



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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 2012

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
17	Friday, February 3, 2012	February 22, 2012
18	Friday, February 17, 2012	March 7, 2012
19	Friday, March 2, 2012	March 21, 2012

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, February 10, 2012, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Definition of "attest"; removal of reference to biennial renewal, 1.1, 12.3, 13.6(1) Notice **ARC 9980B** 1/25/12

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Iowa thoroughbred horse breeders' promotion fund, 62.2, 62.6 Filed Emergency **ARC 9978B** 1/25/12

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Sale of certain instruments for payment of money; examinations, rescind 2.11, ch 3

Notice **ARC 9953B** 1/11/12

HUMAN SERVICES DEPARTMENT[441]

State supplementary assistance program—annual adjustments to eligibility and payment

levels, 51.4(1), 51.7, 52.1 Notice **ARC 9964B**, also Filed Emergency **ARC 9965B** 1/11/12

Iowa family planning network (IFPN)—eligibility, 75.1(41) Filed Emergency After Notice **ARC 9956B** 1/11/12

Medicaid eligibility—elderly or disabled inmates of public institutions, 75.12

Filed Emergency After Notice **ARC 9957B** 1/11/12

Increase in HCBS reimbursement rates, 79.1(1), 79.1(2), 79.1(15) Filed **ARC 9958B** 1/11/12

Payment adjustment for physician services rendered in facility settings, 79.1(7)"b" Filed **ARC 9959B** 1/11/12

Copayment for emergency room visits; payment reduction for nonemergency services

delivered in emergency room, 79.1(13), 79.1(16) Filed **ARC 9960B** 1/11/12

Conditions for denial of parental right to know location of foster child's placement, 202.12(2)

Filed Emergency After Notice **ARC 9961B** 1/11/12

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

External review, ch 76 Filed **ARC 9979B** 1/25/12

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Child labor—exemption to allow golf cart driving, 32.8(2)"a" Filed **ARC 9963B** 1/11/12

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Contested case hearing procedures, 25.18 Filed **ARC 9952B** 1/11/12

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physical therapists and physical therapist assistants—licensure, discipline, 200.4(3),

200.5(1)"a"(1), 200.9(1), 202.2(11) Notice **ARC 9972B** 1/11/12

Athletic trainers—license renewal, discipline, 351.9(1), 353.2(12) Filed **ARC 9967B** 1/11/12

PUBLIC HEALTH DEPARTMENT[641]

Local substitute medical decision-making boards, 85.2, 85.3(5), 85.9 to 85.12 Notice **ARC 9976B** 1/25/12

REGENTS BOARD[681]

State hygienic laboratory; University of Iowa; University of Northern Iowa; Iowa School for

the Deaf, 5.1, 5.3, ch 12, 14.1, 14.2, 16.1, 16.6, 16.8 Filed **ARC 9962B** 1/11/12

REVENUE DEPARTMENT[701]

Interest rate for calendar year 2012; investment tax credit for individual, corporation, and

franchise tax, amendments to chs 10, 42, 52, 58 Filed **ARC 9966B** 1/11/12

SECRETARY OF STATE[721]

Corporations—filing of biennial reports, 40.8 Filed **ARC 9971B** 1/11/12

Corporations—online filing of documents, 40.9 Filed **ARC 9970B** 1/11/12

Revocation of notary appointment, 43.6 Filed **ARC 9969B** 1/11/12

TRANSPORTATION DEPARTMENT[761]

Traffic safety improvement program—application deadline, 164.9(1)"b" Notice **ARC 9968B** 1/11/12

Federal motor carrier safety and hazardous materials regulations, 520.1(1) Notice **ARC 9973B** 1/11/12
 Commercial driver licensing, 607.3, 607.10, 607.50
Notice **ARC 9955B**, also Filed Emergency **ARC 9954B** 1/11/12

TREASURER OF STATE[781]

Disclosure of information regarding open-end credit and credit cards; fairgrounds
 infrastructure grant program, rescind chs 5, 20 Notice **ARC 9974B** 1/25/12

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

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

Senator Thomas Courtney
 2609 Clearview
 Burlington, Iowa 52601

Representative Jo Oldson
 4004 Grand Avenue, #302
 Des Moines, Iowa 50312

Senator Wally Horn
 101 Stoney Point Road, SW
 Cedar Rapids, Iowa 52404

Representative Rick Olson
 3012 East 31st Court
 Des Moines, Iowa 50317

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

Representative Dawn Pettengill
 P.O. Box A
 Mt. Auburn, Iowa 52313

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

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ACCOUNTANCY EXAMINING BOARD[193A]

Definition of “attest”; removal of reference to biennial renewal, 1.1, 12.3, 13.6(1) IAB 1/25/12 ARC 9980B	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	February 14, 2012 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Physical therapists and physical therapist assistants—licensure, discipline, 200.4(3), 200.5(1)“a,” 200.9(1), 202.2(11) IAB 1/11/12 ARC 9972B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 31, 2012 8 to 8:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

Traffic safety improvement program—application deadline, 164.9(1)“b” IAB 1/11/12 ARC 9968B	First Floor South Conference Room Administration Building 800 Lincoln Way Ames, Iowa	February 2, 2012 10 a.m. (If requested)
Federal motor carrier safety and hazardous materials regulations, 520.1(1) IAB 1/11/12 ARC 9973B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	February 2, 2012 10 a.m. (If requested)
Commercial driver licensing, 607.3, 607.10, 607.50 IAB 1/11/12 ARC 9955B (See also ARC 9954B)	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	February 2, 2012 10 a.m. (If requested)

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 9980B

ACCOUNTANCY EXAMINING BOARD[193A]

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 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Definitions,” Chapter 12, “Fees,” and Chapter 13, “Rules of Professional Ethics and Conduct,” Iowa Administrative Code.

The proposed amendment to Chapter 1 amends the definition of “Attest” to match the definition in 2011 Iowa Code Supplement section 542.3.

The proposed amendment to Chapter 12 rescinds subrule 12.3(1) as it refers to biennial renewals and the profession now renews annually.

