shall use capnography or a pretracheal/precordial stethoscope at all facilities where they provide sedation.

[Filed 12/10/14, effective 2/11/15]

[Published 1/7/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

**ARC 1811C****DENTAL BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.2, the Dental Board hereby adopts new Chapter 52, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Chapter 52 establishes procedural rules implementing the licensing provisions of the Home Base Iowa Act, 2014 Iowa Acts, chapter 1116, section 34.

Notice of Intended Action for these rules was published in the Iowa Administrative Bulletin on October 1, 2014, as **ARC 1645C**. A public hearing was held on October 21, 2014, at 2 p.m. at the office of the Iowa Dental Board. There were no attendees at the hearing, and no written comments were received. These rules are identical to those published under Notice.

These rules were approved by the Board by teleconference on December 9, 2014.

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

After analysis and review of this rule making, it has been determined that these rules could have a positive impact on jobs in Iowa. The new rules could encourage qualified veterans to practice in Iowa.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

These rules will become effective February 11, 2015.

The following amendment is adopted.

Adopt the following **new** 650—Chapter 52:

CHAPTER 52  
MILITARY SERVICE AND VETERAN RECIPROCITY

**650—52.1(85GA,ch1116) Definitions.**

*"License"* or *"licensure"* means any license, registration, certificate or permit that may be granted by the board.

*"Military service"* means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

*"Military service applicant"* means an individual who is requesting credit toward licensure for military education, training, or service obtained or completed in military service.

*"Reciprocity"* means the process by which an individual licensed in another jurisdiction becomes licensed in Iowa and may also be referred to in other board rules as "licensure by credentials."

*"Veteran"* means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

**650—52.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**52.2(1)** The completed military service application may be submitted with an application for licensure or examination or prior to an applicant's applying for licensure or to take an examination. No fee is required with submission of an application for military service credit.

**52.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**52.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

## DENTAL BOARD[650](cont'd)

**52.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational licensure requirement.

**52.2(5)** The board shall grant the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**52.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**52.2(7)** A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**52.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**650—52.3(85GA,ch1116) Veteran reciprocity.**

**52.3(1)** A veteran with an unrestricted professional license in another jurisdiction may apply for licensure in Iowa through reciprocity. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**52.3(2)** An application for licensure by reciprocity shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**52.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

**52.3(4)** The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

**52.3(5)** If the board determines that the licensure requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license, but may request that the licensure application be placed in pending status for

DENTAL BOARD[650](cont'd)

up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

*b.* If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

*c.* If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

*d.* If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

**52.3(6)** A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed 12/10/14, effective 2/11/15]

[Published 1/7/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

**ARC 1807C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Iowa Administrative Code.

This amendment corrects a cross reference to Board of Educational Examiners rules in the Department's rules regarding qualifications of Area Education Agency personnel providing psychological evaluations and counseling or psychotherapy services under the Medicaid program. The current cross reference is obsolete.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1707C** on October 29, 2014. The Department received no comments on the amendment during the public comment period. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on December 10, 2014.

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.4.

This amendment will become effective on March 1, 2015.

The following amendment is adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend paragraph **77.28(4)“a”** as follows:

*a.* Endorsed by the Iowa board of educational examiners as a school psychologist pursuant to ~~rule 282—15.11(272)~~ 282—subrule 27.3(3);

[Filed 12/10/14, effective 3/1/15]

[Published 1/7/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

**ARC 1806C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 81, “Nursing Facilities,” Iowa Administrative Code.

These amendments pertain to the preadmission screening and resident review (PASRR) process. These amendments eliminate the use of the term “mental retardation,” which has become obsolete. The term “intellectual disability” has become widely adopted and is preferred by the disability community. These amendments provide clarification of the PASRR process by more explicitly stating the PASRR requirements and updating the list of entities responsible for completing PASRR reviews. These amendments also provide clarification in regard to the nursing facility’s role in requesting a state fair hearing after a PASRR determination by requiring that a facility obtain the informed consent of the resident prior to requesting a hearing on the resident’s behalf.

These amendments add facilities licensed as intermediate care facilities for persons with mental illness (ICFs/PMI) to the definition of a “special population nursing facility.” There are three such facilities in the state, and all currently seek an annual exception to policy to allow them to be paid as special population facilities. This change eliminates the need for an exception to policy. These amendments also formalize Department policy that Medicaid funding is only available to residents of ICFs/PMI who are aged 65 or older. These amendments are in accordance with the prohibition on Medicaid payment in an institution for mental disease set forth in 42 CFR 435.1010.

Section 2702 of the Patient Protection and Affordable Care Act prohibits federal payments for any amounts expended for health care-acquired conditions. The federal regulations to implement the requirement at 42 CFR 447.26 specify that payment cannot be made for other provider-preventable conditions for any health care setting. These amendments define the term “surgical or other invasive procedure” and specify that Medicaid will not pay for days in a nursing facility when the wrong surgical or other invasive procedure is performed on a patient or a surgical or other invasive procedure is performed on the wrong body part of a patient or on the wrong patient.

In 2012, the Iowa Legislature directed the Department to allow nursing facilities to collect additional payment above the Medicaid payment from residents and families who desire a private room. This direction included a limitation in which facilities could charge the additional amount for a private room only when the facility occupancy was at least 80 percent. In the 2014 legislative session, 2014 Iowa Acts, House File 2463, section 87, changed the minimum occupancy rate to 50 percent and directed the Department to collect data annually on the utilization of this option. These amendments implement the directive from the Legislature.

These amendments align rules with Department policy related to inclusion of certain costs in the nursing facility per diem rate. The amendments also clarify that payment for reserve bed days is allowed for the state-run Iowa Veterans Home, in order to maximize federal funding within that facility’s budget.

Finally, these amendments provide technical corrections to an incorrect cross reference, remove references to obsolete Department forms, and remove language that was added in anticipation of a Medicaid state plan amendment which did not receive federal approval.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 1683C** on October 15, 2014.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department received comments from one respondent during the public comment period. The comments and the Department's responses are as follows:

**Comment 1:** The respondent stated concerns regarding proposed paragraph 81.3(3)"f," which specifies that a nursing facility requesting an administrative hearing regarding a PASRR determination must receive prior, express, signed, written consent of the resident or the resident's legal representative.

**Response 1:** The PASRR determinations to which this amendment applies are not decisions made directly against a nursing facility, but rather are decisions that specifically affect the individual's eligibility for care within a nursing facility. The Department is aware of situations where appeals have been requested by nursing facilities on behalf of residents without the resident's knowledge. New paragraph 81.3(3)"f" seeks to ensure that residents are fully informed that their private protected health information (PHI) could be disclosed during a hearing and could become public in the course of the hearing or any subsequent appeals or judicial proceedings. Obtaining the resident's written permission to request an appeal is beneficial to the facility as a safeguard to protect against inadvertent disclosures that could violate the Health Insurance Portability and Accountability Act (HIPAA). In cases where a resident has impaired cognition and lacks the capacity for independent decision making, the facility should proactively work with the resident and family to establish a substitute decision maker. If a family member is not available to fulfill this role, assistance can be provided by the Iowa Department on Aging's Office of Substitute Decision Maker. The Department made no changes to these amendments based on this comment.

**Comment 2:** In the proposed amendment to subrule 81.7(2), the definition of "significant change" appears to be overly broad by requiring that a nursing facility, within 24 hours, initiate a PASRR review when there is "any change defined as significant in the minimum data set." Requiring a PASRR review when there is any change defined as significant in the minimum data set will undoubtedly result in unnecessary reviews that will lead to inefficient delivery of care and an associated increased cost to providers. According to the MDS 3.0 manual, a "significant change" is a decline or improvement in a resident's status that (1) will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions, (2) is not "self-limiting," (3) impacts more than one area of the resident's health status, and (4) requires interdisciplinary review and/or revision of the care plan. In accordance with that definition and applying the proposed rule change, nursing facilities would be forced to initiate a PASRR review when a resident has a urinary tract infection or any other type of medical diagnosis not related to mental health status. Requiring nursing facilities to initiate PASRR reviews in a variety of circumstances that do not relate to mental health status creates inefficiencies and will increase costs to providers. By merely striking the words "any change defined as significant in the minimum data set" and retaining the rest of the proposed language, the intent of the Department will be fulfilled. Another option for the Department to consider would be to modify the proposed amendment to read: "significant change related to mental health status."

**Response 2:** The Department agrees with the comment and has revised subrule 81.7(2) to remove the words "or any change defined as significant in the minimum data set." The introductory paragraph of subrule 81.7(2) now reads as follows:

**81.7(2) PASRR.** As a condition of payment for nursing facility care under the Medicaid program when there is a significant change in a resident's condition, the nursing facility shall, within 24 hours, initiate a PASRR review by the department's contractor for PASRR evaluations. For purposes of this subrule, "significant change in a resident's condition" means any admission or readmission to the facility immediately following an inpatient psychiatric hospitalization or any change that is likely to impact the resident's treatment needs related to a mental illness or intellectual disability. The evaluation shall determine."

**Comment 3:** In proposed paragraph 81.10(4)"j," the effect is a prohibition of payment for days of care attributable to preventable conditions that develop "while an individual is a resident of a nursing facility." As such, preventable conditions are defined as "surgical or invasive procedures," which are very rarely performed in nursing facilities. That being said, the paragraph as proposed would apply in scenarios where conditions arise from procedures performed elsewhere and, thus, are out of the control of the nursing facility. The commenter recommended rewording the provision to read: "reimbursement

HUMAN SERVICES DEPARTMENT[441](cont'd)

will not be made for patient days attributable to preventable conditions identified pursuant to this rule that develop in a nursing facility.”

