



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

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

Schedule for Rule Making 2016

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 8, 2016	April 27, 2016
23	Friday, April 22, 2016	May 11, 2016
24	Friday, May 6, 2016	May 25, 2016

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 8, 2016, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Renewable fuel infrastructure program, 12.3(4), 12.4, 13.1, 14.2(3), 16.2, 16.3(2), 16.5(5),
83.48 Notice **ARC 2479C** 3/30/16
Meat and poultry inspection—adoption by reference of federal regulations, 76.1 to 76.4,
76.13, 76.14 Filed **ARC 2439C** 3/16/16

ARCHITECTURAL EXAMINING BOARD[193B]

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

Roster of business entities; administrator duties; board meetings; registration; fees,
amendments to chs 1, 2 Notice **ARC 2480C** 3/30/16

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]“umbrella”

Approval of postsecondary schools—interstate reciprocity agreement, registration,
amendments to ch 21 Amended Notice **ARC 2437C** 3/16/16

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Licensure of out-of-state applicants from non-Iowa institutions; adding endorsements,
13.5(2), 13.26, 13.29(1) Notice **ARC 2453C** 3/16/16
Reading endorsements, 13.28 Notice **ARC 2450C** 3/16/16
Administrator licenses and endorsements—temporary permits, experience requirements,
18.1, 18.4(4), 18.8, 18.9, 18.11(2) Notice **ARC 2454C** 3/16/16
Standard, master educator and administrator license renewal, 20.5, 20.6, 20.9 Notice **ARC 2452C** 3/16/16
Coaching authorization, 22.1(2) Notice **ARC 2445C** 3/16/16

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

NPDES General Permit No.7 for discharge of pesticides, 64.3(4)“b”(7), 64.15(7) Notice **ARC 2441C** 3/16/16
NPDES General Permit No.5 for wastewater discharges from mines and quarries, 64.15(5)
Notice **ARC 2442C** 3/16/16

HUMAN SERVICES DEPARTMENT[441]

Mental health advocates, 25.101 to 25.107 Filed **ARC 2438C** 3/16/16
Medicaid for employed people with disabilities—premiums, 75.1(39)“b”(3) Notice **ARC 2469C** 3/30/16
Habilitation and brain injury and intellectual disability waiver programs—prevocational and
supported employment services, amendments to chs 77 to 79, 83 Filed **ARC 2471C** 3/30/16
Juvenile court services directed programs, amendments to ch 151 Filed **ARC 2435C** 3/16/16
Child care assistance—eligibility, certification, payment to providers, 170.1 to 170.4
Notice **ARC 2462C** 3/16/16
Child care assistance sliding fee schedule, 170.4(2)“a” Notice **ARC 2449C** 3/16/16

INSPECTIONS AND APPEALS DEPARTMENT[481]

Hospital licensure and regulation, amendments to ch 51 Filed **ARC 2472C** 3/30/16
Regulation of elder group homes, assisted living programs, and adult day services,
amendments to chs 67, 69, 70 Filed **ARC 2463C** 3/16/16

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Elevators—child safety measures, 72.26, 73.27 Filed **ARC 2455C** 3/16/16

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

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

Written examination—exemption, 2.6 Notice **ARC 2475C** 3/30/16

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Hunting—licenses, education, apprentice designation, amendments to ch 15 Notice **ARC 2478C** 3/30/16

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

Organization and operation; vendor appeals; waivers; contested cases; license denial,
suspension or revocation; rule making; declaratory orders; public records, amendments
to chs 1, 3, 5, 7 to 10, 13 Notice **ARC 2456C** 3/16/16

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Practice of medical aesthetics by estheticians—oversight only by medicine board, 60.5(6)
Notice **ARC 2467C** 3/16/16
Salons and schools of cosmetology—licensure, sanitation, amendments to chs 61, 63
Notice **ARC 2465C** 3/16/16
Physician assistants—on-site visits by supervising physician, 327.4(2)
Notice **ARC 2440C**, also Filed Emergency **ARC 2436C** 3/16/16

