



# IOWA ADMINISTRATIVE BULLETIN

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## CONTENTS IN THIS ISSUE

Pages 2235 to 2290 include **ARC 8615B** to **ARC 8635B**

### ACCOUNTANCY EXAMINING BOARD[193A]

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

- Notice, Fee for completion of Interstate  
Transfer Form, 12.1 **ARC 8616B** ..... 2235
- Notice, Reinstatement fee, 12.1, 12.2  
**ARC 8617B** ..... 2235

### AGENDA

- Administrative rules review committee ..... 2227

### ALL AGENCIES

- Agency identification numbers ..... 2233
- Citation of administrative rules. .... 2225
- Schedule for rule making. .... 2226

### DELAY

- Professional Licensure Division[645]  
Cosmetology school instructors, 61.15(3) .... 2291

### HUMAN SERVICES DEPARTMENT[441]

- Notice, Medicaid applicants—referrals  
for support services, 75.2(5), 75.14,  
75.55(2)"a" **ARC 8619B** ..... 2236

### INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

- Filed, Iowa FAIR Plan, 20.52, 20.54  
**ARC 8624B** ..... 2287

### IOWA FINANCE AUTHORITY[265]

- Filed, Iowa jobs program—grant awards,  
administration of awards, 32.8, 32.9  
**ARC 8626B** ..... 2287

### LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Notice, Elevator safety  
board—installation of hoistway  
door safety retainers, 72.1(3)"a"  
**ARC 8622B** ..... 2238
- Notice, Elevator safety board—safe  
access to speed governors, 73.14(9)  
**ARC 8623B** ..... 2238
- Filed, Elevator safety board, amendments  
to chs 65 to 70 **ARC 8621B** ..... 2288

### PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Filed, Consistency with statute—"felony"  
changed to "crime," 45.2(11) **ARC 8625B** .... 2288
- Filed, Consistency with statute—"felony"  
changed to "crime," 134.2(11) **ARC 8620B** ... 2289
- Delay, Cosmetology school instructors,  
61.15(3) ..... 2291

### PUBLIC HEALTH DEPARTMENT[641]

- Notice, Volunteer health care provider  
program, ch 88 **ARC 8627B** ..... 2239
- Notice, Substance abuse and problem  
gambling treatment programs, amend  
ch 155; rescind ch 162 **ARC 8628B** ..... 2249
- Notice, Substance abuse treatment  
records—release of client/patient  
information, 157.7 **ARC 8629B** ..... 2268
- Notice, Advisory bodies of the  
department, 191.3 to 191.5 **ARC 8630B** ..... 2269
- Notice, Child support noncompliance,  
ch 192 **ARC 8631B** ..... 2270

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**

Notice, Impaired practitioner review committee, ch 193 <b>ARC 8634B</b> .....	2272
Notice, Student loan default/noncompliance with agreement for payment of obligation, ch 195 <b>ARC 8632B</b> .....	2274
<b>PUBLIC HEARINGS</b>	
Summarized list .....	2230
<b>SECRETARY OF STATE[721]</b>	
Notice Terminated, Election forms and instructions, amendments to ch 21 <b>ARC 8615B</b> .....	2277

**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Notice, Financial incentive program for soil erosion control, amendments to ch 10 <b>ARC 8618B</b> .....	2277
Notice, Water protection projects and practices—supplemental allocation, appropriated funds, 12.40, 12.51, 12.63(2), 12.72, 12.73, 12.77(1), 12.82 to 12.84 <b>ARC 8633B</b> .....	2281

**TREASURER OF STATE**

Notice—Public funds interest rates .....	2285
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**VETERANS AFFAIRS, IOWA DEPARTMENT  
OF[801]**

Filed, Involuntary discharge appeal—judicial review, 10.47(7) <b>ARC 8635B</b> .....	2290
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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.

KATHLEEN K. WEST, Administrative Code Editor

Telephone: (515)281-3355

STEPHANIE A. HOFF, Deputy Editor

(515)281-8157

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 7.17, 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 2010

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 23 '09*</b>	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	<b>***May 26***</b>	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	<b>***June 23***</b>	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
<b>***May 26***</b>	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
<b>***June 23***</b>	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	<b>***Sep. 1***</b>	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
<b>***Sep. 1***</b>	Sep. 22	Oct. 12	Oct. 27	<b>***Oct. 27***</b>	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	<b>***Nov. 10***</b>	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	<b>***Nov. 24***</b>	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	<b>***Dec. 8***</b>	Dec. 29	Feb. 2 '11	May 2 '11
<b>***Oct. 27***</b>	Nov. 17	Dec. 7	Dec. 22	<b>***Dec. 22***</b>	Jan. 12 '11	Feb. 16 '11	May 16 '11
<b>***Nov. 10***</b>	Dec. 1	Dec. 21	Jan. 5 '11	Jan. 7 '11	Jan. 26 '11	Mar. 2 '11	May 30 '11
<b>***Nov. 24***</b>	Dec. 15	Jan. 4 '11	Jan. 19 '11	Jan. 21 '11	Feb. 9 '11	Mar. 16 '11	June 13 '11
<b>***Dec. 8***</b>	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
<b>***Dec. 22***</b>	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 2, 2010	April 21, 2010
23	Friday, April 16, 2010	May 5, 2010
24	Friday, April 30, 2010	May 19, 2010

#### 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 monthly meeting on Tuesday, April 13, 2010, at 10 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"

Fee for completion of Interstate Transfer Form, 12.1 Notice **ARC 8616B** ..... 3/24/10  
 Reinstatement fee, 12.1, 12.2 Notice **ARC 8617B** ..... 3/24/10

### CIVIL RIGHTS COMMISSION[161]

Rules of practice, 1.1(1), 1.2, 1.5 Notice **ARC 8578B** ..... 3/10/10  
 Definition of "administratively closed," 2.1(10)"a" Notice **ARC 8575B** ..... 3/10/10  
 Definitions relating to types of mail, 2.1(14) to 2.1(16) Notice **ARC 8577B** ..... 3/10/10  
 Definition relating to electronic filing, 2.1(17) to 2.1(19) Notice **ARC 8576B** ..... 3/10/10  
 Filing a complaint; update of bases for prohibition of discrimination, 3.3(1), 6.2(1), 9.5(2),  
 10.2 Notice **ARC 8573B** ..... 3/10/10  
 Complaint process, 3.5, 3.6 Notice **ARC 8571B** ..... 3/10/10  
 Conditions precedent to right to sue, 3.10(2) Notice **ARC 8570B** ..... 3/10/10  
 Mediation, 3.11 Notice **ARC 8569B** ..... 3/10/10  
 Mediation procedures, 3.12(1)"a" and "b" Notice **ARC 8568B** ..... 3/10/10  
 Preliminary screening process, 3.12(1)"e" Notice **ARC 8566B** ..... 3/10/10  
 Investigation and cause determination; role of administrative law judge, 3.13 Notice **ARC 8567B** ..... 3/10/10  
 Complaint process—textual revisions, 3.14, 3.16 Notice **ARC 8574B** ..... 3/10/10  
 Arbitration, rescind 3.17 Notice **ARC 8565B** ..... 3/10/10  
 Contested cases—clarification of wording, 4.28(1), 4.31 Notice **ARC 8564B** ..... 3/10/10  
 Discrimination in employment—applicability, ch 8 preamble, 8.46 Notice **ARC 8562B** ..... 3/10/10  
 Discrimination in employment—elimination of outdated rules, rescind 8.1 to 8.7 Notice **ARC 8561B** ..... 3/10/10  
 Discrimination in employment—clarification of provisions, 8.47(1) Notice **ARC 8563B** ..... 3/10/10  
 Update of commission address, 11.3(1), 15.3 Notice **ARC 8560B** ..... 3/10/10

### DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Deep sedation/general anesthesia, conscious sedation and nitrous oxide inhalation analgesia,  
 amendments to ch 29 Filed **ARC 8614B** ..... 3/10/10

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Approval for disaster loan, 78.4(2) Filed Emergency **ARC 8600B** ..... 3/10/10

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Portfolio review and evaluation fees, 12.8 Filed **ARC 8606B** ..... 3/10/10  
 Portfolio review and evaluation for applicants from nontraditional teacher preparation  
 programs, 13.3 Filed **ARC 8610B** ..... 3/10/10  
 Exchange licenses for applicants from recognized non-Iowa institutions, 13.17 Filed **ARC 8604B** ..... 3/10/10  
 Elementary classroom teacher—core content areas, 13.26(5) Filed **ARC 8607B** ..... 3/10/10  
 Qualifications for behind-the-wheel driving instructor authorization, 23.1(1) Filed **ARC 8608B** ..... 3/10/10  
 Renewal requirements for professional service license, 27.4, 27.5 Filed **ARC 8609B** ..... 3/10/10

### ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Fees and charges, 2.1 Filed **ARC 8584B** ..... 3/10/10

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 16  
Notice **ARC 8597B** ..... 3/10/10  
 Water quality standards—surface water classification, 61.3(5) Notice **ARC 8599B** ..... 3/10/10  
 Clean water state revolving fund, amendments to chs 90 to 93 Filed **ARC 8596B** ..... 3/10/10

### HUMAN SERVICES DEPARTMENT[441]

Medicaid applicants—referrals for support services, 75.2(5), 75.14, 75.55(2)"a" Notice **ARC 8619B** ..... 3/24/10  
 Recovery of overpayments—definition of "client error," 86.19(1) Notice **ARC 8581B** ..... 3/10/10  
 Supervised apartment placement services, 108.10(3)"c" Notice **ARC 8582B** ..... 3/10/10  
 Subsidized guardianship program, amendments to ch 204 Notice of Termination **ARC 8613B** ..... 3/10/10

Verification of dependent care expenses, 65.22(1), 65.33, 75.57(2)“b”(7)  
Filed Emergency After Notice **ARC 8556B** ..... 3/10/10  
 HAWK—I—eligibility, 86.1, 86.3(7)“b,” 86.9(2) Filed Emergency After Notice **ARC 8580B** ..... 3/10/10  
 PROMISE JOBS—decrease in mileage reimbursement rate, 93.11(3)“b”(2) Filed **ARC 8557B** ..... 3/10/10  
 State payment program waiting list, 153.53, 153.54, 153.58(1) Filed **ARC 8611B** ..... 3/10/10  
 Reduction of state payment program expense, 153.53(3), 153.54(3), 153.55(2), 153.56(2)“a,”  
 153.57 Filed **ARC 8612B** ..... 3/10/10

### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Iowa FAIR Plan, 20.52, 20.54 Filed **ARC 8624B** ..... 3/24/10

### **IOWA FINANCE AUTHORITY[265]**

Iowa jobs program—grant awards, administration of awards, 32.8, 32.9 Filed **ARC 8626B** ..... 3/24/10

### **IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]**

Contribution rates, tax treatment of distributions, amendments to chs 4, 7, 11, 12, 14, 16  
Filed **ARC 8601B** ..... 3/10/10

### **LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Consultative services, ch 8 Filed **ARC 8591B** ..... 3/10/10  
 Elevator safety board, amendments to chs 65 to 70 Filed **ARC 8621B** ..... 3/24/10  
 Elevator safety board—installation of hoistway door safety retainers, 72.1(3)“a” Notice **ARC 8622B** ..... 3/24/10  
 Elevator safety board—safe access to speed governors, 73.14(9) Notice **ARC 8623B** ..... 3/24/10  
 Update of references to ASME codes, 91.1(1), 91.1(4) Filed **ARC 8590B** ..... 3/10/10

### **MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Permanent physician licensure, 9.1, 9.3(1), 9.4 to 9.18 Filed **ARC 8554B** ..... 3/10/10  
 Standards of practice—interventional chronic pain management, 13.9 Notice **ARC 8579B** ..... 3/10/10

### **NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Aquatic plants in public waters; ginseng harvesting, amendments to ch 54 Filed **ARC 8594B** ..... 3/10/10  
 State parks and recreation areas—camping, definition of “immediate family,” 61.2, 61.4(5)  
Notice **ARC 8593B** ..... 3/10/10  
 State forest camping, 62.2, 62.6 Notice **ARC 8592B** ..... 3/10/10

### **NATURAL RESOURCES DEPARTMENT[561]**

Special nonresident deer and turkey licenses, 12.2, 12.3, 12.5 to 12.8 Notice **ARC 8595B** ..... 3/10/10  
 Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 15  
Notice **ARC 8598B** ..... 3/10/10

### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Consistency with statute—“felony” changed to “crime,” 45.2(11) Filed **ARC 8625B** ..... 3/24/10  
 Consistency with statute—“felony” changed to “crime,” 134.2(11) Filed **ARC 8620B** ..... 3/24/10  
 Social work, rescind chs 279, 284; rescind 280.8, 280.12, 280.13, 281.4 to 281.7, 283.5  
Filed **ARC 8587B** ..... 3/10/10  
 Supervised professional practice for LISW, 280.6(1)“e” and “f” Filed **ARC 8586B** ..... 3/10/10  
 Consistency with statute—“felony” changed to “crime,” 329.2(11) Filed **ARC 8588B** ..... 3/10/10

### **PUBLIC HEALTH DEPARTMENT[641]**

Volunteer health care provider program, ch 88 Notice **ARC 8627B** ..... 3/24/10  
 Substance abuse and problem gambling treatment programs, amend ch 155; rescind ch 162  
Notice **ARC 8628B** ..... 3/24/10  
 Substance abuse treatment records—release of client/patient information, 157.7 Notice **ARC 8629B** ..... 3/24/10  
 Advisory bodies of the department, 191.3 to 191.5 Notice **ARC 8630B** ..... 3/24/10  
 Child support noncompliance, ch 192 Notice **ARC 8631B** ..... 3/24/10  
 Impaired practitioner review committee, ch 193 Notice **ARC 8634B** ..... 3/24/10  
 Student loan default/noncompliance with agreement for payment of obligation, ch 195  
Notice **ARC 8632B** ..... 3/24/10

**REVENUE DEPARTMENT[701]**

Electronic filing of Iowa income tax returns, 8.5, 39.13 Filed **ARC 8603B** ..... 3/10/10  
 Individual and corporation tax, amendments to chs 38, 40, 43, 46, 50, 52 Filed **ARC 8605B** ..... 3/10/10  
 Individual income, corporation income and franchise taxes, amendments to chs 39 to 41, 46,  
 48, 52, 53, 58, 59 Filed **ARC 8589B** ..... 3/10/10  
 Responsibilities of assessors, 71.1(1) Filed **ARC 8559B** ..... 3/10/10  
 Data centers—business exemptions and sales and use tax refunds, 230.12, 230.13 Filed **ARC 8602B** ..... 3/10/10

**SECRETARY OF STATE[721]**

Election forms and instructions, amendments to ch 21 Notice of Termination **ARC 8615B** ..... 3/24/10

**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Financial incentive program for soil erosion control, amendments to ch 10 Notice **ARC 8618B** ..... 3/24/10  
 Water protection projects and practices—supplemental allocation, appropriated funds, 12.40,  
 12.51, 12.63(2), 12.72, 12.73, 12.77(1), 12.82 to 12.84 Notice **ARC 8633B** ..... 3/24/10

**TRANSPORTATION DEPARTMENT[761]**

Federal motor carrier safety and hazardous materials regulations, 520.1(1) Notice **ARC 8555B** ..... 3/10/10

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Involuntary discharge appeal—judicial review, 10.47(7) Filed **ARC 8635B** ..... 3/24/10

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

Unemployment insurance; employer records, reports, contributions and charges; claims and  
 benefits, amendments to chs 21 to 24 Notice **ARC 8583B** ..... 3/10/10

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

**EDITOR’S NOTE: Terms ending April 30, 2011.**

Senator Merlin Bartz  
 2081 410th Street  
 Grafton, Iowa 50440

Senator Thomas Courtney  
 2200 Summer Street  
 Burlington, Iowa 52601

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

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

Senator James Seymour  
 901 White Street  
 Woodbine, Iowa 51579

Joseph A. Royce  
**Legal Counsel**  
 Capitol  
 Des Moines, Iowa 50319  
 Telephone (515)281-3084  
 Fax (515)281-8451

Representative Marcella R. Frevert  
 P.O. Box 324  
 Emmetsburg, Iowa 50536

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

Representative Tyler Olson  
 P.O. Box 2389  
 Cedar Rapids, Iowa 52406

Representative Nathan Reichert  
 1155 Iowa Avenue  
 Muscatine, Iowa 52761

Representative Linda Upmeyer  
 2175 Pine Avenue  
 Garner, Iowa 50438

James Larew  
**Administrative Rules Coordinator**  
 Governor’s Ex Officio Representative  
 Capitol, Room 11  
 Des Moines, Iowa 50319  
 Telephone (515)281-0208

**CIVIL RIGHTS COMMISSION[161]**

Rules of practice, 1.1(1), 1.2, 1.5 IAB 3/10/10 <b>ARC 8578B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Definition of “administratively closed,” 2.1(10)“a” IAB 3/10/10 <b>ARC 8575B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Definitions relating to types of mail, 2.1(14) to 2.1(16) IAB 3/10/10 <b>ARC 8577B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Definitions relating to electronic filing, 2.1(17) to 2.1(19) IAB 3/10/10 <b>ARC 8576B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Filing a complaint; update of bases for prohibition of discrimination, 3.3(1), 6.2(1), 9.5(2), 10.2 IAB 3/10/10 <b>ARC 8573B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Complaint process, 3.5, 3.6 IAB 3/10/10 <b>ARC 8571B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Conditions precedent to right to sue, 3.10(2) IAB 3/10/10 <b>ARC 8570B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Mediation, 3.11 IAB 3/10/10 <b>ARC 8569B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Mediation procedures, 3.12(1)“a,” “b” IAB 3/10/10 <b>ARC 8568B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Preliminary screening process, 3.12(1)“e” IAB 3/10/10 <b>ARC 8566B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Investigation and cause determination; role of administrative law judge, 3.13 IAB 3/10/10 <b>ARC 8567B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Complaint process—textual revisions, 3.14, 3.16 IAB 3/10/10 <b>ARC 8574B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Arbitration, 3.17 IAB 3/10/10 <b>ARC 8565B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Contested cases—clarification of wording, 4.28(1), 4.31 IAB 3/10/10 <b>ARC 8564B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Discrimination in employment— applicability, ch 8 preamble, 8.46 IAB 3/10/10 <b>ARC 8562B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Discrimination in employment— elimination of outdated rules, rescind 8.1 to 8.7 IAB 3/10/10 <b>ARC 8561B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.