The proposed amendment to Chapter 13 amends the definition of “Attest” to match the definition in 2011 Iowa Code Supplement section 542.3.

Consideration will be given to all written suggestions or comments on the proposed amendments received no later than 4:30 p.m. on February 14, 2012. Comments should be addressed to Toni Bright, Accountancy Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021. E-mail may be sent to toni.bright@iowa.gov.

A public hearing will be held on February 14, 2012, at 9 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments do not have any fiscal impact to the state of Iowa.

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

These amendments are intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

The following amendments are proposed.

ITEM 1. Amend rule **193A—1.1(542)**, definition of “Attest,” as follows:

“Attest” or “attest service” means providing any of the following services:

1. and 2. No change.
3. ~~An examination of prospective financial information~~ Any engagement to be performed in accordance with the statements on standards for attestation engagements.
4. No change.

The standards specified in the definition of “attest” are those standards adopted by the board, by rule, by reference to the standards developed for general application by the AICPA, the PCAOB, or other recognized national accountancy organization.

ITEM 2. Amend rule 193A—12.3(542) as follows:

193A—12.3(542) Prorating of certain fees.

~~12.3(1) Fees for issuance of an original certificate or license for less than one year to the biennial renewal date as provided in rule 193A—5.1(542) may be prorated on an annual basis for the remainder of time covered by the certificate or license. For example, if a CPA certificate or LPA license holder applies for the original certificate or license and is required to renew the certificate or license in 12 months or less, the fee would be \$50. If the original certificate or license is not scheduled to be renewed for more than 12 months, the fee would be \$100.~~

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

~~12.3(2)~~ Fees for the issuance of an original CPA certificate or LPA license, pursuant to rule 193A—5.3(542), or the issuance of an initial permit to practice to a CPA or LPA firm, pursuant to rule 193A—7.1(542), will not be prorated.

ITEM 3. Amend subrule **13.6(1)**, definition of “Attest,” as follows:

“Attest” or “attest service” means providing any of the following services:

1. and 2. No change.
3. ~~An examination of prospective financial information~~ Any engagement to be performed in accordance with the statements on standards for attestation engagements.
4. No change.

The standards specified in the definition of “attest” are those standards adopted by the board, by rule, by reference to the standards developed for general application by the American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board, or other recognized national accountancy organization.

ARC 9976B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 135.11 and 135.29, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 85, “Local Substitute Medical Decision-Making Boards,” Iowa Administrative Code.

The rules in Chapter 85 describe the requirements and procedures for local substitute medical decision-making boards. These proposed amendments remove references to the state substitute medical decision-making board. In 2010 Iowa Acts, chapter 1031, section 399, the legislature repealed Iowa Code section 135.28 that established the state substitute medical decision-making board.

Any interested person may make written comments or suggestions on the proposed amendments on or before February 14, 2012. Such written comments should be directed to Diana Nicholls-Blomme, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to diana.nicholls-blomme@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code section 135.29.

The following amendments are proposed.

ITEM 1. Amend subrule 85.2(7) as follows:

85.2(7) “Panel” means a group of three or more members of a local board ~~or the state board~~ who are appointed by the chairperson of that board to hear a case when an application has been filed with the board ~~or when an appeal has been filed with the state board~~.

ITEM 2. Amend subrule 85.2(10) as follows:

85.2(10) “Physician” means any individual licensed under Iowa Code chapter 148, 150, ~~or 150A~~.

ITEM 3. Rescind subrule **85.2(11)**.

ITEM 4. Amend subrule 85.3(5) as follows:

85.3(5) The county board of supervisors shall notify the ~~state board~~ department when a local board is appointed and shall submit a list of the members appointed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 5. Amend rule 641—85.9(135) as follows:

641—85.9(135) Right of appeal.

85.9(1) The patient, the person who filed the application, or a correspondent may appeal the local board's decision to the ~~state board~~ department. The appeal must be made before the date and time that the consent becomes effective. The person appealing shall notify the local board or the department of the appeal. The notice of the appeal shall be in writing or by telephone followed by a written appeal to the department. If the appeal is initially made by telephone, the written appeal to the department shall be postmarked within 48 hours of the telephone notice. The written appeal shall state the reason for the appeal. If the initial appeal is made to the local board, the local board representative shall immediately notify the department and the health care provider. If the initial appeal is made to the department, the department representative shall immediately notify the local board and the health care provider.

85.9(2) Upon receipt of the notice of appeal, the local board shall immediately provide a copy of the record of the case to the ~~state board~~ department. ~~The state board chairperson shall appoint a panel to review the case. The panel shall consist of at least three members with the same composition requirements as the local panels as specified in rule 85.6(135).~~ The ~~panel~~ department shall review the record to determine whether the determination by the local panel is supported by substantial evidence. The ~~state panel~~ department shall also review new information which is submitted regarding the case. The ~~state panel's~~ department's decision shall be based on a review of the record and a review of any new information and shall be made in accordance with the provisions for local panel determination in rules 641—85.7(135) and 641—85.8(135). The ~~state panel's~~ department's decision shall be promptly sent by certified mail, return receipt requested, or otherwise provided by any other means that will provide more timely or reliable written notice to: the patient, the person filing the appeal, the person who filed the application and the chairperson of the local board. If any of these persons are dissatisfied with the ~~state panel's~~ department's decision, an appeal may be taken in the manner provided by Iowa Code chapter 17A.

ITEM 6. Rescind rule **641—85.10(135)**.

ITEM 7. Renumber rules **641—85.11(135)** and **641—85.12(135)** as **641—85.10(135)** and **641—85.11(135)**.

ITEM 8. Amend renumbered rule 641—85.10(135) as follows:

641—85.10(135) Records and reports. Each fiscal year, prior to October 1, the local board shall submit an annual report to the ~~state board~~ department on forms provided by the ~~state board~~ department. The report shall include summary information regarding the number, nature and disposition of applications filed with the local board in the preceding year. It shall also include a list of the local board members and officers for the new year and such other information as the ~~state board~~ department may deem necessary. ~~Members of the state board or authorized~~ Authorized representatives of the department shall have access to all records of the local boards. All record information which is excluded from public access and inspection pursuant to Iowa Code chapter 22, 141 or 228 and 42 Code of Federal Regulations Part 2, or any other confidentiality law provision shall be respected by the ~~state board members and~~ department representatives.