PUBLIC HEALTH DEPARTMENT[641]

Iowa get screened colorectal cancer program, amendments to ch 10 Notice **ARC 2446C** 3/16/16
Central registry for brain and spinal cord injuries, amendments to ch 21 Notice **ARC 2447C** 3/16/16
Practice of tattooing, 22.1 to 22.17 Notice **ARC 2459C** 3/16/16
Grants to counties for private well testing, reconstruction and plugging, 24.4(2), 24.5,
24.8(4), 24.12 Notice **ARC 2461C** 3/16/16
State plumbing code—adoption by reference of 2015 edition of Uniform Plumbing Code,
amendments to ch 25 Filed **ARC 2474C** 3/30/16
State mechanical code—update of references, 61.2 Filed **ARC 2473C** 3/30/16
Board-certified behavior analyst and board-certified assistant behavior analyst
(BCBA/BCaBA) grants program, ch 107 Notice **ARC 2460C** 3/16/16
Public health response teams, 113.1, 113.2(1), 113.4, 113.5, 113.7(1) Filed **ARC 2476C** 3/30/16
Preparedness advisory committee, 114.1 to 114.9 Notice **ARC 2443C** 3/16/16
Emergency medical services advisory council, 130.1, 130.3 to 130.9 Notice **ARC 2444C** 3/16/16
Trauma system advisory council, ch 138 Notice **ARC 2448C** 3/16/16
Love our kids grants, 141.1, 141.3(3), 141.4 to 141.6 Filed **ARC 2477C** 3/30/16
Collection of and access to health data, amendments to ch 177 Notice **ARC 2458C** 3/16/16
Collection of delinquent debts, ch 179 Notice **ARC 2457C** 3/16/16

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Qualifying agreements; occupational licenses; licensing of jockeys; thoroughbred and
quarter horse racing, 5.4, 6.8, 6.29, 10.1, 10.2(9), 10.4 to 10.7 Filed **ARC 2468C** 3/30/16

REVENUE DEPARTMENT[701]

Broadband infrastructure property tax exemption, 80.31 Notice **ARC 2466C** 3/16/16
Property assessment appeal board, amendments to ch 126 Notice **ARC 2464C** 3/16/16

TRANSPORTATION DEPARTMENT[761]

Commercial driver licensing, amendments to ch 607 Notice **ARC 2451C** 3/16/16

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Senator Wally Horn
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Oskaloosa, Iowa 52577

Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ARCHITECTURAL EXAMINING BOARD[193B]

Roster of business entities; administrator duties; board meetings; registration; fees, amendments to chs 1, 2 IAB 3/30/16 ARC 2480C	Board Office, Suite 350 200 E. Grand Avenue Des Moines, Iowa	April 19, 2016 12 noon
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DENTAL BOARD[650]

Students enrolled in dental hygiene programs, 10.4(4) IAB 3/2/16 ARC 2432C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 30, 2016 2 p.m.
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Students enrolled in dental assisting programs, 20.17 IAB 3/2/16 ARC 2431C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 30, 2016 2 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Licensure of out-of-state applicants; adding endorsements, 13.5(2), 13.26, 13.29(1) IAB 3/16/16 ARC 2453C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
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Reading endorsements, 13.28 IAB 3/16/16 ARC 2450C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
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Administrator licenses and endorsements, 18.1, 18.4(4), 18.8, 18.9, 18.11(2) IAB 3/16/16 ARC 2454C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
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Standard, master educator and administrator license renewal, 20.5, 20.6, 20.9 IAB 3/16/16 ARC 2452C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
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Coaching authorization, 22.1(2) IAB 3/16/16 ARC 2445C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	April 6, 2016 1 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