**CIVIL RIGHTS COMMISSION[161] (Cont'd)**

Discrimination in employment— clarification of provisions, 8.47(1) IAB 3/10/10 <b>ARC 8563B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.
Update of commission address, 11.3(1), 15.3 IAB 3/10/10 <b>ARC 8560B</b>	Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa	April 6, 2010 2 to 4 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Water quality standards—surface water classification, 61.3(5) IAB 3/10/10 <b>ARC 8599B</b>	Municipal Utilities Conference Room 15 W. 3rd St. Atlantic, Iowa	April 1, 2010 10 a.m.
	Public Library 21 E. 3rd St. Spencer, Iowa	April 1, 2010 6 p.m.
	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa	April 5, 2010 10 a.m.
	Public Library 115 W. Washington St. Washington, Iowa	April 5, 2010 6 p.m.
	Community Meeting Room 15 N. 6th St. Clear Lake, Iowa	April 7, 2010 1 p.m.
	Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	April 9, 2010 1 p.m.

**LABOR SERVICES DIVISION[875]**

Elevator safety board—installation of hoistway door safety retainers, 72.1(3)“a” IAB 3/24/10 <b>ARC 8622B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	April 14, 2010 10 a.m. (If requested)
Elevator safety board—safe access to speed governors, 73.14(9) IAB 3/24/10 <b>ARC 8623B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	April 14, 2010 10:30 a.m. (If requested)

**MEDICINE BOARD[653]**

Standards of practice— interventional chronic pain management, 13.9 IAB 3/10/10 <b>ARC 8579B</b>	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	March 30, 2010 11 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

State parks and recreation areas—camping, definition of “immediate family,” 61.2, 61.4(5) IAB 3/10/10 <b>ARC 8593B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 30, 2010 2 p.m.
State forest camping, 62.2, 62.6 IAB 3/10/10 <b>ARC 8592B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 30, 2010 2 p.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Substance abuse treatment records—release of client/patient information, 157.7 IAB 3/24/10 <b>ARC 8629B</b>	Room 518 Lucas State Office Bldg. Des Moines, Iowa	April 13, 2010 11 a.m. to 12 noon
Volunteer health care provider program, ch 88 IAB 3/24/10 <b>ARC 8627B</b>	GoToMeeting online at: <a href="https://www1.gotomeeting.com/join/272492433">https://www1.gotomeeting.com/join/272492433</a> Toll-free: 1-877-739-5902 Access Code: 272-492-433	April 15, 2010 9 to 10 a.m.
Substance abuse and problem gambling treatment programs, amend ch 155; rescind ch 162 IAB 3/24/10 <b>ARC 8628B</b>	Room 518 Lucas State Office Bldg. Des Moines, Iowa	April 13, 2010 11 a.m. to 12 noon

**TRANSPORTATION DEPARTMENT[761]**

Federal motor carrier safety and hazardous materials regulations, 520.1(1) IAB 3/10/10 <b>ARC 8555B</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 1, 2010 10 a.m. (If requested)
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**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

Unemployment insurance; employer records, reports, contributions and charges; claims and benefits, amendments to chs 21 to 24 IAB 3/10/10 <b>ARC 8583B</b>	Iowa Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	March 30, 2010 9:30 a.m.
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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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Agricultural Development Authority[25]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Savings and Loan Division[197]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
EMPOWERMENT BOARD, IOWA[349]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]

Status of African-Americans, Division on the[434]  
Status of Women Division[435]  
Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
Employment Appeal Board[486]  
Foster Care Review Board[489]  
Racing and Gaming Commission[491]  
State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
Appeal Board, State[543]  
City Finance Committee[545]  
County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
Energy and Geological Resources Division[565]  
Environmental Protection Commission[567]  
Natural Resource Commission[571]  
Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
Homeland Security and Emergency Management Division[605]  
Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
Professional Licensure Division[645]  
Dental Board[650]  
Medicine Board[653]  
Nursing Board[655]  
Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
Labor Services Division[875]  
Workers' Compensation Division[876]  
Workforce Development Board and Workforce Development Center Administration Division[877]

**ARC 8616B****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 12, “Fees,” Iowa Administrative Code.

The proposed amendment to Chapter 12 implements a fee of \$25 for the completion of Interstate Transfer Forms for examination candidates and licensees who wish to transfer grades or request letters of good standing. The fee will offset the administrative expenditures of completing these forms as necessary for the regulating of the accounting profession.

This amendment is subject to waiver or variance pursuant to 193A—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before April 13, 2010. Comments should be addressed to Jodi Adams, Accountancy Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [jodi.adams@iowa.gov](mailto:jodi.adams@iowa.gov).

This amendment is intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

The following amendment is proposed.

Amend rule **193A—12.1(542)**, fee schedule, by adding the following **new** fee at the end thereof:

Interstate Transfer Form

\$25

**ARC 8617B****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 12, “Fees,” Iowa Administrative Code.

The proposed amendments to Chapter 12 reimplement the \$100 reinstatement fees for lapsed CPA and LPA licenses and lapsed firm permits to practice. The fees were inadvertently left out during the previous rule making, which added the \$25 per-month fee. (See **ARC 7715B**, IAB 4/22/09.)

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

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before April 13, 2010. Comments should be addressed to Jodi Adams, Accountancy Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [jodi.adams@iowa.gov](mailto:jodi.adams@iowa.gov).

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

The following amendments are proposed.

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

ITEM 1. Amend rule **193A—12.1(542)**, fee schedule, by adding the following new fees at the end thereof:

Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration

ITEM 2. Amend subrules 12.2(1) and 12.2(2) as follows:

**12.2(1)** *Reinstatement of a lapsed CPA certificate or LPA license.* ~~The fee for reinstatement of a lapsed CPA certificate or LPA license is \$100 plus the renewal fee for applications to reinstate filed on or before June 30, 2009.~~ The fee for the reinstatement of a lapsed CPA certificate or LPA license for applications filed on or after July 1, 2009, is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

**12.2(2)** *Reinstatement of lapsed firm permit to practice.* ~~The fee for reinstatement of a lapsed CPA or LPA firm permit to practice is \$100 plus the renewal fee for applications to reinstate filed on or before June 30, 2009.~~ The fee for the reinstatement of a lapsed CPA or LPA firm permit to practice for applications filed on or after July 1, 2009, is \$100 plus the renewal fee plus \$25 per month of expired registration up to a maximum of \$1,000.

**ARC 8619B**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The proposed amendments eliminate the requirement that all Medicaid applicants with parents absent from the home be referred for services from the Child Support Recovery Unit. Instead, referrals for support services will be made on a voluntary basis. The rule on noncooperation with medical support recovery is amended to provide that this determination must be made by the Child Support Recovery Unit, rather than the income maintenance worker, due to a change in federal law.

A parent who is receiving cash assistance will lose assistance for the whole household by failure to cooperate with support recovery. However, federal Medicaid regulations do not allow a sanction on children’s assistance, and some major coverage groups are available to children only. In those cases, there is effectively no penalty for failure to cooperate. These amendments will reduce the number of child support recovery cases and concentrate recovery services on families that want support services.

The Department does not expect Medicaid recoveries from third-party sources to be reduced as a result of this change. With the advent of insurance data matches, the Department has other sources for information about absent parents’ insurance.

Requesting support recovery services does provide advantages to the client in locating parents, establishing paternity, and obtaining orders for cash and medical support. Also, when medical support is flagged by the Child Support Recovery Unit, the Department’s normal Medicaid requirements for billing third-party insurance first do not apply. A “pay and chase” procedure is applied, in which the Department pays the child’s claims and then seeks reimbursement from the absent parent’s insurance. When insurance coverage is identified through a data match, “pay and chase” applies only to prenatal care and preventive pediatric services (including pharmacy claims).

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

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

Any interested person may make written comments on the proposed amendments on or before April 13, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 249A.6.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **75.2(5)**.

ITEM 2. Amend subrules 75.14(1) and 75.14(2) as follows:

**75.14(1)** As a condition of eligibility, adult Medicaid applicants and members in households with an absent parent shall cooperate in obtaining medical support for ~~each applicant or member as well as themselves and~~ for any other person in the household for whom Medicaid is requested and for whom the applicant or member can legally assign rights for medical support, except when the applicant or member has good cause as defined in subrule 75.14(8) for refusal to cooperate is established as defined in subrule 75.14(8).

a. The adult applicant or member shall cooperate in the following:

(1) to (4) No change.

b. Cooperation is defined as including the following actions by the adult applicant or member upon request:

(1) to (3) No change.

c. ~~The~~ Upon request, the adult applicant or member shall cooperate with the department in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. ~~The~~ Upon request, the adult applicant or member shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. ~~The income maintenance~~ child support recovery unit shall make the determination of whether or not the adult applicant or member has cooperated for the purposes of this rule.

**75.14(2)** Failure of ~~the~~ an adult applicant or member to cooperate shall result in denial or cancellation of the ~~person's~~ noncooperating adult's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2) "a," "b," and "c" shall be allowed when otherwise applicable.

ITEM 3. Rescind and reserve subrule **75.14(5)**.

ITEM 4. Amend subrule 75.14(7) as follows:

**75.14(7)** Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) ~~and 75.14(5) which that require the an adult applicant or member to assign any rights to medical support and payments for medical care and to be referred to the child support recovery unit.~~

ITEM 5. Amend paragraph **75.55(2)"a"** as follows:

a. When necessary to establish eligibility, the department shall make the initial contact with the absent parent at the time of application. Subsequent contacts ~~shall~~ may be made by the child support recovery unit.

**ARC 8622B****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 72, “Conveyances Installed On or After January 1, 1975,” Iowa Administrative Code.

This amendment requires elevator hoistway door safety retainers for elevators installed between January 1, 1993, and December 31, 2000.

The purpose of this amendment is to protect the health and safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on April 13, 2010, a public hearing will be held on April 14, 2010, at 10 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than April 14, 2010, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

This amendment is intended to implement Iowa Code chapter 89A.

The following amendment is proposed.

Amend paragraph **72.1(3)“a”** as follows:

*a.* ASME A17.1 shall mean ASME A17.1 (1990); and in addition shall mean the following:

(1) ASME A17.1b (1993), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and

(2) ASME A17.1b (1993), Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

**ARC 8623B****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

This amendment requires that owners retrofit certain elevators to ensure safe access to the machine’s governor for elevator inspectors and mechanics.



## LABOR SERVICES DIVISION[875](cont'd)

The purpose of this amendment is to protect the health and safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on April 13, 2010, a public hearing will be held on April 14, 2010, at 10:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than April 14, 2010, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

This amendment is intended to implement Iowa Code chapter 89A.

The following amendment is proposed.

Adopt the following **new** subrule 73.14(9):

**73.14(9)** Access to a governor that is located inside a hoistway shall be provided in accordance with ASME A17.1-2007, Rule 2.7.6.3.4.

**ARC 8627B**

**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 section 135.24, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code, and to adopt a new chapter with the same title.

The new chapter provides the Department the ability to provide defense and indemnification to individual volunteer health care providers within a specialty health care provider office through the Volunteer Health Care Provider Program. The new chapter also provides clarification in identifying the individual volunteer health care provider, protected clinic, and sponsor entity. Definitions have been added to provide further clarification regarding the Volunteer Health Care Provider Program. Speech pathologists and audiologists have been added to receive defense and indemnification through the VHCPP as individual volunteer health care providers.

Any interested person may make written comments on these proposed rules on or before April 15, 2010, addressed to Dawn Mouw, Division of Health Promotion and Chronic Disease Prevention, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail [dawn.mouw@idph.state.ia.us](mailto:dawn.mouw@idph.state.ia.us).

Also, a public hearing will be held on Thursday, April 15, 2010, from 9 to 10 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following: <https://www1.gotomeeting.com/join/272492433>. The use of microphone and speakers (VoIP) or a headset is recommended. Or interested persons may join the meeting by telephone in the U.S. and Canada (toll-free) at 1-877-739-5902; the access code is 272-492-433 and an audio PIN will be shown after the person joins the meeting. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who plans to participate in the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of specific needs.

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

These rules are intended to implement 2009 Iowa Code Supplement section 135.24.  
The following amendment is proposed.

Rescind 641—Chapter 88 and adopt the following new chapter in lieu thereof:

CHAPTER 88  
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

**641—88.1(135) Purpose.** The volunteer health care provider program (VHCPP) is established to defend and indemnify eligible individual volunteer health care providers and protected clinics providing free health care services as provided in Iowa Code section 135.24 and these rules.

**641—88.2(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Charitable organization”* means a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code.

*“Defend”* means that the office of the attorney general shall provide the individual volunteer health care provider and protected clinic with legal representation at no cost to the individual volunteer health care provider or protected clinic.

*“Department”* means the Iowa department of public health.

*“Field dental clinic”* means a dental clinic temporarily or periodically erected at a location where mobile dental equipment, instruments, or supplies, as necessary, are utilized to provide dental service.

*“Free clinic”* means a facility, other than a hospital or health care provider’s office, which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.

*“Health care facility”* means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with mental retardation.

*“Health care services”* means services received from an individual volunteer health care provider at a protected clinic or sponsor entity, as provided in Iowa Code section 135.24 and these rules, and approved in a protection agreement or sponsor entity agreement. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, protected clinic, or sponsor entity must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

*“Indemnify”* means that the state of Iowa shall pay all sums that the individual volunteer health care provider or protected clinic holding a protection agreement with the VHCPP is legally obligated to pay as damages because of any claim made against the individual volunteer health care provider or protected clinic which arises out of the provision of free health care services rendered or which should have been rendered by the individual volunteer health care provider or protected clinic.

*“Individual volunteer health care provider”* means any one of the following health care providers who has a fully executed protection agreement with the VHCPP: an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter

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

154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

*“Iowa Specialty Referral Network”* means the referral network established through the Iowa Collaborative Safety Net Provider Network.

*“Minor dental surgery”* means the simple minimum invasive removal of decayed whole teeth by external instrument recovery or through a soft tissue incision, which may include the removal of a small foreign body and drainage of infection and small cysts; in addition, “minor dental surgery” may include the surgical removal of broken or decayed teeth at or below the gum line.

*“Primary dental care service”* means all services within legal scope of practice rendered by a licensed general dentist with the exclusion of services requiring advanced training beyond the usual scope of general practice as delivered by a dental specialist as defined by Iowa law. These services are therapeutic with the purpose to eliminate disease with appropriate removal of diseased tissue or the complete restoration of tooth structure to appropriate function. “Primary dental care service” does not include cosmetic or elective services. Services are provided with the assurance of follow-up to address posttreatment complications and to ensure the completion of all services initiated under appropriate practice standards as established and enforced by the Iowa dental board.

*“Protected clinic”* means field dental clinic, free clinic, or specialty health care provider office providing free care to the uninsured and underinsured. Each protected clinic has a signed protection agreement, which provides for defense and indemnification of the protected clinic. The protection agreement shall allow the protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state.

*“Protection agreement”* means a signed contract providing for defense and indemnification between an individual volunteer health care provider or protected clinic and the volunteer health care provider program (VHCPP). This agreement shall allow the individual health care provider or protected clinic to deliver health care services to uninsured and underinsured persons as an agent of the state. The agreement covers “health services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual health care provider and protected clinic must receive no compensation for any services provided under the agreement and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

*“Specialty health care provider office”* means the private office or clinic of an individual specialty health care provider or a group of specialty health care providers as referred by the Iowa Collaborative Safety Net Provider Network established in Iowa Code section 135.153 but does not include a field dental clinic, a free clinic, or a hospital.

*“Sponsor entity”* or *“sponsor entity clinic”* means a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization or field dental clinic. Each sponsor entity has a fully executed sponsor entity agreement. The sponsor entity agreement shall allow an individual volunteer health care provider to deliver health care services to uninsured and underinsured persons as an agent of the state.

*“Sponsor entity agreement”* means a signed contract between the VHCPP and a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, or field dental clinic allowing an individual volunteer health care provider to deliver free health care services through the VHCPP at the sponsor entity location.

*“Underinsured”* means that a person does not have adequate insurance, which is determined on cost-exposure to family income with at least one of three indicators: (1) out-of-pocket medical expenses equal to or greater than 10 percent of income; (2) out-of-pocket medical expenses equal to or greater than 5 percent of income if income is less than 200 percent of the federal poverty level; and (3) health plan deductibles equal to or greater than 5 percent of income.

*“Volunteer health care provider program”* or *“VHCPP”* means the volunteer health care provider program of the department.

**641—88.3(135) Eligibility for the volunteer health care provider program.**

**88.3(1)** *Individual volunteer health care provider eligibility.* To be eligible for protection as an employee of the state under Iowa Code chapter 669 for a claim arising from covered health care services, an individual volunteer health care provider shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

*a.* The individual volunteer health care provider shall hold an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A. The individual volunteer health care provider shall provide a sworn statement attesting that the license, registration, or certification to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the individual volunteer health care provider by any professional licensing, registering, or certifying authority or health care facility, including any voluntary surrender of license, registration, or certification or other agreement involving the individual volunteer health care provider's license, registration, or certification to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the individual volunteer health care provider. The statement provided by a pharmacist shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

(1) Every physician and dentist shall authorize the release of information allowing certified statements to be sent to the medicine board or dental board from the National Practitioner Data Bank, the Federation of State Medical Boards Disciplinary Data Bank, or State Dental Boards Disciplinary Data Bank, as appropriate, setting forth any malpractice judgment or award or disciplinary action involving the physician or dentist.

(2) Every physical therapist, occupational therapist, physician assistant, podiatrist, chiropractor, respiratory therapist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, optometrist, psychologist, bachelor social worker, master social worker, independent social worker, marital and family therapist, mental health counselor, speech pathologist, and audiologist shall request certified statements directly from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank setting forth any malpractice judgment or award or disciplinary action involving the requester, shall pay the cost for such certified statements and shall submit such certified statements as part of the VHCPP application. Every chiropractor shall also authorize the release of information allowing certified statements to be sent to the board of chiropractic from the Chiropractic Information Network-Board Action Databank (CIN-BAD) setting forth any malpractice judgment or award or disciplinary action involving the chiropractor.

(3) Every pharmacist shall authorize the release of information allowing certified statements to be sent to the board of pharmacy from the National Association of Boards of Pharmacy setting forth any disciplinary action involving the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, and the pharmacist shall pay the cost for such certified statements. Every pharmacist shall also authorize the release of information from the pharmacist's malpractice insurance carrier to be sent to the board of pharmacy, and the pharmacist shall pay the cost for such release. Information released from the pharmacist's malpractice insurance carrier shall include the history and details of all claims that have been filed on behalf of the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, or confirmation that there have been no claims.

(4) Every emergency medical care provider shall authorize the release of information allowing information to be sent from the bureau of emergency medical services to the VHCPP setting forth any malpractice judgment or award or disciplinary action involving the requester, and shall authorize the release of information allowing such information to be shared with the bureau of emergency medical services by licensing entities within and outside Iowa.