**Response 3:** The Department agrees with the comment and revised the introductory paragraph of paragraph 81.10(4)“j” to read as follows:

“j. Nonpayment for provider-preventable conditions. Reimbursement will not be made for patient days attributable to preventable conditions identified pursuant to this rule that develop in a nursing facility. Any patient days attributable to a provider-preventable condition must be billed as noncovered days. A provider-preventable condition is one in which any of the following occur:”

In addition, new paragraph 81.10(5)“j” has been relettered as paragraph 81.10(5)“g.”

The Council on Human Services adopted these amendments on December 10, 2014.

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 March 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **441—81.1(249A)**, definitions of “Level I review,” “PASRR” and “Special population nursing facility,” as follows:

“*Level I review*” means screening to identify persons suspected of having mental illness or ~~mental retardation~~ intellectual disability as defined in 42 CFR 483.102 as amended to ~~October 1, 2010~~ July 1, 2014.

“*PASRR*” means ~~the preadmission screening and annual review of persons with mental illness, mental retardation or a related condition~~ a Level I screening or a Level II evaluation for mental illness or intellectual disability for all persons who live in or seek entry to a Medicaid-certified nursing facility, as required by 42 CFR Part 483, Subpart C, as amended to ~~October 1, 2010~~ July 1, 2014.

“*Special population nursing facility*” refers to a nursing facility that serves the following populations:

1. One hundred percent of the residents served are aged 21 and under and require the skilled level of care.
2. Seventy percent of the residents served require the skilled level of care for neurological disorders.
3. One hundred percent of the residents require care from a facility licensed by the department of inspections and appeals as an intermediate care facility for persons with mental illness.

ITEM 2. Adopt the following new definition of “Surgical or other invasive procedure” in rule **441—81.1(249A)**:

“*Surgical or other invasive procedure*” means an operative procedure in which skin or mucous membranes and connective tissue are incised or an instrument is introduced through a natural body orifice. Surgical or other invasive procedures include a range of procedures from minimally invasive dermatological procedures (biopsy, excision, and deep cryotherapy for malignant lesions) to extensive multiorgan transplantation. Surgical or other invasive procedures include all procedures described by the codes in the surgery section of the Current Procedural Terminology (CPT) published by the American Medical Association and other invasive procedures such as percutaneous transluminal angioplasty and cardiac catheterization. Surgical or other invasive procedures include minimally invasive procedures involving biopsies or placement of probes or catheters requiring the entry into a body cavity through a needle or trocar. “Surgical or other invasive procedure” does not include use of instruments such as otoscopes for examinations or very minor procedures such as drawing blood.

ITEM 3. Amend rule 441—81.3(249A) as follows:

**441—81.3(249A) Initial approval for nursing facility care.**

**81.3(1) Need for nursing facility care.** Residents of nursing facilities must be in need of either nursing facility care or skilled nursing care. Payment will be made for nursing facility care residents

## HUMAN SERVICES DEPARTMENT[441](cont'd)

only upon certification of the need for the level of care by a licensed physician of medicine or osteopathy and approval of the level of care by the department.

*a.* Decisions on level of care, subject to paragraph 81.3(1) "b," shall be made for the department by the Iowa Medicaid enterprise (IME) medical services unit within two working days of receipt of medical information. The IME medical services unit determines whether the level of care provided or to be provided should be approved based on medical necessity and the appropriateness of the level of care under 441—subrules 79.9(1) and 79.9(2).

*b.* For residents subject to a Level II PASRR review pursuant to subrule 81.3(3), the level of care determination shall be made as part of the Level II PASRR review, based on medical necessity and the appropriateness of the level of care under 441—subrules 79.9(1) and 79.9(2).

~~*b. c.* Adverse level of care decisions by the IME medical services unit may be appealed to the department pursuant to 441—Chapter 7.~~

**81.3(2)** *Skilled nursing care level of need.* Rescinded IAB 7/11/01, effective 7/1/01.

**81.3(3)** *Preadmission review.* ~~The IME medical services unit~~ department's contractor for PASRR screening and evaluation shall complete a Level I review for all persons seeking admission to a Medicaid-certified nursing facility, regardless of the source of payment for the person's care. When a Level I review identifies evidence for the presence of mental illness or ~~mental retardation~~ intellectual disability, the department's contractor for PASRR evaluations shall complete a Level II review before the person is admitted to the facility.

*a.* Exceptions to Level II review. Persons in the following circumstances may be exempted from Level II review based on a categorical determination that, in that circumstance, admission to or residence in a nursing facility is normally needed and the provision of specialized services for mental illness, ~~mental retardation, or related conditions~~ or intellectual disability is normally not needed.

(1) to (5) No change.

(6) The person has dementia in combination with ~~mental retardation or a related condition~~ an intellectual disability.

(7) to (9) No change.

*b.* Outcome of Level II review. The Level II review shall determine ~~whether the person seeking admission:~~

(1) Whether nursing facility care or skilled nursing care is medically necessary and appropriate under 441—subrules 79.9(1) and 79.9(2) for the person seeking admission;

~~(1) (2) Needs~~ Whether the person seeking admission needs specialized services for mental illness as defined in paragraph 81.13(14) "b," using the procedures set forth in 42 CFR 483.134 as amended to October 1, 2010 July 1, 2014; or and

~~(2) (3) Needs~~ Whether the person seeking admission needs specialized services for ~~mental retardation or a related condition~~ intellectual disability as defined in paragraph 81.13(14) "c," using the procedures set forth in 42 CFR 483.136 as amended to October 1, 2010 July 1, 2014.

*c.* The department's division of mental health and disability services or its designee shall review each Level II evaluation and plan for obtaining needed specialized services before the person's admission to a nursing facility to determine whether nursing facility care or skilled nursing care is medically necessary and whether the nursing facility is an appropriate placement.

*d.* Nursing facility payment under the Iowa Medicaid program will be made for Medicaid members residing in the nursing facility:

(1) Only if a Level I review was completed prior to admission;

(2) For persons with mental illness, ~~mental retardation, or a related condition~~ or intellectual disability, only if a Level II review has been completed, or an exception under paragraph 81.3(3) "a" has been approved, and it is determined by the division of mental health and disability services that nursing facility care or skilled nursing care is medically necessary and appropriate and that the person's treatment needs related to a mental illness or intellectual disability will be or are being met.

*e.* Adverse PASRR decisions may be appealed to the department pursuant to 441—Chapter 7.

*f.* A nursing facility requesting an administrative hearing regarding a PASRR determination must have the prior, express, signed, written consent of the resident or the resident's lawfully appointed

HUMAN SERVICES DEPARTMENT[441](cont'd)

guardian to request such a hearing. Notwithstanding any contrary provision in 441—Chapter 7, no hearing will be granted unless the nursing facility submits a document providing such resident's consent to the request for a state fair hearing. The document must specifically inform the resident that protected health information (PHI) may be discussed at the hearing and may be made public in the course of the hearing and subsequent administrative and judicial proceedings. The document must contain language that indicates the resident's knowledge of the potential for PHI to become public and that the resident knowingly, voluntarily, and intelligently consents to the nursing facility's bringing the state fair hearing on the resident's behalf.

**81.3(4)** *Special care level of need.* Rescinded IAB 3/20/91, effective 3/1/91.

This rule is intended to implement Iowa Code sections 249A.2(6), 249A.3(2) "a" and 249A.4.

ITEM 4. Amend paragraph **81.6(10)"a"** as follows:

a. Routine daily services shall represent the established charge for daily care. Routine daily services include room, board, nursing services, therapies, and such services as supervision, feeding, pharmaceutical consulting, over-the-counter drugs, incontinency, and similar services, for which the associated costs are in nursing service. Routine daily services shall not include:

- (1) Laboratory or ~~X-ray~~ diagnostic radiology services, unless the service is provided by facility staff using facility equipment, and
- (2) Prescription (legend) drugs.

ITEM 5. Amend subrule 81.6(11) as follows:

**81.6(11)** *Limitation of expenses.* Certain expenses that are not normally incurred in providing patient care shall be eliminated or limited according to the following rules.

a. to p. No change.

q. Prescription (legend) drug costs are excluded from services covered as part of the nursing facility per diem rate as set forth in paragraph 81.10(5) "e d." The Iowa Medicaid program will provide direct payment for drugs covered pursuant to 441—subrule 78.1(2) to relieve the facility of payment responsibility. As Medicaid reimburses pharmacy providers only for the cost and dispensation of legend drugs included on the Medicaid preferred drug list, no drug costs will be recognized for other payor sources.

r. to t. No change.

u. Laboratory costs are excluded from services covered as part of the nursing facility per diem rate unless the service is provided by facility staff using facility equipment.

v. Diagnostic radiology costs are excluded from services covered as part of the nursing facility per diem rate unless the service is provided by facility staff using facility equipment.

