

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) One full calendar day when a ~~consumer member~~ residing in the living unit receives on-site staff supervision for ~~19~~ eight or more hours ~~during a 24-hour calendar per day~~ as an average over a calendar month and the ~~consumer's individual comprehensive member's service plan~~ identifies and reflects the need for this amount of supervision.

(2) One hour when subparagraph 78.43(2)“e”(1) does not apply.

f. The maximum ~~numbers~~ number of units available per ~~consumer~~ member is as follows:

(1) and (2) No change.

g. The service shall be identified in the ~~consumer's individual comprehensive member's service plan~~.

h. Services Supported community living services shall not be simultaneously reimbursed with other residential services, ~~HCBS brain injury waiver~~ or with respite, transportation, or personal assistance services, Medicaid nursing, or Medicaid home health aide services provided through Medicaid or the HCBS brain injury waiver.

ITEM 31. Amend subrule 78.43(3) as follows:

78.43(3) Respite care services. Respite care services are services provided to the ~~consumer member~~ that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that time period. The purpose of respite care is to enable the ~~consumer member~~ to remain in the ~~consumer's member's~~ current living situation.

a. Services provided outside the ~~consumer's member's~~ home shall not be reimbursable if the living unit where respite is provided is reserved for another person on a temporary leave of absence.

b. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer member~~ as determined by the ~~consumer's member's~~ interdisciplinary team.

c. A unit of service is one hour.

d. Respite care is not to be provided to ~~persons~~ members during the hours in which the usual caregiver is employed except when the ~~consumer member~~ is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care. Respite care cannot be provided to a ~~consumer member~~ whose usual caregiver is a consumer-directed attendant care provider for the ~~consumer member~~.

e. No change.

f. The interdisciplinary team shall determine if the ~~consumer member~~ will receive basic individual respite, specialized respite or group respite as defined in rule 441—83.81(249A).

g. and *h.* No change.

ITEM 32. Amend subrule 78.43(5) as follows:

78.43(5) Home and vehicle ~~modifications~~ modification. Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's member's~~ home or vehicle ~~listed below~~ that directly address the ~~consumer's member's~~ medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer member~~ and enable the ~~consumer member~~ to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's member's~~ medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair~~, or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. Repairs Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's member's~~ disability.

(8) to (24) No change.

c. and *d.* No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer member~~. Whenever possible, three

HUMAN SERVICES DEPARTMENT[441](cont'd)

itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include, ~~at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, ~~time frame for work completion,~~ and diagrams of the project whenever applicable, and an assurance of that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications. Payment of up to \$6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker shall ~~may~~ encumber up to \$505 per a portion of the cost of a modification every month within the monthly dollar cap allowed for the ~~consumer member~~ until the ~~amount~~ entire cost of the modification is ~~reached~~ encumbered within ~~the~~ a consecutive 12-month period.

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 33. Amend subrule 78.43(6) as follows:

78.43(6) *Personal emergency response or portable locator system.* ~~The personal emergency response system allows a consumer experiencing a medical emergency at home to activate electronic components that transmit a coded signal via digital equipment over telephone lines to a central monitoring station.~~

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency.

(1) The necessary components of a system are:

~~a. 1.~~ An in-home medical communications transceiver.

~~b. 2.~~ A remote, portable activator.

~~c. 3.~~ A central monitoring station with backup systems staffed by trained attendants 24 hours per day, seven days per week at all times.

~~d. 4.~~ Current data files at the central monitoring station containing response protocols and personal, medical and emergency information for each ~~consumer member~~.

~~e. (2)~~ The service shall be identified in the ~~consumer's individual and comprehensive member's~~ service plan.

~~f. (3)~~ A unit is a one-time installation fee or one month of service.

~~g. (4)~~ Maximum units per state fiscal year ~~are~~ shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 34. Amend subrule 78.43(8) as follows:

78.43(8) *Specialized medical equipment.*

a. Specialized medical equipment shall include medically necessary items which are for personal use by consumers members with a brain injury and which:

- (1) provide Provide for health and safety of the consumer which member,
- (2) are Are not ordinarily covered by Medicaid, and
- (3) are Are not funded by educational or vocational rehabilitation programs, and
- (4) are Are not provided by voluntary means. This includes, but is not limited to: electronic aids and organizers, medicine dispensing devices, communication devices, bath aids, and noncovered environmental control units. This includes repair and maintenance of items purchased through the waiver in addition to the initial purchase cost.

b. Coverage includes, but is not limited to:

- (1) Electronic aids and organizers.
- (2) Medicine dispensing devices.
- (3) Communication devices.
- (4) Bath aids.
- (5) Noncovered environmental control units.
- (6) Repair and maintenance of items purchased through the waiver.

a. c. Consumers may receive specialized medical equipment once per month until a maximum yearly usage of \$6,060 has been reached. Payment of up to \$6,060 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service. Each month within the 12-month period, the service worker shall encumber an amount within the monthly dollar cap allowed for the member until the amount of the equipment cost is reached.

b. d. The need for specialized medical equipment shall be:

- (1) documented Documented by a health care professional as necessary for the consumer's member's health and safety, and
- (2) identified Identified in the consumer's individual comprehensive member's service plan.