*b.* Application. The applicant shall submit the following information on forms provided by the VHCPP:

- (1) The patients to be served;
- (2) The health care services to be provided;

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

- (3) The site where health care services are to be provided;
- (4) The days and maximum number of hours when the free health care services will be provided each week at each site;

(5) The services that will be provided to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

c. Agreement. The individual volunteer health care provider shall have a signed and current protection agreement with the VHCPP which identifies the covered health care services within the respective scope of practice and conditions of defense and indemnification as provided in rules 641—88.5(135) and 641—88.6(135). The protection agreement shall:

(1) Provide that the individual volunteer health care provider shall perform only those health care services identified and approved by the VHCPP;

(2) Identify the health care services to be provided by the sponsor entity or protected clinic which is approved by the VHCPP through an application process;

(3) Identify by category the patient groups to be served;

(4) Identify the sites at which the free health care services will be provided;

(5) Identify the maximum amount of time the free health care services will be provided by the individual volunteer health care provider at the identified sites each week;

(6) Provide that the individual volunteer health care provider shall maintain proper records of the health care services;

(7) Provide that the individual volunteer health care provider shall make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;

(8) Provide that the individual volunteer health care provider shall cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

(9) Provide that the individual volunteer health care provider shall accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;

(10) Provide that the individual volunteer health care provider shall receive no direct monetary compensation of any kind for services provided in the VHCPP;

(11) Provide that the individual volunteer health care provider shall comply with the protection agreement with the VHCPP concerning approved health care services.

**88.3(2) Protected clinic eligibility.** To be eligible for protection as a state agency under Iowa Code chapter 669 for a claim arising from the provision of covered health care services at a protected clinic, the protected clinic shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The protected clinic shall comply with subrules 88.4(1) through 88.4(5).

b. The protected clinic shall provide a list of all individual volunteer health care providers who provide health care services at the protected clinic.

c. The protected clinic shall submit proof that each individual volunteer health care provider providing health care services at the protected clinic either:

(1) Holds a current protection agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A.

d. The protected clinic shall submit a list of the clinic board of directors and contact information for the board of directors.

e. The protected clinic shall submit proof of IRC Section 501(c)(3) status.

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

**88.3(3) *Sponsor entity or sponsor entity clinic.*** As a condition of sponsoring individual volunteer health care providers in the VHCPP, a hospital, clinic, free clinic, health care facility, health care referral program, charitable organization, or field dental clinic shall comply with subrules 88.4(1) through 88.4(5).

**641—88.4(135) Sponsor entity and protected clinic.**

**88.4(1) Licensure.** The sponsor entity or protected clinic shall be licensed to the extent required by law for the facility in question.

**88.4(2)** If the sponsor entity or protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the sponsor entity or protected clinic shall provide proof of Section 501(c)(3) status to the VHCPP.

**88.4(3) Application.** The sponsor entity or protected clinic shall submit the following information on forms provided by the VHCPP:

- a.* By category, the patient groups to be served;
- b.* The health care services to be provided;
- c.* The site where free health care services are to be provided;
- d.* The days and times when health care services are to be provided at each site;
- e.* The services that will be provided to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

**88.4(4) Agreement.** A signed and current sponsor entity agreement or protected clinic agreement shall exist with the VHCPP which shall:

- a.* Provide that the individual volunteer health care provider within a sponsor entity or protected clinic shall perform only those health care services identified and approved by the VHCPP;
- b.* Identify by category the patient groups to be served;
- c.* Identify the sites at which the free health care services will be provided;
- d.* Identify the days and times when health care services are to be provided at each site;
- e.* Provide that the sponsor entity or protected clinic shall maintain proper records of health care services for a period of seven years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and
- f.* Provide that the sponsor entity agrees that only the individual volunteer health care provider or protected clinic is afforded protection under Iowa Code section 135.24 and that the state assumes no obligation to the sponsor entity, its employees, officers, or agents. The sponsor entity or protected clinic shall submit a statement, which shall be submitted on forms provided by the VHCPP, attesting that the sponsor entity or protected clinic and its staff, employees and volunteers agree to:

(1) Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

(2) Accept financial responsibility for the sponsor entity's or protected clinic's expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the sponsor entity or protected clinic for expenses or time needed for the defense of the claim or suit;

(3) Receive no direct monetary compensation of any kind for health care services provided in the sponsor entity or protected clinic;

(4) Comply with the sponsor entity agreement or protected clinic agreement with the VHCPP concerning approved health care services.

**88.4(5) General liability insurance.** The sponsor entity or protected clinic shall submit proof of general liability insurance for the clinic site.

**641—88.5(135) Covered health care services.** An individual volunteer health care provider holding a current protection agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669, and a protected clinic holding a current protection agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only

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

for claims for injury alleged to have been proximately caused by an individual volunteer health care provider's provision of covered health care services or solely on the basis of the individual volunteer health care provider's participation in the sponsor entity or protected clinic.

**88.5(1)** Covered health care services are only those that are:

- a. Identified in the protection agreement with the VHCPP;
- b. In compliance with these rules;
- c. Provided by or under the direct supervision of the individual volunteer health care provider;
- d. Health care services of:

(1) Advanced registered nurse practitioners for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures.

(2) Audiologists for: testing, measurement and evaluation related to hearing and hearing disorders and associated communication disorders for the purpose of nonmedically identifying, preventing, modifying or remediating such disorders and conditions including the determination and use of appropriate amplification; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.

(3) Bachelor social workers for: psychosocial assessment and intervention through direct contact with clients; referral to other qualified resources for assistance; performance of social histories; problem identification; establishment of goals and monitoring of progress; interviewing techniques; counseling; social work administration; supervision; evaluation; interdisciplinary consultation and collaboration; and research of service delivery, including development and implementation of organizational policies and procedures in program management.

(4) Chiropractors for: examinations; diagnosis and treatment; health education; and health maintenance.

(5) Dental assistants for: intraoral services; extraoral services; infection control; radiography; and removal of plaque or stain by toothbrush, floss, or rubber cup coronal polish.

(6) Dental hygienists for: assessments and screenings; health education; health maintenance; and preventive services (cleaning, X-rays, sealants, fluoride treatments, fluoride varnish).

(7) Dentists for: primary dental care services and minor dental surgery.

(8) Emergency medical care providers for: airway/ventilation/oxygenation; assisted medications - patient's; cardiovascular/circulation; immobilization; IV initiation/maintenance/fluids; and medication administration - routes.

(9) Independent social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

(10) Licensed practical nurses for: supportive or restorative care.

(11) Marital and family therapists for: marital and family therapy; and application of counseling techniques in the assessment and resolution of emotional conditions.

(12) Master social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

(13) Mental health counselors for: mental health counseling; and counseling services involving assessment, referral and consultation.

(14) Occupational therapists for: evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability or the aging process.

(15) Pharmacists for: drug dispensing; patient counseling; health screenings and education; and immunizations.

(16) Physical therapists for: interpretation of performance, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and

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

rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program, treatment planning, and patient instruction/education.

(17) Physicians and physician assistants for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures.

(18) Psychologists for: counseling and the use of psychological remedial measures with persons with adjustment or emotional problems.

(19) Optometrists for: examinations; diagnosis and treatment of the human eye and adnexa; health education; and health maintenance.

(20) Podiatrists for: examinations; diagnosis and treatment; health education; health maintenance; and minor surgical procedures.

(21) Registered nurses for: well-child examinations; annual adult examinations; treatment of acute and chronic conditions; health education; health maintenance; and immunizations.

(22) Respiratory therapists for: diagnostic and therapeutic use of administration of medical gases, aerosols, and humidification, not including general anesthesia; pharmacologic agents relating to respiratory care procedures; bronchopulmonary hygiene; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of cardiopulmonary abnormalities; and pulmonary function testing.

(23) Speech pathologists for: testing, measurement and evaluation related to the development and disorders of speech, fluency, voice or language for the purpose of nonmedically preventing, ameliorating, modifying or remediating such disorders and conditions; patient instruction/counseling; patient habilitation/rehabilitation; and referrals.

**88.5(2)** Experimental procedures or procedures and treatments which lack sufficient evidence of clinical effectiveness are excluded from the VHCPP.

**88.5(3)** Patient referral to the specialty health care provider office shall be made solely by the Iowa Specialty Referral Network.

**641—88.6(135) Defense and indemnification.** The state shall defend and indemnify an individual volunteer health care provider or a protected clinic for a claim arising from the VHCPP only to the extent provided by Iowa Code chapter 669 and Iowa Code section 135.24. Persons or entities other than the participating individual volunteer health care provider or protected clinic are not considered state employees or state agencies under Iowa Code chapter 669. Defense and indemnification of the individual volunteer health care provider or a protected clinic under Iowa Code chapter 669 and Iowa Code section 135.24 shall occur only if all of the following requirements are met:

**88.6(1)** The claim involves injury alleged to have been proximately caused by health care services which were identified and approved in the protection agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the individual volunteer health care provider, including claims based on negligent delegation of health care, or the individual volunteer health care provider is named as a defendant solely because of the individual volunteer health care provider's participation in the protected clinic or sponsor entity clinic.

**88.6(2)** The claim arises from covered health care services that were performed at a site identified and approved in the protection agreement with the VHCPP.

**88.6(3)** The claim arises from covered health care services provided through a protected clinic or sponsor entity clinic identified and approved in the individual volunteer health care provider's protection agreement with the VHCPP and which meets the requirements of rule 641—88.3(135).

**88.6(4)** The individual volunteer health care provider, protected clinic, or sponsor entity clinic that provided the health care services receives no direct monetary compensation of any kind and no promise to pay compensation for the health care services which allegedly resulted in injury.

**88.6(5)** The health care services are provided to a patient who is a member of a patient group identified in the protection agreement with the VHCPP.

**88.6(6)** The individual volunteer health care provider, protected clinic, or sponsor entity clinic is eligible and registered as provided in rule 641—88.3(135) or the care is provided by an individual



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

volunteer health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A and has been approved by the VHCPP.

**641—88.7(135) Term of agreement.**

**88.7(1) *Individual volunteer health care provider.*** The protection agreement with the VHCPP shall expire two years from the date of execution. Individual volunteer health care providers may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement.

**88.7(2) *Protected clinic.*** The protection agreement with the VHCPP shall expire two years from the date of execution. The protected clinic may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement.

**88.7(3) *Sponsor entity.*** The sponsor entity agreement with the VHCPP shall expire two years from the date of execution. Sponsor entities may apply for renewal by filing an application at least 30 days prior to expiration of the sponsor entity agreement.

**641—88.8(135) Reporting requirements and duties.**

**88.8(1)** Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, covered health care services under the VHCPP, a participating individual volunteer health care provider, protected clinic, or sponsor entity shall provide written notice to the VHCPP, as soon as practicable, containing, to the extent obtainable, the circumstance of the alleged injury, the names and addresses of the injured, and any other relevant information.

**88.8(2)** Upon obtaining knowledge or becoming aware of an injury as defined in subrule 88.8(1), the participating protected clinic or sponsor entity shall promptly take all reasonable steps to prevent further or other injury from arising out of the same or similar incidents, situations or conditions.

**88.8(3)** A participating individual volunteer health care provider, protected clinic, or sponsor entity shall immediately notify the Iowa Department of Justice, Special Litigation Division, Hoover State Office Building, Des Moines, Iowa 50319, of service or receipt of an original notice, petition, suit or claim seeking damages from the individual volunteer health care provider, protected clinic or sponsor entity related to participation in the VHCPP.

**641—88.9(135) Revocation of agreement.** The VHCPP may suspend, revoke, or condition the protection of an individual volunteer health care provider, protected clinic or sponsor entity for cause, including but not limited to:

1. Failure to comply with the protection agreement or sponsor entity agreement with the VHCPP.
2. Violation of state law governing the respective scope of practice or other law governing the health care services provided under the VHCPP.
3. Making false, misleading, or fraudulent statements in connection with the VHCPP, including determination of eligibility of the individual volunteer health care provider, protected clinic, or sponsor entity or handling of a claim against the individual volunteer health care provider, protected clinic, sponsor entity or the state.
4. Evidence of substance abuse or intoxication affecting the provision of health care services under the VHCPP.
5. Reasonable grounds to believe that the individual volunteer health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.
6. Reasonable grounds to believe that the individual volunteer health care provider's, protected clinic's, or sponsor entity's participation in the VHCPP may expose the state to undue risk.
7. Failure to immediately notify the VHCPP of any disciplinary action brought against the individual volunteer health care provider by the applicable state licensing board.

**641—88.10(135) Procedure for revocation of agreement.** A proceeding for revocation of an individual volunteer health care provider's protection agreement or a protected clinic's protection

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

agreement or a sponsor entity's agreement for participation shall be conducted as a contested case proceeding pursuant to Iowa Code chapter 17A and 641—Chapter 173. Iowa Code section 17A.18 does not preclude emergency summary suspension of a protection agreement or a sponsor entity agreement. The VHCPP shall immediately notify the appropriate licensing board and the appropriate protected clinic or sponsor entity of revocation of an individual volunteer health care provider's protection agreement.

**641—88.11(135) Effect of suspension or revocation.** If the VHCPP suspends or revokes an individual volunteer health care provider's protection agreement, sponsor entity agreement, or protected clinic's protection agreement, the action shall suspend or revoke future protection but shall not negate defense and indemnification coverage for covered acts or omissions which occurred during the effective dates of the protection agreement.

**641—88.12(135) Protection denied.**

**88.12(1) Protection denied—appeal procedure.** An applicant who has been denied protection by the VHCPP may appeal the denial and request a hearing on the issues related to the denial by serving a notice of the appeal and request for hearing to the Director, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075, in writing, not more than 30 days following the date of the mailing of the notification of protection denial to the applicant or not more than 30 days following the date upon which the applicant was served notice if notification was made in the manner of service of an original notice. The request for hearing shall specifically delineate the facts to be contested and determined at the hearing.

**88.12(2) Protection denied—hearing.** If an applicant who has been denied protection by the VHCPP appeals the protection denial and requests a hearing pursuant to subrule 88.12(1), the hearing and subsequent procedures shall be conducted pursuant to Iowa Code chapter 17A and 641—Chapter 173.

**641—88.13(135) Board notice of disciplinary action.** The applicable state licensing board shall notify the VHCPP of the initiation of a contested case against a protected individual volunteer health care provider or the imposition of disciplinary action, including providing copies of any contested case decision or settlement agreement with the protected individual volunteer health care provider upon request of the VHCPP.

**641—88.14(135) Effect of eligibility protection.** A fully executed protection agreement of an individual volunteer health care provider or protected clinic as eligible for participation in the VHCPP by the applicable state licensing board and the department is solely a determination that the state will defend and indemnify the individual volunteer health care provider or the protected clinic to the extent provided by Iowa Code section 135.24 and these rules. The protection is not an approval or indication of ability or competence and may not be represented as such. The protected clinic or sponsor entity through which the individual volunteer health care provider provides free health care services shall retain responsibility for determining that health care personnel are competent and capable of adequately performing the health care services to be provided.

**641—88.15(135) Reporting by a protected clinic or sponsor entity.** A reporting form will be provided by the VHCPP to the participating protected clinic or sponsor entity at the time the protected clinic or sponsor entity agreement is approved by the VHCPP. Within 60 days following each calendar quarter, the protected clinic or sponsor entity shall provide a report to the VHCPP. At a minimum, the report shall include the number of clinic patients receiving free health care services and patient demographics by age, ethnicity, and insurance status.

These rules are intended to implement Iowa Code section 135.24.

**ARC 8628B****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 section 125.7 and 2009 Iowa Code Supplement section 135.150(1)“b,” the Department of Public Health gives Notice of Intended Action to amend Chapter 155, “Licensure Standards for Substance Abuse Treatment Programs,” and to rescind Chapter 162, “Licensure Standards for Problem Gambling Treatment Programs,” Iowa Administrative Code.

The proposed amendments provide the Department the ability to license problem gambling and substance abuse treatment programs in Iowa with one set of standards, one licensure survey, comprehensive technical assistance, and appropriately credentialed counselors.

These rules are subject to waiver pursuant to 641—Chapter 178.

Any interested person may make written comments on these proposed amendments on or before April 13, 2010, addressed to Bob Kerksieck, Division of Behavioral Health, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail [rkerksie@idph.state.ia.us](mailto:rkerksie@idph.state.ia.us).

Also, a public hearing will be held in Room 518 of the Lucas State Office Building, Des Moines, Iowa, on Tuesday, April 13, 2010, from 11 a.m. to 12 noon, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapter 125 and 2009 Iowa Code Supplement section 135.150.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 155**, title, as follows:

**LICENSURE STANDARDS FOR SUBSTANCE ABUSE AND PROBLEM  
GAMBLING TREATMENT PROGRAMS**

ITEM 2. Amend rules **641—155.1(125)** to **641—155.16(125)**, **641—155.18(125)** to **641—155.25(125)** and **641—155.35(125)**, parenthetical implementation, as follows:  
(125,135)

ITEM 3. Amend the following definitions in rule **641—155.1(125,135)**:

*“Acute intoxication or withdrawal potential”* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement, continuing service and discharge~~ criteria. This category evaluates client/patient’s current status of intoxication and potential for withdrawal complications ~~as it impacts on level of care decision making~~. Historical information about client/patient’s withdrawal patterns may also be considered.

*“Admission criteria”* means specific ASAM-PPC-2R criteria to be considered in determining appropriate client/patient placement and resultant referral to a level of care ~~(substance abuse treatment only)~~. Criteria vary in intensity and are organized into ~~six categories: acute intoxication or withdrawal potential, biomedical conditions or complications, emotional/behavioral conditions or complications, treatment resistance/acceptance, relapse potential, and recovery environment~~ to be used by treatment programs for assessment and treatment planning.

*“Applicant”* means any ~~substance abuse~~ treatment program which has applied for a license or renewal thereof.

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

*“Application”* means the process through which a ~~substance abuse~~ treatment program applies for a license or renewal as outlined in the application procedures.

*“Biomedical conditions and complications”* means one category to be considered in the ASAM-PPC-2R ~~client/patient placement, continuing service and discharge~~ criteria. This category evaluates client/patient’s current physical condition ~~as it impacts on level of care decision making~~. Historical information on client/patient’s medical/physical functioning may also be considered. This category includes biological and physical aspects of the medical assessment and treatment of a patient client/patient. ~~In addiction treatment, the physical~~ Physical problems may be the direct result of the a substance use disorder, or be independent of and interactive with ~~them~~ such a disorder, thus affecting the total treatment plan and prognosis.

*“Client/patient”* means an individual who ~~has is~~ a ~~substance abuse problem~~ abuser or a problem gambler or is chemically dependent, has been assessed as appropriate for services, and for whom screening procedures have been completed.