ITEM 6. Rescind paragraphs **81.6(20)"c"** and "**d.**"

ITEM 7. Amend subrule 81.7(2) as follows:

**81.7(2)** *PASRR.* Within the fourth calendar quarter after the previous review, the PASRR contractor shall review all nursing facility residents admitted pursuant to paragraph 81.3(3)"c" to As a condition of payment for nursing facility care under the Medicaid program when there is a significant change in a resident's condition, the nursing facility shall, within 24 hours, initiate a PASRR review by the department's contractor for PASRR evaluations. For purposes of this subrule, "significant change in a resident's condition" means any admission or readmission to the facility immediately following an inpatient psychiatric hospitalization or any change that is likely to impact the resident's treatment needs related to a mental illness or intellectual disability. The evaluation shall determine:

a. Whether nursing facility care or skilled nursing care is medically necessary and appropriate for the resident under 441—subrules 79.9(1) and 79.9(2);

~~a.~~ b. Whether nursing facility services continue to be appropriate for the resident, as opposed to care in a more specialized facility; or in a community-based setting; and

~~b.~~ c. Whether the resident needs specialized services for mental illness or ~~mental retardation~~ intellectual disability, as described in paragraph 81.3(3)"b."

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 8. Amend paragraph **81.10(4)“f”** as follows:

~~f. Effective December 1, 2009, payment~~ Payment for periods when residents are absent for a visit, vacation, or hospitalization shall be made at zero percent of the nursing facility's rate, except for special population facilities and state-operated nursing facilities, which shall be paid for such periods at 42 percent of the facility's rate.

ITEM 9. Adopt the following new paragraphs **81.10(4)“i”** and **“j”**:

*i.* Payment for residents of a special population facility licensed by the department of inspections and appeals as an intermediate care facility for persons with mental illness will be made only when the resident is aged 65 or over. If a resident under the age of 65 is admitted with a payment source other than Medicaid, the facility shall notify the resident, or when applicable the resident's guardian or legal representative, that Iowa Medicaid may neither make payment to the facility nor make payment for any other services rendered by any provider while the person resides in the facility, until the resident attains the age of 65.

*j.* Nonpayment for provider-preventable conditions. Reimbursement will not be made for patient days attributable to preventable conditions identified pursuant to this rule that develop in a nursing facility. Any patient days attributable to a provider-preventable condition must be billed as noncovered days. A provider-preventable condition is one in which any of the following occur:

- (1) The wrong surgical or other invasive procedure is performed on a resident; or
- (2) A surgical or other invasive procedure is performed on the wrong body part; or
- (3) A surgical or other invasive procedure is performed on the wrong resident.

ITEM 10. Amend paragraph **81.10(5)“c”** as follows:

*c.* The Medicaid program will provide direct payment to relieve the facility of payment responsibility for certain medical equipment and services that meet the Medicare definition of medical necessity and are provided by ~~vendors~~ providers enrolled in the Medicaid programs including:

- (1) Physician services.
- (2) Ambulance services.
- (3) Hospital services.
- (4) Hearing aids, braces and prosthetic devices.
- ~~(5) Therapy services.~~
- ~~(6)~~ (5) Customized wheelchairs for which separate payment may be made pursuant to 441—subparagraph 78.10(2) “a”(4).

ITEM 11. Amend subparagraph **81.10(5)“e”(4)** as follows:

(4) Supplementation for provision of a private room not otherwise covered under the medical assistance program, subject to the following conditions, requirements, and limitations:

1. and 2. No change.

3. Supplementation for provision of a private room is not permitted for a calendar month if the facility's occupancy rate was less than ~~80~~ 50 percent as of the first day of the month or as of the resident's subsequent initial occupation of the private room.

4. to 10. No change.

11. A nursing facility that utilizes the supplementation pursuant to this subparagraph during any calendar year shall report to the department annually by January 15 the following information for the preceding calendar year:

- The total number of nursing facility beds available at the nursing facility, the number of such beds available in private rooms, and the number of such beds available in other types of rooms.
- The average occupancy rate of the facility on a monthly basis.
- The total number of residents for whom supplementation was utilized.
- The average private pay charge for a private room in the nursing facility.
- For each resident for whom supplementation was utilized, the total charge to the resident for the private room, the portion of the total charge reimbursed under the Medicaid program, and the total charge reimbursed through supplementation.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 12. Adopt the following **new** paragraph **81.10(5)“g”**:

g. The facility shall not charge a resident for days that are not covered under Medicaid due to a provider-preventable condition pursuant to paragraph 81.10(4) “j” and shall not discharge a resident due to nonpayment for such days.

ITEM 13. Amend subrule 81.11(1) as follows:

**81.11(1) Claims.** Claims for service must be sent to the Iowa Medicaid enterprise after the month of service and within 365 days of the date of service. Claims ~~may~~ must be submitted electronically ~~on software provided by the Iowa Medicaid enterprise or in writing on Form 470-0039 through Iowa Medicaid’s electronic clearinghouse.~~

*a.* ~~When payment is made, the facility will receive a copy of Form 470-0039, Iowa Medicaid Long-Term Care Claim. The white copy of the form shall be signed and returned to the Iowa Medicaid enterprise as a claim for the next month. If the claim is submitted electronically, the facility will receive A remittance advice of the claims paid may be obtained through the Iowa Medicaid portal access (IMPA) system.~~

*b.* ~~When there has been a new admission or a discharge, the facility shall submit Form 470-0039 with the changes noted. When a change is necessary to adjust a previously paid claim, the facility shall submit Form 470-0040, Credit/Adjustment Request. Adjustments to electronically submitted claims may be made electronically as provided for by the Iowa Medicaid enterprise. A request for an adjustment to a paid claim must be received by the Iowa Medicaid enterprise within one year from the date the claim was paid in accordance with rule 441—80.4(249A).~~

ITEM 14. Amend paragraph **81.13(14)“c”** as follows:

*c.* ~~Specialized services for mental retardation or a related condition intellectual disability.~~ “Specialized services for mental retardation or a related condition intellectual disability” means services that:

- (1) to (3) No change.
- (4) Must be supervised by a qualified ~~mental retardation~~ intellectual disability professional; and
- (5) No change.

ITEM 15. Amend subrule 81.22(2) as follows:

**81.22(2) Beginning date of payment.** When a resident becomes eligible for Medicaid payments for facility care, the facility shall accept Medicaid rates effective when the resident’s Medicaid eligibility begins. A nursing facility is required to refund any payment received from a resident or family member for any period of time during which the resident is determined to be eligible for Medicaid.

Any refund owing shall be made no later than 15 days after the nursing facility first receives Medicaid payment for the resident for any period of time. Facilities may deduct the resident’s client participation for the month from a refund of the amount paid for a month of Medicaid eligibility.

The beginning and renewal date of eligibility ~~is given on the Facility Card, Form 470-0371 and resident client participation amounts may be obtained through the Iowa Medicaid portal access (IMPA) system.~~ When the beginning Medicaid eligibility date is a future month, the facility shall accept the Medicaid rate effective the first of that future month.

[Filed 12/10/14, effective 3/1/15]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

## ARC 1809C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 109, "Child Care Centers," and Chapter 110, "Child Development Homes," Iowa Administrative Code.

These amendments streamline the current record check process for employees of child care centers and child development homes by aligning the process with the centralized process used for other areas within the Department. These amendments also align the process with Chapter 119 in regard to involvement by the requesting entities. A new definition of "requesting entity" is also included in these amendments.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1705C** on October 29, 2014. 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 December 10, 2014.

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 234.6.

These amendments will become effective March 1, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of "Requesting entity" in rule **441—109.1(237A)**:

"*Requesting entity*" means an entity covered by these rules that is requesting an evaluation to determine if the person being evaluated can have involvement with child care. The requesting entity must be a child care facility as defined in Iowa Code chapter 237A.

ITEM 2. Amend paragraph **109.6(6)"b"** as follows:

*b. Authorization.* A requesting entity shall request a record check evaluation prior to the employment of a person subject to record checks. The person subject to record checks shall complete Form 595-1396, the DHS Criminal History Record Check Form B, and any other forms required by the department of public safety to authorize the release of records.

ITEM 3. Amend paragraph **109.6(6)"g"** as follows:

*g. Evaluation required.* For all other transgressions, and as requested under subparagraph 109.6(6)"f"(2), the department shall notify the ~~affected person and the licensee~~ requesting entity that an evaluation shall be conducted to determine whether prohibition of the person's involvement with child care is warranted.

(1) ~~The person with the transgression shall complete and return Form 470-2310, the Record Check Evaluation, within ten calendar days of the date on the form. The requesting entity shall provide the form and any other documents to the department within ten calendar days of the date on the form.~~ The department shall use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and the requesting entity to return this form by the specified date shall result in denial or revocation of the license or denial of employment. The department shall not process evaluations that are not signed by the person subject to an evaluation.

(2) No change.

(3) ~~In an evaluation, the department shall consider all of the following factors:~~

- ~~1. The nature and seriousness of the transgression in relation to the position sought or held.~~
- ~~2. The time elapsed since the commission of the transgression.~~
- ~~3. The circumstances under which the transgression was committed.~~
- ~~4. The degree of rehabilitation.~~
- ~~5. The likelihood that the person will commit the transgression again.~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~6. The number of transgressions committed by the person.~~
- (3) The requesting entity may provide, or the department may request from the person subject to an evaluation or from the requesting entity, information to assist in performance of the evaluation that includes, but is not limited to, the following:
1. Documentation of criminal justice proceedings.
  2. Documentation of rehabilitation.
  3. Written employment references or applications.
  4. Documentation of substance abuse education or treatment.
  5. Criminal history records, child abuse information, and dependent adult abuse information from other states.
  6. Documentation of the person's prior residences.
- ~~(4) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the following conditions:~~
- ~~1. The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.~~
  - ~~2. Any restrictions placed on the person's employment by the department in the previous evaluation shall remain applicable in the person's subsequent employment.~~
  - ~~3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides to the subsequent employer the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.~~
  - ~~4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.~~
- (4) Any person or agency that might have pertinent information regarding criminal or abuse history and rehabilitation of the prospective employee may be contacted.
- (5) In an evaluation, the department shall consider all of the following factors:
1. The nature and seriousness of the transgression in relation to the position sought or held.
  2. The time elapsed since the commission of the transgression.
  3. The circumstances under which the transgression was committed.
  4. The degree of rehabilitation.
  5. The likelihood that the person will commit the transgression again.
  6. The number of transgressions committed by the person.
- ~~(6) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person's involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department's previous evaluation. The exemption is subject to all of the following conditions:~~
- ~~1. The person's position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.~~
  - ~~2. Any restrictions placed on the person's employment by the department in the previous evaluation shall remain applicable in the person's subsequent employment.~~
  - ~~3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer, or the previous employer provides to the subsequent employer the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.~~
  - ~~4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.~~

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend paragraph **109.6(6)“h”** as follows:

*h. Evaluation decision.* Within 30 days of receipt of a completed ~~Form 470-2310~~, Record Check Evaluation, the department shall make a decision on the person's involvement with child care. The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements and corrective action plan under this paragraph.