ITEM 35. Amend subrule 78.43(9) as follows:

78.43(9) *Adult day care services.* Adult day care services provide an organized program of supportive care in a group environment to persons who need a degree of supervision and assistance on a regular or intermittent basis in a day care center. A unit of service is a full day (4 to 8 hours) or a half day (1 to 4 hours) or an extended day (8 to 12 hours). Components of the service are set forth in rule 441—171.6(234) include health-related care, social services, and other related support services.

ITEM 36. Amend subrule 78.43(11) as follows:

78.43(11) *Prevocational services.* Prevocational services are services which are aimed at preparing a consumer eligible for the HCBS brain injury waiver member for paid or unpaid employment, but which are not job-task oriented. These services include teaching the consumer member concepts necessary as for job readiness skills, such as following directions, attending to tasks, task completion, problem solving, and safety and mobility training.

a. Prevocational services are intended to have a more generalized result as opposed to vocational training for a specific job or supported employment. Services include activities which are not primarily directed at teaching specific job skills but at more generalized habilitative goals and are reflected in a habilitative plan which focuses on general habilitative rather than specific employment objectives.

b. Prevocational services do not include:

- (1) services Services defined in Section 4(a)(4) of the 1975 amendments to the Education of the Handicapped Act (20 U.S.C. 1404(16) and (17)) which are otherwise available to the individual member through a state or local education agency, or
- (2) vocational Vocational rehabilitation services which are otherwise available to the individual member through a program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

c. A unit of service is a full day (4 to 8 hours), a half day (1 to 4 hours), or an hour.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 37. Amend subrule 78.43(13) as follows:

78.43(13) Consumer-directed attendant care service. Consumer-directed attendant care services are service activities performed by a person to help a consumer member with self-care tasks which the consumer member would typically do independently if the consumer member were otherwise able.

a. The service activities may include helping the consumer member with any of the following nonskilled service activities:

- (1) to (4) No change.
- (5) Meal preparation, cooking, and assistance with eating and feeding but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.
- (6) Housekeeping services which are essential to the consumer's member's health care at home.
- (7) and (8) No change.
- (9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the consumer member is on the job site. The cost of transportation for the consumer member and assistance with understanding of or performing the essential job functions are not included in consumer-directed attendant care services.
- (10) and (11) No change.
- (12) Assisting or accompanying a consumer member in using transportation essential to the health and welfare of the consumer member. The cost of the transportation is not included.

b. The service activities may include helping the consumer member with any of the following skilled services under the supervision of a licensed nurse or licensed therapist working under the direction of a physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall be paid from private insurance and other third-party payment sources, Medicare, the regular Medicaid program, or the early periodic screening diagnosis and treatment program ~~before accessing the HCBS waiver.~~

- (1) Tube feedings of consumers members unable to eat solid foods.
- (2) to (13) No change.

c. A unit of service is 1 hour, or one 8- to 24-hour day ~~provided by an individual or an agency.~~ Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

d. The consumer member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency ~~who~~ that will provide the components of the attendant care services ~~to be provided.~~

e. The consumer member, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer member.

f. The service activities ~~may~~ shall not include parenting or child care for or on behalf of the consumer member or on behalf of the provider.

g. The consumer member, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, and sign, and date Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, ~~which is signed by the service worker or case manager prior to the initiation of services,~~ and kept in the consumer's and department's member's records.

h. If the consumer member has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

HUMAN SERVICES DEPARTMENT[441](cont'd)

i. If the ~~consumer~~ member has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer~~ member, indicating that the service has been provided as presented on the claim.

j. to m. No change.

ITEM 38. Amend subrule 78.43(14) as follows:

78.43(14) *Interim medical monitoring and treatment services.* Interim medical monitoring and treatment (IMMT) services are monitoring and treatment of a medical nature ~~requiring specially trained caregivers beyond what is normally available in a day care setting~~ for children or adults whose medical needs make alternative care unavailable, inadequate, or insufficient. IMMT services are not intended to provide day care but to supplement available resources. The services must be needed to allow the consumer's usual caregivers to be employed or, for a limited period of time, for academic or vocational training of a usual caregiver; due to the hospitalization, treatment for physical or mental illness, or death of a usual caregiver; or during a search for employment by a usual caregiver. Services must be ordered by a physician.

a. Need for service. The member must be currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. The service worker or case manager must identify the need for IMMT services after evaluating the member's living environment, family and natural supports, ability to perform activities of daily living, and health care needs. The services must be needed:

- (1) To allow the member's usual caregivers to be employed,
- (2) During a search for employment by a usual caregiver,
- (3) To allow for academic or vocational training of a usual caregiver,
- (4) Due to the hospitalization of a usual caregiver for treatment for physical or mental illness, or
- (5) Due to the death of a usual caregiver.

~~*a. b.*~~ *b.* Service requirements. Interim medical monitoring and treatment services shall:

- (1) Provide experiences for each ~~consumer's~~ member's social, emotional, intellectual, and physical development;
- (2) Include comprehensive developmental care and any special services for a ~~consumer~~ member with special needs; and
- (3) Include medical assessment, medical monitoring, and medical intervention as needed on a regular or emergency basis. Medical intervention means the ability to assess the situation and contact the appropriate medical professional, not the direct application of medical care.