NPDES General Permit No. 7 for discharge of pesticides, 64.3(4)“b,” 64.15(7) IAB 3/16/16 ARC 2441C	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	April 5, 2016 10 a.m.
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NPDES General Permit No. 5 for wastewater discharge from mines and quarries, 64.15(5) IAB 3/16/16 ARC 2442C	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	April 7, 2016 11 a.m.
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LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Written examination—exemption, 2.6 IAB 3/30/16 ARC 2475C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	April 19, 2016 12 noon
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NATURAL RESOURCE COMMISSION[571]

Hunting—licenses, education, apprentice designation, amendments to ch 15 IAB 3/30/16 ARC 2478C	4E Conference Room Wallace State Office Bldg. Des Moines, Iowa	April 20, 2016 1 to 2 p.m.
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PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

Organization and operation; vendor appeals; waivers; contested cases; licensure; rule making; declaratory orders; public records, amendments to chs 1, 3, 5, 7 to 10, 13 IAB 3/16/16 ARC 2456C	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	April 5, 2016 9 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Practice of medical aesthetics by estheticians—oversight only by medicine board, 60.5(6) IAB 3/16/16 ARC 2467C	Fifth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 1 to 1:30 p.m.
Salons and schools of cosmetology—licensure and sanitation, amendments to chs 61, 63 IAB 3/16/16 ARC 2465C	Fifth Floor Conference Room Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 1:30 to 2 p.m.
Physician assistants—on-site visits by supervising physician, 327.4(2) IAB 3/16/16 ARC 2440C (See also ARC 2436C)	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 6, 2016 9 to 9:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Iowa get screened colorectal cancer program, amendments to ch 10 IAB 3/16/16 ARC 2446C	Rooms 517 and 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009990303	April 5, 2016 1 to 2 p.m.
Central registry for brain and spinal cord injuries, amendments to ch 21 IAB 3/16/16 ARC 2447C	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009990482	April 5, 2016 3 to 4 p.m.
Practice of tattooing, 22.1 to 22.17 IAB 3/16/16 ARC 2459C	Rooms 517 and 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009991863	April 8, 2016 1 to 3 p.m.
Grants to counties for private well testing, reconstruction, and plugging, amendments to ch 24 IAB 3/16/16 ARC 2461C	Room 142 Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 0009991863	April 5, 2016 11 a.m. to 12 noon

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Board-certified behavior analyst and assistant behavior analyst grants program, ch 107 IAB 3/16/16 ARC 2460C	Room 415, Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	April 5, 2016 3 to 4:30 p.m.
Collection of and access to health data, amendments to ch 177 IAB 3/16/16 ARC 2458C	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	April 5, 2016 2 to 3 p.m.

REVENUE DEPARTMENT[701]

Broadband infrastructure property tax exemption, 80.31 IAB 3/16/16 ARC 2466C	First Floor Auditorium Wallace State Office Bldg. Des Moines, Iowa	April 6, 2016 10 a.m.
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TRANSPORTATION DEPARTMENT[761]

Commercial driver licensing, amendments to ch 607 IAB 3/16/16 ARC 2451C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 7, 2016 10 a.m. (If requested)
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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.

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ARC 2479C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

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 159.5(7), the Agriculture and Land Stewardship Department hereby gives Notice of Intended Action to amend Chapter 12, “Renewable Fuels and Coproducts,” Chapter 13, “Renewable Fuel Infrastructure Board—Organization,” Chapter 14, “Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites,” Chapter 16, “Renewable Fuel Infrastructure Program Administration,” and Chapter 85, “Weights and Measures,” Iowa Administrative Code.

The proposed amendments expand the Renewable Fuel Infrastructure Program for retail motor fuel sites by allowing funds to be used for the storing and dispensing of E-15. The proposed amendments also set a minimum size of a renewable fuel pump decal and update label requirements for ethanol flex fuels. The new decals will need to be in place by January 1, 2018.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2016. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)725-1036 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

The proposed amendments are subject to the Department’s general waiver provision.

After analysis and review of this rule making, a positive impact on jobs and the economy has been found because increased use of biofuels helps farmers, renewable fuels producers, and consumers.