ITEM 9. Amend **641—Chapter 85**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~sections 135.28 and~~ section 135.29.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of

TREASURER OF STATE(cont'd)

Banking James M. Schipper, and Auditor of State David A. Vautt have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 4.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective January 12, 2012, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .40%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 9974B

TREASURER OF STATE[781]

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 1999 Iowa Acts, chapter 73, and 2009 Iowa Acts, chapter 184, the Treasurer of State hereby gives Notice of Intended Action to rescind Chapter 5, “Disclosure of Information Regarding Open-End Credit and Credit Cards,” and Chapter 20, “Fairgrounds Infrastructure Grant Program,” Iowa Administrative Code.

TREASURER OF STATE[781](cont'd)

Iowa Code section 12.27, 1999 Code of Iowa, directed the Treasurer of State to adopt rules to implement the filing of information relating to open-end credit accounts and credit cards. Because 1999 Iowa Acts, chapter 73, section 1, repealed Iowa Code section 12.27, the Treasurer proposes to rescind 781—Chapter 5.

Iowa Code sections 12.101 and 12.102, 2009 Code of Iowa, created the Fairgrounds Infrastructure Grant Program and directed that criteria for eligibility for infrastructure aid be provided by rule. Because 2009 Iowa Acts, chapter 184, section 40, repealed Iowa Code sections 12.101 and 12.102, the Treasurer proposes to rescind 781—Chapter 20.

Any interested person may make written suggestions or comments on these amendments on or before February 14, 2012. Such written comments or suggestions should be directed to Jake Friedrichsen, Iowa Treasurer of State, 1007 E. Grand Ave., Des Moines, Iowa 50319. E-mail may be sent to Jake.Friedrichsen@iowa.gov.

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

These amendments are intended to implement 1999 Iowa Acts, chapter 73, and 2009 Iowa Acts, chapter 184.

The following amendments are proposed.

ITEM 1. Rescind and reserve **781—Chapter 5**.

ITEM 2. Rescind and reserve **781—Chapter 20**.

ARC 9978B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 99D.22(5), the Department of Agriculture and Land Stewardship hereby amends Chapter 62, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

The amendments create a thoroughbred promotional fund for payments to second, third and fourth place Iowa-bred thoroughbred winners at Prairie Meadows racetrack. 2011 Iowa Acts, Senate File 526, requires breeder's awards or purse supplement awards to enhance and foster the growth of the horse breeding industry. The Iowa Thoroughbred Breeders and Owners Association voted this fall at its board meeting to request this change.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because Notice of Intended Action on these amendments was published as **ARC 9918B** on December 14, 2011, and no comments were received from the public during the comment period which ended on January 3, 2012.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 5, 2012. The emergency adoption of these amendments provides a benefit to the public by allowing the payments to be made in a more timely fashion.

These amendments are identical to the noticed amendments.

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

These amendments are intended to implement 2011 Iowa Acts, Senate File 526.

These amendments became effective January 5, 2012.

The following amendments are adopted.

ITEM 1. Amend rule 21—62.2(99D) as follows:

21—62.2(99D) Iowa horse and dog breeders' fund and Iowa thoroughbred horse breeders' promotion fund. Iowa-foaled horses and Iowa-whelped dog records and breeder payments:

The department will establish and maintain a records system entitled the "Iowa Horse and Dog Breeders' Fund." This records system will feature a list of thoroughbred, standardbred and quarter horses who have qualified to be Iowa-foaled horses, as well as a listing of all greyhound dogs that have qualified to be Iowa-whelped dogs.

A sum equal to 12 percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. This percentage shall be applicable to all races that are limited to Iowa-foaled horses or Iowa-whelped dogs as well as all other races which are won by Iowa-foaled horses or Iowa-whelped dogs.

The 12 percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit ~~the 12 percent~~ in a special fund to be known as the "Iowa Horse and Dog Breeders' Fund" and pay ~~the 12 percent~~ by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or the breeder of the Iowa-whelped dog.

A sum equal to 6 percent of the purse won by an Iowa-foaled thoroughbred horse shall be used as a supplement to promote the thoroughbred horse breeding industries for horses placing second through fourth place. This percentage shall be applicable to all thoroughbred races that are held at Prairie Meadows racetrack.

The 6 percent supplement shall be withheld by the licensee from the horse breeders' fund for thoroughbreds and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit it in a special fund to be known as the "Iowa Thoroughbred Horse Breeders' Promotion Fund." This fund will pay 6 percent of the money earned to

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

each horse placing second, third and fourth place by December 31 of each calendar year to the breeder of the Iowa-foaled thoroughbred horse.

62.2(1) to 62.2(5) No change.

ITEM 2. Amend rule **21—62.6(99D)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 99D.22 as amended by ~~2005 Iowa Acts, House File 808, sections 19 and 20.~~

[Filed Emergency 1/5/12, effective 1/5/12]

[Published 1/25/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/25/12.

ARC 9979B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of 2011 Iowa Code Supplement section 514J.117, the Insurance Division hereby rescinds Chapter 76, “External Review,” Iowa Administrative Code, and adopts a new Chapter 76 with the same title.

The rules in Chapter 76 provide duties and procedures for external review of adverse determinations of certain health insurance claims. Amendments to Chapter 76 were Adopted and Filed Emergency and published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9637B**, effective July 8, 2011, to implement 2011 Iowa Acts, House File 597. Notice of Intended Action for the same amendments was published as **ARC 9639B** on the same date to allow for public comment, and a public hearing was held August 23, 2011, at the offices of the Insurance Division.

The Insurance Division continued to work with interested and affected parties, and Insurance Division staff monitored the practical administration of the rules.