*“Clinical oversight”* means oversight provided by an individual who, by virtue of education, training and experience, is capable of assessing the psychosocial history of a ~~substance abuser~~ client/patient to determine the most appropriate treatment plan ~~most appropriate for the client/patient~~. The person providing oversight shall be designated by the applicant treatment program.

*“Concerned family member ~~or concerned person~~”* or *“concerned person”* means an individual who is seeking treatment services due to problems arising from the person’s involvement or association with a substance abuser, ~~or~~ chemically dependent individual, problem gambler or client/patient; and who is negatively affected by the behavior of the substance abuser, chemically dependent individual, problem gambler or client/patient.

*“Continuing care”* means a Level I service of the ASAM-PPC-2R ~~client/patient placement~~ criteria, which provides a specific period of structured therapeutic involvement designed to enhance, facilitate and promote transition from primary care to ongoing recovery. ~~Continuing service reviews will not be required or applicable to Level I continuing care/aftercare client/patients. Also, there~~ There shall not be any required frequency of review for continuing service care or frequency of review of treatment plan by client/patient and counselor.

*“Continuum of care”* means a structure of interlinked treatment modalities and services designed so that ~~an individual’s~~ a client/patient’s changing needs will be met as ~~that individual~~ the client/patient moves through the treatment and recovery process.

*“Counselor”* means an individual who, by virtue of education, training or experience, provides treatment, which includes advice, opinion, or instruction to an individual or in a group setting to allow an opportunity for a person to explore the person’s problems related directly or indirectly to substance abuse, ~~or~~ chemical dependence or problem gambling.

*“Division”* means the division of behavioral health ~~and professional licensure~~.

*“Emotional, behavioral or cognitive conditions and complications”* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement and continuing service~~ criteria. This category evaluates client/patient’s current emotional, behavioral, and cognitive status ~~as it impacts on level of care decision making~~. Emotional, behavioral or cognitive status may include, but is not limited to, psychiatric conditions, psychological or emotional/behavioral complications, poor impulse control, changes in mental status, or transient neuropsychiatric complications and the behavior that accompanies or follows these emotional states. Historical information on ~~client/patient~~ client/patient’s emotional/behavioral functioning may also be considered.

*“Extended outpatient treatment”* means a Level I service of the ASAM-PPC-2R ~~client/patient placement~~ criteria, which is an organized, nonresidential service. Services Extended outpatient treatment services usually are provided in regularly scheduled sessions which ~~do not exceed~~ include less than nine treatment hours a week for adults or less than six treatment hours a week for adolescents. For problem gambling client/patients, extended outpatient treatment services may be offered in conjunction with transitional housing.

*“Facility”* means a hospital, detoxification center, institution or program licensed under Iowa Code section 125.13 or 2009 Iowa Code Supplement section 135.150 providing care, maintenance

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

and treatment for ~~substance abusers~~ client/patients. Facility also includes the physical areas such as grounds, buildings, or portions thereof under direct administrative control of the program.

*"Intensive outpatient treatment (Level II.1)"* means intensive outpatient programs (IOP) that provide a minimum of nine hours for adults or a minimum of six hours for adolescents of structured programming per week, consisting primarily of counseling and education ~~focused on alcohol and other drug problems~~. IOP differs from partial hospitalization (Level II.5) in the intensity of clinical services that are directly available. Specifically, an IOP has less capacity to effectively treat individuals who have substantial medical and psychiatric problems. For problem gambling client/patients, the service may be offered in conjunction with transitional housing.

*"Iowa board of ~~substance abuse~~ certification"* means the professional certification board that certifies substance abuse counselors and prevention specialists, problem gambling treatment specialists and other addiction treatment specialists in the state of Iowa.

*"Licensure"* means the issuance of a license by the department and the board which validates the licensee's compliance with ~~substance abuse treatment~~ program standards and authorizes the licensee to operate a ~~substance abuse~~ treatment program in the state of Iowa.

*"Management of care"* means the process to ensure the appropriate level of care is utilized by implementing ASAM-PPC-2R criteria during the placement screening, continuing service and discharge ~~process~~. This process includes discharge planning that begins at admission to meet the immediate, ongoing and posttreatment needs of the client/patient.

*"Outreach"* means public speaking engagements and other similar activities and functions that inform the public of available programs and services offered by a ~~substance abuse~~ treatment program. In addition, outreach is a process or series of activities that identifies individuals in need of services, engages them and links ~~the individual in need of services~~ them with the most appropriate resource or service provider. Such activities may include, but are not limited to, the following: individual client/patient recruitment through street outreach and organized informational sessions at churches, community centers, recreational facilities, and community service agencies.

*"Primary care modality"* means a ~~substance abuse~~ treatment component or modality including continuing care, halfway house, extended outpatient treatment, intensive outpatient treatment, primary extended residential treatment, medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment services.

*"Readiness to change"* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement~~ criteria. This category evaluates the client/patient's current emotional and cognitive awareness of the need to change and ~~the client/patient's level of commitment to change~~. ~~It includes the client/patient's awareness of the relationship of alcohol or other drug use to negative consequences.~~

*"Recovery/living environment"* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement~~ criteria. This category evaluates client/patient's current recovery/living environment as it impacts on level of care decision making and treatment planning. Recovery/living environment may include, but is not limited to, current relationships and degree of support for recovery, current housing, employment situation, and availability of alternatives. Historical information on client/patient's recovery/living environment may also be considered.

*"Relapse"* means progressive irresponsible, inappropriate and dysfunctional behavior patterns that could lead to resumption of alcohol or drug use or problem gambling. "Relapse" also refers to the resumption of alcohol or drug use or problem gambling.

*"~~Relapse, continued use or continued problem~~ potential"* is a category to be considered in the ASAM-PPC-2R ~~client/patient placement and continuing service~~ criteria. This category evaluates client/patient's current factors that contribute to relapse potential as it impacts on level of care decision making and treatment planning. Relapse potential may include, but is not limited to, current statements by client/patient about relapse potential, reports from others on potential for ~~client/patient~~ client/patient's relapse, and assessment by clinical staff. Historical information on client/patient's relapse potential may also be considered. This category may include the client/patient's understanding of skills in coping with addictive or mental disorders, recognition of relapse triggers, skills to control impulses and ways to cope with ~~cravings to use~~ relapse potential.

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

*“Residential program”* means a 24-hour, live-in, seven-day-a-week ~~substance abuse~~ treatment program facility offering intensive rehabilitation services to individuals who are considered unable to live or work in the community due to social, emotional, or physical disabilities resulting from substance abuse or problem gambling. The ASAM-PPC-2R levels of care may include III.1, III.3, III.5 or III.7.

*“Staff”* means any individual who provides services to the treatment program on a regular basis as a paid employee, agent, or consultant, or as a volunteer.

*“Standards”* means specifications representing the minimal characteristics of a ~~substance abuse~~ treatment program which are acceptable for the issuance of a license.

*“Treatment”* means the broad range of planned and continuing, inpatient, outpatient, and residential care services, including diagnostic evaluation, counseling, and medical, psychiatric, psychological, and social service care, which may be extended to substance abusers, problem gamblers, concerned persons, concerned family members, or significant others, ~~and which~~. Treatment is geared toward influencing the behavior of such individuals to achieve a state of rehabilitation.

*“Treatment supervisor”* means an individual who, by virtue of education, training or experience, is capable of assessing the psychosocial history of a ~~substance abuser~~ client/patient to determine the treatment plan most appropriate for the client/patient. This person shall be designated by the ~~applicant~~ treatment program.

ITEM 4. Adopt the following new definitions in rule **641—155.1(125,135)**:

*“HIPAA”* means the Health Insurance Portability and Accountability Act of 1996.

*“OWI”* means operating while intoxicated, in violation of Iowa Code chapter 321J.

*“Primary scope of practice”* means the area in which a counselor maintains a professional license or certification.

*“Problem gambling”* means a pattern of gambling behavior which may compromise, disrupt or damage family, personal or vocational pursuits.

*“Recovery oriented system of care”* means person-centered and self-directed approaches to care that build on the strengths and resilience of individuals, families and communities to take responsibility for their sustained health, wellness, and recovery from mental illness, alcohol and drug problems, and problem gambling. A recovery oriented system of care offers a comprehensive menu of services and supports that can be combined and readily adjusted to meet the individual’s needs and chosen pathway to recovery.

*“Specialized certification”* means a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.

*“Subspecialty”* means a secondary scope of practice, either substance abuse treatment or problem gambling treatment, approved in accordance with these rules. To maintain expertise within the subspecialty, the counselor shall complete a minimum of an additional 20 hours of training within the subspecialty every two years.

*“Transitional housing”* means housing that may be offered to individuals who are problem gamblers and who have no other housing alternatives or whose housing alternatives are not conducive to problem gambling recovery. Transitional housing shall be offered with Level I problem gambling treatment services.

*“Treatment program”* means a program licensed under these rules. A treatment program may be a substance abuse treatment program, a problem gambling treatment program, or a substance abuse and problem gambling treatment program.

ITEM 5. Amend rule 641—155.2(125,135) as follows:

**641—155.2(125,135) Licensing.** A single license will be issued to each qualifying ~~substance abuse~~ treatment program. The license will delineate one or more categories of services the program is authorized to provide. Although a program may have more than one facility, only one license will be issued to the program. The categories of services for which licenses will be issued are:

1. to 8. No change.

9. Intensive outpatient/partial hospitalization services: Levels II.1 and II.5; ~~and~~

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

10. Outpatient extended and continuing care services: Level I-; and
11. Substance abuse treatment, problem gambling treatment, or combined substance abuse and problem gambling treatment.

ITEM 6. Amend rule 641—155.4(125,135) as follows:

**641—155.4(125,135) Nonassignability; program closure.**

**155.4(1)** A license issued by the department for the operation of a ~~substance abuse treatment~~ program applies both to the applicant program and the premises upon which the program is to be operated. Licenses are not transferable.

**155.4(2)** A discontinued program is one which has terminated its ~~the~~ services for which it has been licensed. When a program is discontinued, its current license is void immediately and shall be returned to the department.

**155.4(3)** Any person or other legal entity acquiring a licensed facility for the purpose of operating a ~~substance abuse treatment~~ program shall ~~make an application as provided~~ apply for a new license.

**155.4(4)** ~~Similarly, any~~ Any person or legal entity having acquired a license and desiring to fundamentally alter the treatment philosophy or transfer to a different premises must notify the board 30 days prior to said action in order for the department to review the site change and to determine appropriate action.

**155.4(5)** A licensee shall, if possible, notify the department of impending closure of the licensed program at least 30 days prior to such closure. The licensee shall be responsible for the removal and placement of ~~patients or clients~~ client/patients and for the preservation of all records. Upon closing all facilities and terminating all service delivery activities, the licensee shall immediately return the license to the department.

ITEM 7. Amend subrule 155.5(1) as follows:

**155.5(1)** *Application information for comprehensive programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health and ~~Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

- a. The name and address of the applicant ~~substance abuse~~ treatment program.
- b. The name and address of the executive director of such ~~substance abuse~~ treatment program.
- c. No change.
- d. The names and addresses of members of the governing body, sponsors, or advisory boards of such ~~substance abuse~~ treatment program and current articles of incorporation and bylaws.
- e. The names and addresses of all physicians, other professionally trained personnel, medical facilities, and other individuals or organizations with whom the ~~substance abuse~~ treatment program has a direct contractual or affiliation agreement.
- f. A description of the treatment services provided by the ~~substance abuse~~ treatment program and a description of weekly activities for each treatment modality or component.
- g. to m. No change.

ITEM 8. Amend subrule **155.5(2)**, introductory paragraph, as follows:

**155.5(2)** *Application information for substance abuse assessment and evaluation programs.* An applicant for licensure shall submit the following information on forms available at the Iowa Department of Public Health, Division of Behavioral Health and ~~Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 9. Amend subrules 155.5(3) and 155.5(4) as follows:

**155.5(3)** *Renewal.* An application for renewal shall be submitted on forms provided by the department at least 60 calendar days before expiration of the current license. ~~Applications~~ An application for licensure renewal will not be considered complete until a current policies and procedures manual has been submitted to the department by the applicant ~~substance abuse~~ treatment program.

**155.5(4)** *Application update or revision.* The department shall be notified, and a request of an application for licensure for update or revision shall be made, by an existing licensed program 30 days

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

prior to any change(s) of address of offices, facilities, or program locations; or additions or deletions of the type(s) of services or programs provided and licensed. A new licensure application form shall be completed to reflect change of address of offices, facilities, or program locations, or additions or deletions of the type(s) of services or program(s) provided or licensed, and shall be returned to the division within 10 working days from the date the forms are received. ~~After receipt of an updated or revised application for licensure, the division shall conduct an on-site visit within 60 days to verify information contained in the application.~~ When applicable, as determined by the department, an on-site licensure inspection of a new component, service, program or facility may be conducted by the department within six months, upon receipt of the updated or revised application or during an existing licensed program's scheduled relicensure on-site inspection, whichever occurs first.

ITEM 10. Amend subrules 155.7(1) and 155.7(2) as follows:

**155.7(1) Technical assistance.** ~~All treatment programs~~ A program applying for an initial license to operate a ~~substance-abuse~~ treatment program in the state of Iowa will be visited by the department for the purpose of providing needed technical assistance regarding the licensure criteria and procedures. The program may waive technical assistance in order to expedite the licensing process. Requests shall be submitted in writing to the division.

*a. and b.* No change.

**155.7(2) On-site visit for licensure.** A licensure on-site inspection shall be scheduled after the department's receipt of the program's application to operate a ~~substance-abuse~~ treatment program. The department shall not be required to provide advance notice to the program of the on-site visit for licensure.

*a. to c.* No change.

ITEM 11. Amend subrule 155.8(1) as follows:

**155.8(1) Board hearing meeting preparation.** The division shall prepare a report with a final recommendation for licensing to be presented at a board meeting within ~~60~~ 80 days from the site visit. Public notice of board meetings shall be made in accordance with Iowa Code section 21.4.

*a. and b.* No change.

ITEM 12. Adopt the following new subparagraphs **155.10(1)“b”(1) to (3):**

(1) A program applying for a 270-day license shall have a minimum score of 15 percent in clinical standards.

(2) A program applying for a 270-day license shall have a minimum score of 70 percent in administrative standards.

(3) A program applying for a 270-day license shall have a minimum score of 55 percent in programming standards.

ITEM 13. Amend paragraph **155.11(1)“c”** as follows:

*c.* Violation by a program, program employee or agent of any statute or rule pertaining to ~~substance abuse~~ treatment programs, including a violation of any provision of this chapter.

ITEM 14. Amend paragraph **155.11(1)“m”** as follows:

*m.* Inappropriate conduct by a program employee staff, including sexual ~~contact with a client/patient of the program~~ or other harassment or exploitation of a program client/patient, volunteer, trainee or employee.

ITEM 15. Amend paragraph **155.11(5)“b”** as follows:

*b.* The licensee may request a hearing on the determination. The request must be in writing, and mailed to the department address within 30 days of the notice issued by the board. The request shall be sent by certified mail, return receipt requested. Failure to request a hearing will result in final action by the board.

ITEM 16. Amend subrule 155.11(6) as follows:

**155.11(6) Summary suspension.** If the board finds that the health, safety or welfare of the public is endangered by continued operation of a ~~substance-abuse~~ treatment program, summary suspension of a



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

license may be ordered pending proceedings for revocation or other actions. These proceedings shall be promptly instituted and determined.

ITEM 17. Amend subrule 155.16(1) as follows:

**155.16(1) Complaints.** Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be mailed or delivered to the division director at the Division of Behavioral Health and Professional Licensure, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. A complaint form may be downloaded on-line at: [http://www.idph.state.ia.us/bh/common/pdf/substance\\_abuse/complaint\\_form.pdf](http://www.idph.state.ia.us/bh/common/pdf/substance_abuse/complaint_form.pdf). The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the board's own motion pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

ITEM 18. Amend subrule 155.16(5) as follows:

**155.16(5) Confidential information and public information.** Information contained in a complaint may be confidential pursuant to Iowa Code section 22.7(2), 22.7(18), or 125.37 or any other provision of state or federal law. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall refer to ~~clients and patients~~ client/patients by number and shall not include any other ~~client or patient~~ client/patient identifying information. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—155.11(125,135) shall be available to the public as open records pursuant to Iowa Code chapter 22.

ITEM 19. Amend rule 641—155.18(125,135), introductory paragraph, as follows:

**641—155.18(125,135) Deemed status.** The board shall grant deemed status to programs accredited either by a recognized national or not-for-profit accreditation body when the board determines that the accreditation is for the same services. Problem gambling treatment components shall not be granted deemed status under this rule, unless specifically reviewed by the accreditation body.

ITEM 20. Amend paragraph **155.18(1)“a”** as follows:

a. ~~Joint Commission on Accreditation of Healthcare Organizations (JCAHO).~~

ITEM 21. Amend paragraph **155.18(2)“b”** as follows:

b. Deemed status means that the board and division shall recognize, in lieu of their own review, an outside body's review, assessment, and accreditation of a hospital-based or freestanding community-based ~~substance-abuse treatment~~ program's operations, functioning, and services that correspond to those described in this chapter.

ITEM 22. Amend paragraphs **155.18(3)“c”** and **“g”** as follows:

c. Copies of the entire CARF, ~~JCAHO Joint Commission~~, COA, or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

g. All survey reports for the hospital-based or freestanding community-based ~~substance abuse~~ treatment program from the accrediting or licensing body shall be sent to the division.

ITEM 23. Amend subrule 155.18(5) as follows:

**155.18(5) Continuation of deemed status.** The program shall submit a copy of all CARF, ~~JCAHO Joint Commission~~, COA, or AOA behavioral health accreditation survey reports to the division.

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

ITEM 24. Amend rule 641—155.21(125,135), introductory paragraph, as follows:

**641—155.21(125,135) General standards for all substance—abuse treatment programs.** The following standards shall apply to all ~~substance—abuse~~ treatment programs in the state of Iowa regardless of the category of treatment services provided by such programs. In situations where differences between general standards for all treatment programs and specific standards occur, both general and specific standards must be met.

ITEM 25. Amend subrule 155.21(1), introductory paragraph, as follows:

**155.21(1) Governing body.** Each program shall have a formally designated governing body that is representative of the community being served, complies with ~~the~~ Iowa Code chapter 504, and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for requirements to have malpractice and liability insurance.

ITEM 26. Amend subrule 155.21(4) as follows:

**155.21(4) Staff development and training.** There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain professional license or ~~substance abuse~~ certification as specified in 155.21(8) will meet the requirements of this subrule.

a. Evidence of professional education, ~~substance—abuse~~ certification as specified in 155.21(8), licensing, or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, and tuberculosis and blood-borne pathogens; an orientation to the program and community resources; counseling skill development; HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

b. No change.

c. The staff development program shall take steps to ensure that staff members are kept informed of new developments in the field of ~~substance—abuse~~ assessment, evaluation, placement, treatment and rehabilitation.

d. to g. No change.