~~*b. c.*~~ *c.* Interim medical monitoring and treatment services may include supervision while the member is being transported to and from school.

~~*e. d.*~~ *d.* Limitations.

(1) and (2) No change.

(3) Interim medical monitoring and treatment services may not duplicate any regular Medicaid or waiver services provided under the state plan. Services under the state plan, including home health agency services under rule 441—78.9(249A), must be exhausted before IMMT services are accessed.

(4) Interim medical monitoring and treatment services ~~may~~ shall be provided only in the ~~consumer's member's home;~~ in a registered group child care home, in a registered family child care development home; in a licensed child care center, residential care facility, or adult day care facility; or during transportation the time when the member is being transported to and from school.

(5) ~~The staff-to-consumer~~ member-to-staff ratio shall not be ~~less~~ more than ~~one to six~~ members to one staff person.

(6) The parent or guardian of the member shall be responsible for the usual and customary nonmedical cost of day care during the time in which the member is receiving IMMT services. Medical care necessary for monitoring and treatment is an allowable IMMT cost. If the cost of care goes above the usual and customary cost of day care services due to the member's medical condition, the costs above the usual and customary cost shall be covered as IMMT services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~d. e.~~ A unit of service is one hour.

ITEM 39. Amend subrule 78.46(1) as follows:

78.46(1) Consumer-directed attendant care service. Consumer-directed attendant care services are service activities listed below performed by a person to help a ~~consumer member~~ with self-care tasks which the ~~consumer member~~ would typically do independently if the ~~consumer member~~ were otherwise able. The services must be cost-effective and necessary to prevent institutionalization.

a. Providers must demonstrate proficiency in delivery of the services in the ~~consumer's member's~~ plan of care. Proficiency must be demonstrated through documentation of prior training or experience or a certificate of formal training.

(1) All training or experience will be detailed on Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement, which must be reviewed and approved by the service worker for appropriateness of training or experience prior to the provision of services. Form 470-3372 becomes an attachment to and part of the case plan.

(2) ~~Consumers~~ The member shall give direction and training for activities which are not medical in nature to maintain independence. Licensed registered nurses and therapists must provide on-the-job training and supervision to the provider for skilled activities listed below and described on Form 470-3372. The training and experience must be sufficient to protect the health, welfare and safety of the ~~consumer member~~.

~~a. b.~~ Nonskilled service activities covered are:

(1) to (4) No change.

(5) Meal preparation, cooking, and assistance with eating and feeding assistance but not the cost of meals themselves. Meal preparation and cooking shall be provided only in the member's home.

(6) Housekeeping services which are essential to the ~~consumer's member's~~ health care at home.

(7) and (8) No change.

(9) Assistance needed to go to or return from a place of employment and assistance with job-related tasks while the ~~consumer member~~ is on the job site. The cost of transportation for the ~~consumer member~~ and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.

(10) and (11) No change.

(12) Assisting ~~and or~~ accompanying a ~~consumer member~~ in using transportation essential to the health and welfare of the ~~consumer, but not the member~~. The cost of the transportation is not included.

b. c. Skilled service activities covered are the following performed under the supervision of a licensed nurse or licensed therapist working under the direction of a licensed physician. The licensed nurse or therapist shall retain accountability for actions that are delegated. The licensed nurse or therapist shall ensure appropriate assessment, planning, implementation, and evaluation. The licensed nurse or therapist shall make on-site supervisory visits every two weeks with the provider present. The cost of the supervision provided by the licensed nurse or therapist shall not be included in the reimbursement for consumer-directed attendant care services.

(1) Tube feedings of ~~consumers members~~ unable to eat solid foods.

(2) to (13) No change.

~~e. d.~~ A unit of service is 1 hour ~~for up to 7 hours per day~~ or one 8- to 24-hour day ~~provided by an individual or an agency~~. Each service shall be billed in whole units. The consumer-directed attendant care provider shall complete Form 470-4389, Consumer-Directed Attendant Care (CDAC) Service Record, for each day of service.

~~d. e.~~ The ~~consumer member, parent,~~ guardian, or attorney in fact under a durable power of attorney for health care shall:

(1) ~~be responsible for selecting~~ Select the person or agency ~~who that~~ will provide the components of the attendant care services ~~to be provided~~.

~~e. (2)~~ The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care shall determine Determine the components of the attendant care services to be provided with the person who is providing the services to the ~~consumer member~~.

HUMAN SERVICES DEPARTMENT[441](cont'd)

f. The service activities ~~may~~ shall not include parenting or child care on behalf of the ~~consumer member~~ or on behalf of the provider.

g. The ~~consumer member~~, ~~parent~~, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete, ~~and sign, and date~~ Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, ~~which is signed by the service worker prior to the initiation of services,~~ and kept in the ~~consumer's and department's~~ member's records.

h. If the ~~consumer member~~ has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the ~~consumer's~~ member's needs are being adequately met. If the guardian or attorney in fact is the service provider, the service plan shall address how the service worker or case manager shall oversee service provision.

i. If the ~~consumer member~~ has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the ~~consumer member~~, indicating that the service has been provided as presented on the claim.

j. to l. No change.

m. Services may be provided in the absence of a ~~parent or~~ guardian if the ~~parent or~~ guardian has given advanced direction for the service provision.