Based on information provided by interested and affected parties and by Insurance Division staff, the Insurance Division determined that extensive changes and additions to the rules and appendices were required. Therefore, Notice of Intended Action was published in the Iowa Administrative Bulletin on November 16, 2011, as **ARC 9854B**. Notice of Termination was published as **ARC 9853B** on the same date, which terminated the rule making initiated by the Notice of Intended Action published as **ARC 9639B** in the July 27, 2011, Iowa Administrative Bulletin.

A public hearing was held on December 12, 2011, at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa. One comment was received. A request was made to allow insurance companies to designate a general e-mail address and telephone number for external review contact by the Insurance Division so that more than one person could monitor the contacts made, rather than meet the requirement in subrule 76.8(1) that a specific person be identified. The Division declined to make that change because of the short time frames required by 2011 Iowa Code Supplement sections 514J.107, 514J.108, and 514J.109.

After reviewing the Notice of Intended Action, the Division made some changes to the new chapter. The references to 2011 Iowa Acts, House File 597, were changed to refer to the appropriate sections in 2011 Iowa Code Supplement chapter 514J. Clauses in subrule 76.2(1) were rearranged for clarity. In the second bullet under the heading “External Review” in Appendix A, “payment for the service” was replaced with “the requested service or treatment or payment for the service or treatment” to be parallel to the language in the first paragraph of Appendix B. Other nonsubstantive grammatical and syntactical changes also were made throughout the chapter.

Persons and entities shall comply with these rules beginning February 29, 2012.

These rules will become effective February 29, 2012. The amendments that were Adopted and Filed Emergency, effective July 8, 2011, remain in effect until the new rules go into effect.

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

These rules are intended to implement 2011 Iowa Code Supplement chapter 514J.

The following amendment is adopted.

Rescind 191—Chapter 76 and adopt the following **new** chapter in lieu thereof:

CHAPTER 76
EXTERNAL REVIEW

191—76.1(514J) Purpose. This chapter is intended to implement 2011 Iowa Code Supplement chapter 514J and the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148 as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, which amends the Public Health Service Act and adopts, in part, new 42 U.S.C. Section 300gg-19. These rules address issues which are unique to the external review process in this state and provide a uniform process for

INSURANCE DIVISION[191](cont'd)

covered persons of health carriers providing health insurance coverage or the covered persons' authorized representatives to request and receive an external review of adverse determinations and final adverse determinations as defined in 2011 Iowa Code Supplement sections 514J.102(1) and 514J.102(18) and as referenced in 2011 Iowa Code Supplement section 514J.109(1). Health carriers defined in 2011 Iowa Code Supplement section 514J.102(23) and included in paragraph 76.2(2) "c" are subject to these rules.

191—76.2(514J) Applicable law and definitions.

76.2(1) The rules contained in this chapter shall apply to any health benefit plan as defined in 2011 Iowa Code Supplement section 514J.102(19), other than those excluded under 2011 Iowa Code Supplement section 514J.103(2), for any plan that is offered or issued by a health carrier as defined in 2011 Iowa Code Supplement section 514J.102(23), if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011.

76.2(2) For purposes of this chapter, the definitions in 2011 Iowa Code Supplement chapter 514J shall apply. In addition:

a. For purposes of applying the exemption in 2011 Iowa Code Supplement section 514J.103(2) "b," "Medicare supplement policy of insurance" shall mean the same as "Medicare supplement policy" as defined in rule 191—37.3(514D).

b. For purposes of this chapter, the definition of "adverse determination" in 2011 Iowa Code Supplement section 514J.102 shall include experimental or investigational treatment adverse determinations, as set forth in 2011 Iowa Code Supplement section 514J.109.

c. For purposes of this chapter, the definition of "health carrier" may include an employer self-funded plan if the employer chooses to opt in to comply with these rules.

191—76.3(514J) Disclosure requirements. The description of external review procedures required by 2011 Iowa Code Supplement section 514J.116 shall be in the form of Appendix A or substantially similar language approved by the commissioner.

191—76.4(514J) External review request.

76.4(1) Except for requests for expedited review, the covered person or the covered person's authorized representative shall submit a written request for external review (completed Appendix B) to the commissioner by personal delivery, by mail, by fax or by electronic transmission, including a copy of the health carrier's written notice containing the final adverse determination, within the time periods specified in 2011 Iowa Code Supplement section 514J.107(1) or 514J.109(1), as applicable. The request form and notice shall be submitted to the commissioner at Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059; or e-mail iid.marketregulation@iid.iowa.gov.

76.4(2) Requests for expedited review may be made orally, and the commissioner may require submission of additional documentation such as physician certifications or medical information releases as is deemed practicable under the time constraints.

76.4(3) There is no charge or fee for submitting a request for external review.

191—76.5(514J) Communication between covered person, health carrier, independent review organization and the commissioner.

76.5(1) Notices or other communications required by 2011 Iowa Code Supplement chapter 514J between the commissioner, the health carrier and the independent review organization shall be by e-mail or facsimile, unless otherwise specified, and shall be documented to prove transmission and receipt of the communication.

76.5(2) Notices or other communications required by 2011 Iowa Code Supplement chapter 514J from the commissioner, the health carrier or the independent review organization to the covered person shall be by e-mail, facsimile or overnight mail, and shall be documented to prove transmission and receipt of the communication.

76.5(3) The covered person or covered person's representative may provide notifications and communications to the health carrier, independent review organization and the commissioner as

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required by 2011 Iowa Code Supplement chapter 514J by e-mail, facsimile or overnight mail, but also may do so by first-class mail or personal delivery.

76.5(4) Any time periods or deadlines specified in 2011 Iowa Code Supplement chapter 514J shall commence upon receipt of the notice or communication and cease upon the transmission of the subsequent notice or communication.

191—76.6(514J) Assignment of independent review organization by the commissioner.

76.6(1) The assignment by the commissioner of an independent review organization pursuant to 2011 Iowa Code Supplement chapter 514J shall be by rotation among approved independent review organizations.

76.6(2) Upon assignment by the commissioner of an independent review organization, in addition to providing notice to the health carrier and the covered person or covered person's representative as required by 2011 Iowa Code Supplement chapter 514J, the commissioner shall provide notice of the assignment to the independent review organization.