ITEM 27. Amend subrules 155.21(5) and 155.21(6) as follows:

**155.21(5) Management information system.** Programs receiving Medicaid or state funding and programs performing OWI evaluations in accordance with 641—Chapter 157 shall submit client/patient data to the Iowa Department of Public Health, Division of Behavioral Health ~~and Professional Licensure~~, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with ~~substance—abuse~~ reporting system procedures.

**155.21(6) Procedures manual.** All programs shall develop and maintain a procedures manual. This manual shall define the program's policies and procedures to reflect the program's activities. Revisions shall be entered with the date, name and title of the individual making the entries. This manual shall contain all of the required written policies, procedures, definitions, and all other documentation outlined throughout these standards. The manual shall contain a working table of contents covering all policies and procedures mandated by this chapter.

ITEM 28. Amend subrule 155.21(8), introductory paragraph, as follows:

**155.21(8) Personnel.** Written personnel policies and procedures shall be developed by all programs except for sole practitioners. ~~The sole practitioner~~ All program staff shall subscribe to a code of conduct ~~such as found in professional certification or licensure~~ as specified in 155.21(8).

ITEM 29. Amend subparagraph **155.21(8)“a”(11)** as follows:

(11) Methods for handling cases of inappropriate client/patient care;

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

ITEM 30. Amend paragraph **155.21(8)“b”** as follows:

b. The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.

ITEM 31. Rescind paragraph **155.21(8)“i”** and adopt the following **new** paragraph in lieu thereof:

i. Appropriately credentialed counselors.

(1) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet at least one of the following conditions:

1. Currently maintain a substance abuse- or problem gambling-related credential acceptable to the department for providing treatment according to these rules.

2. Currently maintain active status as a licensed marital and family therapist (LMFT) licensed under Iowa Code chapters 154D and 147; a licensed mental health counselor (LMHC) licensed under Iowa Code chapters 154D and 147; a licensed independent social worker (LISW) licensed under Iowa Code chapters 154C and 147; or another licensed professional authorized by the Iowa Code to diagnose and treat DSM-IV disorders.

3. Currently maintain active status as a licensed master social worker (LMSW) licensed under Iowa Code chapters 154C and 147.

4. For a person beginning employment on or after July 1, 2010, at a program licensed in Iowa pursuant to this chapter who does not currently maintain one of the credentials described in “1” to “3” above, successfully complete and maintain one of those credentials within two years of the date on which the person begins to provide services.

5. Be employed before July 1, 2010, as a counselor at a program licensed in Iowa pursuant to this chapter. Those deemed qualified remain qualified only for work for that licensed program.

(2) Any person providing screening, evaluations, assessments or treatment in accordance with this chapter shall maintain a minimum of 30 hours of training within the person’s primary scope of practice every two years, including a minimum of three hours of ethics training. In addition to practicing within their primary scope of practice, certified or licensed personnel may practice within a subspecialty in accordance with this chapter by maintaining a minimum of an additional 20 hours of training within the subspecialty every two years.

ITEM 32. Amend subrule 155.21(9) as follows:

**155.21(9)** *Child abuse/dependent adult abuse/criminal ~~records~~ history background check.*

a. Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse ~~Client~~ Patient Records. Written policies and procedures on reporting alleged violations regarding problem gambling client/patients shall be in compliance with HIPAA and the Iowa Code. Any employee found to be in violation of Iowa Code ~~chapter 232, division III, part 2, sections 232.67 through 232.70,~~ as substantiated by the a department of human services’ investigation shall be subject to the agency’s program’s policies concerning dismissal.

b. For each employee working within a juvenile services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain at a minimum:

(1) Documentation of a criminal ~~records~~ history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect or sexual abuse ~~that may exist~~ or dependent adult abuse.

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

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central ~~child abuse~~ registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

*c.* A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime of or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse does exist, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime of or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation and the number of crimes or founded abuses committed by the person involved.

*e. d.* Each treatment staff member shall complete two hours of training relating to the identification and reporting of child abuse and dependent adult abuse within six months of initial employment and at least two hours of additional training every five years thereafter.

ITEM 33. Amend paragraphs **155.21(10)“f”** and **“g”** as follows:

*f.* The governing body shall establish policies that specify the conditions under which information on applicants or client/patients may be released and the procedures to be followed for releasing such information. Even if a program is not federally funded, all such policies and procedures regarding substance abuse client/patients shall be in accordance with HIPAA and the federal confidentiality regulations, “Confidentiality of Alcohol and Drug Abuse Patient Records,” 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records, and state confidentiality laws and regulations. All such policies and procedures regarding problem gambling client/patients shall be in accordance with HIPAA and Iowa Code chapter 228.

*g.* Confidentiality of alcohol and drug abuse client/patient records. The confidentiality of alcohol and drug abuse client/patient records maintained by a program is protected by HIPAA and the “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient records.

ITEM 34. Adopt the following **new** paragraphs **155.21(10)“h,” “i”** and **“j”**:

*h.* Confidentiality of problem gambling client/patient records. The confidentiality of problem gambling client/patient records maintained by a program is protected by HIPAA and Iowa Code chapter 228.

*i.* The provision of treatment to a client/patient through any electronic means, including the Internet, telephone, or the Iowa communications network or any fiberoptic media, regardless of the location of the licensee, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125 and 2009 Iowa Code Supplement section 135.150 and these rules. A licensee who provides services via electronic media shall inform the client/patient of the limitations and risks associated with such services and shall document in the client/patient case record that such notice has been provided.

*j.* Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code

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

321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 35. Amend subrule 155.21(11) as follows:

**155.21(11)** *Placement screening, admission, assessment and evaluation.*

*a.* The program shall conduct an initial assessment for substance abuse client/patients which shall include evaluation of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition, Revised, or other national or recognized criteria approved by the department upon granting a variance by the director in accordance with 641—Chapter 178 for determining the eligibility of individuals for placement and admission. The program shall utilize a recognized diagnostic test/tool to determine substance abuse or dependence as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition).

*b.* The program shall conduct an initial assessment for problem gambling client/patients that shall utilize a recognized diagnostic test/tool to determine pathological gambling as defined in the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition). The client/patient is a problem gambler if the client/patient meets any of the diagnostic criteria for pathological gambling.

~~a. c.~~ The program shall have written policies and procedures governing a uniform assessment process that defines:

(1) to (3) No change.

~~b. d.~~ Following admission, the comprehensive assessment (psychosocial history) shall be an analysis and synthesis of the ~~client/patient~~ client/patient’s status and shall address the client/patient’s strengths, ~~problems~~ and needs, which may be documented in the comprehensive assessment or in the treatment plan, and areas of clinical concern. Sufficient information shall be collected so that a comprehensive treatment plan can be developed. It shall be developed within the period of time between admission and the first review date specified for that particular level of care within the management of care review process, or within 30 days for problem gambling client/patients.

~~e. e.~~ At the time of admission, documentation shall be made that the individual has been informed of:

(1) to (4) No change.

(5) ~~Client’s~~ Client/patient’s rights and responsibilities;

(6) to (8) No change.

~~f. f.~~ The results of the screening and admission process shall be clearly explained to the client/patient and to the client/patient’s family when appropriate. This shall be documented in the client/patient record.

ITEM 36. Amend subrule 155.21(12) as follows:

**155.21(12)** *Treatment plans.* Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the client/patient case record. The program shall have written policies and procedures governing a uniform process for treatment planning.

*a.* No change.

*b.* The individualized treatment plan shall minimally contain:

(1) A clear and concise statement of the client/patient’s current strengths and needs, which may be documented in the treatment plan or in the comprehensive assessment;

(2) to (5) No change.

*c.* Treatment plans shall be developed in partnership with the client/patient and shall be reviewed by the primary counselor and the client/patient as often as necessary and in accordance with the time frames specified within the management of care review process for substance abuse client/patients. Treatment plans for problem gambling client/patients shall be developed based on the assessment and within 30 days of admission. Treatment plan reviews for problem gambling client/patients shall be conducted within 30 days of each previous review.

*d. and e.* No change.

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

ITEM 37. Amend paragraph **155.21(13)“a”** as follows:

a. Entries shall be filed in chronological order and shall include the date services were provided or observations made, the date the entry was made, and the signature or initials and staff title of the individual rendering the services. All progress notes shall be legibly entered into the client/patient case record in permanent pen, by typewriter, or by computer. In those instances where records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature.

ITEM 38. Amend subrule 155.21(14), introductory paragraph, as follows:

**155.21(14)** ~~Client~~ Client/patient case record contents. There shall be a case record for each client/patient that contains:

ITEM 39. Adopt the following new paragraph **155.21(14)“p”**:

p. Records of financial counseling services for problem gambling client/patients. The treatment program shall offer financial counseling services to problem gambling client/patients. Financial counseling services shall be provided in-house or through consultation. If the treatment program determines that the problem gambling client/patient has financial problems, then financial counseling services shall include assisting the client/patient in preparing a budget and discussing financial debt options, including restitution and bankruptcy.

ITEM 40. Amend subrule 155.21(15) as follows:

**155.21(15)** *Urinalysis*. All programs serving ~~clients~~ client/patients who are receiving treatment for use or abuse of a controlled substance shall establish policies and procedures, if applicable, for the collection of urine specimens and utilization of urinalysis results.

a. Urine specimens obtained from ~~clients~~ client/patients shall be collected under direct supervision and analyzed as indicated by the program.

b. and c. No change.

d. ~~Client~~ Client/patient records shall reflect the manner in which urine test results are utilized in treatment.

e. For programs with a urinalysis service, policies shall be developed concerning measures to be employed when urine specimens of ~~clients~~ client/patients are found to contain substances.

ITEM 41. Amend subrule 155.21(16) as follows:

**155.21(16)** *Medical services*. The ~~applicant~~ treatment program shall have policies and procedures developed in conjunction with a physician to examine and evaluate ~~substance abusers~~ client/patients/concerned persons seeking or undergoing treatment or rehabilitation.

a. Individuals who enter an inpatient, residential, halfway house ~~facility~~, chemotherapy or emergency care facility (ASAM Levels III.1, III.3, III.5, III.7 and IV) shall undergo a medical history and physical examination. Laboratory examinations may be performed as deemed necessary by the physician. The medical history, physical examination, and necessary laboratory examinations shall be performed as soon as possible, however minimally, as follows:

~~a.~~ (1) Inpatient medically managed and medically monitored residential treatment services (ASAM Levels IV and III.7) within 24 hours of admission;

~~b.~~ (2) Primary residential and extended residential treatment (Levels III.5 and III.3) within ~~seven~~ 7 calendar days of admission; and

~~c.~~ (3) Halfway house services (Level III.1) within 21 calendar days of admission.

b. For individuals who enter a Level I or Level II service, a medical history shall be obtained upon admission.

c. A program may accept medical history and physical examination results from referral sources ~~which were conducted~~ if the medical history and examination were completed no more than 90 days prior to admission.

d. All client/patients admitted to residential, inpatient or halfway house services and high-risk outpatient client/patients shall have a tuberculosis skin test administered and read within 5 days of admission. If the client/patient has documentation of a negative tuberculosis skin test within

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

the previous 90 days, the tuberculosis test may be accepted if the client/patient does not show any symptoms. If the client/patient has unexplained symptoms or a history of positive tuberculosis skin tests, the physician shall determine what tests are needed.

ITEM 42. Amend paragraph **155.21(18)“a”** as follows:

*a.* Authorized personnel who administer medications shall be qualified, and an updated list of such personnel shall be maintained. Only the following are designated by ~~657—10.16(124)~~ 657—8.32(124,155A) as qualified individuals to whom a physician can delegate the administration of controlled substances:

(1) to (5) No change.

ITEM 43. Amend subrule 155.21(19) as follows:

**155.21(19) Management of care.** The program shall ensure appropriate level of care utilization by implementing and maintaining the written placement screening, continuing service, and discharge criteria process developed by the department.

*a.* The ~~programs~~ program shall also address underutilization, overutilization, and the effective use of levels of care available.

*b.* The time frames for management of care activities minimally shall be implemented within 30 days for Levels I and III.1; within 7 days for Levels II.1, II.5, III.3 and III.5; and daily for Levels III.7 and IV.

*c.* The discharge planning process shall begin at admission, ~~determining a~~ and shall include a determination of the client/patient's continued need for treatment services and ~~developing~~ development of a plan to address ongoing client/patient needs posttreatment. Discharge planning may or may not include a document identified as a discharge plan.

ITEM 44. Amend subrule 155.21(21) as follows:

**155.21(21) Building construction and safety.** All buildings in which ~~clients~~ client/patients receive screenings, evaluations, assessments or treatment ~~are~~ shall be designed, constructed, equipped, and maintained in a manner that is ~~designed to provide~~ provides for the physical safety of ~~clients~~ client/patients, personnel, and visitors.

*a. to c.* No change.

*d.* All programs shall have written policies and procedures to provide a safe environment for ~~clients~~ client/patients, personnel, and visitors and to monitor that environment. The program shall document implementation of the procedures. The written policies and procedures shall include, but not be limited to, the following:

(1) No change.

(2) The promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards related to ~~clients~~ client/patients, visitors, and personnel.

(3) and (4) No change.

ITEM 45. Amend subrule 155.23(2) as follows:

**155.23(2) Meals.** Inpatient and residential programs shall provide a minimum of three meals per day to each client/patient enrolled in the program. Inpatient, residential, and other programs where ~~clients/patients~~ client/patients are not present during mealtime shall make provisions to make available the necessary meals. Menus shall be prepared in consultation with a dietitian. If client/patients are allowed to prepare meals, the program shall document conformity with all commonly accepted policies and procedures of state health regulations and food hygiene.

ITEM 46. Amend subrule 155.23(8) as follows:

**155.23(8) Religion-culture.** The inpatient, residential, and halfway house program shall have a written description of its religious orientation, particular religious practices that are observed, and any religious restrictions. This description shall be provided to the client/patients, parent(s) or guardian, and the placing agency at the time of admission in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse ~~Client~~ Patient Records. This information shall also be available to adults during orientation. The client/patient shall have the opportunity to

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

participate in religious activities and services in accordance with the client/patient's own faith or that of a minor client/patient's parent(s) or guardian. The facility shall, when necessary and reasonable, arrange transportation for religious activities.

ITEM 47. Amend rule 641—155.24(125,135), catchwords, as follows:

**641—155.24(125,135) Specific standards for inpatient, residential, and halfway house substance abuse service-admitting services for juveniles.**

ITEM 48. Amend subrule 155.24(6) as follows:

**155.24(6)** *Illness, accident, death, or absence from the inpatient, residential, and halfway house program.* The program shall have written policies and procedures to notify the child's parent(s), guardian, and responsible agency of any serious illnesses, incidents involving serious bodily injury or absence, or circumstances causing removal of the child from the facility in compliance with HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. In the event of the death of a child, ~~a facility~~ the program shall ~~notify~~ immediately notify the physician, the child's parent(s) or guardian, the placing agency, and the appropriate state authority.

ITEM 49. Rescind and reserve subrule **155.25(1)**.

ITEM 50. Amend subrule 155.25(2), introductory paragraph, as follows:

**155.25(2)** *Governing body.* Each program shall have a formally designated governing body that is representative of the community being served, complies with ~~the~~ Iowa Code chapter 504 and is the ultimate authority for the overall program operations. Persons in private practice as sole practitioners shall be exempt from this subrule except for the requirements to have malpractice and liability insurance.

ITEM 51. Amend subrule 155.25(5) as follows:

**155.25(5)** *Staff development and training.* There shall be written policies and procedures that establish staff development. Staff development shall include orientation for staff and opportunities for continuing job-related education. For corporations organized under Iowa Code chapter 496C and sole practitioners, documentation of continuing education to maintain a professional license or substance abuse certification as specified in 155.21(8) will meet the requirement of this subrule.

*a.* Evidence of professional education, substance abuse certification or licensing as specified in 155.21(8), or orientation which includes the following: psychosocial, medical, pharmacological, confidentiality, tuberculosis, community resources; screening, evaluation, HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome) information/education; and the attitudes, values and lifestyles of racially diverse cultures, other cultures and special populations.

*b.* No change.

ITEM 52. Amend subrule 155.25(6) as follows:

**155.25(6)** *Management information system.* Programs receiving Medicaid or state funding and programs performing OWI evaluation in accordance with 641—Chapter 157 shall submit ~~client~~ client/patient data to the Iowa Department of Public Health, Division of Behavioral Health and Professional Licensure, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in accordance with substance abuse reporting system procedures.

ITEM 53. Amend paragraphs **155.25(7)“e”** and **“f”** as follows:

*e.* Maintenance of ~~client~~ client/patient case records;

*f.* Confidentiality of ~~client~~ client/patient records;

ITEM 54. Amend subparagraph **155.25(9)“a”(10)** as follows:

(10) Methods for handling cases of inappropriate ~~client~~ client/patient care;

ITEM 55. Amend paragraph **155.25(9)“b”** as follows:

*b.* The written personnel policies and practices shall include an equal employment opportunity policy and an affirmative action plan for hiring members of protected classes that minimally comply with Iowa civil rights commission rules and any local ordinances.



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

ITEM 56. Amend subrule 155.25(10) as follows:

**155.25(10) Professional qualifications.**

a. Personnel conducting screenings, placements, and assessments ~~shall be certified through the Iowa board of substance abuse certification, or certified by an international certification and reciprocity consortium member board in the states of Illinois, Minnesota, Nebraska, Missouri, South Dakota, and Wisconsin; or be eligible for certification or have education, training, or experience in the substance abuse field.~~ in accordance with this chapter shall meet the requirements of 155.21(8) "i."

b. The sole practitioner shall subscribe to a code of conduct ~~such as that found in professional certification or licensure as specified in 155.21(8).~~

ITEM 57. Amend subrule 155.25(11) as follows:

**155.25(11) Child abuse/dependent adult abuse/criminal ~~records~~ history background check.**

a. Written policies and procedures shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures for the program. Alleged violations shall be reported immediately to the director of the facility and appropriate department of human services personnel. Written policies and procedures on reporting alleged violations regarding substance abuse client/patients shall be in compliance with the department of human services HIPAA and DHHS, 42 CFR, Part 2, regulations on Confidentiality of Alcohol and Drug Abuse Client Patient Records. Any employee found to be in violation of Iowa Code ~~chapter 232, division III, part 2, sections 232.67 through 232.70,~~ as substantiated by the a department of human services' investigation shall be subject to the agency's program's policies concerning dismissal.

b. For each employee working within a juvenile ~~service~~ services area as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the following, at a minimum, shall be documented:

(1) Documentation of a criminal ~~records~~ history background check with the Iowa division of criminal investigation on all new applicants for employment. The background check shall include asking whether the applicant has been convicted of a crime.