These amendments are intended to implement Iowa Code sections 159.20(1) and 159A.14 and 2015 Iowa Acts, Senate File 510, division IX.

The following amendments are proposed.

ITEM 1. Adopt the following new subrule 12.3(4):

12.3(4) E-15 ethanol infrastructure must be used to store and dispense E-15 gasoline as a registered fuel recognized by the United States Environmental Protection Agency for nonsummer months from September 16 to May 31.

ITEM 2. Amend rule 21—12.4(159A) as follows:

21—12.4(159A) Renewable fuels motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30” and 50” above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

12.4(1) ~~The only two sizes~~ minimum design size of decals department-approved decals ~~are the following:~~ is 1.25” by 2.5”.

~~a. A design of 1.25” by 4”.~~

~~b. A design of 2” by 6”.~~

12.4(2) ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875” high, and the name of the renewable fuel in letters a minimum of .5” high.

12.4(3) ~~The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party, including the weights and measures bureau of the department, in recommending the color, design, and wording. The~~

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

~~advisory committee shall approve the color, design, and wording of the decal to promote the use of renewable fuels.~~

~~12.4(4)~~ **12.4(3)** All ~~black and white ethanol~~ fuel pump stickers shall be replaced by department-approved colorful “American Ethanol” fuel pump decals effective ~~July~~ January 1, 1995 2018.

ITEM 3. Amend rule ~~21—13.1(159A)~~, definition of “Project,” as follows:

“Project” means the installation of equipment for motor fuel storage, dispensing and distribution of E-15 or E-85 gasoline, biodiesel or biodiesel blend.

ITEM 4. Amend paragraphs **14.2(3)“d”** to **“f”** as follows:

d. If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel at retail. The compartment used exclusively for the storage of E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.

e. The tank and ancillary equipment must be approved for E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.

f. ~~The dispenser and dispenser components must be described by type and model in a written statement listed by an independent testing laboratory, approved by the manufacturer of the dispenser. The manufacturer’s written statement must be signed by a responsible official on behalf of the manufacturer and must be provided either to the applicant or to the Iowa department of natural resources or approved by the state fire marshal as compatible with E-15 or E-85 gasoline. If provided to the applicant, the statement must be kept on file on the premises of the applicant for the five-year term of the agreement. The written statement must state that:~~

- ~~(1) The dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline; and~~
- ~~(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment used in dispensing E-85 gasoline.~~

An Iowa-licensed installer has been identified to perform the installation.

ITEM 5. Amend subparagraph **16.2(3)“a”(3)** as follows:

(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost-share agreement.

1. No change.

2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. ~~To be eligible, the initial grant award must be awarded to the person on or after May 12, 2008.~~ The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.

ITEM 6. Amend subparagraph **16.2(3)“b”(2)** as follows:

(2) Biodiesel fuel B99/B100 for year-round distribution.

1. Duration. The duration of a cost-share agreement is five years.

2. Maximum award amount. The maximum award amount is 50 percent of the actual cost of making the improvements or \$100,000, whichever is less.

~~3. Application acceptance begins January 1, 2009. Grant applications for B99/B100 projects will be accepted beginning January 1, 2009.~~

4. 3. Lifetime cap amount. The maximum or lifetime cap for B99/B100 biodiesel terminal grants is \$800,000 per person.

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

ITEM 7. Rescind and reserve paragraph **16.2(3)“c.”**

ITEM 8. Amend subrule 16.2(7) as follows:

16.2(7) Exhaustion of funds. In the event funding is exhausted at the end of the fiscal year ~~or June 30, 2012~~, the board shall approve remaining applications based on criteria implemented by the board.

ITEM 9. Amend subparagraph **16.3(2)“b”(2)** as follows:

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

ITEM 10. Amend subparagraph **16.5(5)“a”(2)** as follows:

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a “good faith” effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-15 or E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:

1. and 2. No change.