76.6(3) Within two business days of receipt by the independent review organization of notice from the commissioner pursuant to subrule 76.6(2), the independent review organization shall make a determination of its ability to perform the external review and advise the commissioner if the independent review organization is unable to perform the review due to conflict of interest or due to lack of expertise or qualification for the particular subject matter of the review.

191—76.7(514J) Decision notification. The independent review organization shall immediately provide a copy of a draft of the decision to the commissioner for review. The commissioner shall review the draft of the decision to verify that the independent review organization has included in its draft of the decision the requirements set forth in 2011 Iowa Code Supplement section 514J.107, 514J.108, or 514J.109. The commissioner shall make any suggestions for changes to make the draft of the decision comply with the requirements. The independent review organization shall make such required changes within two business days. Once the commissioner determines that the decision meets the requirements of 2011 Iowa Code Supplement section 514J.107, 514J.108, or 514J.109, as applicable, the independent review organization shall immediately send the decision to the commissioner, the health carrier, and the covered person or covered person's authorized representative. The decision approved by the commissioner shall be delivered by telephone, fax or electronic transmission to the health carrier, the commissioner and the covered person or covered person's authorized representative, and a hard copy of the decision also shall be delivered by mail to the covered person or covered person's authorized representative.

191—76.8(514J) Health carrier information.

76.8(1) Each health carrier shall provide to the commissioner the name, title, telephone number, fax number and e-mail address of the individual who shall be the health carrier's contact person for external review procedures. The carrier's contact person or an appointed alternate shall be available to the commissioner during the Iowa insurance division's normal business hours, 8 a.m. to 4:30 p.m., Monday through Friday, central time, excluding state holidays. Any change in personnel or contact information shall be immediately sent to the commissioner.

76.8(2) Each health carrier shall make available to the commissioner upon request within five business days a detailed description of the process the health carrier has in place to ensure compliance with the requirements found in this chapter and in 2011 Iowa Code Supplement chapter 514J. The description shall include:

- a.* An explanation of how the carrier determines when a person has qualified for external review and should receive a notice from the carrier, and
- b.* A copy of the notice sent to persons who fall within the scope of the law.

76.8(3) Each health carrier shall provide to the commissioner, upon request, information set forth in 2011 Iowa Code Supplement section 514J.114(2) "b," in a format substantially similar to Appendix D, or as approved by the commissioner.

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191—76.9(514J) Certification of independent review organization.

76.9(1) In addition to the minimum qualifications set forth in 2011 Iowa Code Supplement section 514J.112, the following minimum standards are required for certification as an independent review organization:

a. The applicant shall provide a description of the procedures employed to comply with 2011 Iowa Code Supplement section 514J.112(1)“*a.*”

b. The applicant shall provide the number of reviewers retained by the independent review organization and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review.

c. The applicant shall provide the names and résumés of all directors, officers, and executives of the independent review organization.

d. The applicant shall provide a description of the fees to be charged to the carrier by the independent review organization for external reviews.

e. The applicant shall provide the name of the medical director or health professional director responsible for the supervision and oversight of the independent review procedure.

76.9(2) The independent review organization shall develop written policies and procedures to ensure adherence to the requirements of this chapter and 2011 Iowa Code Supplement chapter 514J by any contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review organization.

76.9(3) In addition to the toll-free telephone service required by 2011 Iowa Code Supplement section 514J.112(1)“*b.*,” the independent review organization shall establish a facsimile and electronic mail service to receive information relating to external reviews pursuant to this chapter and 2011 Iowa Code Supplement chapter 514J.

76.9(4) The independent review organization shall provide the commissioner within ten business days of request such data, information, and reports as the commissioner determines necessary to evaluate the external review process established under 2011 Iowa Code Supplement chapter 514J or a report in the format of Appendix C to comply with 2011 Iowa Code Supplement section 514J.114(1).

76.9(5) Applications shall be submitted to the Commissioner of Insurance, 330 Maple Street, Des Moines, Iowa 50319; or as designated by the commissioner. Applications must be submitted in full to be considered. The form for initially approving and for reapproving independent review organizations required by 2011 Iowa Code Supplement section 514J.111(4) shall be in the form of Appendix E. If the commissioner designates an entity to review applications, the designee may charge a fee, as permitted by 2011 Iowa Code Supplement section 514J.111(5) and as approved by the commissioner. All applicants will be notified of the certification decision.

76.9(6) A list of certified independent review organizations shall be maintained by the commissioner and shall be available through the Web site of the Iowa insurance division, www.iid.state.ia.us.

191—76.10(514J) Fees charged by independent review organizations.

76.10(1) Fees charged by independent review organizations shall be reasonable.

76.10(2) A health carrier objecting to the fee charged by an independent review organization shall file a written notice with the commissioner and the independent review organization indicating the health carrier's objections to the fee and the reasons and any documentation for the objections.

76.10(3) Five days after receipt of the notice, the independent review organization may submit to the commissioner written documentation supporting the fee.

76.10(4) If the parties do not come to an agreement within 30 days of the initial notice, the commissioner or the commissioner's designee shall conduct a review of the fee and submissions and issue a written decision within 60 days. Factors to consider in determining whether a fee is unreasonable may include the following:

- a.* The time and labor required to perform the independent review;
- b.* The novelty and difficulty of the issues;
- c.* The skill requisite to perform the independent review properly;
- d.* The customary fee;

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e. The experience, reputation and ability of the independent review organization and those performing the independent review.

76.10(5) A party may appeal the commissioner's decision pursuant to 191—Chapter 3.

191—76.11(514J) Penalties.

76.11(1) *Independent review organizations.* The commissioner may withdraw the approval of an independent review organization for any of the following reasons:

a. Failure to maintain the minimum standards set forth in 2011 Iowa Code Supplement sections 514J.111 and 514J.112 or in subrule 76.9(1).

b. Failure to comply with any of the requirements in subrules 76.9(2) through 76.9(5) or rule 191—76.10(514J).

c. Failure to meet any time requirements for conducting a standard, an experimental or investigational, or an expedited external review.

d. Failure to comply with any other requirements set forth in this chapter or in 2011 Iowa Code Supplement chapter 514J.