(2) A written, signed, and dated statement furnished by a new applicant for employment which discloses any substantiated reports of child abuse, neglect, or sexual abuse ~~that may exist on the applicant or dependent adult abuse.~~

(3) Documentation of a check after hiring on probationary or temporary status, but prior to permanently employing the individual, with the Iowa central ~~child abuse~~ registry for any substantiated reports of child abuse, neglect, or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all employees hired on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

(4) A person who has a record of a criminal conviction or founded child abuse report or founded dependent adult abuse report shall not be employed, unless an evaluation of the crime or founded child abuse or founded dependent adult abuse has been made by the department of human services which concludes that the crime or founded child abuse or founded dependent adult abuse does not merit prohibition of employment. If a record of criminal conviction or founded child abuse or founded dependent adult abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation. In its evaluation, the department of human services shall consider the nature and seriousness of the crime or founded abuse in relation to the position sought, the time elapsed since the commission of the crime or founded abuse, the circumstances under which the crime or founded abuse was committed, the degree of rehabilitation, and the number of crimes or founded abuses committed by the person involved.

c. No change.

ITEM 58. Amend subrule 155.25(12) as follows:

**155.25(12) ~~Client~~ Client/patient case record maintenance.** There shall be written policies and procedures governing the compilation, storage and dissemination of individual ~~client~~ client/patient case records.

a. These policies and procedures shall ensure that:

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

- (1) The program exercises its responsibility for safeguarding and protecting the ~~client~~ client/patient case record against loss, tampering, or unauthorized disclosure of information;
- (2) Content and format of ~~client~~ client/patient records are kept uniform; and
- (3) Entries in the ~~client~~ client/patient case record are signed and dated.
  - b. The program shall provide adequate physical facilities for the storage, processing, and handling of ~~client~~ client/patient case records. These facilities shall include suitably locked, secured rooms or file cabinets.
  - c. Appropriate records shall be readily accessible to those staff members providing services directly to the ~~client~~ client/patient and other individuals specifically authorized by program policy.
  - d. There shall be a written policy governing the disposal and maintenance of ~~client~~ client/patient case records. ~~Client~~ Client/patient case records shall be maintained for not less than ~~five~~ seven years from the date they are officially closed.
  - e. Each file cabinet or storage area containing client/patient case records shall be locked.
  - f. Policies shall be established that specify the conditions under which information on applicants or ~~clients~~ client/patients may be released and the procedures to be followed for releasing such information. All such policies and procedures shall be in accordance with HIPAA and the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse ~~patient~~ client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse ~~patient~~ client/patient records, and state confidentiality laws and regulations.
  - g. Confidentiality of alcohol and drug abuse ~~patient~~ client/patient records. The confidentiality of alcohol and drug abuse ~~patient~~ client/patient records maintained by a program is protected by HIPAA and the "Confidentiality of Alcohol and Drug Abuse Patient Records" regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse ~~patient~~ client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse ~~patient~~ client/patient records.
  - h. Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), "Notice Iowa Code 321J—Confidential Medical Record," reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 59. Amend subparagraphs **155.25(13)"c"(1)** and **(2)** as follows:

- (1) Evaluation costs to be borne by the ~~client~~ client/patient, if any;
- (2) ~~Client's~~ Client/patient's rights and responsibilities; and

ITEM 60. Amend paragraph **155.25(13)"e"** as follows:

- e. The results of the screening and evaluation process shall be clearly explained to the ~~client~~ client/patient and to the ~~client's~~ client/patient's family when appropriate. This shall be documented in the ~~client~~ client/patient record.

ITEM 61. Amend subrule 155.25(14) as follows:

**155.25(14)** ~~Client~~ Client/patient case record contents. There shall be a case record for each ~~client~~ client/patient that contains:

- a. to d. No change.
- e. Correspondence related to the ~~client~~ client/patient, including all letters and dated notations of telephone conversations relevant to the ~~client's~~ client/patient's treatment;
- f. to h. No change.

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

ITEM 62. Amend subrule 155.25(17) as follows:

**155.25(17) *Building construction and safety.*** All buildings in which ~~clients~~ client/patients receive treatment shall be designed, constructed, equipped, and maintained in a manner that ~~is designed to provide~~ provides for the physical safety of ~~clients~~ client/patients, personnel, and visitors.

*a.* All programs shall have written policies and procedures to provide a safe environment for ~~clients~~ client/patients, personnel and visitors. The program shall have written policies and procedures for the maintenance, supervision, and safe use of all its grounds and equipment.

*b.* No change.

ITEM 63. Amend subrule 155.25(18) as follows:

**155.25(18) *Outpatient facility.*** The outpatient facility shall be safe, clean, well-ventilated, properly heated and in good repair.

*a.* The facility shall be appropriate for providing services available from the program and for protecting ~~client~~ client/patient confidentiality.

*b.* Furniture shall be clean and in good repair.

~~*c.* Written reports of annual inspections by state or local fire safety officials and records of corrective action taken by the program on recommendations articulated in such reports shall be maintained.~~

~~*c.*~~ *c.* There shall be a written plan outlining procedures to be followed in the event of fire and tornado. This plan shall be conspicuously displayed at the facility.

~~*e.*~~ *d.* All services shall be accessible to people with disabilities, or the program shall have written policies and procedures that describe how people with disabilities can gain access to the facility for necessary services.

~~*f.*~~ *e.* The program shall ensure confidentiality of ~~clients~~ client/patients receiving services.

~~*g.*~~ *f.* Smoking shall be prohibited ~~except in designated areas.~~

ITEM 64. Amend subrule 155.25(19) as follows:

**155.25(19) *Client/patient rights.*** The program shall maintain written policies and procedures that ensure that the legal and human rights of ~~clients~~ client/patients participating in the program ~~shall be~~ are observed and protected.

*a.* There shall be procedures to inform all ~~clients~~ client/patients of their legal and human rights at the time of evaluation.

*b.* There shall be documentation of the implementation of these procedures.

*c.* There shall be written policies and procedures for:

- (1) ~~Clients~~<sup>2</sup> Client/patient communications, e.g., opinions, recommendations;
- (2) ~~Client~~ Client/patient grievances, with a mechanism for redress;
- (3) Prohibition of sexual harassment; and
- (4) Implementation of the Americans with Disabilities Act.

*d.* There shall be procedures designed to protect ~~the clients~~<sup>2</sup> client/patients' rights and privacy.

ITEM 65. Amend subrule 155.25(20) as follows:

**155.25(20) *Administrative and procedural standards.*** The program shall comply with the following rules:

- a.* 641—155.2(125,135) Licensing.
- b.* 641—155.3(125,135) Type of licenses.
- c.* 641—155.4(125,135) Nonassignability.
- d.* 641—155.5(125,135) Application procedures.
- e.* 641—155.6(125,135) Application review.
- f.* 641—155.7(125,135) Inspection of licensees.
- g.* 641—155.8(125,135) Licenses—renewal.
- h.* 641—155.9(125,135) Corrective action plan.
- i.* 641—155.10(125,135) Grounds for denial of initial license.
- j.* 641—155.11(125,135) Suspension, revocation, or refusal to renew a license.
- k.* 641—155.12(125,135) Contested case hearing.

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

- l.* 641—155.13(125,135) Rehearing application.
- m.* 641—155.14(125,135) Judicial review.
- n.* 641—155.15(125,135) Reissuance or reinstatement.
- o.* 641—155.16(125,135) Complaints.
- p.* 641—155.17 Reserved.
- q.* 641—155.18(125,135) Deemed status.
- r.* 641—155.19(125,135) Funding.
- s.* 641—155.20(125,135) Inspection.

ITEM 66. Amend rule 641—155.35(125,135), introductory paragraph, as follows:

**641—155.35(125,135) Specific standards for opioid treatment programs.** All programs that use methadone or other medications approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and the state of Iowa for use in the treatment of opioid addiction shall comply with this rule, HIPAA and Part II, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 42 CFR Part 8, Opioid Drugs in Maintenance and Detoxification Treatment of Opiate Addiction, effective May 18, 2001.

ITEM 67. Amend subrule **155.35(1)**, definition of “State authority,” as follows:

“*State authority*” means the Iowa department of public health, division of behavioral health ~~and professional licensure~~, which regulates the treatment of opiate addiction with opioid drugs.

ITEM 68. Amend subrule 155.35(3) as follows:

**155.35(3) Central registry system.** To prevent simultaneous enrollment of a client/patient in more than one program, all opioid treatment programs shall participate in a central registry as established by the division.

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant’s name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA and “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR Part 2, effective June 9, 1987.

*a. Definitions.* For purposes of this subrule:

“*Central registry*” means the system through which the Iowa department of public health, division of behavioral health ~~and professional licensure~~, obtains client/patient identifying information about individuals applying for maintenance or detoxification treatment for the purpose of preventing an individual’s concurrent enrollment in more than one such program.

“*Opioid treatment program*” means a detoxification or maintenance treatment program which is required to report client/patient identifying information to the central registry; and which is located in the state.

*b.* No change.

*c. Use of information limited to prevention of multiple enrollments.* Any information disclosed to the central registry to prevent multiple enrollments may not be redisclosed by the registry or such information used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA and 42 CFR, Part 2, effective June 9, 1987.

*d.* No change.

ITEM 69. Amend paragraph **155.35(12)“e”** as follows:

*e.* Confidentiality of alcohol and drug abuse client/patient case records. The confidentiality of alcohol and drug abuse client/patient case records maintained by a program is protected by HIPAA and the “Confidentiality of Alcohol and Drug Abuse Patient Records” regulations, 42 CFR, Part 2, effective June 9, 1987, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse client/patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse client/patient

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

records. The program is precluded from identifying that a client/patient attends the program or disclosing any information identifying a client/patient as an alcohol or drug abuser unless:

(1) to (4) No change.

ITEM 70. Adopt the following **new** paragraph **155.35(12)“f”**:

*f.* Confidentiality and transfer of records. Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received. A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received. A program may refuse to file the reporting form required by 641—subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

ITEM 71. Amend paragraph **155.35(15)“c”** as follows:

*c.* Interim maintenance treatment program approval. Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment, the program must receive approval of both the U.S. Food and Drug Administration and the division of behavioral health ~~and professional licensure~~ and:

(1) to (3) No change.

ITEM 72. Amend subrule 155.35(16) as follows:

**155.35(16) *Complaints, investigations, suspension and revocation.*** The rules relating to complaints, ~~investigation~~ investigations, suspension and revocation as outlined in 641—155.11(125,135) through 641—155.17(125,135) shall apply to opioid treatment programs.

ITEM 73. Amend subparagraph **155.35(17)“a”(1)** as follows:

(1) Joint Commission ~~on Accreditation of Healthcare Organizations (JCAHO)~~.

ITEM 74. Amend subparagraph **155.35(17)“c”(3)** as follows:

(3) Copies of the entire CARF, ~~JCAHO~~ Joint Commission, COA or AOA behavioral health accreditation survey/inspection report and certificate of accreditation shall be submitted to the division with the application for deemed status provided by the division.

ITEM 75. Amend subparagraph **155.35(17)“d”(2)** as follows:

(2) The division shall investigate all complaints that are under the authority of this chapter and recommend and require corrective action or other sanctions in accordance with 641—155.16(125,135). All complaints, findings and required corrective action may be reported to the accreditation body.

ITEM 76. Amend paragraph **155.35(17)“e”** as follows:

*e.* Continuation of deemed status. The program shall submit a copy of all CARF, ~~JCAHO~~ Joint Commission, COA or AOA behavioral health accreditation survey reports to the division.

ITEM 77. Adopt the following **new** subrule 155.35(18):

**155.35(18) *Personnel qualifications.***

*a.* Personnel providing screening, evaluations, assessments or treatment in accordance with this chapter shall meet the requirements of 155.21(8) “i.”

*b.* Personnel in opioid treatment programs shall subscribe to a code of conduct found in professional certification or licensure as specified in 155.21(8).

ITEM 78. Amend **641—Chapter 155**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 125.13 and 125.21 and 2009 Iowa Code Supplement section 135.150.

ITEM 79. Rescind and reserve **641—Chapter 162**.

**ARC 8629B****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 section 125.7, the Department of Public Health gives Notice of Intended Action to amend Chapter 157, “Standards for Substance Abuse Treatment and Assessment Programs and the Operating a Motor Vehicle While Intoxicated (OWI) Law,” Iowa Administrative Code.

The proposed amendment provides the Department the ability to ensure that, upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner. A program may refuse to file the reporting form required by subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

Any interested person may make written comments on the proposed amendment on or before April 13, 2010, addressed to Bob Kerksieck, Division of Behavioral Health, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; E-mail [rkerksie@idph.state.ia.us](mailto:rkerksie@idph.state.ia.us).

Also, a public hearing will be held on Tuesday, April 13, 2010, from 11 a.m. to 12 noon, in Room 518 of the Lucas State Office Building at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code chapter 125.

The following amendment is proposed.

Amend rule 641—157.7(125) as follows:

**641—157.7(125) Records.**

**157.7(1)** Programs shall maintain records for a minimum of seven years after discharge or completion of screening, evaluation, or treatment, and then destroy or maintain the records based on the program’s written policy and procedure.

**157.7(2)** Upon receipt of a properly executed written release of information signed by the client/patient, the program shall release client/patient records in a timely manner.

**a.** A program shall not refuse to transfer or release client/patient records related to continuation of care solely because payment has not been received.

**b.** A program may refuse to release client/patient records which are unrelated to continuation of care if payment has not been received.

**c.** A program may refuse to file the reporting form required by subrule 157.3(1), “Notice Iowa Code 321J—Confidential Medical Record,” reporting screening, evaluation, and treatment completion, if payment has not been received for such services.

**ARC 8630B****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 section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 191, “Advisory Bodies of the Department,” Iowa Administrative Code.

This chapter provides a general description of how advisory bodies established by the Department will function. The proposed amendments provide clarification to existing language.

Any interested person may make written comments or suggestions on the proposed amendments on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bnervig@idph.state.ia.us](mailto:bnervig@idph.state.ia.us).

These amendments are intended to implement Iowa Code section 135.11.

The following amendments are proposed.

ITEM 1. Amend subrules 191.3(1) and 191.3(2) as follows:

**191.3(1)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term. ~~Appointments shall complete the original member’s term.~~

**191.3(2)** Absences. Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the advisory body member and to appoint another. The chairperson of the advisory body is charged with providing notification of absences to the department.

ITEM 2. Amend rule 641—191.4(135) as follows:

**641—191.4(135) Officers.**

**191.4(1)** Officers of the advisory body shall be a chairperson and a vice chairperson and shall be elected at the first meeting of each fiscal year unless designated at the time of appointment.

*a.* Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.

*b.* Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

**191.4(2)** Duties of officers.

*a.* The chairperson shall:

(1) ~~preside~~ Preside at all meetings of the advisory body,

(2) ~~appoint~~ Appoint such subcommittees as deemed necessary, and

(3) ~~designate~~ Designate the chairperson of each subcommittee.

*b.* The vice chairperson shall:

(1) ~~Perform the duties of the chairperson if~~ Perform such other duties as may be assigned by the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) ~~The vice chairperson shall also perform~~ Perform such other duties as may be assigned by the chairperson.

ITEM 3. Amend rule 641—191.5(135) as follows:

**641—191.5(135) Meetings.**

**191.5(1)** The advisory body shall establish a meeting schedule on an annual basis to conduct its business.

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

*a.* Meetings may be scheduled as business requires, but notice to members must be at least five working days prior to the meeting date.

*b.* A four-week notice is encouraged to accommodate the schedules of professional members.

**191.5(2)** Robert's Rules of Order shall govern all meetings.

**191.5(3)** Action on any issue before the advisory body can only be taken by a majority vote of the entire membership.

**191.5(4)** The advisory body shall maintain information sufficient to indicate the vote of each member present.

**ARC 8631B****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 section 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 192, “Child Support Noncompliance,” Iowa Administrative Code, and to adopt a new chapter with the same title.

This proposed new chapter makes the following changes to the language in the rescinded chapter: adds definitions and replaces the phrase “department or board” with the term “licensing authority.”

Any interested person may make written comments or suggestions on the proposed rules on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bnervig@idph.state.ia.us](mailto:bnervig@idph.state.ia.us).

These rules are intended to implement Iowa Code chapter 252J.

The following amendment is proposed.

Rescind 641—Chapter 192 and adopt the following new chapter in lieu thereof:

**CHAPTER 192****CHILD SUPPORT NONCOMPLIANCE**

**641—192.1(252J) Definitions.** For the purpose of this chapter, the following definitions shall apply:

*“Applicant”* means an individual who is seeking the issuance of a license.

*“Certificate of noncompliance”* means a document provided by the child support recovery unit of the department of human services certifying that the named applicant or licensee has defaulted on an obligation owed to or collected by the child support recovery unit.

*“Department”* means the department of public health.

*“License”* means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

*“Licensing authority”* means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

**641—192.2(252J) Issuance or renewal of a license—denial.** The licensing authority shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support



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

recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the following shall apply.

**192.2(1)** The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

**192.2(2)** The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant or licensee.

**192.2(3)** The licensing authority's administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8, upon the applicant or licensee.

**192.2(4)** Applicants and licensees shall keep the licensing authority informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the licensing authority copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

**192.2(5)** All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license pursuant to Iowa Code chapter 252J.

**192.2(6)** In the event an applicant or licensee timely files a district court action following service of a licensing authority notice pursuant to Iowa Code sections 252J.8 and 252J.9, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**192.2(7)** The licensing authority shall notify the applicant or licensee in writing through regular first-class mail, or such other means as the licensing authority determines appropriate in the circumstances, within 10 days of the effective date of the denial of the issuance or renewal of a license and shall similarly notify the applicant or licensee if the license is issued or renewed following the licensing authority's receipt of a withdrawal of the certificate of noncompliance.

**641—192.3(252J) Suspension or revocation of a license.** The licensing authority shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures set forth in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the following shall apply.

**192.3(1)** The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

**192.3(2)** The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee.

**192.3(3)** The licensing authority's administrator is authorized to prepare and serve the notice required by Iowa Code section 252J.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event that the license is on suspension, the administrator shall notify the licensee of the licensing authority's intention to revoke the license.

**192.3(4)** Licensees shall keep the licensing authority informed of all court actions, and all child support recovery unit action taken under or in connection with Iowa Code chapter 252J, and shall provide the licensing authority copies, within 7 days of filing or issuance, of all applications filed with the district

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

court pursuant to Iowa Code section 252J.9, all court orders entered in such actions and withdrawals of certificates of noncompliance by the child support recovery unit.