ITEM 11. Amend subrule 85.48(10) as follows:

85.48(10) Weights and measures motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30” and 50” above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

a. ~~The only two sizes~~ minimum design size of ~~decals~~ department-approved decals ~~are the following: is 1.25” by 2.5”.~~

(1) ~~A design of 1.25” by 4”.~~

(2) ~~A design of 2” by 6”.~~

b. ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875” high, and the name of the renewable fuel in letters a minimum of .5” high.

c. ~~The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party including the weights and measures bureau of the department in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording to promote the use of renewable fuels.~~

d. ~~All black and white ethanol~~ fuel pump stickers shall be replaced by department-approved colorful “American Ethanol” fuel pump decals effective July January 1, 1995 2018.

e. to g. No change.

ITEM 12. Amend subrule 85.48(11) as follows:

85.48(11) Ethanol blended gasoline classified as higher than E-15 shall have a visible, legible ~~“for flex-fuel vehicle only”~~ “use only in flex-fuel vehicles may harm other engines” sticker on the pump or pump handle. ~~The updated decals need to be in place by January 1, 2018.~~

ITEM 13. Adopt the following new subrule 85.48(13):

85.48(13) Ethanol blended gasoline classified with an octane rating of 87 or higher may be labeled or advertised as “super” or “plus.”

ARC 2480C**ARCHITECTURAL EXAMINING BOARD[193B]****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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Description of Organization,” and Chapter 2, “Registration,” Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling administrative rules review outlined in Iowa Code section 17A.7(2). The rules in Chapter 1 describe the organization of the Architectural Examining Board. The proposed amendments to the chapter will remove references to business entities since the reference to business entities was removed from the Iowa Code; more fully explain the role of board administrator; and allow for flexibility on meeting dates. The rules in Chapter 2 describe the process for registration and renewal of certificates of registration to be authorized to practice architecture in Iowa. The proposed amendments to the chapter will update the names of programs and documents of the National Council of Architectural Registration Boards needed for Iowa registration, allow students to take the architect registration examination, better explain the reinstatement process, and adjust the fees.

Consideration will be given to all written suggestions or comments received on or before April 19, 2016. Comments should be directed to Lori SchraderBachar, Iowa Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on April 19, 2016, at 12 noon in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

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

These proposed amendments were approved by the Board on March 8, 2016.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 544A.10.

The following amendments are proposed.

ITEM 1. Amend rule 193B—1.1(544A,17A), introductory paragraph, as follows:

193B—1.1(544A,17A) Duties. The board shall enforce the provisions of Iowa Code chapter 544A and shall maintain a roster of all registered architects ~~and a roster of all business entities~~ authorized to practice architecture in the state.

ITEM 2. Amend subrule 1.1(4) as follows:

1.1(4) Board administrator. The professional licensing and regulation bureau may employ a board administrator, who will maintain all necessary records of the board and perform all duties in connection with the operation of the board office. The board administrator is the lawful custodian of board records. The board administrator shall determine when the legal requirements for licensure have been satisfied with regard to issuance of certificates, licenses or registrations, and the board administrator shall submit

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

to the board any questionable application. The bureau chief or designee shall sign vouchers for payment of board obligations.

ITEM 3. Rescind rule 193B—1.3(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—1.3(544A,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the president, vice president and secretary shall be elected to serve until their successors are elected. Special meetings may be called by the president or board administrator, who shall set the time and place of the meeting.

ITEM 4. Amend rule 193B—2.1(544A,17A) as follows:

193B—2.1(544A,17A) Definitions. The following definitions apply as used in Iowa Code chapter 544A, and this chapter of the architectural examining board rules, unless the context otherwise requires.

“Applicant” means an individual who has submitted an application for registration to the board.

“Architectural intern” means an individual who holds a professional degree from an NAAB-accredited program, has completed or is currently enrolled in the NCARB Architectural Experience Program (AXP), formerly known as the Intern Development Program (IDP), and intends to actively pursue registration by completing the Architect Registration Examination.