76.11(2) *Health carriers.*

a. Failure to comply with any of the provisions of this chapter is a violation of Iowa Code chapter 507B.

b. The commissioner may require a health carrier to provide additional time for a covered person to request an external review or submit documentation if the health carrier failed to comply with any part of 2011 Iowa Code Supplement chapter 514J or of this chapter.

c. The commissioner may order restitution or take other corrective action pursuant to Iowa Code section 505.8(10).

These rules are intended to implement 2011 Iowa Code Supplement chapter 514J.

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Appendix A

NOTICE OF APPEAL RIGHTS

You have a right to appeal any decision we make that denies payment on your claim or your request for coverage of a health care service or treatment.

You may request additional explanation when your claim or request for coverage of a health care service or treatment is denied or the health care service or treatment you received was not fully covered. Contact us when you:

- Do not understand the reason for denial;
- Do not understand why the health care service or treatment was not fully covered;
- Do not understand why a request for coverage of a health care service or treatment was denied;
- Cannot find the applicable provision in your Benefit Plan Document;
- Want a copy (free of charge) of the guidelines, criteria or clinical rationale that we used to make our decision; or
- Disagree with the denial or the amount not covered and you want to appeal.

If your claim was denied due to missing or incomplete information, you or your health care provider may resubmit the claim to us with the necessary information to complete the claim.

Internal Appeal: All appeals to us for claim denials (or any decision that does not cover expenses you believe should have been covered) must be sent to [insert address of the health carrier contact person where appeals should be sent] within **180 days** of the date you receive our denial. We will provide a full and fair review of your claim by individuals associated with us, but who were not involved in making the initial denial of your claim. You may provide us with additional information that relates to your claim, and you may request copies of information that we have that pertains to your claim. We will notify you of our decision in writing within **30 days** of receiving your appeal. If you do not receive our decision within **30 days** of receiving your appeal, you may be entitled to file a request for external review.

External Review: We have denied your request for the provision of or payment for a health care service or course of treatment. If our decision involved making a judgment as to the medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested, **you may have a right to have our decision reviewed** by health care professionals who have no association with us. Requests for external review may be submitted to the Commissioner of Insurance.

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You may obtain an external review if:

- Our decision involved the admission, availability of care, continued stay, or other health care service that is a covered benefit; and
- We denied, reduced or terminated the requested service or treatment or payment for the service or treatment because we determined it did not meet our requirements for medical necessity, health care setting, level of care or effectiveness of the health care service or treatment you requested.
- You have a medical condition that would seriously jeopardize your life or health or would jeopardize your ability to regain maximum function. In this situation, you may file a request for an **expedited external review** of our denial.
- The final adverse determination concerns an admission, availability of care, continued stay, or a health care service for which you received emergency services, but you have not been discharged from a facility. In this situation, you or your authorized representative may request an **expedited external review**.
- Our denial to provide or pay for health care service or course of treatment is based on a determination that the service or treatment is experimental or investigational. In addition, if your treating health care professional certifies in writing that the recommended or requested health care service or treatment that is the subject of the recommendation or request would be significantly less effective if not promptly initiated, then you or your authorized representative may request an **expedited external review**.

You can obtain a copy of the External Review Request Form from: the Iowa Insurance Division, 330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; Web site www.iid.state.ia.us.

Within **four months** after receipt of our notice containing the final adverse determination and this Notice of Appeal Rights, you should submit a request for external review to the Iowa Insurance Division, 330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; e-mail iid.marketregulation@iid.iowa.gov.

For standard external review, a decision will be made within **45 days** after the independent review organization receives your request.

For details, please review your Benefit Plan Document, contact us, or contact the Iowa Insurance Division.

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Appendix B

EXTERNAL REVIEW REQUEST FORM**SECTION 1. ELIGIBILITY FOR EXTERNAL REVIEW**

This External Review Request Form must be filed with the Iowa Insurance Division within **four months** after your health carrier denied, reduced or terminated the requested health care service or treatment or payment for the service or treatment. You or your authorized representative may request an external review under any of the following circumstances:

1. Your health carrier has made a determination that an admission, availability of care, continued stay, or other health care service that is a covered benefit does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or payment for the service is therefore denied, reduced, or terminated. **Please follow the directions in Sections 1 and 2, then submit completed Sections 3 and 4, Section 5 if applicable, and Section 7 if you are requesting an expedited review.**
2. Your health carrier has made a denial of coverage based on a determination that the health care service or treatment recommended or requested is experimental or investigational. **Please follow the directions in Sections 1 and 2, then submit completed Sections 3 and 4, Section 5 if applicable, Section 6, and Section 7 if you are requesting an expedited review.**
3. The final adverse determination concerns an admission, availability of care, continued stay, or a health care service for which you received emergency services, but you have not been discharged from a facility. **Please follow the directions in Sections 1 and 2, then submit completed Sections 3 and 4, Section 5 if applicable, and Section 7.**

If coverage was denied for a service or treatment specifically listed in your health insurance policy as excluded from coverage (other than what is listed in paragraphs 1 and 2 above), you will not be eligible for external review.

You also will need to have completed any internal appeals with your health carrier before you can request an external review, unless:

1. You already did request an internal appeal with your health carrier and have not received a decision and it has been 30 days since you requested the appeal; or
2. Your health carrier has waived the requirement that you complete an internal appeal before requesting an external review; or
3. You need an expedited review because time is a factor in your treatment.

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SECTION 2. WHAT TO SEND AND WHERE TO SEND IT

YOU MUST SUBMIT ITEMS 1 AND 2 BELOW:

1. This External Review Request Form, signed and dated, with the sections completed for your particular situation as described in Section 1. If you would like help completing your external review request for submission, contact the Consumer Assistance Program of the Iowa Insurance Division by calling 877-955-1212, or by e-mail at <http://insuranceca.iowa.gov>.
2. One of the following:
 - a. The letter from the covered person's health carrier or utilization review company that states that the decision is final and that the covered person or the covered person's authorized representative has exhausted all internal appeal procedures;
 - b. The letter from the covered person's health carrier or utilization review company that states it has waived the requirement to exhaust all of the health carrier's internal appeal procedures;
 - c. A copy of the covered person's or the covered person's authorized representative's request for internal appeal and a statement that no decision from the health carrier has been received for 30 days; or
 - d. A completed request for expedited review, Section 7 of this form.