(1) The department shall mail to the ~~individual requesting entity and the person~~ on whom the evaluation was completed ~~Form 470-2386~~, the Record Check Decision, that explains the decision reached regarding the evaluation of the transgression ~~and Form 470-0602, Notice of Decision.~~

(2) to (4) No change.

ITEM 5. Amend paragraph **110.7(3)“b”** as follows:

*b. Authorization.* The person subject to record checks shall complete ~~Form 470-5143~~, the Iowa Department of Human Services Record Check Authorization Form; Form DCI-45, Waiver Agreement; Form FD-258, Federal Fingerprint Card; and any other forms required by the department of public safety to authorize the release of records.

ITEM 6. Amend subparagraph **110.7(3)“g”(1)** as follows:

(1) The person with the transgression shall complete and return ~~Form 470-2310~~, the Record Check Evaluation, form within ten calendar days of the date on the form. The department shall use the information the person with the transgression provides on this form to assist in the evaluation. Failure of the person with the transgression to complete and return this form within ten calendar days of the date on the form shall result in denial or revocation of the registration certificate.

ITEM 7. Amend paragraph **110.7(3)“h”** as follows:

*h. Evaluation decision.* The department has final authority in determining whether prohibition of the person's involvement with child care is warranted and in developing any conditional requirements or corrective action plan.

(1) Within 30 calendar days of receipt of a completed ~~Form 470-2310~~, Record Check Evaluation, the department shall make a decision on the person's involvement with child care.

(2) Within 30 calendar days of receipt of a completed ~~Form 470-2310~~, Record Check Evaluation, the department shall mail to the person subject to an evaluation ~~Form 470-2386~~, a Record Check Decision, that explains the decision reached regarding the evaluation of the transgression ~~and Form 470-4558~~, a Notice of Decision: Child Care.

(3) The department shall issue ~~Form 470-4558~~, a Notice of Decision: Child Care, prohibiting involvement with child care, when the person subject to an evaluation fails to complete the Record Check Evaluation, ~~Form 470-2310~~, within the ten-calendar-day time frame.

(4) and (5) No change.

[Filed 12/10/14, effective 3/1/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

**ARC 1808C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 117, “Foster Parent Training,” and Chapter 200, “Adoption Services,” Iowa Administrative Code.

These amendments provide for a preservice training specific to Native American families to increase the number of licensed Native American families available for the placement of Native American children who come into the child welfare system.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department's recruitment and retention contractor has subcontracted with the Native Families for Native Children to use the new Trauma Informed Partnering for Safety and Permanence: Model Approach to Partnership in Parenting (TIPS-MAPP) curriculum as the preservice training for Native American families. The current rules specify at least 30 hours of the PS-MAPP preservice training curriculum. The TIPS-MAPP curriculum is an updated curriculum that incorporates trauma-informed care and Native American culture. In the future, the Department may change the 30-hour preservice training curriculum, such as this new TIPS-MAPP, and may make other changes to the 30-hour preservice training curriculum. For now, the amendments eliminate the name of the specific preservice training to allow the Department to choose a different preservice training without having to change the administrative rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1706C** on October 29, 2014. 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 December 10, 2014.

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 237.5A.

These amendments will become effective March 1, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 117.1(1) as follows:

**117.1(1) Preservice training requirement.** Each individual foster parent applicant shall complete the entire "~~Partnering for Safety and Permanence: Model Approach to Partnership in Parenting~~" (PS-MAPP) curriculum developed by the Child Welfare Institute 30-hour preservice training as approved by the foster family program manager.

*a.* Applicants shall complete PS-MAPP the 30-hour preservice training before receiving a license for the first time.

*b.* Applicants shall retake PS-MAPP the 30-hour preservice training if they do not complete the curriculum within 24 months after initially commencing it.

*c.* The department may waive the PS-MAPP preservice training requirement in whole or in part when the department finds that:

(1) The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

(2) There is good cause for the waiver based upon the circumstances of the child and the applicant.

ITEM 2. Amend subrule 117.1(2) as follows:

**117.1(2) Preservice training program approval requirements.**

*a.* No change.

*b. Length.* The entire PS-MAPP preservice training program shall total at least 30 hours of contact between leaders and participants. The department's recruitment and retention contractor shall devise a procedure for applicants to make up any portions of the preservice training ~~which that~~ are missed.

*c. Instructors.* The program shall be team taught by at least one foster or adoptive parent and one casework staff person. All instructors shall be certified PS-MAPP leaders or as approved by the adult, children and family services division administrator or designee.

*d. to f.* No change.

*g. Training records.* A record of the applicants who begin and complete the training and of the training program evaluations shall be submitted to the recruitment and retention contractor at the end of each 30-hour PS-MAPP preservice training session.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend rule 441—117.2(237), introductory paragraph, as follows:

**441—117.2(237) Required orientation.** All foster parent applicants shall attend orientation before attending ~~PS-MAPP~~ the 30-hour preservice training and before a foster child is placed in their home. Orientation shall not count toward the required 30 hours of preservice training.

ITEM 4. Amend paragraph **200.4(4)“a”** as follows:

*a.* Completion of at least 30 hours of ~~“Partnering for Safety and Permanence: Model Approach to Partnership in Parenting”~~ (PS-MAPP) preservice training and the self-study course, “Universal Precautions in Foster and Adoptive Family Homes,” before placement of a child. These training requirements apply to families who are adopting special needs children who are under the guardianship of the department.

(1) Foster parents licensed before December 31, 2002, who have been caring for a foster child in their home for at least six months and who have been selected to adopt that child may have their participation in adoption training waived by the service area manager or designee.

(2) Relatives who have cared for a related child for at least six months and who have been selected to adopt that related child may have their participation in the ~~PS-MAPP~~ preservice training waived by the service area manager or designee.

(3) The department may waive the ~~PS-MAPP~~ 30-hour preservice training requirement in whole or in part when the department finds that:

1. The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

2. There is good cause for the waiver based upon the circumstances of the child and the applicant.

(4) If the adoptive parents are accepting placement of a child who is at high risk of becoming or is HIV positive, they shall also complete the “Caring for Children With HIV” course.

(5) Applicants must retake ~~PS-MAPP~~ the 30-hour preservice training if the adoption approval process is not completed within 24 months after ~~PS-MAPP~~ the preservice training is initially completed.

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**ARC 1815C**

**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 3, “License to Practice—Registered Nurse/Licensed Practical Nurse,” Iowa Administrative Code.

These amendments:

1. Clarify the definition of “Applicant.”
2. Update advanced registered nurse practitioner (ARNP) language to:
  - Remove the reference to registration and replace it with a reference to renewal or license.
  - Include ARNP reactivation fees.
  - Include ARNP verification.
3. Update mandatory licensure language.
4. Revise the applicant requirements and the application and examination processes to:
  - Clarify documents required for the determination of applicant eligibility.
  - Replace “sentencing order” with “court document(s).”
  - Replace “criminal conviction” with “criminal history.”
  - Clarify that the passing standard of the NCLEX® examinations is established by the National Council of State Boards of Nursing, Inc. (NCSBN).

## NURSING BOARD[655](cont'd)

- Clarify time lines when applicants may take the examination and when fees will be imposed.
  - Revise language concerning foreign applicants to:
    - Clarify eligibility documents.
    - Update TOEFL passing scores.
    - Clarify that practice is not allowed without successful completion of the examination.
  - Clarify the process for testing modification requests.
  - Clarify the reexamination process.
  - Clarify the process to sit for an examination when an applicant previously applied but did not sit for the examination.
5. Clarify the licensure by endorsement process, forms required, and timing.
  6. Clarify licensee obligation to report name and address changes.
  7. Clarify renewal process requirements and timing.
  8. Clarify mandatory reporter training requirements for renewal.
  9. Clarify reactivation requirements and timing.
  10. Update license denial processes.

Notice of Intended Action for these amendments was published in the August 6, 2014, Iowa Administrative Bulletin as **ARC 1569C**. The following changes have been made to the amendments published under Notice:

- In subrule 3.2(1), the amendment to add the word “immediate” before the word “family” in the first sentence was not adopted.

- In new subparagraph 3.7(3)“b”(1), the words “abuse education review panel” were omitted.

These amendments were adopted by the Board on December 10, 2014.

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

These amendments are intended to implement Iowa Code sections 17A.3 and 147.76.

These amendments will become effective February 11, 2015.

The following amendments are adopted.