“ARE” means the current Architect Registration Examination, as prepared and graded by the National Council of Architectural Registration Boards (NCARB).

“Examination” means the current Architect Registration Examination (ARE) accepted by the board.

~~*“IDP” means Intern Development Program.*~~

“IDP AXP applicant” means an individual who has completed the IDP AXP training requirements set forth in the NCARB ~~Handbook for Interns and Architects~~ Architectural Experience Program Guidelines, formerly known as the IDP Guidelines, and has submitted an application for registration to the board.

“Inactive” means that an architect is not engaged in Iowa in any practice for which a certificate of registration is required.

“Intern architect” has the same meaning as “architectural intern.”

“Issuance” means the date of mailing of a decision or order or the date of delivery if service is by other means unless another date is specified in the order.

“NAAB” means the National Architectural Accrediting Board.

“NCARB” means the National Council of Architectural Registration Boards.

“NCARB Architect Registration Examination (ARE) Guidelines” means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for examination and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

“NCARB Architectural Experience Program Guidelines,” formerly known as the IDP Guidelines, means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for training and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; or the architectural examining board.

~~*“NCARB Handbook for Interns and Architects Certification Guidelines”*~~ means the most current edition of a document by the same title published by the National Council of Architectural Registration Boards. The document outlines the requirements for ~~examination and~~ registration as an architect and is available through the National Council of Architectural Registration Boards, 1801 K Street NW, Suite 1100, Washington, D.C. 20006; NCARB’s Web site www.ncarb.org; ~~or the architectural examining board~~ ~~or the state law library~~.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

“Retired” means that an architect is not engaged in the practice of architecture or earning monetary compensation by providing professional architectural services in any licensing jurisdiction of the United States or a foreign country.

ITEM 5. Amend rule 193B—2.2(544A,17A), introductory paragraph, as follows:

193B—2.2(544A,17A) Application by reciprocity. Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board’s Web site) and a completed NCARB certificate, received within three months of application, shall be filed in the board office before an application will be considered by the board.

ITEM 6. Amend subrule 2.2(1) as follows:

2.2(1) Registration requirements. The board or ~~its executive officer~~ the board administrator may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant’s qualifications for registration are substantially equivalent to those required of applicants for initial registration in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

ITEM 7. Amend rule 193B—2.3(544A,17A) as follows:

193B—2.3(544A,17A) Application for registration by examination.

2.3(1) Eligibility.

a. To be admitted to the examination, an applicant for registration shall ~~have~~:

(1) Have completed the eligibility requirements of the education standards for NCARB certification, which include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) or be a student actively participating in an NCARB-accepted Integrated Path to Architectural Licensure (IPAL) option within a NAAB-accredited professional degree program in architecture, and shall be

(2) Be enrolled in or have completed the NCARB ~~Intern Development~~ Architectural Experience Program.

b. NCARB shall notify the testing service of the applicant’s eligibility prior to the applicant’s scheduling of an examination.

2.3(2) Documentation of ~~IDP~~ AXP training units shall be submitted on ~~IDP~~ AXP report forms, published by NCARB, and shall be verified by signatures of the registered architects serving as ~~(1) the intern architect’s supervisor in accordance with the requirements outlined in the NCARB Handbook for Interns and Architects, and (2) the intern architect’s mentor, usually outside the intern’s firm, with whom the intern has met for guidance and evaluation of the intern’s progress in the IDP Architectural Experience Program Guidelines.~~ The completed ~~IDP~~ AXP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation.

2.3(3) All eligibility requirements shall have been verified and satisfied in accordance with the NCARB ~~Handbook for Interns and Architects.~~ The Handbook Architectural Experience Program Guidelines, which is available through NCARB, NCARB’s Web site www.ncarb.org or the architectural examining board or the state law library.

2.3(4) No change.