WHERE TO SEND IT:

If you are requesting a standard external review, send all paperwork to the Iowa Insurance Division, 330 Maple, Des Moines, Iowa 50319; facsimile 515-281-3059; e-mail iid.marketregulation@iid.iowa.gov. If you have questions, telephone 877-955-1212 or 515-281-6348.

If you are requesting an expedited external review, call the Iowa Insurance Division (telephone 877-955-1212 or 515-281-6348) before sending your paperwork, and you will receive instructions on the quickest way to submit the application and supporting information.

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SECTION 3. INFORMATION REQUIRED FOR ALL EXTERNAL REVIEW REQUESTS**APPLICANT NAME**

The applicant is a:

- Covered Person/Patient
- Provider (the covered person/patient must complete Section 4)
- Authorized Representative (submit completed Sections 4 and 5)

COVERED PERSON/PATIENT INFORMATION

Covered Person's/Patient's Name:

Address:

Telephone Number:

Daytime:

Evening:

E-mail Address:

Fax Number:

INSURANCE INFORMATION

Name of Insurer or HMO:

Covered Person's Insurance ID Number and/or Policy Number:

Insurance Claim/Reference Number:

Insurer/HMO Mailing Address:

Insurer/HMO Telephone Number:

Insurer/HMO E-mail Address:

Insurer/HMO Fax Number:

EMPLOYER INFORMATION

Employer's Name:

Is the health coverage that you have through your employer a self-funded plan? (Y/N)_____.

Some self-funded plans may voluntarily provide external review, but may have different procedures.
You should check with your employer.

HEALTH CARE PROVIDER INFORMATION

Treating Physician/Health Care Provider:

Address:

Contact Person:

Telephone Number:

E-mail Address:

Fax Number:

Patient Medical Record Number:

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REASON FOR HEALTH CARRIER'S DENIAL

(Please check one.)

- The health care service or treatment was denied due to medical necessity, appropriateness, health care setting, level of care or effectiveness.
- The health care service or treatment is experimental or investigational (submit completed Section 6).
- Other: _____.

SUMMARY OF EXTERNAL REVIEW REQUEST

Enter a brief description of the claim and the request for health care service or treatment that was denied and attach a copy of the denial from your health carrier.

HEALTH CARE SERVICE OR TREATMENT DECISION IN DISPUTE

Describe in your own words the health care service or treatment decision in dispute and why you are appealing this denial. Indicate clearly the services being denied and the specific dates for the services being denied. Explain why you disagree. Attach additional pages if necessary and include available pertinent medical records, any information you received from your health carrier concerning the denial, any pertinent peer literature or clinical studies, and any additional information from your physician or health care provider that you want the independent review organization to consider.

SECTION 4. SIGNATURE AND RELEASE OF MEDICAL RECORDS

To appeal your health carrier's denial, you must sign and date this external review request form and consent to the release of medical records.

I, _____, hereby request an external review. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize my insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization and the Iowa Insurance Division. I understand that the independent review organization and the Iowa Insurance Division will use this information to make a determination on my external review and that the information will be kept confidential and will not be released to anyone else. This release is valid for one year.

Signature of covered person/patient or legal representative (parent, guardian, conservator or other – please specify)

Date:

SECTION 5. APPOINTMENT OF AUTHORIZED REPRESENTATIVE

(Fill out this section only if someone else will be representing you in this request for external review.)

You can represent yourself, or you may ask another person, including your treating health care provider, to act as your authorized representative. You may revoke this authorization at any time.

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I hereby authorize _____ to pursue my external review request on my behalf.

Signature of covered person/patient or legal representative (parent, guardian, conservator or other – please specify)

Date:

Address of Authorized Representative:

Authorized Representative's Telephone Number:

Daytime:

Evening:

Fax Number:

E-mail Address:

SECTION 6. REQUEST FOR EXTERNAL REVIEW OF DENIALS BASED ON THE REASON THAT THE TREATMENT WAS EXPERIMENTAL OR INVESTIGATIONAL

PHYSICIAN CERTIFICATION: EXPERIMENTAL OR INVESTIGATIONAL DENIALS

(To Be Completed by Treating Physician)

I hereby certify that I am the treating physician for _____ (covered person's/patient's name) and that I have requested the authorization for a drug, device, procedure or therapy denied for coverage due to the insurance carrier's determination that the proposed therapy is experimental and/or investigational. I understand that in order for the covered person/patient to obtain the right to an external review of this denial, as treating physician I must certify that the covered person's/patient's medical condition meets certain requirements:

In my medical opinion as the insured's treating physician, I hereby certify to the following:

(NOTE: Requirements 1 through 3 below must all apply for the covered person/patient to qualify for an external review.)

- 1. The covered person/patient has a condition that qualifies under one or more of the following descriptions.

(Please check all descriptions that apply.)

- Standard health care services or treatments have not been effective in improving the covered person's/patient's condition.
- Standard health care services or treatments are not medically appropriate for the covered person/patient.
- There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.

- 2. The physician is a licensed, board-certified, or board-eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition.

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3. Scientifically valid studies using accepted protocols demonstrate that the health care service or treatment recommended or that is the subject of the adverse determination or final adverse determination is likely to be more beneficial to the covered person/patient than any available standard health care services or treatments.

Explain:

Please provide a description of the recommended or requested health care service or treatment that is the subject of the denial. (Attach additional information as necessary.)

Physician's Signature _____ Date: _____

Physician's Name (Please print.) _____

SECTION 7. REQUEST FOR EXPEDITED EXTERNAL REVIEW**CERTIFICATION OF TREATING HEALTH CARE PROVIDER
FOR EXPEDITED EXTERNAL REVIEW REQUEST****(To Be Completed by Treating Health Care Provider)****NOTE TO THE TREATING HEALTH CARE PROVIDER:**

The standard external review process can take up to 60 days from the date the patient's request for external review is received by the Iowa Insurance Division.