Amend **655—Chapter 3** as follows:

### CHAPTER 3

#### LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

##### **655—3.1(17A,147,152,272C) Definitions.**

“*Accredited or approved nursing program*” means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or ~~registration as an~~ advanced registered nurse practitioner; or grants a baccalaureate, master’s or doctorate degree with a major in nursing.

“*Address*” means a street address in any state when a street address is available or a rural route address when a street address is not available.

“*Applicant*” means a person who is qualified to take the examination or apply for licensure by endorsement.

“*Endorsement*” means the process by which a registered nurse/licensed practical nurse licensed in another jurisdiction becomes licensed in Iowa.

“*Examination*” means ~~any of~~ the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

“*Fees*” means those fees collected which are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

1. Application for original license based on the registered nurse examination, \$93 (plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).

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2. Application for original license based on the practical nurse examination, \$93 (plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks by the DCI and the FBI).

3. Application for registered nurse/licensed practical nurse license by endorsement, \$119 (plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks by the DCI and the FBI).

4. Application for ~~registration~~ original license or renewal as an advanced registered nurse practitioner, \$81 for any ~~length of registration~~ period of licensure up to three years.

5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.

6. For written verification of licensure status, not requiring certified statements, \$3 per license.

7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, \$175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks by the DCI and the FBI).

8. For reactivation of a license to practice as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.

~~8.~~ 9. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$99 for a three-year period.

~~9.~~ 10. For a duplicate or reissued wallet card or original certificate to practice as a registered nurse<sub>2</sub>, licensed practical nurse, or ~~registration card or original certification to practice as an~~ advanced registered nurse practitioner, \$20.

~~10.~~ 11. For late renewal of a registered nurse/licensed practical nurse license, \$50, plus the renewal fee as specified in paragraph “8 9” of this ~~rule~~ definition.

~~11.~~ 12. For a check returned for any reason, \$15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order.

~~12.~~ 13. For a certified copy of an original document, \$20.

~~13.~~ 14. For special licensure, \$62.

~~14.~~ 15. ~~Fee for~~ For the evaluation of the fingerprint ~~packet cards~~ and the DCI and FBI criminal history background checks, \$50.

“*Inactive license*” means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date, or the board has received notification that a licensee has declared another compact state as primary state of residency. Pursuant to 655—subrule ~~46.2(4)~~ 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

“*Late license*” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date on the wallet card. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

“*Licensee*” means a person who has been issued a ~~certificate~~ license to practice as a registered nurse<sub>2</sub>, or licensed practical nurse or advanced registered nurse practitioner under the laws of this state.

“*NCLEX*®” means National Council Licensure Examination for registered nurse/licensed practical nurse licensure.

“*Overpayment*” means payment in excess of the required fee. Overpayment less than \$10 received by the board shall not be refunded.

“*Reactivation*” means the process whereby an inactive licensee obtains a current license.

“*Reinstatement*,” pursuant to rule 655—4.11(17A,147,152,272C), means the process by which any person whose license to practice nursing has been suspended, revoked or voluntarily surrendered by order of the board may apply for license consideration.

“*Temporary license*” means a license issued on a short-term basis for a specified time pursuant to subrule ~~3.5(3)~~ 3.5(4).

“*Unlicensed student*” means a person enrolled in a nursing education program who has never been licensed as a registered nurse or licensed practical/vocational nurse in any U.S. jurisdiction.

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“*Verification*” means the process whereby the board provides a certified statement that the license of a registered nurse/licensed practical nurse/~~advanced registered nurse practitioner~~ is active, inactive, or encumbered/~~disciplined~~, ~~or an advanced registered nurse practitioner is registered in this state.~~

This rule is intended to implement Iowa Code ~~section~~ sections 147.80 and 147.82.

**655—3.2(17A,147,152,272C) Mandatory licensure.**

**3.2(1)** A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one’s family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. Any nurse who participates in the care of a patient situated in Iowa, whether that care is provided through telephonic, electronic or in-person means, and regardless of the location of the nurse, must obtain Iowa licensure unless specifically exempted by the licensure compact agreement. The nurse shall maintain ~~a copy of the license~~ verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

**3.2(2)** Current Iowa licensure is not mandatory when:

*a.* A nurse who resides in another party state is recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E. The nurse shall maintain ~~a copy of the license~~ verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

*b.* A nurse who holds an active license in another state provides services to patients in Iowa only during interstate transit.

*c.* A nurse who holds an active license in another state provides emergency services in an area in which the governor of Iowa has declared a state of emergency.

**3.2(3)** A nurse who is enrolled in an approved nursing program shall hold an active license in the U.S. jurisdiction(s) in which the nurse provides patient care. ~~An individual from another country who is enrolled in a course of study for registered nurses or licensed practical nurses shall hold an active license in the U.S. jurisdiction(s) in which the individual provides patient care.~~

This rule is intended to implement Iowa Code section 147.2.

**655—3.3(17A,147,152,272C) ~~Qualifications for licensure~~ Licensure qualifications for registered nurse and licensed practical nurse.**

**3.3(1)** Applicants shall meet the requirements set forth in Iowa Code sections 147.3 and 152.7. Requirements include:

*a.* Graduation from an approved nursing program preparing registered nurses as defined in Iowa Code section 152.5(1) for registered nurse applicants or graduation from an approved nursing program preparing practical nurses as defined in Iowa Code section 152.5(1) for licensed practical nurse applicants. ~~Theory and clinical experience shall include medical nursing, surgical nursing, obstetric nursing and nursing of children. Registered nurse applicants shall additionally have completed theory and clinical experience in psychiatric nursing.~~

*b.* Passing NCLEX® or the State Board Test Pool Examination, the national examination used prior to 1982.

*c.* Board approval of an applicant with a criminal ~~conviction~~ history or a record of prior disciplinary action, regardless of jurisdiction.

**3.3(2)** The requirement listed in paragraph 3.3(1) “*b*” is subject to the following exceptions:

*a.* A practical nurse applicant must have written the same examination as that administered in Iowa and achieved a score established as passing for that test by the board unless the applicant graduated and was licensed prior to July 1951.

*b.* An applicant whose national examination scores do not meet the Iowa requirements in effect at the time of the examination and who wishes to become licensed in Iowa may appeal to the board. The board may require the applicant to pass the current examination.

This rule is intended to implement Iowa Code sections 147.2 and 152.7(3).

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**655—3.4(17A,147,152,272C) Licensure by examination.**

**3.4(1)** Applicants shall meet qualifications for licensure set forth in subrule 3.3(1).

**3.4(2)** The board contracts with the National Council of State Boards of Nursing, Inc. to use the NCLEX® for registered nurses and licensed practical nurses.

~~a. The passing standard for the NCLEX® is determined by the board. The NCLEX® is administered according to guidelines and passing standards established by the National Council of State Boards of Nursing, Inc.~~

~~b. NCLEX® results are reported as pass or fail.~~

~~e. The NCLEX® is administered according to guidelines set forth by the National Council of State Boards of Nursing, Inc.~~

~~c. Examination statistics are available to the public.~~

**3.4(3)** Application—graduates of board-approved programs.

a. The board shall:

(1) Provide information about licensure application to applicants, nursing education programs in Iowa, and others upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, and notification of NCLEX® registration fingerprint cards and a signed waiver form.

b. The applicant shall:

(1) Submit a completed application for license by examination.

(2) Submit two completed ~~sets of the fingerprint packet cards~~ cards and a signed waiver form to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint ~~packet cards~~ and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Register for the NCLEX® and submit registration fee to the national test service agency.

(5) Direct the nursing program to submit to the board an official nursing transcript denoting the ~~date of entry,~~ date of graduation, and diploma or degree conferred.

(6) Inform the board that the primary state of residence is Iowa or a noncompact state and provide a current street address and mailing address, if different.

(7) Submit a copy of ~~a sentencing order(s)~~ the court document(s) with the license application if ~~an~~ the applicant has a criminal ~~conviction~~ history.

~~(8) Self-schedule the examination at an approved testing center. Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.~~

(8) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint cards, signed waiver form, and fees. The board reserves the right to destroy documents after 12 months.

~~(9) Complete NCLEX® registration within 12 months of board receipt of the application for license, fingerprint packet and fees. The board reserves the right to destroy documents after 12 months.~~

(9) Self-schedule the examination with an approved testing center.

(10) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.

**3.4(4)** Application—individuals educated and licensed in another country.

a. The board shall:

(1) Provide information about licensure application to applicants and others upon request.

(2) Determine eligibility of each applicant upon receipt of:

1. Application for licensure license by examination.

2. Two completed ~~sets of the fingerprint packet cards~~ cards and a signed waiver form to facilitate a national criminal history background check.