ITEM 40. Amend subrule 78.46(2) as follows:

78.46(2) Home and vehicle ~~modifications~~ modification. Covered home and vehicle modifications are ~~those~~ physical modifications to the ~~consumer's~~ member's home or vehicle ~~listed below~~ that directly address the ~~consumer's~~ member's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the ~~consumer member~~ and enable the ~~consumer member~~ to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the ~~consumer's~~ member's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, ~~roof repair~~, or adding square footage to the residence, are excluded except as specifically included below. Purchasing or leasing of a motorized vehicle is excluded. ~~Repairs~~ Home and vehicle repairs are also excluded.

b. Only the following modifications are covered:

(1) to (6) No change.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the ~~consumer's~~ member's disability.

(8) to (24) No change.

c. and d. No change.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the ~~consumer member~~. Whenever possible, three itemized, competitive bids shall be obtained for each project and be reviewed by the case manager or service worker before approval of the contract.

f. The contract shall include, ~~at a minimum,~~ the scope of work to be performed, the time involved, supplies needed, the cost, time frame for work completion, and diagrams of the project whenever applicable, and an assurance of that the provider has liability and workers' compensation coverage and the applicable permit and license.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications. Payment of up to \$6,060 per year may be made to certified providers upon satisfactory completion of the service. The case manager or service worker shall encumber up to \$505 per a portion of the cost of a modification every month within the monthly dollar cap allowed for the consumer member until the amount entire cost of the modification is reached encumbered within the a consecutive 12-month period.

HUMAN SERVICES DEPARTMENT[441](cont'd)

h. Services shall be included in the ~~consumer's~~ member's service plan and shall exceed the Medicaid state plan services.

ITEM 41. Amend subrule 78.46(3) as follows:

78.46(3) *Personal emergency response or portable locator system.* ~~The personal emergency response system allows a consumer experiencing a medical emergency at home to activate electronic components that transmit a coded signal via digital equipment over telephone lines to a central monitoring station. The service shall be identified in the consumer's service plan. A unit is a one-time installation fee or one month of service. Maximum units per state fiscal year are the initial installation and 12 months of service.~~

a. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency.

(1) The necessary components of a system are:

~~a.~~ 1. An in-home medical communications transceiver.

~~b.~~ 2. A remote, portable activator.

~~c.~~ 3. A central monitoring station with backup systems staffed by trained attendants 24 hours per day, seven days a week at all times.

~~d.~~ 4. Current data files at the central monitoring station containing response protocols and personal, medical, and emergency information for each ~~consumer~~ member.

(2) The service shall be identified in the member's service plan.

(3) A unit of service is a one-time installation fee or one month of service.

(4) Maximum units per state fiscal year shall be the initial installation and 12 months of service.

b. A portable locator system is an electronic device that transmits a signal to a monitoring device. The system allows a member to access assistance in the event of an emergency and allows law enforcement or the monitoring system provider to locate a member who is unable to request help or to activate a system independently. The member must be unable to access assistance in an emergency situation due to the member's age or disability.

(1) The required components of the portable locator system are:

1. A portable communications transceiver or transmitter to be worn or carried by the member.

2. Monitoring by the provider at a central location with response protocols and personal, medical, and emergency information for each member as applicable.

(2) The service shall be identified in the member's service plan.

(3) Payable units of service are purchase of equipment, an installation or set-up fee, and monthly fees.

(4) Maximum units per state fiscal year shall be one equipment purchase, one installation or set-up fee, and 12 months of service.

ITEM 42. Amend subrule 78.46(4) as follows:

78.46(4) *Specialized medical equipment.*

a. Specialized medical equipment shall include medically necessary items which are for personal use by ~~consumers~~ members with a physical disability and which:

(1) provide Provide for the health and safety of the ~~consumer~~ member, that

(2) are Are not ordinarily covered by Medicaid,

(3) are Are not funded by educational or vocational rehabilitation programs, and

(4) are Are not provided by voluntary means. ~~This includes, but is not limited to: electronic aids and organizers, medicine dispensing devices, communication devices, bath aids and noncovered environmental control units. This includes repair and maintenance of items purchased through the waiver in addition to the initial costs.~~

b. Coverage includes, but is not limited to:

(1) Electronic aids and organizers.

(2) Medicine dispensing devices.

(3) Communication devices.

(4) Bath aids.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Noncovered environmental control units.

(6) Repair and maintenance of items purchased through the waiver.

a. c. Consumers may receive specialized medical equipment once a month until a maximum yearly usage of \$6,060 has been reached. Payment of up to \$6,060 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service. Each month within the 12-month period, the service worker shall encumber an amount within the monthly dollar cap allowed for the member until the amount of the equipment cost is reached.

b. d. The need for specialized medical equipment shall be:

(1) ~~documented~~ Documented by a health care professional as necessary for the consumer's member's health and safety, and shall be

(2) ~~identified~~ Identified in the consumer's member's service plan.

ITEM 43. Amend subrule 78.52(2) as follows:

78.52(2) Environmental modifications and adaptive devices.

a. Environmental modifications and adaptive devices include medically necessary items installed or used within the ~~consumer's~~ member's home that are used by the member to address specific, documented health, mental health, or safety concerns. The following items are excluded under this service:

(1) Items ordinarily covered by Medicaid.