The independent review organization should complete an expedited external review within 72 hours.

This form is for the purpose of providing the certification necessary to trigger expedited review.

CERTIFICATION

I hereby certify that I am a treating health care provider for the patient, _____; and that one of the following is true: (Please check all that apply.)

- Adherence to the time frame for conducting a standard external review of the patient's appeal would, in my professional judgment, seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function.
- The recommended or requested health care service or treatment that is the subject of the external review request would be significantly less effective if not promptly initiated.
- The final adverse determination concerns an admission, availability of care, continued stay, or a health care service for which the patient received emergency services, but has not been discharged from a facility.

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For this reason, the patient's appeal of the denial by the patient's health carrier of the requested health care service or course of treatment should be processed on an expedited basis.

Treating Health Care Provider's Signature _____ Date _____

Treating Health Care Provider's Name (Please print.) _____

Provider's Mailing Address:

Telephone Number:

E-mail Address:

Fax Number:

Licensure and Area of Clinical Specialty:

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Appendix C

IOWA INSURANCE DIVISION
INDEPENDENT REVIEW ORGANIZATION EXTERNAL REVIEW
ANNUAL REPORT FORM

(Attach information to this form if necessary.)

External Review Annual Summary for 20__

Each independent review organization (IRO) shall submit upon request of the Commissioner an annual report with information for each health carrier in the aggregate for Iowa on external reviews performed and by type of health benefit plan.

1. IRO name:
Filing date:
2. IRO address:
3. IRO Web site:
4. Name, e-mail address, telephone number and fax number of the person completing this form:
5. Name, title, e-mail address, telephone number and fax number of the person responsible for regulatory compliance and quality of external reviews:
6. Total number of requests for external review received from the Iowa Insurance Division during the reporting period:
7. Number of standard external reviews:
8. Average number of days the IRO required to reach a final decision in standard reviews:
9. Number of expedited reviews completed to a final decision:
10. Average number of days the IRO required to reach a final decision in expedited reviews:
11. Number of medical necessity reviews decided in favor of the health carrier:
Briefly list procedures denied:
12. Number of medical necessity reviews decided in favor of the covered person/patient:
Briefly list procedures approved:

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13. Number of experimental/investigational reviews decided in favor of the health carrier:
Briefly list procedures denied:
14. Number of experimental/investigational reviews decided in favor of the covered person/patient:
Briefly list procedures approved:
15. Number of reviews terminated as the result of a reconsideration by the health carrier:
16. Number of reviews terminated by the covered person/patient prior to issuance by the IRO of external review decision:
17. Number of reviews declined due to possible conflict with:
 - Health carrier:
 - Covered person/patient:
 - Health care provider:
 - Describe possible conflicts of interest:
18. Number of reviews declined due to other reasons not reflected in #17 above:

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Appendix D

IOWA INSURANCE DIVISION

HEALTH CARRIER EXTERNAL REVIEW ANNUAL REPORT FORM

(Attach information to this form if necessary.)

External Review Annual Summary for 20__

Each health carrier shall submit upon request of the Commissioner an annual report with information in the aggregate for Iowa and by type of health benefit plan.

1. Health carrier name:
2. Health carrier address:
3. Health carrier Web site:
4. Name, e-mail address, telephone number and fax number of the person completing this form:
5. Name, title, e-mail address, telephone number and fax number of the person responsible for regulatory compliance:
6. Total number of external review requests of the health carrier's adverse determinations and final adverse determinations received from the Iowa Insurance Division during the reporting period:
7. From the total number of external review requests provided in Question 6, the number of requests determined eligible for an external review:
8. Total number of external review requests resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination of the health carrier and the number resolved reversing the adverse determination or final adverse determination of the health carrier:
9. Total number of external review requests that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative:

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Appendix E

INDEPENDENT REVIEW ORGANIZATION APPLICATION

1. BASIC INFORMATION:

Name:

Street Address:

City, State, ZIP:

Telephone (a toll-free telephone service to receive information related to external reviews 24 hours a day, 7 days a week, that is capable of accepting, recording, or providing appropriate instruction to incoming telephone callers outside normal business hours):

Fax Number:

E-mail Address:

Director, Officer, or Executive Officer responsible for supervision and oversight of review procedures:

Telephone:

Fax Number:

E-mail Address:

Contact person to receive contacts, notices, and information from the Division:

Telephone:

Fax Number:

E-mail Address:

2. Names and titles of all directors, officers, and executives:

3. Identify independent review accreditation by nationally recognized private accrediting entity:

4. Identify all clinical reviewers to be assigned by your IRO by name, general certification, and specialty or subspecialty certification:

A clinical reviewer shall be a physician or other appropriate health care professional who is an expert in the treatment of the covered person's medical condition, is knowledgeable about the recommended or requested health care service or treatment through actual clinical experience treating patients with the same or similar medical condition, holds a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review, and has no history of disciplinary actions or sanctions.

5. I, _____ (authorized signatory), agree to the following undertakings and have provided attachments as required:

a. To provide notices and conduct reviews within the specified time frames.

b. To ensure the selection of qualified and impartial clinical reviewers and suitable matching of reviewers to specific cases.

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c. To ensure the confidentiality of medical and treatment records and clinical review criteria.

d. To establish and maintain written procedures to ensure the IRO is unbiased.

Specifically, the IRO shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with, a health benefit plan, a national, state, or local trade association of health benefit plans, or a national, state, or local trade association of health care providers. Further, neither the independent review organization nor any clinical reviewer assigned by the independent organization to conduct an external review shall have a material professional, familial, or financial conflict of interest with the health carrier, the covered person or covered person's representative, any officer, director, or management employee of the health carrier, the health care professional, the health care professional's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review, the facility at which the recommended health care service or treatment would be provided, the developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose health care service or treatment is the subject of the external review.

e. To maintain required records and provide access to those records by the commissioner upon request.

6. Set forth a description of fees to be charged by the independent review organization for external reviews:

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/25/12.