3. Application fee for license by examination plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

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~~4. Notification of NCLEX® registration.~~

~~5. 4. Official nursing transcript denoting date of entry and date of graduation validated by the Commission on Graduates of Foreign Nursing Schools (CGFNS) International.~~

~~6. 5. Validation of licensure/registration in the original country by CGFNS International.~~

~~7. 6. Full education course-by-course Credentials Evaluation Service Professional report submitted by CGFNS International for licensed practical nurse and registered nurse applicants.~~

~~8. 7. Verification of ability to read, write, speak and understand the English language as determined by the results of the International English Language Testing System (IELTS), Pearson Test of English Academic (PTE), or Test of English as a Foreign Language (TOEFL) for licensed practical nurse and registered nurse applicants. Applicants shall be exempt from the IELTS, PTE or TOEFL examination when the native language is English; nursing education was completed in a college, university or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago, or the United Kingdom; language of instruction in the nursing program was English; and language of the textbooks in the nursing program was English.~~

~~b. The applicant shall:~~

~~(1) Submit completed application for license by examination, including two sets of the completed fingerprint packet cards and a signed waiver form to facilitate a national criminal history background check.~~

~~(2) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint packet cards and the criminal history background checks as identified in the definition of "fees" in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.~~

~~(3) Register for the NCLEX® and submit registration fee to the national test service agency.~~

~~(4) Direct CGFNS International to validate the official nursing transcript.~~

~~(5) Direct CGFNS International to validate licensure/registration in the original country.~~

~~(6) Complete the full education course-by-course Credentials Evaluation Service Professional report application of the through CGFNS Credentials Evaluation Service (CES) International for licensed practical nurse and registered nurse applicants.~~

~~(7) Complete IELTS, PTE or TOEFL requirements for licensed practical nurse and registered nurse applicants, unless exempt.~~

~~(8) Inform the board of primary state of residence and a current mailing street address and mailing address, if different.~~

~~(9) Submit a copy of a sentencing order(s) the court document(s) with the license application if an the applicant has a criminal conviction history.~~

~~(10) Self-schedule the examination at with an approved testing center. Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.~~

~~(11) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint packet cards, signed waiver form, and fees. The board reserves the right to destroy documents after 12 months.~~

~~(12) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.~~

**3.4(5)** Application—individuals with disabilities. Individuals with disabilities as defined in the Americans with Disabilities Act shall be provided modifications ~~in~~ during the NCLEX® or NCLEX® administration.

~~a. The board shall:~~

~~(1) Notify applicants of the availability of test modifications for individuals with documented disabilities.~~

~~(2) Upon request, notify applicants of the process for obtaining board approval of test modification as defined in paragraph 3.4(5) "b."~~

~~(3) Determine eligibility for test modification upon receipt of:~~

~~1. Written request from the applicant for test modifications in during the NCLEX® or NCLEX® administration.~~

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2. Written documentation of the applicant's disability and need for test modifications, including results of appropriate diagnostic testing when appropriate, submitted by a qualified professional with expertise in the area of the diagnosed disability, ~~or interpretation of results.~~

3. Written documentation of test modifications provided, if any, granted to the applicant while enrolled in the nursing education program, ~~if applicable.~~

b. The applicant shall:

(1) Submit to the board a written request for specific modifications ~~in~~ during the NCLEX® or NCLEX® administration.

~~(2) Direct a qualified professional with expertise in the area of the diagnosed disability or interpretation of test results to submit to the board written documentation of the applicant's disability and need for specific test modifications, including the history of the disability and results of diagnostic testing.~~

(2) Obtain appropriate documentation supporting the request for accommodations, including results of appropriate diagnostic testing, submitted by a qualified professional with expertise in the areas of the diagnosed disability. Documentation could include recent reports, test results, evaluations and assessments of the candidate's need for accommodations due to a disability (physical or mental impairment) that substantially limits one or more major life activities.

~~(3) Direct the nursing program to submit to the board documentation of test modifications provided to the applicant while enrolled in the nursing education program, if applicable any were granted.~~

~~(4) Complete examination application requirements defined in subrule 3.4(3) or 3.4(4).~~

**3.4(6) Reexamination.**

a. An applicant who has graduated from an approved practical nurse program and has failed the NCLEX-PN® is eligible to take the NCLEX-PN® an indefinite number of times.

b. An applicant who has graduated from an approved registered nurse program and has failed the NCLEX-RN® is eligible to take the NCLEX-RN® an indefinite number of times.

~~c. An applicant who fails the NCLEX® and reapplies for license by examination shall be required to complete application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service. Two sets of the completed fingerprint packet, plus the fee identified in the definition of "fees" in rule 655—3.1(17A,147,152,272C), are required if 12 months have passed since the previous criminal history background check.~~

c. An applicant who fails the NCLEX® and reapplies within 12 months for license by examination shall be required to complete an application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service agency.

d. An applicant who fails the NCLEX® and reapplies, after 12 months have passed, for license by examination shall be required to complete an application for license by examination, submit two completed fingerprint cards, a signed waiver form, and the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), pursuant to rule 655—3.1(17A,147,152,272C), complete NCLEX® registration and submit a registration fee to the national test service agency.

e. Applicants for the examination who do not appear for the appointment or do not complete the examination will be required to complete the examination requirements defined in paragraphs 3.4(6) "a" to "d."

**3.4(7) Certificate of license by examination.** Upon completion of the relevant qualifications for license by examination and passing of the NCLEX® as defined in these rules, the board shall issue a certificate of license by examination and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license pending prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.36, 147.80 and 152.7(3).

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**655—3.5(17A,147,152,272C) Licensure by endorsement.**

**3.5(1) *Qualifications for licensure by endorsement.*** The endorsee shall meet the qualifications for licensure defined in subrule 3.3(1).

**3.5(2) *Applicants currently licensed in another state.*** Application for licensure to practice as a registered nurse or licensed practical nurse by endorsement shall be made according to the following process:

*a.* The board shall:

(1) Provide application forms and instructions to applicants upon request.  
 (2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, and verification of license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

*b.* The applicant shall:

(1) Submit a completed application form for license by endorsement.  
 (2) Submit ~~two sets of the completed fingerprint packet cards and a signed waiver form~~ to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet cards and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit the fee for license by endorsement plus the fee for evaluation of the fingerprint packet cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Direct the nursing program to submit to the board an official nursing transcript denoting the ~~date of entry~~, date of graduation and diploma or degree conferred.

~~(5) Submit the application form for verification of original licensure. If the original state of licensure participates in the National Council of State Boards of Nursing, Inc. Electronic Nurse Licensure System (NURSYS), send form and application fee directly to the National Council of State Boards of Nursing, Inc.~~

(5) Provide verification of state of original licensure by one of the following:

1. Submit the application form for verification of original licensure to state of original licensure.  
2. Apply directly to the online verification system (NURSYS®) if the original state of licensure participates in NURSYS®.

~~(6) Submit evidence attesting~~ Attest that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule 655—16.2(452 152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(7) Complete the application process within 12 months from the date of receipt of the application. The board reserves the right to destroy the documents after 12 months.

*c.* An endorsement applicant who has been disciplined by a licensing authority in another state must indicate the jurisdiction of the action(s) when submitting application materials. A copy of all relevant disciplinary documents will be obtained for board review prior to a determination regarding licensure. The board may impose conditions for licensure.

*d.* An endorsement applicant who has a criminal ~~conviction~~ history must submit a copy of the ~~sentencing order~~ court document(s) when submitting application materials. The board may impose conditions for licensure.

~~e. A license shall not be issued to an~~ An applicant who fails to complete the licensure process within 12 months from the date of receipt of the application must reapply.

**3.5(3) *Application—individuals educated and licensed in another country.***

*a.* The board shall:

(1) Provide application forms and instructions to applicants upon request.  
 (2) Determine eligibility of each applicant upon receipt of an application, two completed fingerprint packet cards and a signed waiver form, fees, official nursing transcript denoting ~~date of entry~~ and date of graduation validated by ~~the Commission on Graduates of Foreign Nursing Schools (CGFNS) International~~, validation of licensure/registration in the original country by CGFNS International, ~~full education course-by-course~~ Credentials Evaluation Service Professional report from CGFNS

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International, and verification of original license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

b. The applicant shall:

(1) Submit completed application for licensure by endorsement, including two ~~sets of the~~ completed fingerprint ~~packet~~ cards and a signed waiver form to facilitate a national criminal history background check.

(2) Submit fee for application for licensure by endorsement plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(3) Direct CGFNS International to validate the official nursing transcript.

(4) Direct CGFNS International to validate licensure/registration in the original country.

(5) ~~Apply for Complete the full education course by course~~ Credentials Evaluation Service Professional report application ~~of the through~~ CGFNS Credentials Evaluation Service (CES) International for licensed practical nurse and registered nurse applicants, or direct CGFNS International to verify that a certificate letter was issued, or send the completed CES Credentials Evaluation Service Professional report to the board.

(6) Inform the board of primary state of residence and a current mailing street address and mailing address, if different.

(7) Submit a copy of a ~~sentencing order(s)~~ the court document(s) with the license application if an applicant has a criminal ~~conviction~~ history.

**3.5(4) Temporary license.** A temporary license shall be issued to an applicant who is licensed in another state if the applicant meets the qualifications for a license as outlined in subrule 3.3(1). The application form and endorsement fee plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C), verification of license form and two ~~sets of the~~ completed fingerprint ~~packet~~ cards and signed waiver form to facilitate a national criminal history background check shall be on file in the office of the board prior to the issuance of the temporary license.

a. A temporary licensee may use the appropriate title of registered nurse or licensed practical nurse and the appropriate abbreviation R.N. or L.P.N.

b. The temporary wallet card must be signed by the licensee to be valid. The temporary license shall be issued for a period of 30 days. A second temporary license may be issued for a period not to exceed 30 days or at the discretion of the executive director.

c. A temporary license ~~shall~~ may be issued to an applicant who has incurred disciplinary action in another state when the license is not currently encumbered.

d. A temporary license ~~shall~~ may not be issued to an applicant with a criminal ~~conviction~~ history.

e. A temporary license shall not be issued to an applicant educated and licensed in another country until the ~~full education course by course report application of the~~ CGFNS Credentials Evaluation Service (CES) Credentials Evaluation Service Professional report application through CGFNS International has been received by the board, CGFNS International has verified that a certificate letter was issued, or CGFNS International submits a previously completed CES Credentials Evaluation Service Professional report ~~has been sent~~ to the board.