**192.3(5)** All licensing authority fees required for license renewal or license reinstatement must be paid by licensees before a license will be reinstated after the licensing authority has suspended or revoked a license pursuant to Iowa Code chapter 252J.

**192.3(6)** In the event a licensee files a district court action following service of a licensing authority notice pursuant to Iowa Code sections 252J.8 and 252J.9, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed. For purposes of determining the effective date of the suspension or revocation, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**192.3(7)** The licensing authority shall notify the licensee in writing through regular first-class mail, or such other means as the licensing authority determines appropriate in the circumstances, within 10 days of the effective date of the suspension or revocation of a license and shall similarly notify the licensee if the license is reinstated following the licensing authority's receipt of a withdrawal of the certificate of noncompliance.

**641—192.4(17A,22,252J) Sharing of information.** Notwithstanding any statutory confidentiality provision, the licensing authority may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 252J or Iowa Code chapter 598.

These rules are intended to implement Iowa Code chapter 252J.

**ARC 8634B**

**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 section 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 193, “Impaired Practitioner Review Committee,” Iowa Administrative Code, and to adopt a new chapter with the same title.

This proposed new chapter makes the following changes to the language in the rescinded chapter: amends the definitions of “committee” and “practitioner” and adds clarifying language. The proposed chapter also places the language into more than one rule.

Any interested person may make written comments or suggestions on the proposed rules on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bnervig@idph.state.ia.us](mailto:bnervig@idph.state.ia.us).

These rules are intended to implement Iowa Code chapter 272C.

The following amendment is proposed.

Rescind 641—Chapter 193 and adopt the following new chapter in lieu thereof:

**CHAPTER 193  
IMPAIRED PRACTITIONER REVIEW COMMITTEE**

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

**641—193.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Committee*” means the impaired practitioner review committee as established by a licensing board pursuant to the authority of Iowa Code section 272C.3(1) “k.”

“*Contract*” means the written document establishing the terms for participation in the impaired practitioner program prepared by the committee.

“*Impairment*” means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction or any mental or physical disorder or disability.

“*Licensing board*” or “*board*” means “licensing board” or “board” as defined in Iowa Code section 272C.1.

“*Practitioner*” means a person licensed under Iowa Code chapter 105, 147, 147A, 148C, 149, 152B, 152C, 152D, 154A, 154E, or 155.

“*Self-report*” means the licensee’s providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

**641—193.2(272C) Purpose.** The impaired practitioner review committee evaluates, assists, monitors and, as necessary, makes reports to the licensing board on the recovery or rehabilitation of practitioners who self-report impairments. These rules do not apply to an impaired practitioner review committee governed by other administrative rule or statute.

**641—193.3(272C) Composition of the committee.** The chairperson of the board shall appoint the members of the committee. The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring. The membership of the committee includes, but is not limited to:

**193.3(1)** One practitioner, licensed under the same board or similar professional licensing board who has remained free of addiction for a period of no less than two years since successfully completing a board-approved recovery program and board-ordered probation for drug or alcohol dependency, addiction, or abuse.

**193.3(2)** One practitioner with expertise in substance abuse/addiction treatment programs.

**193.3(3)** One public member of the board.

**641—193.4(272C) Eligibility.** To be eligible for participation in the impaired practitioner recovery program, a licensee must meet all of the following criteria:

**193.4(1)** The licensee must self-report an impairment or suspected impairment directly to the office of the board.

**193.4(2)** The licensee must not have engaged in the unlawful diversion or distribution of controlled substances or illegal substances.

**193.4(3)** At the time of the self-report, the licensee must not already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession.

**193.4(4)** The licensee has not caused harm or injury to a client.

**193.4(5)** There is currently no board investigation of the licensee that, as determined by the committee, concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of care.

**193.4(6)** The licensee has not been subject to a civil or criminal sanction or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or a foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the licensee’s profession.

**193.4(7)** The licensee has provided truthful information and fully cooperated with the board or committee.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—193.5(272C) Terms of participation in the impaired practitioner recovery program.** A licensee shall agree to comply with the terms for participation in the impaired practitioner recovery program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

**193.5(1) Noncompliance.** Failure to comply with the provisions of the contract shall require the committee to make immediate referral of the matter to the board for possible disciplinary action.

**193.5(2) Practice restrictions.** The committee may impose restrictions on the licensee's practice as a term of the contract until such time as the committee receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill.

*a.* As a condition of participating in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the contract.

*b.* In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

**641—193.6(272C) Limitations.** The committee establishes the terms and monitors a participant's compliance with the program specified in the contract.

**193.6(1)** The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired practitioner program.

**193.6(2)** Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action.

**641—193.7(272C) Confidentiality.** The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6.

**193.7(1)** Information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public.

**193.7(2)** Participation in the impaired practitioner program under the auspices of the committee is not a matter of public record.

These rules are intended to implement Iowa Code chapter 272C.

**ARC 8632B**

## **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 section 135.11, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 195, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code, and to adopt a new chapter with the same title.

This proposed new chapter makes the following changes to the language in the rescinded chapter: adds definitions for “applicant” and “license,” amends the definition for “licensing authority” and replaces the phrase “department or board” or the word “board” with the term “licensing authority.”

Any interested person may make written comments or suggestions on the proposed rules on or before April 13, 2010. Such written comments should be directed to Barb Nervig, Department of Public Health,

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

Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bnervig@idph.state.ia.us](mailto:bnervig@idph.state.ia.us).

These rules are intended to implement Iowa Code chapter 261.

The following amendment is proposed.

Rescind 641—Chapter 195 and adopt the following new chapter in lieu thereof:

CHAPTER 195  
STUDENT LOAN DEFAULT/NONCOMPLIANCE WITH AGREEMENT  
FOR PAYMENT OF OBLIGATION

**641—195.1(261) General definitions.** For the purposes of this chapter, the following definitions shall apply:

“*Applicant*” means an individual who is seeking the issuance of a license.

“*Certificate of noncompliance*” means written certification from the college student aid commission to the licensing authority certifying that the licensee has defaulted on an obligation owed to or collected by the commission.

“*Commission*” means the college student aid commission.

“*Department*” means the department of public health.

“*License*” means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the granting of authority to engage in a profession, occupation, or business.

“*Licensing authority*” means a board, commission, or any other entity of the department which has authority within this state to suspend or revoke a license or deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, or profession.

**641—195.2(261) Issuance or renewal of a license—denial.** The licensing authority shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127.

**195.2(1)** In order to process the certificate of noncompliance received by the licensing authority, the licensing authority will maintain records of licensees by name, current known address, and social security number.

**195.2(2)** Upon receipt of a certificate of noncompliance duly issued by the commission, the licensing authority shall initiate procedures for denial of issuance or renewal of licensure.

**195.2(3)** The licensing authority shall provide notice to the licensee or applicant informing that person of the licensing authority’s intent to deny the license, and said notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. The notice shall state all of the following:

*a.* The licensing authority intends to deny issuance or renewal of an individual’s license due to the receipt of a certificate of noncompliance from the commission.

*b.* The individual must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

*c.* Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under this subrule, the individual’s license shall be denied.

**195.2(4)** The applicant or licensee served with a notice under 195.2(3) shall not have a right to a hearing before the licensing authority but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of the provision of notice.

**195.2(5)** The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or licensee.

**195.2(6)** The licensing authority’s administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or licensee.

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

**195.2(7)** All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the licensing authority has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

**195.2(8)** In the event an applicant or licensee timely files a district court action following service of a licensing authority notice pursuant to Iowa Code section 261.126, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed.

**195.2(9)** Upon the filing of a district court action, the applicant or licensee shall promptly file with the licensing authority a copy of the petition filed with the district court. In addition, the applicant or licensee shall provide the licensing authority with copies of all court orders and rulings entered in such action within seven days of the action.

**195.2(10)** For purposes of determining the effective date of the denial of the issuance or renewal of a license, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**641—195.3(261) Suspension or revocation of a license.** The licensing authority shall suspend or revoke a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code sections 261.121 to 261.127. In addition to the provisions contained in those sections, the following shall apply:

**195.3(1)** In order to process the certificate of noncompliance received by the licensing authority, the licensing authority will maintain records of licensees by name, current known address, and social security number.

**195.3(2)** Upon receipt of a certificate of noncompliance duly issued by the commission, the licensing authority shall initiate procedures for suspension or revocation of licensure.

**195.3(3)** The licensing authority shall provide notice to the licensee informing the individual of the licensing authority's intent to suspend or revoke the license, and said notice shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. The notice shall state all of the following:

*a.* The licensing authority intends to suspend or revoke an individual's license due to the receipt of a certificate of noncompliance from the commission.

*b.* The individual must contact the commission to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

*c.* Unless the commission furnishes a withdrawal of a certificate of noncompliance to the licensing authority within 30 days of the issuance of the notice under this subrule, the individual's license shall be suspended or revoked.

**195.3(4)** The licensee served with a notice under 195.3(3) shall not have a right to a hearing before the licensing authority but may request a court hearing pursuant to Iowa Code section 261.127. Such court hearing must be requested within 30 days of the provision of notice.

**195.3(5)** The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the licensee.

**195.3(6)** The licensing authority's administrator is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the licensee.

**195.3(7)** All licensing authority fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the licensing authority has suspended or revoked a license pursuant to Iowa Code chapter 261.

**195.3(8)** In the event a licensee timely files a district court action following service of a licensing authority notice pursuant to Iowa Code section 261.126, the licensing authority shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the licensing authority to proceed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**195.3(9)** Upon the filing of a district court action, the licensee shall promptly file with the licensing authority a copy of the petition filed with the district court. In addition, the licensee shall provide the licensing authority with copies of all court orders and rulings entered in such action within seven days of the action.

**195.3(10)** For purposes of determining the effective date of the suspension or revocation, the licensing authority shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**641—195.4(17A,22,261) Sharing of information.** Notwithstanding any statutory confidentiality provision, the licensing authority may share information with the commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code chapter 261.

These rules are intended to implement Iowa Code chapter 261.

## ARC 8615B

### SECRETARY OF STATE[721]

#### Notice of Termination

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” the Secretary of State hereby terminates the rule making initiated by the Notice of Intended Action published in the Iowa Administrative Bulletin on August 26, 2009, as **ARC 8046B**, which proposed to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code. The proposed amendments to Chapter 21 were also simultaneously Adopted and Filed Emergency and published as **ARC 8045B**.

The period for comments passed without the Secretary receiving any comments that required changes to the amendments as they appeared in the Iowa Administrative Bulletin on August 26, 2009. The Secretary of State finds no further need to proceed with rule making for **ARC 8046B**.

## ARC 8618B

### SOIL CONSERVATION DIVISION[27]

#### 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 161A.4(1), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Financial Incentive Program for Soil Erosion Control,” Iowa Administrative Code.

The proposed amendments change the supplemental allocation deadline from September 15 to September 1. The amendments increase slightly the cost share rates for tree and shrub establishment. The amendments limit eligibility for land already enrolled in USDA’s Conservation Reserve Program. The amendments remove practice descriptions which, by reference, can be found in the Natural Resources Conservation Service technical guide. The amendments also eliminate or modify outdated definitions.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 13, 2010, at 4:30 p.m. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

## SOIL CONSERVATION DIVISION[27](cont'd)

These proposed amendments are subject to the Division's general waiver provisions.

These amendments are intended to implement Iowa Code section 161A.2.

The following amendments are proposed.

ITEM 1. Rescind the definitions of "Distribution," "Forest land," "Highway" and "Segment" in rule **27—10.20(161A)**.

ITEM 2. Adopt the following **new** definition of "Road" in rule **27—10.20(161A)**:

"Road" means the entire width between property lines of the publicly owned right-of-way.

ITEM 3. Amend rule **27—10.41(161A)**, second unnumbered paragraph, as follows:

~~Except for the programs authorized in subrules 10.41(2), 10.41(4), 10.41(5), 10.41(8), and 10.41(9), these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 50 percent of the approved cost for permanent soil conservation practices.~~

ITEM 4. Amend subrule 10.41(1) as follows:

**10.41(1)** Voluntary program. Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

~~Not more than~~ Up to 30 percent of a district's original and supplemental allocation may be used for the establishment of ~~management~~ practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate. Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

ITEM 5. Rescind paragraph **10.51(1)"f."**

ITEM 6. Amend subrule 10.51(2), introductory paragraph, as follows:

**10.51(2)** *Supplemental allocation*. The remaining balance of the fiscal year funds plus recalled funds from the mandatory program as distributed in subrule 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, from the reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3) will be provided to the districts in a supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 45 1. The allocation to any district will be the lesser amount of:

ITEM 7. Amend subrules 10.60(1) and 10.60(2) as follows:

**10.60(1)** *Voluntary*.

*a.* The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices, except for tree planting. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

*b.* For tree ~~planting~~ and shrub establishment, the following criteria shall apply:

(1) Fifty percent of the actual cost, not to exceed ~~\$365~~ \$450 per acre, including the following:

1. Establishing ground cover;
2. Trees and tree planting operations;
3. Weed and pest control; and
4. Mowing, disking, and spraying.



## SOIL CONSERVATION DIVISION[27](cont'd)

- (2) Fifty percent of actual cost, not to exceed ~~\$120~~ \$150 per acre, for wood plant control.
- (3) Actual cost, not to exceed the lesser of ~~\$8~~ \$14 per rod or \$45 per acre protected, for permanent fences that protect planted acres from grazing, excluding boundary and road fencing.

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for ~~contouring~~ contour farming; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

d. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

e. Where a livestock watering pipe is installed in a grade stabilization structure, cost share is limited to \$500 for the watering pipe and valves. Payment will be made only if the structure is fenced.

**10.60(2) Summer construction incentives.** In addition to cost share for the establishment of a permanent conservation practice, up to \$200 per acre is available ~~for the establishment of a conservation cover crop and~~ to offset income lost from cropland acres taken out of production during the growing season. Payment will be made upon completion of the permanent conservation practice. To qualify:

- a. to e. No change.

ITEM 8. Adopt the following **new** paragraph **10.73(4)“d”**:

d. Tracts of land enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) that have more than 90 days left on the contract.

ITEM 9. Amend subrule 10.73(5) as follows:

**10.73(5) Need for soil and water conservation practices.**

a. Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. At the discretion of the SWCD commissioners, practice construction may be allowed during the last 90 days of the CRP contract.

ITEM 10. Amend paragraph **10.74(1)“c”** as follows:

c. *Obligation of funds.* Following approval of an application, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant. The district will maintain a record of funds obligated for approved applications.

ITEM 11. Rescind paragraph **10.81(3)“d.”**

ITEM 12. Rescind and reserve subrules **10.81(8)**, **10.81(9)** and **10.81(10)**.

ITEM 13. Amend rule 27—10.82(161A) as follows:

**27—10.82(161A) State designation of eligible practices.** Only those soil and water conservation practices listed in this rule are eligible for the Iowa financial incentives program funds.

**10.82(1) Tillage Residue and management practices.** The division will make one-time payments for residue and tillage management practices.

a. *No-till planting.* ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

b. *Ridge-till planting.* ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

c. *Strip-till planting.* ~~A form of noninversion tillage that retains protective amounts of residue on the surface throughout the year.~~

**10.82(2) Temporary practices.** The division will make one-time payments for temporary practices.

## SOIL CONSERVATION DIVISION[27](cont'd)

~~a. Critical area planting. Establishment of vegetative planting to control sediment movement from severely eroding areas by stabilizing the soil. These plantings would include vegetation such as trees, shrubs, vines, grasses or legumes.~~

~~b. Contouring Contour farming. Farming sloping cultivated land in such a way that tillage operations, planting and cultivating are done on the contour. This includes following established grades of terraces, diversions, or contour strips.~~

~~c. Contour strip-cropping Strip-cropping. Growing crops in a systematic arrangement of strips or bands on the contour to reduce water erosion. The crops are arranged so that a strip of grass or close-growing crop is alternated with a strip of clean-tilled crop or fallow or a strip of grass is alternated with a close-growing crop.~~

~~d. Field border. A strip of perennial vegetation established at the edge of a field, to be used as a turn area in lieu of end rows up and down hill to control erosion and provide wildlife food and cover.~~

~~e. Filter strips. A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff.~~

~~f. Pasture and hay planting. Pasture and hay planting will be eligible for funding only when land that has been planted to row crop for three out of the last five years is being converted to permanent vegetative cover.~~

**10.82(3) Permanent practices.**

~~a. Reserved.~~

~~b. Diversion. A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet. Diversions are eligible for funding only when used to prevent downstream erosion.~~

~~c. Field windbreak Windbreak and shelterbelt establishment. A strip or belt of trees or shrubs established within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.~~

~~d. Grade stabilization structure. An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet) to stabilize the flowline grade or control head cutting in a natural or constructed channel.~~

~~e. Grass strips. A strip of tall growing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind. Reserved.~~

~~f. Grassed waterway or outlet. A natural or constructed waterway or outlet, shaped and graded on which suitable vegetation is established, to conduct excess surface runoff water from terraces, diversions or natural watershed basins.~~

~~g. Pasture and hayland planting. The establishment of long-term stands of adapted species of perennial forage plants, to control excessive water erosion, by converting land from row crop production to permanent vegetative cover. Reserved.~~

~~h. Terrace. An earthen barrier or embankment constructed across the field slope using a combination of a ridge and channel to reduce field erosion, and trap sediment. Types of terraces commonly referenced to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for Iowa financial incentive payments.~~

~~i. Underground outlet. A conduit installed beneath the ground surface to collect surface water from terraces, diversions, water and sediment basins, and convey the water to a suitable outlet. Underground outlets are eligible for Iowa financial incentive funding only when used as a component of eligible permanent practices contained in subrule 10.82(3).~~

~~j. Water and sediment control basin. A short earthen embankment with an underground outlet, constructed across the slope in minor watercourses to reduce erosion and trap sediment.~~

~~k. Reserved.~~

~~l. Conservation cover. An established and maintained permanent vegetation cover on land.~~

~~m. Tree and shrub planting. The establishment of a stand of trees for timber producing and environmental improvement. The minimum eligible area is three acres.~~

## SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 14. Amend rule 27—10.83(161A) as follows:

**27—10.83(161A) Designation of eligible practices.** District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A). ~~The general conditions contained in rule 27—10.81(161A) and the specifications contained in rule 27—10.84(161A) shall apply to the district-designated practices.~~

ITEM 15. Rescind and reserve rule **27—10.92(161A)**.

**ARC 8633B**

## SOIL CONSERVATION DIVISION[27]

### 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 161C.2(4), the Division of Soil Conservation hereby gives Notice of Intended Action to amend Chapter 12, “Water Protection Practices—Water Protection Fund,” Iowa Administrative Code.