(2) Items funded by educational or vocational rehabilitation programs.

(3) Items provided by voluntary means.

(4) Repair and maintenance of items purchased through the waiver.

(5) Fencing.

b. A unit of service is one modification or device.

c. For each unit of service provided, the case manager shall maintain in the ~~consumer's~~ member's case file a signed statement from a mental health professional on the ~~consumer's~~ member's interdisciplinary team that the service has a direct relationship to the ~~consumer's~~ member's diagnosis of serious emotional disturbance.

ITEM 44. Amend subrule 78.52(5) as follows:

78.52(5) Respite care services. Respite care services are services provided to the ~~consumer~~ member that give temporary relief to the usual caregiver and provide all the necessary care that the usual caregiver would provide during that period. The "usual caregiver" means a person or persons who reside with the ~~consumer~~ member and are available on a 24-hour-per-day basis to assume responsibility for the care of the ~~consumer~~ member.

a. Respite care shall not be provided to ~~consumers~~ members during the hours in which the usual caregiver is employed, except when the ~~consumer~~ member is attending a 24-hour residential camp. Respite care shall not be used as a substitute for a child's day care.

b. No change.

c. ~~Staff-to-consumer~~ Member-to-staff ratios shall be appropriate to the individual needs of the ~~consumer~~ member as determined by the ~~consumer's~~ member's interdisciplinary team. The team shall determine the type of respite care to be provided according to these definitions:

(1) Basic individual respite is provided on a ratio of one staff to one ~~consumer~~ member. The ~~consumer~~ member does not have specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

(2) Specialized respite is provided on a ratio of one or more nursing staff to one ~~consumer~~ member. The ~~consumer~~ member has specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

(3) Group respite is provided on a ratio of one staff to two or more ~~consumers~~ members receiving respite. These ~~consumers~~ members do not have specialized medical needs that require the direct services of a registered nurse or licensed practical nurse.

HUMAN SERVICES DEPARTMENT[441](cont'd)

d. Respite services provided for a period exceeding 24 consecutive hours to three or more ~~consumers~~ members who require nursing care because of a mental or physical condition must be provided by a health care facility licensed under Iowa Code chapter 135C.

e. Respite services provided outside the ~~consumer's~~ member's home shall not be reimbursable if the living unit where respite care is provided is reserved for another person on a temporary leave of absence.

f. A unit of service is one hour.

ITEM 45. Amend subrule **79.1(2)**, provider category "HCBS waiver service providers," numbered paragraphs "2," "23" and "24," as follows:

Provider category	Basis of reimbursement	Upper limit
2. Emergency response system:	<u>Fee schedule</u>	Initial one-time fee \$48.29. Ongoing monthly fee \$37.56.
<u>Personal response system</u>	<u>Fee schedule</u>	<u>Initial one-time fee: \$48.29.</u> <u>Ongoing monthly fee: \$37.56.</u>
<u>Portable locator system</u>	<u>Fee schedule</u>	<u>One equipment purchase: \$300.</u> <u>Initial one-time fee: \$48.29.</u> <u>Ongoing monthly fee: \$37.56.</u>
23. Prevocational services	Fee schedule	For the brain injury waiver: \$36.50 <u>\$47.01 per day, \$23.51 per half day, or \$12.88 per hour.</u> For the intellectual disabilities <u>disability</u> waiver: County contract rate or, in absence of a contract rate, <u>\$47.01 per day, \$23.51 per half day, or \$12.88 per hour.</u>
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Lesser of maximum Medicare rate in effect 11/30/09 or maximum Medicaid rate in effect 11/30/09 less 5%, converted to an hourly rate.
Child development home or center	Fee schedule	\$12.79 per hour.
<u>Supported community living provider</u>	<u>Retrospectively limited prospective rate</u>	<u>\$34.11 per hour, not to exceed the maximum ICF/MR rate per day.</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 46. Amend paragraph **80.2(2)“f”** as follows:

f. Providers of home- and community-based waiver services, including home health agencies, ~~providing home- and community-based waiver services~~ shall submit claims on Form 470-2486, Claim for Targeted Medical Care. In the event of the death of the member, the case manager or service worker shall sign and date the claim form if the services were delivered.

[Filed 2/10/11, effective 5/1/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9400B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 10A.801(7), the Department of Inspections and Appeals hereby adopts new Chapter 11, “Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms,” Iowa Administrative Code.

The new chapter implements provisions contained in 2010 Iowa Acts, Senate File 2379, section 14, requiring the Department to establish a procedural process through which Iowans who have been denied a permit to acquire firearms or carry weapons or whose permit has been suspended or revoked may appeal the decision of the sheriff or Commissioner of Public Safety to an administrative law judge.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 29, 2010, as **ARC 9298B**. Additionally, the new chapter was Adopted and Filed Emergency and published in the December 29, 2010, Iowa Administrative Bulletin as **ARC 9299B**. The new chapter became effective January 1, 2011.