**3.5(5) Certificate of license by endorsement.** Upon completion of the endorsement procedures defined in these rules, the board shall issue a certificate of license by endorsement and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license pending prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.2 and 152.9.

**655—3.6(17A,147,152,272C) Special licensure for those licensed in another country.** A special license may be granted by the board on an individual basis to allow a nurse licensed in another country who is not eligible for endorsement to practice nursing in Iowa for a fixed period of time under certain conditions. Special licensure shall allow the nurse to provide care in a specialty area, provide

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consultation or teaching where care is directed, serve as a research or teaching assistant, or obtain clinically based continuing education.

1. Upon request, the board shall provide application materials to the applicant or sponsor.
2. The applicant shall provide identifying information, ~~history of criminal conviction~~ history, history of licensure in another jurisdiction, and reason for special licensure.
3. The applicant shall complete the application, submit a fee as identified in rule 655—3.1(17A,147,152,272C)<sub>2</sub> and provide evidence of certification by ~~the Commission on Graduates of Foreign Nursing Schools (CGFNS) International~~, or a Test of English as a Foreign Language (TOEFL) official results of the TOEFL test or official results of the International English Language Testing System (IELTS). The applicant shall have a minimum score of at least 500 540 for the paper-based TOEFL test, a minimum score of 207 or 173 for the computer-based TOEFL test, or a minimum score of 83 for the Internet-based TOEFL test. The applicant shall score a minimum of 6.5 for the IELTS test.
4. Board staff shall determine the validity of the request based on the need, duration and location of special licensure identified on the application, and staff shall notify the applicant of ineligibility for special licensure if the application is incomplete or indicates a criminal ~~conviction~~ history or evidence of licensure in another jurisdiction.
5. The board shall grant special licensure to eligible applicants. The license shall be identified as a special license and identify duration and conditions as designated in this rule. The period of special licensure shall be determined by the board and may be extended at the request of the applicant.
6. If the board denies special licensure, the individual may be eligible for licensure by examination in ~~accord~~ accordance with subrule 3.4(4).
7. The licensee shall be subject to all rules and regulations promulgated by the board except those pertaining to verification, renewal, late renewal, inactivation, reactivation and continuing education requirements.

This rule is intended to implement Iowa Code section 147.2.

**655—3.7(17A,147,152,272C) License cycle.**

**3.7(1) Name and address changes.** Written notification to the board of name and address changes is ~~mandatory as defined in Iowa Code section 147.9~~ required within 30 days of the event. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

**3.7(2) New licenses.** The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

**3.7(3) Renewal.** ~~At least 60 days prior to expiration of the license, the~~ The licensee may renew the license online at the board's Web site beginning 60 days prior to license expiration. Renewal applications are also available by mail upon request. Renewal is available online at the board's Web site or by mail upon request. When the licensee has satisfactorily completed the requirements for renewal, a wallet card shall be mailed to the licensee.

*a.* ~~The required materials and the renewal fee as specified in rule 655—3.1(17A,147,152,272C) are to be submitted to the board office 30 days before license expiration. The licensee shall:~~

- (1) Attest that Iowa is the primary state of residence as outlined in rule 655—16.2(152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.
- (2) Submit the renewal application and the renewal fee as specified in rule 655—3.1(17A,147,152, 272C).
- (3) Meet the continuing education requirement as set forth in 655—Chapter 5, prior to license renewal.
- (4) Complete the required mandatory reporter training set forth in paragraph 3.7(3)“b.”

*b.* ~~When the licensee has satisfactorily completed the requirements for renewal 30 days before expiration of the previous license, a renewal wallet card shall be mailed to the licensee before expiration of the previous license.~~

## NURSING BOARD[655](cont'd)

b. Mandatory reporter training.

(1) The course shall be a curriculum approved by the Iowa department of public health.

~~e. (2)~~ A licensee who regularly examines, attends, counsels or treats 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 condition(s) for rule suspension as identified in ~~paragraph “g.”~~ subparagraph 3.7(3) “b”(6).

~~d. (3)~~ A licensee who regularly examines, attends, counsels or treats 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 condition(s) for rule suspension as identified in ~~paragraph “g.”~~ subparagraph 3.7(3) “b”(6).

~~e. (4)~~ A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in ~~paragraph “g.”~~ subparagraph 3.7(3) “b”(6). Training may be completed through separate courses as identified in ~~paragraphs “e”~~ subparagraphs 3.7(3) “b”(2) and “d” (3) or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. ~~The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.~~

~~f. (5)~~ The licensee shall maintain written documentation for five years after mandatory training as identified in ~~paragraphs “e”~~ subparagraphs 3.7(3) “b”(2) to “e,” (4), including program date(s), content, duration, and proof of participation.

~~g. (6)~~ The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

~~(1)~~ 1. Is engaged in active duty in the military service of this state or the United States.

~~(2)~~ 2. Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

~~h. (7)~~ The board may select licensees for audit of compliance with the requirements in ~~paragraphs “e”~~ subparagraphs 3.7(3) “b”(1) to “g.” (6).

**3.7(4) Late renewal.** The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 655—3.1(17A,147,152,272C).

To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card.

**3.7(5) Inactive status.** The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—~~subrule 16.2(4)~~ 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. If the inactive license is not reactivated, it shall remain inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as practicing nursing with an inactive license, disciplinary proceedings shall be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

d. To reactivate the license, the licensee shall ~~contact the board office~~ complete the reactivation requirements.

(1) The licensee shall be provided an application, a continuing education report form, two fingerprint packet cards, a waiver form, and statement of the fees. The reactivation fee

## NURSING BOARD[655](cont'd)

and criminal history background check fee are specified in the definition of “fees” in rule 655—3.1(17A,147,152,272C).

(2) The licensee shall have obtained 12 contact hours of continuing education, as specified in 655—Chapter 5, within the 12 months prior to reactivation.

(3) Upon receipt of the completed reactivation application, required continuing education materials, two ~~sets of the completed fingerprint packet cards and a signed waiver form~~ to facilitate a national criminal history background check, fees for both the reactivation and the criminal history background check and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the licensee’s birth month. The board staff may issue a certificate of license ~~pending~~ prior to receipt of a report on the applicant from the DCI/FBI.

(4) An applicant who fails to complete the reactivation of licensure process within 12 months from the date of application must reapply. All fees are nonrefundable.

**3.7(6) Duplicate wallet card or certificate.** A duplicate wallet card or certificate shall be required if the current card or certificate is lost, stolen, destroyed or not received by the licensee within 60 days from the date the license is issued. The licensee shall be issued a duplicate wallet card or certificate upon receipt of an application for a duplicate wallet card or certificate and receipt of the fee as specified in rule 655—3.1(17A,147,152,272C). If the licensee notifies the board that the wallet card or certificate has not been received within 60 days after being issued, no fee shall be required. A fee is applicable when the licensee fails to notify the board of a name or address change.

**3.7(7) Reissue of a certificate or wallet card.** The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 655—3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

This rule is intended to implement Iowa Code sections 147.2 and 147.9 to 147.11.

**655—3.8(17A,147,152,272C) Verification.** Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 655—3.1(17A,147,152,272C), the board shall provide a certified statement to another jurisdiction or entity that the license of a registered nurse<sup>2</sup>, licensed practical nurse or advanced registered nurse practitioner is active, inactive or encumbered/disciplined in Iowa.

This rule is intended to implement Iowa Code sections 147.2 and 147.8.

**655—3.9(17A,272C) License denial.**

~~**3.9(1)** An applicant who has been denied licensure by the board may appeal the decision and request a hearing on related issues. A notice of appeal and request for hearing must be served upon the board within 30 days following the date the notification of licensure denial was mailed to the applicant. The request for hearing shall specifically delineate the facts to be contested at hearing.~~

**3.9(1)** Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that cites the factual and legal basis for denying the application, notifies the applicant of the appeal process and specifies the date upon which the denial will become final if not appealed.

~~**3.9(2)** All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 4.~~

**3.9(2)** An applicant who has been issued a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director within 30 days following the date the preliminary notice of denial was mailed. The request for hearing shall specify the factual or legal errors in the preliminary notice of denial and provide any additional written information or documents in support of the licensure.

**3.9(3)** All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 4.

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**3.9(4)** If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued.

This rule is intended to implement Iowa Code chapters 17A and 272C.

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[Published 1/7/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.

**ARC 1805C**

## **REVENUE DEPARTMENT[701]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby adopts amendments to Chapter 67, "Administration," Chapter 68, "Motor Fuel and Undyed Special Fuel," and Chapter 69, "Liquefied Petroleum Gas—Compressed Natural Gas," Iowa Administrative Code.

The amendments are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III. 2014 Iowa Acts, Senate File 2338, alters the method used for calculating the tax due on compressed natural gas and liquefied natural gas and makes other corresponding changes. 2014 Iowa Acts, House File 2444, division III, extends to June 30, 2015, the use of the formula for determining the motor fuel tax rate.

Item 1 amends rule 701—67.1(452A) to add a definition of "gallon" to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 2, 3, and 6 are necessary to add "liquefied natural gas" to the types of fuels regulated to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Items 4 and 5 amend subrules 68.2(1) and 68.2(2) to reflect the extension of the use of the current method for determining the motor fuel tax rate, as required by 2014 Iowa Acts, House File 2444, division III.