The proposed amendments change the supplemental allocation deadline from October 15 to September 1. The amendments also split the appropriated funds equally between projects and practices regardless of the total appropriation.

Any interested persons may make written suggestions or comments on the proposed amendments on or before April 13, 2010, at 4:30 p.m. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

These proposed amendments are subject to the Division’s general waiver provisions.

These amendments are intended to implement Iowa Code chapter 161C.

The following amendments are proposed.

ITEM 1. Amend rule 27—12.40(161C) as follows:

**27—12.40(161C) Appropriations.** Resource enhancement and protection program, soil and water enhancement account funds are allocated to the water protection fund. Each year’s allocation of water protection funds is divided equally between the water quality protection projects account and the water protection practices account ~~until the water quality protection account has received \$1 million. The balance of funds is deposited in the water protection practices account.~~

ITEM 2. Amend rule 27—12.51(161C) as follows:

**27—12.51(161C) Allocation to soil and water conservation districts.**

**12.51(1)** No change.

**12.51(2) Recall of funds.** Any funds allocated ~~to in the current fiscal year that~~ in the current fiscal year that the districts that have not been spent or obligated by June 30 ~~and any funds that were obligated for projects for which construction has not been started during that time period~~ may be recalled by the division.

**12.51(3) Supplemental allocations.** The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by ~~October 15~~ September 1. The allocation to any district will be the lesser amount of:

*a.* and *b.* No change.

## SOIL CONSERVATION DIVISION[27](cont'd)

**12.51(4)** No change.

**12.51(5)** *Woodland, native grass and forbs fund.* Twenty-five percent of the funds and any additional appropriations for reforestation will be allocated to districts.

*a.* No change.

*b. Supplemental allocation.* The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by ~~October 15~~ September 1. The allocation to any district will be the lesser amount of:

(1) and (2) No change.

*c.* No change.

**12.51(6)** No change.

ITEM 3. Amend subrule 12.63(2) as follows:

**12.63(2)** *Practices installed on adjoining public lands.* Where water protection practices which benefit adjoining private lands are installed on public lands and costs of the installation are to be shared by the parties, state water protection practices funds may be used to cost-share only the private landowner cost of the water protection practice.

ITEM 4. Amend rule 27—12.72(161C) as follows:

**27—12.72(161C) Eligible practices.** Practices listed in this rule are eligible for water protection practices fund reimbursement.

**12.72(1)** *Critical area planting.* ~~Establishment of vegetative planting to control sediment movement from severely eroding areas by stabilizing the soil. These plantings would include vegetation such as trees, shrubs, vines, grasses or legumes.~~

**12.72(2)** ~~*Strip-cropping (wind)*~~ *Contour buffer strips.* A strip of tall-growing perennial vegetation within or adjacent to a field to reduce sediment damage and soil depletion caused by wind.

**12.72(3)** ~~*Field border.*~~ A strip of perennial vegetation established at the edge of a field, to be used as a turn area in lieu of end rows up and down hill to control erosion and provide wildlife food and cover.

**12.72(4)** ~~*Filter strips.*~~ A strip or area of vegetation for removing sediment, organic matter and other pollutants from runoff.

**12.72(5)** ~~*Strip-cropping, contour.*~~ Growing crops in a systematic arrangement of strips or bands on the contour to reduce water and wind erosion. The crops are arranged so that a strip of grass or close-growing crop is alternated with a strip of clean-tilled crop or fallow or a strip of grass is alternated with a close-growing crop.

**12.72(6)** ~~**12.72(5)**~~ *Pasture and hayland hay planting.* The establishment of long-term stands of adapted species of perennial forage plants, to control excessive water erosion, by converting land from row crop production to permanent vegetative cover.

**12.72(7)** ~~**12.72(6)**~~ *Restored or constructed* *Constructed wetlands in buffer systems.* An area where hydric (wetland) vegetation and hydrology are established within or adjacent to a buffer system that filters pollutants from runoff or underground tile lines, or both. (Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.)

**12.72(7)** *Wetland restoration.* Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.

**12.72(8)** ~~*Bioengineering for stabilization of banks along waterways*~~ *Streambank and shoreline protection.* A system designed to emphasize the use of live vegetation, natural materials, and structural practices to produce living, functioning systems to stabilize stream banks, reduce sedimentation, provide habitat, and filter pollutants. Bioengineering uses The practice must be bioengineered using combinations of stream-side plantings or trees, other vegetation, structural practices such as modification of slopes, and installation of reinforcing materials and in-stream structures. (Land enrolled in the Conservation Reserve Program, or other similar programs, is eligible, if this practice is not an allowable practice under that program.)

## SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 5. Amend rule 27—12.73(161C) as follows:

**27—12.73(161C) Eligible practices for priority water resource protection.** Practices listed in this rule are eligible for water protection practice fund reimbursement only in those areas or instances approved in rule 27—12.75(161C).

**12.73(1) Grassed waterway.** ~~A natural or constructed waterway or outlet, shaped and graded, on which suitable vegetation is established to conduct excess surface runoff water from terraces, diversions or natural watershed basins.~~

**12.73(2) Grade stabilization structure.** ~~An earthen dam or embankment with a mechanical outlet (pipe conduit, drop spillway or chute outlet, etc.) to stabilize the flowline grade or control head cutting in a natural or constructed channel.~~

**12.73(3) Terrace.** ~~An earthen barrier or embankment constructed across the field slope using a combination of a ridge and channel to reduce field erosion and trap sediment. Types of terraces commonly referred to as broad based, narrow based, grassed backslope, basin, level, gradient and parallel are eligible for water protection practice fund reimbursement.~~

**12.73(4) Water and sediment control basin.** ~~A short earthen embankment with an underground outlet, constructed across the slope in minor water courses to reduce erosion and trap sediment.~~

**12.73(5) Diversion.** ~~A channel with a supporting ridge on the lower side constructed across the slope to conduct excess runoff water to a suitable outlet.~~

**12.73(6) Animal waste management system Waste storage facility.** ~~A planned system to correct existing animal waste management problems in which all necessary components are installed for managing liquid and solid waste, including runoff from concentrated waste areas from an existing animal feeding operation, in a manner that does not degrade soil or water resources. Cost-sharing under this practice is not authorized for:~~

- ~~a. Portable pumps and pumping equipment.~~
- ~~b. Waste disposal equipment.~~
- ~~c. Building, modification of a building, that portion of the animal waste structure that serves as part of the building, or its foundation.~~
- ~~d. That portion of the cost of animal waste control structures attributed to expansion of an animal waste management system.~~

**12.73(7) Stormwater quality best management practices (BMPs).** A technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost-effective manner. BMPs can be either:

- a. Nonstructural BMPs, which include a range of pollution prevention, education, or institutional management and development practices designed to limit the conversion of rainfall to runoff and to prevent pollutants from entering runoff at the source of runoff generation; or
- b. Structural BMPs, which are engineered and constructed systems that are used to treat the stormwater at either the point of generation or the point of discharge to either the storm sewer system or to receiving waters (e.g., detention ponds or constructed wetlands).

ITEM 6. Amend subrule 12.77(1) as follows:

**12.77(1) Cost-share rates.** Cost-share rates for practices designated in rule 27—12.72(161C) shall be 50 percent of the eligible or estimated cost of installation, whichever is less, except for ~~strip cropping contour~~ contour buffer strips and field borders. Cost-share rates for 12.72(2), contour buffer strips, and 12.72(3), field borders, and 12.72(5), strip cropping contour, shall be a one-time payment of 50 percent of the eligible or estimated cost of installation, whichever is less, up to \$25 per acre.

ITEM 7. Amend rule 27—12.82(161C) as follows:

**27—12.82(161C) Eligible practices.** Land enrolled in the Conservation Reserve Program is ~~only~~ eligible for woodland establishment, management and protection practices and is also eligible for native grass and forb establishment. All practices listed in this part are available to all other eligible landowners within Iowa soil and water conservation districts. All practices listed below are permanent.

## SOIL CONSERVATION DIVISION[27](cont'd)

~~12.82(1) Windbreaks. A belt of trees or shrubs established or restored next to an occupied structure. A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.~~

~~12.82(2) Field windbreak. A belt of trees or shrubs established or restored, within or adjacent to a field. A windbreak must meet either NRCS Standard 380-Windbreak/shelterbelt establishment or NRCS Standard 650-Windbreak/shelterbelt renovation.~~

~~12.82(3) Timber Forest stand improvement. To increase the growth and quality of forest stands and improve wildlife habitat. Minimum eligible area is five acres.~~

~~12.82(4) Tree planting. To establish a stand of trees for timber production and environmental improvement. Minimum eligible area is three acres.~~

~~12.82(5) Site preparation for natural regeneration. To establish a stand of forest trees through natural regeneration for timber production and environmental improvement. Minimum eligible area is three acres.~~

~~12.82(6) Riparian forest buffer. To establish an area of trees or shrubs, or both, located adjacent to and up gradient from water bodies.~~

~~12.82(7) Rescue treatments. To rescue plantations from conditions that would threaten the adequate survival or quality of the plantation if not controlled. Minimum eligible area is three acres.~~

~~12.82(8) Prescribed grazing. The controlled harvest of vegetation with grazing or browsing animals that is managed with the intent to achieve a specified objective. The practice must include a minimum of two paddocks of native species grasses.~~

~~12.82(9) Conservation cover. Establishing and maintaining perennial vegetative cover on land.~~

ITEM 8. Amend rule 27—12.83(161C) as follows:

**27—12.83(161C) Practice standards and specifications.** Soil and water conservation practices shall meet Natural Resources Conservation Service conservation standards and specifications where applicable. These standards may be accessed through the electronic field office technical guide at [http://efotg.nrcs.usda.gov/efotg\\_locator.aspx?map=IA](http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA).

Tree planting, ~~timber forest~~ stand improvement, site preparation for natural regeneration and rescue treatment standards may be accessed through the department of natural resource's forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>.

Standards and specifications are also available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

ITEM 9. Amend rule 27—12.84(161C) as follows:

**27—12.84(161C) Cost-share rates.** The following cost-share rates shall apply for eligible practices designated in rule ~~27—12.82~~(161C). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules.

**12.84(1) Windbreaks.** 75 percent of the actual eligible or estimated cost, whichever is less, not to exceed \$1500 for the total cost of the establishment or restoration of the windbreak.

**12.84(2) Field windbreaks.** 75 percent of the actual eligible or estimated cost, whichever is less, not to exceed \$450 per acre.

**12.84(3) Timber Forest stand improvement.** 75 percent of the actual eligible or estimated cost, whichever is less, not to exceed \$120 per acre for prescribed woodland burning, thinning, pruning crop trees, or releasing seedlings or young trees.

**12.84(4) Tree planting.**

a. 75 percent of the actual eligible or estimated cost, whichever is less, not to exceed \$450 per acre, for tree planting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree-planting operations,

## SOIL CONSERVATION DIVISION[27](cont'd)

- (3) Weed and pest control,
- (4) Mowing, disking, and spraying.

*b.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed \$150 per acre for woody plant competition control.

**12.84(5)** *Site preparation for natural regeneration.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed \$120 per acre of site preparation.

**12.84(6)** *Riparian forest buffer.* 75 percent of the ~~actual-cost~~ eligible or estimated cost, whichever is less.

**12.84(7)** *Rescue treatment.*

*a.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed \$60 per acre to establish alternate cover for competition control.

*b.* A one-time payment of 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed \$15 per acre to control damaging rodent populations.

*c.* 75 percent of the ~~actual~~ eligible or estimated cost, whichever is less, not to exceed \$450 per acre, for plantation replanting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree planting,
- (3) Weed control.

**12.84(8)** *Planned Prescribed grazing systems.* 75 percent of the ~~actual-cost~~ eligible or estimated cost, whichever is less. Systems must include at least two paddocks of native species grasses. Development of a water source is not eligible. Does not include boundary fences or road fences.

**12.84(9)** *Conservation cover.* 75 percent of the ~~actual-cost~~ eligible or estimated cost, whichever is less.

**12.84(10)** *Fencing systems.* Fencing systems used to implement or protect a conservation practice described in rule 27—12.82(161C) are eligible for the lesser of 75 percent of the ~~actual-cost~~ eligible or estimated cost. The fencing costs cannot exceed \$14 per rod for permanent fencing or \$5 per rod for temporary electric fencing. Fences along roads or land boundaries are not eligible.

## 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 James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 5.75%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

## TREASURER OF STATE(cont'd)

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 March 9, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

## TIME DEPOSITS

7-31 days .....	Minimum 0.05%
32-89 days .....	Minimum 0.05%
90-179 days .....	Minimum 0.05%
180-364 days .....	Minimum 0.15%
One year to 397 days .....	Minimum 0.45%
More than 397 days .....	Minimum 1.00%

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 8624B****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 515F.37, the Insurance Division amends Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," Iowa Administrative Code.

These amendments change the rules governing the Iowa FAIR Plan and align the rules with the actual practices of the Plan. The amendments remove from consideration the failure to pay property taxes and maintain utilities as risk factors when new policies are written or existing policies are renewed. The requirement that a producer present a rejection notice is eliminated and replaced by the requirement to submit a written statement indicating the producer's inability to obtain coverage in the voluntary market. These amendments also update citations that were rendered inaccurate due to the reorganization of Iowa Code chapter 515.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 27, 2010, as **ARC 8492B**. No public comment was received on these amendments. These amendments are identical to the amendments published under Notice of Intended Action.

These amendments will become effective on April 28, 2010.

These amendments are intended to implement Iowa Code section 515F.37.

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 [20.52, 20.54] is being omitted. These amendments are identical to those published under Notice as **ARC 8492B**, IAB 1/27/10.

[Filed 3/3/10, effective 4/28/10]

[Published 3/24/10]

[For replacement pages for IAC, see IAC Supplement 3/24/10.]

**ARC 8626B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, sections 5 to 12, the Iowa Finance Authority hereby amends Chapter 32, "Iowa Jobs Program," Iowa Administrative Code.

The purpose of these amendments is to implement 2009 Iowa Acts, Senate File 376, sections 5 to 12, by amending rule 265—32.8(16), relating to grant awards, and 265—32.9(16), relating to the administration of awards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8454B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 8455B** on the same date. The Authority did not receive any public comment on the amendments. The Authority has made no changes to the amendments as published under Notice.

The Iowa Finance Authority adopted these amendments on March 3, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, sections 5 to 12.

IOWA FINANCE AUTHORITY[265](cont'd)

These amendments will become effective on April 28, 2010, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

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 [32.8, 32.9] is being omitted. These amendments are identical to those published under Notice as **ARC 8454B** and Adopted and Filed Emergency as **ARC 8455B**, IAB 1/13/10.

[Filed 3/4/10, effective 4/28/10]

[Published 3/24/10]

[For replacement pages for IAC, see IAC Supplement 3/24/10.]

## **ARC 8621B**

### **LABOR SERVICES DIVISION[875]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 65, "Elevator Safety Board Administrative and Regulatory Authority," Chapter 66, "Waivers or Variances from Administrative Rules by the Elevator Safety Board," Chapter 67, "Elevator Safety Board Petitions for Rule Making," Chapter 68, "Declaratory Orders by the Elevator Safety Board," Chapter 69, "Contested Cases Before the Elevator Safety Board," and Chapter 70, "Public Records and Fair Information Practices of the Elevator Safety Board," Iowa Administrative Code.

These amendments make editorial and technical changes; adopt a definition of "conveyance"; require that a petitioner use the appropriate board form to petition for board action; change the language concerning public comment during board meetings; clarify procedures for informal review of inspection reports; set forth procedures for an appeal from an action by the Labor Commissioner to suspend, deny or revoke an operating permit; and clarify procedures for issuance of a subpoena during a contested case.

The purposes of these amendments are to protect the health and safety of the public, make the rules more clear, align the language with the authority of Iowa Code chapters 17A and 89A, and implement legislative intent.

Notice of Intended Action was published in the December 2, 2009, Iowa Administrative Bulletin as **ARC 8322B**. No public comment was received on the proposed amendments. These amendments are identical to those published under Notice of Intended Action.

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

These amendments shall become effective on April 28, 2010.

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 65 to 70] is being omitted. These amendments are identical to those published under Notice as **ARC 8322B**, IAB 12/2/09.

[Filed 3/3/10, effective 4/28/10]

[Published 3/24/10]

[For replacement pages for IAC, see IAC Supplement 3/24/10.]

## **ARC 8625B**

### **PROFESSIONAL LICENSURE DIVISION[645]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic amends Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The amendment to subrule 45.2(11) changes the word “felony” to “crime” to be consistent with Iowa Code chapter 147 requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 18, 2009, as **ARC 8278B**. A public hearing was held on December 8, 2009, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment was adopted by the Board of Chiropractic on January 13, 2010.

This amendment will become effective April 28, 2010.

This amendment is intended to implement Iowa Code chapters 21, 147, 151 and 272C.

The following amendment is adopted.

Amend subrule 45.2(11) as follows:

**45.2(11)** Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee’s ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

[Filed 3/4/10, effective 4/28/10]

[Published 3/24/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/10.

**ARC 8620B****PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Massage Therapy hereby amends Chapter 134, “Discipline for Massage Therapists,” Iowa Administrative Code.

The amendment to subrule 134.2(11) changes the word “felony” to “crime” to be consistent with Iowa Code chapter 147 requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 18, 2009, as **ARC 8277B**. A public hearing was held on December 8, 2009, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment was adopted by the Board of Massage Therapy on February 15, 2010.

This amendment will become effective April 28, 2010.

This amendment is intended to implement Iowa Code chapters 21, 147, 152C and 272C.

The following amendment is adopted.

Amend subrule 134.2(11) as follows:

**134.2(11)** Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee’s ability to practice within the profession which includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

[Filed 3/2/10, effective 4/28/10]

[Published 3/24/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/10.

**ARC 8635B**

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

This amendment fixes a discrepancy in the language between subrule 10.47(7) and Iowa Code section 17A.19(5).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8488B** on January 27, 2010. A public hearing was held on February 17, 2010, in the Ford Memorial Conference Room, Iowa Veterans Home, Marshalltown, Iowa. No public comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 35D.

This amendment will become effective April 28, 2010.

The following amendment is adopted.

Amend subrule 10.47(7) as follows:

**10.47(7)** If a member is not satisfied with the decision of the department of inspections and appeals, the member may seek judicial review in accordance with Iowa Code chapter 17A. A member's discharge under rule 801—10.43(35D) shall not be stayed while judicial review is pending.

[Filed 3/5/10, effective 4/28/10]

[Published 3/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/10.

AGENCY	RULE	DELAY
Professional Licensure Division[645]	61.15(3) [IAB 2/10/10, <b>ARC 8515B</b> ]	Effective date of March 17, 2010, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 8, 2010. [Pursuant to §17A.4(7)]