A public hearing on the new chapter was held January 19, 2011, at which time comments were received. One change has been made to the rules published under Notice of Intended Action. At the suggestion of Senator Merlin Bartz, subrule 11.2(1), pertaining to an individual's filing a notice of appeal, has been changed to remove the mandatory requirement regarding the content of the written request for an appeal; the change will give greater leniency to the appellant.

These rules are intended to implement Iowa Code section 724.21A.

These rules will become effective April 13, 2011, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendment is adopted.

Adopt the following new 481—Chapter 11:

CHAPTER 11

PROCEDURE FOR CONTESTED CASES INVOLVING PERMITS TO CARRY WEAPONS AND ACQUIRE FIREARMS

481—11.1(17A,724) Definitions.

“*Agency*” means the commissioner of public safety or the sheriff of the county in which the aggrieved party resides.

“*Applicant*” means a person who has applied for a permit to carry weapons or acquire firearms.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5).

“*Division*” means the division of administrative hearings of the Iowa department of inspections and appeals.

“*Party*” means each person or agency named or admitted as a party.

“*Permittee*” means a person who has received a permit to carry weapons or acquire firearms.

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

481—11.2(724) Appeals. An applicant or permittee may appeal a decision by an agency to deny an application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms.

11.2(1) *Written appeal.* The appeal shall be in writing and should state the reasons for rebutting the denial, suspension, or revocation.

11.2(2) *Filing of appeal.* Within 30 days of the applicant's or permittee's receipt of the agency's decision, the applicant or permittee shall file the appeal, a copy of the agency's written decision, and a fee of \$10 with the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, 502 East 9th Street, Des Moines, Iowa 50319.

11.2(3) *Service on the agency.* The applicant or permittee shall serve a copy of the appeal on the agency at the time the appeal is filed with the division.

11.2(4) *Denial of appeal.* The division may deny any appeal that does not meet each of the requirements in subrules 11.2(1) to 11.2(3).

481—11.3(17A,724) Notice of hearing. The division shall prepare and serve the notice of hearing.

11.3(1) The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the agency decision on appeal;
- d. Identification of the parties;
- e. Reference to the procedural rules governing the contested case proceeding;
- f. Identification of the administrative law judge, including the judge's address and telephone number; and
- g. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment.

11.3(2) Service of the notice of hearing shall be accomplished by first-class mail.

481—11.4(17A,724) Agency record.

11.4(1) Upon receipt of a copy of the notice of hearing, the agency shall file with the division:

- a. A copy of all documents used by the agency in reaching the decision; and
- b. A form identifying the name, address, and telephone number of the agency's contact person or attorney representative.

11.4(2) The agency shall provide to the applicant or permittee a copy of all documents used by the agency in reaching the decision.

481—11.5(17A) Contested case hearing. The hearing shall be conducted pursuant to the standards established in Iowa Code chapter 17A for contested case hearings. The hearing shall be held by telephone conference call, unless a party to the proceeding requests an in-person hearing from the administrative law judge no later than five days before the hearing. All in-person hearings shall be held at the division's headquarters in Des Moines, Iowa. If the administrative law judge grants an in-person hearing, the administrative law judge may allow one party to appear by telephone.

481—11.6(17A) Service and filing of documents.

11.6(1) *When service is required.* Every document filed in a contested case proceeding shall be served on each party of record. Service shall be made by delivering or mailing a copy to the party's last-known address.

11.6(2) *Filing.* All documents in the contested case proceeding shall be filed with the administrative law judge. A document is deemed filed at the time it is received by the division. A document is deemed to be served when mailed by first-class mail, so long as there is proof of mailing.

11.6(3) *Proof of mailing.* Proof of mailing includes a legible United States Postal Service postmark on the envelope and a certificate of service, a notarized affidavit, or certification in substantially the following form:

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

I certify under penalty of perjury and pursuant to the laws of the state of Iowa, that on (date of mailing or hand-delivery), I mailed or hand-delivered copies (describe document(s)) addressed to (opposing party) by depositing the same in a United States post office mailbox with correct postage properly affixed, or I hand-delivered copies.

(Date)

(Signature)

11.6(4) Filing by electronic means. The administrative law judge may permit service or filing of particular documents by facsimile, electronic mail, or similar electronic means. When permitted, service by facsimile, electronic mail, or similar electronic means is complete upon transmission.

481—11.7(17A) Witness lists and exhibits. No later than five days before the hearing, a party shall serve on all parties and the administrative law judge a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding. If a party fails to serve on all parties and the administrative law judge a witness list or any exhibit five days before the hearing, the party may be precluded from calling the witness at hearing or introducing the exhibit(s) into the record at hearing.

481—11.8(17A) Evidence. The administrative law judge shall rule on the admissibility of evidence and may take official notice of facts in accordance with applicable requirements of law. Evidence in the proceeding shall be confined to the issues for which the parties received notice prior to the hearing.

481—11.9(17A) Withdrawals and dismissals. A request for withdrawal or dismissal of the appeal may be made with the division prior to the hearing. Either request must be in writing or secured on the record.

11.9(1) Withdrawals. An applicant or permittee who requested a contested case proceeding may request a withdrawal of the appeal. Upon receipt of a request for withdrawal of the appeal, the administrative law judge shall issue an order dismissing the appeal and closing the case.