Items 7 through 16 add "liquefied natural gas" to the title of Chapter 69 and "L.N.G." to the several regulations in the chapter. These changes are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2338.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1681C** on October 15, 2014. No public comments were received. These amendments are identical to those published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these amendments and rescissions would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted these amendments on December 5, 2014.

After analysis and review of this rule making, the Department finds that the amendments related to 2014 Iowa Acts, Senate File 2338, are likely to have a positive impact on jobs. For example, Kwik Star has indicated that the passage of 2014 Iowa Acts, Senate File 2338, was a factor in its plan for expansion in Iowa. Kwik Star has or will open new stations in Clear Lake, DeWitt, Davenport, Dubuque, and Waterloo this year. Kwik Star plans to open additional stations in 2015. Each store will employ at least 30 workers, including part-time and full-time employees.

These amendments are intended to implement 2014 Iowa Acts, Senate File 2338, and 2014 Iowa Acts, House File 2444, division III.

These amendments will become effective February 11, 2015, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

## REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Adopt the following **new** definition in rule **701—67.1(452A)**:

“Gallon,” with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. “Gallon,” with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

ITEM 2. Amend subrule 67.3(5) as follows:

**67.3(5)** *Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users.* Every compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer and user is required to keep and preserve the following records:

a. to e. No change.

ITEM 3. Amend subparagraph **67.21(1)“c”(4)** as follows:

(4) ~~L.P.G. and C.N.G.~~ Compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users will be requested to post a bond or security when they have had two or more delinquencies in remitting the fuel tax or timely filing monthly returns during the past 12 months. The bond or security will be an amount sufficient to cover 12 months’ fuel tax liability or \$500, whichever is greater.

ITEM 4. Amend subrule 68.2(1) as follows:

**68.2(1)** The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through June 30, <del>2014</del> <u>2015</u> )
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, <del>2014</del> <u>2015</u> )
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, <del>2014</del> <u>2015</u> )
Aviation gasoline	8¢ per gallon
Special fuel (biodiesel, diesel, LNG)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	<del>16¢ per 100 cu. ft.</del> <u>21¢ per gallon</u>

ITEM 5. Amend subrule 68.2(2) as follows:

**68.2(2)** Except as otherwise provided in this subrule, until June 30, ~~2014~~ 2015, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the ethanol distribution percentage. The ethanol distribution percentage is the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax

## REVENUE DEPARTMENT[701](cont'd)

shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol Distribution %	Ethanol Tax	Gasoline Tax
00/50	19.0	20.0
50+/55	19.0	20.1
55+/60	19.0	20.3
60+/65	19.0	20.5
65+/70	19.0	20.7
70+/75	19.0	21.0
75+/80	19.3	20.8
80+/85	19.5	20.7
85+/90	19.7	20.4
90+/95	19.9	20.1
95+/100	20.0	20.0

Except as otherwise provided in this subrule, after June 30, ~~2014~~ 2015, an excise tax of 20 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

ITEM 6. Amend subrule 68.2(5), introductory paragraph, as follows:

**68.2(5)** Persons having title to motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas which will be subject to the increased excise tax rate.

ITEM 7. Amend **701—Chapter 69**, title, as follows:

LIQUEFIED PETROLEUM GAS—  
COMPRESSED NATURAL GAS—LIQUEFIED NATURAL GAS

ITEM 8. Amend the following definitions in rule **701—69.1(452A)**:

*“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealer”* means a person in the business of handling untaxed compressed natural gas, liquefied natural gas, or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

*“Licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas user”* means a person licensed by the department who dispenses compressed natural gas, liquefied natural gas, or liquefied petroleum gas, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

*“Special fuel”* means liquefied petroleum gas, liquefied natural gas, or compressed natural gas.

ITEM 9. Adopt the following **new** definitions in rule **701—69.1(452A)**:

*“Gallon,”* with respect to compressed natural gas, means a gasoline gallon equivalent. A gasoline gallon equivalent of compressed natural gas is five and sixty-six hundredths pounds or one hundred twenty-six and sixty-seven hundredths cubic feet measured at a base temperature of 60 degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. *“Gallon,”* with respect to liquefied natural gas, means a diesel gallon equivalent. A diesel gallon equivalent of liquefied natural gas is six and six hundredths pounds.

*“L.N.G.”* shall mean liquefied natural gas.

## REVENUE DEPARTMENT[701](cont'd)

ITEM 10. Amend rule 701—69.2(452A) as follows:

**701—69.2(452A) Tax rates—time tax attaches—responsible party—payment of the tax.** See 701—subrule 68.2(1) for tax rates. The excise tax on L.P.G. attaches when the special fuel is placed in a fuel supply tank of a motor vehicle. The excise tax on C.N.G. and L.N.G. attaches at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle. The person responsible for the tax must collect the tax from the purchaser and remit the tax to the department. The person responsible for the tax is:

1. The licensed L.P.G., L.N.G., or C.N.G. dealer, or
2. The licensed L.P.G., L.N.G., or C.N.G. user.

The person responsible for placing L.P.G. into the fuel supply tank of a vehicle and the person responsible for placing C.N.G. or L.N.G. into compressing equipment must hold a license as a dealer or user as defined in Iowa Code section 452A.4.

The return and tax are due no later than the last day of the month following the month the L.P.G. was placed in a vehicle or C.N.G. or L.N.G. was placed into compressing equipment. The tax must be remitted by means of electronic funds transfer, unless the licensee can show that this method of payment would cause undue hardship on the licensee and must be rounded to the nearest whole number. The return must be remitted by means of electronic transmission.

This rule is intended to implement Iowa Code section 452A.8 as amended by 2005 Iowa Acts, Senate File 413 2014 Iowa Acts, Senate File 2338.

ITEM 11. Amend rule 701—69.5(452A), introductory paragraph, as follows:

**701—69.5(452A) Persons authorized to place L.P.G., L.N.G., or C.N.G. in the fuel supply tank of a motor vehicle.** The only persons authorized to place L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle are: licensed L.P.G., L.N.G., or C.N.G. dealers, or licensed L.P.G., L.N.G., or C.N.G. users.

ITEM 12. Amend subrules 69.5(1) and 69.5(2) as follows:

**69.5(1) L.P.G., L.N.G., or C.N.G. dealer's license.** Anyone who delivers L.P.G. into the fuel supply tank of a motor vehicle or places C.N.G. or L.N.G. into compression equipment which tank is owned by some other person must be licensed as an L.P.G., L.N.G., or C.N.G. dealer. A dealer may also fuel the dealer's own vehicles under this license.

**69.5(2) L.P.G., L.N.G., or C.N.G. user's license.** Anyone who delivers L.P.G., L.N.G., or C.N.G. into the fuel supply tank of a motor vehicle, which tank is owned or leased by the person delivering it, must be licensed as an L.P.G., L.N.G., or C.N.G. user. If that same person delivers the fuel into tanks owned by others, that person must be licensed as a dealer in lieu of being licensed as a user.

ITEM 13. Amend rule 701—69.6(452A) as follows:

**701—69.6(452A) Requirements to be licensed.** To become licensed as an L.P.G., L.N.G., or C.N.G. user or dealer, a person must file with the department a completed application form for the appropriate license. A separate license is required for each place of business or location where L.P.G., L.N.G., or C.N.G. is regularly delivered or placed into the fuel supply tank of motor vehicles. See Iowa Code section 452A.4 and 701—subrule 67.23(1) for licensing requirements.

This rule is intended to implement Iowa Code section 452A.8.

ITEM 14. Amend rule 701—69.7(452A), introductory paragraph, as follows:

**701—69.7(452A) Licensed metered pumps.** Before an L.P.G., L.N.G., or C.N.G. dealer's or user's license can be issued, all pumps designed to fuel motor vehicles at the location to be licensed must be (1) metered, (2) inspected, (3) tested for accuracy, (4) sealed, and (5) licensed by the department of agriculture and land stewardship. (See 1970 O.A.G. 2.) If there is more than one pump at a location to be licensed, each pump will be assigned a separate pump number, and the licensee shall report the gallonage each month with reference to such number.

REVENUE DEPARTMENT[701](cont'd)

ITEM 15. Amend rule 701—69.8(452A) as follows:

**701—69.8(452A) Single license for each location.** A single license is required for each separate place of business or location where L.P.G., L.N.G., or C.N.G. is delivered into the fuel supply tank of a motor vehicle. For reporting purposes (see rule 701—69.2(452A)), a licensee may file a separate return for each license; or, if arrangements have been made with the department, the licensee may file a consolidated return reporting all sales made at all locations for which a license is held. However, a consolidated return may not be used to combine dealer and user operations. All working papers used in the preparation of the information required must be available for examination by the department. All dealer or user operations at that location will be conducted under that license. A licensee may have a different type of license (dealer, user) for each separate location where L.P.G., L.N.G., or C.N.G. is dispensed. For instance, if a licensee holds an L.P.G., L.N.G., or C.N.G. dealer's license for location A and an L.P.G., L.N.G., or C.N.G. user's license for location B, the licensee may sell fuel to others or fuel the licensee's own vehicles at location A, but may only fuel the licensee's own vehicles at location B.

This rule is intended to implement Iowa Code section 452A.8.

ITEM 16. Amend rule 701—69.9(452A), introductory paragraph, as follows:

**701—69.9(452A) Dealer's and user's license nonassignable.** An L.P.G., L.N.G., or C.N.G. dealer's license or user's license cannot be assigned. The following nonexclusive situations will be considered an assignment:

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/7/15.