11.9(2) Dismissals. An agency may request a dismissal of the appeal by agreeing to grant the entire relief sought by the applicant or permittee. The administrative law judge shall review a request for dismissal to determine whether it grants all relief requested in the appeal. If the request grants all relief requested in the appeal, the administrative law judge shall issue an order dismissing the appeal, ordering the agency to grant the relief requested, and closing the case.

481—11.10(17A) Default. If a party fails to appear after proper service of notice, the administrative law judge may enter a default order against the party or may proceed with the hearing and make a decision in the absence of the party.

481—11.11(10A) Costs. Costs of the contested case hearing shall be paid by the agency.

481—11.12(724) Probable cause. Probable cause to deny an initial or renewal application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms means a reasonable ground exists for supposing that the basis for the denial, suspension or revocation is well-founded.

481—11.13(724) Clear and convincing evidence. Clear and convincing evidence means there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence.

These rules are intended to implement Iowa Code section 724.21A.

[Filed 2/7/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9406B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272C.2, the Board of Pharmacy hereby amends Chapter 2, “Pharmacist Licenses,” Iowa Administrative Code.

The amendment provides for an exemption from pharmacist continuing education requirements during any period in which a pharmacist is participating in a pharmacy residency program and requires that a pharmacist wishing such exemption petition the Board as soon as possible following commencement of the residency program and prior to completion of the program.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9192B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 11, 2011, meeting of the Board of Pharmacy.

This amendment will become effective on April 13, 2011.

This amendment is intended to implement Iowa Code section 272C.2.

The following amendment is adopted.

Amend paragraph **2.12(1)“b”** as follows:

b. Exemption for health-related graduate studies. A pharmacist who is continuing formal education in health-related graduate programs, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9407B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 3, “Pharmacy Technicians,” Iowa Administrative Code.

The amendments clarify that a certified pharmacy technician must maintain both the Iowa registration and the national technician certification in good standing in order to practice as a certified pharmacy technician in Iowa.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9193B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 11, 2011, meeting of the Board of Pharmacy.

These amendments will become effective on April 13, 2011.

These amendments are intended to implement Iowa Code section 155A.6A.

PHARMACY BOARD[657](cont'd)

The following amendments are adopted.

ITEM 1. Amend rule 657—3.3(155A), introductory paragraph, as follows:

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

ITEM 2. Amend rule 657—3.5(155A), introductory paragraph, as follows:

657—3.5(155A) Certification of pharmacy technicians. Except as provided in rule 657—3.6(155A) or subrule 3.5(3), effective July 1, 2010, all pharmacy technicians shall be required to be nationally certified as provided by this rule. National certification does not replace the need for licensed pharmacist control over the performance of delegated functions, nor does national certification exempt the pharmacy technician from registration pursuant to these rules. A certified pharmacy technician shall maintain the technician's national certification, in addition to the technician's Iowa registration, during any period of employment in an Iowa pharmacy as a certified pharmacy technician.

ITEM 3. Amend rule 657—3.12(155A) as follows:

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

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9408B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

The amendments clarify the record requirements for identifying a pharmacist who is involved in the visual verification of a drug product or device that has been remotely verified and approved for dispensing when a hospital pharmacy is closed. The amendments further clarify that only a certified pharmacy technician may assist non-pharmacy personnel to locate a needed prescription drug when the pharmacy is closed and when the pharmacist in charge has so authorized the certified pharmacy technician.

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

PHARMACY BOARD[657](cont'd)

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9183B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 11, 2011, meeting of the Board of Pharmacy.

These amendments will become effective on April 13, 2011.

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

The following amendments are adopted.

ITEM 1. Amend paragraph **7.6(2)“b”** as follows:

b. If the pharmacist in charge has authorized the presence in the pharmacy of a pharmacy technician or a pharmacy support person to perform designated functions when the pharmacy is closed, only a certified pharmacy technician may assist another authorized, licensed health care professional to locate a drug or device pursuant to an emergent need. The pharmacy technician or the pharmacy support person may not dispense or deliver the drug, chemical, or device to the licensed health care professional. The licensed health care professional shall comply with established policies and procedures for obtaining drugs, devices, and chemicals when the pharmacy is closed. The licensed health care professional shall not ask or expect the pharmacy technician or the pharmacy support person to verify that the appropriate drug, chemical, or device has been obtained from the pharmacy.

ITEM 2. Amend subrule 7.7(7) as follows:

7.7(7) Pharmacist identified. The record of each patient-specific drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the preview and verification of the order. The record of each patient-specific drug or device visually verified pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the visual verification of the product.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9409B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment requires that a log of the initials or unique identification codes identifying by name each pharmacy support person, in addition to pharmacists, pharmacist-interns, and pharmacy technicians, shall be maintained by the pharmacy and be available for inspection or copying for a minimum two years.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9194B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 11, 2011, meeting of the Board of Pharmacy.

This amendment will become effective on April 13, 2011.

This amendment is intended to implement Iowa Code sections 155A.6B and 155A.13.

The following amendment is adopted.

Amend rule 657—8.4(155A) as follows:

657—8.4(155A) Pharmacist identification and staff logs.

8.4(1) No change.

PHARMACY BOARD[657](cont'd)

8.4(2) Identification codes. A permanent log of the initials or identification codes identifying by name each dispensing pharmacist, pharmacist-intern, ~~and~~ pharmacy technician, and pharmacy support person shall be maintained for a minimum of two years and shall be available for inspection and copying by the board or its representative. The initials or identification code shall be unique to the individual to ensure that each pharmacist, pharmacist-intern, ~~and~~ pharmacy technician, and pharmacy support person can be identified.

8.4(3) and 8.4(4) No change.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9410B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment clarifies the requirement for reducing an oral prescription to a written format, providing that the written format may be a computer-generated print of the information required for the prescription and is not limited to a handwritten format.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9196B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 11, 2011, meeting of the Board of Pharmacy.

This amendment will become effective on April 13, 2011.

This amendment is intended to implement Iowa Code sections 124.308 and 155A.27.

The following amendment is adopted.

Amend paragraph **10.22(2)"c"** as follows:

c. The pharmacist shall prepare a temporary written record of the emergency prescription. The temporary written record shall consist of a hard copy of the electronic transmission or a written record of the oral transmission authorizing the emergency dispensing. A written record is not required to consist of a handwritten record and may be a printed facsimile or a print of a computer-generated record of the prescription if the printed record includes all of the required elements for the prescription. If the emergency prescription is transmitted by the practitioner's agent, the record shall include the name and title of the individual who transmitted the prescription.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9411B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

The amendment provides for an exception for the placement of a compounding aseptic isolator (CAI) within an ISO Class 8 anteroom or ante area when the CAI meets ISO Class 5 atmospheric environment conditions.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9187B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the January 11, 2011, meeting of the Board of Pharmacy.

This amendment will become effective on April 13, 2011.

This amendment is intended to implement Iowa Code sections 126.10, 155A.2, 155A.13, and 155A.28.

The following amendment is adopted.

Amend subrule 13.27(4) as follows:

13.27(4) Anteroom requirements. ~~An~~ Except for a CAI that meets the conditions specified in subrule 13.27(3) exempting the CAI from placement in an ISO Class 7 cleanroom, an anteroom or ante area shall be located adjacent to the buffer area and maintained at ISO Class 8 air quality. This area is to be used for unpacking and disinfecting supplies for storage and for hand sanitizing and gowning. If the sterile preparation area is to be used only for the compounding of low- and medium-risk preparations, the ante area shall be clearly demarcated for the compounding of low- and medium-risk preparations. If the sterile preparation area is to be used for the compounding of high-risk preparations, the ante area shall be physically separated from the buffer area.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/11.

ARC 9412B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Pharmacy hereby amends Chapter 35, "Contested Cases," and Chapter 36, "Discipline," Iowa Administrative Code.

The amendments correct the name of the Board by deleting the term "Examiners" and correct the title of the executive director, formerly the executive secretary/director. The amendments also eliminate an invalid Iowa Code reference in Item 20. Amendments in Items 4, 11, 18, and 23 clarify the process for delivery of various documents and communications relating to contested cases and disciplinary actions.

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

Notice of Intended Action was published in the November 3, 2010, Iowa Administrative Bulletin as **ARC 9191B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 11, 2011, meeting of the Board of Pharmacy.

These amendments will become effective on April 13, 2011.

PHARMACY BOARD[657](cont'd)

These amendments are intended to implement Iowa Code sections 17A.10 to 17A.23, 124.304, 124B.12, 126.17, 147.76, 155A.6, 155A.12, 155A.13, 155A.13A, 155A.15 to 155A.18, 155A.26, 205.11, 272C.3 to 272C.6, 272C.9, and 272C.10.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 35, 36] is being omitted. These amendments are identical to those published under Notice as **ARC 9191B**, IAB 11/3/10.

[Filed 2/15/11, effective 4/13/11]

[Published 3/9/11]

[For replacement pages for IAC, see IAC Supplement 3/9/11.]

ARC 9424B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Hearing Aid Dispensers hereby amends Chapter 121, "Licensure of Hearing Aid Dispensers," and Chapter 122, "Continuing Education for Hearing Aid Dispensers"; adopts new Chapter 123, "Practice of Hearing Aid Dispensing"; and amends Chapter 124, "Discipline for Hearing Aid Dispensers," Iowa Administrative Code.

These amendments clarify the requirements for submission of supervision reports by temporary permit holders; rescind the requirement for mailing a renewal notice that is outdated given the current on-line renewal system; provide a new practice chapter that adds new requirements relating to sales procedures and record keeping and includes definitions and clarity in practice requirements that are consistent with Iowa law and federal regulations; and revise the continuing education requirements by updating the definition of "independent study," adding a new requirement for ethics coursework, increasing the hours allowed for independent study and on-line coursework, and providing credit for mandatory reporter training.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 29, 2010, as **ARC 9317B**. A public hearing was held on January 18, 2011, from 10 to 11 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

These amendments will become effective April 13, 2011.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 121.3, 121.4, 121.9, 122.1 to 122.3, 124.2; adopt Ch 123] is being omitted. These amendments are identical to those published under Notice as **ARC 9317B**, IAB 12/29/10.

[Filed 2/17/11, effective 4/13/11]

[Published 3/9/11]

[For replacement pages for IAC, see IAC Supplement 3/9/11.]