2.3(5) To be eligible for registration, all applicants shall have passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB ~~Intern Development~~ Architectural Experience Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office within three months of application. Upon receipt of the council record, the board shall provide the applicant with an application for registration form. The board shall issue a registration number to the applicant upon receipt of the completed application form and appropriate fee.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

2.3(6) No change.

ITEM 8. Rescind rule 193B—2.6(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.6(544A,17A) Reinstatement of lapsed certificate of registration to active status. An individual may reinstate a lapsed certificate of registration to active registration as follows:

2.6(1) Pay the current renewal fee.

2.6(2) Pay the reinstatement fee of \$100 plus \$25 per month or partial month of expired registration up to a maximum of \$750. All applicants for reinstatement shall be assessed the \$100 reinstatement fee. The \$25 per month shall not be assessed if the applicant for reinstatement did not, during the period of lapse, engage in any acts or practices for which an active architect registration is required in Iowa. Falsely claiming an exemption from the monthly fee is a ground for discipline; in addition, other grounds for discipline may arise from practicing on a lapsed certificate, license or permit to practice.

2.6(3) Provide a written statement outlining the applicant's professional activities performed in Iowa during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant.

2.6(4) Submit documented evidence of completion of 24 continuing education hours, which should have been reported on the June 30 renewal date on which the applicant failed to renew, and 12 continuing education hours for each year or portion of a year of expired registration up to a maximum of 48 continuing education hours. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities and be in compliance with requirements in 193B—Chapter 3. The continuing education hours used for reinstatement may not be used again at the next renewal. Out-of-state residents may submit a statement from their resident state's licensing board as documented evidence of compliance with their resident state's mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.

ITEM 9. Rescind rule **193B—2.7(544A,17A)**.

ITEM 10. Renumber rules **193B—2.8(544A)**, **193B—2.9(544A,17A)** and **193B—2.11(544A,17A)** as **193B—2.7(544A)**, **193B—2.8(544A,17A)** and **193B—2.9(544A,17A)**.

ITEM 11. Amend renumbered rule 193B—2.7(544A) as follows:

193B—2.7(544A) Reinstatement from inactive status or retired status to active status.

2.7(1) An individual may reinstate an inactive registration ~~or retired registration~~ to active registration as follows:

a. ~~Pay the current active registration fee. If reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.~~

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of inactive registration.

2.7(2) An individual may reinstate a retired registration to active registration as follows:

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

a. Pay the current active registration fee. If the individual is reinstating to active status at a date that is less than 12 months from the next biennial renewal date, one-half of the current active registration fee shall be paid.

b. Submit documented evidence of completion of 24 continuing education hours in compliance with requirements in 193B—Chapter 3. All continuing education hours must be completed in health, safety, and welfare subjects acquired in structured educational activities. The hours used to reinstate to active status cannot again be used to renew.

(1) At the first biennial renewal date of July 1 that is less than 12 months from the date of the filing of the application to restore the certificate of registration to active status, the person shall not be required to report continuing education hours.

(2) At the first biennial renewal date of July 1 that is more than 12 months, but less than 24 months, from the date of the filing of the application to restore the certificate of registration to active status, the person shall report 12 hours of previously unreported continuing education hours.

c. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of retired registration.

2.7(2) 2.7(3) An individual shall not be allowed to reinstate to inactive status from retired status.

ITEM 12. Amend renumbered rule 193B—2.9(544A,17A) as follows:

193B—2.9(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Retired status	None
Reinstatement of lapsed individual registration (per month)	\$ 25 \$100 + renewal fee + \$25 per month or partial month of expired registration
<u>Reinstatement of inactive individual registration</u>	<u>\$100</u>
<u>Reinstatement of retired individual registration</u>	<u>\$200</u>
Duplicate wall certificate fee	\$ 50
Late renewal fee	\$ 25

(for renewals postmarked on or after July 1 and before July 30)

ARC 2469C**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.

This amendment increases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL). These changes to the premiums are necessary due to the annual changes in the federal poverty level.

Any interested person may make written comments on the proposed amendment on or before April 19, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

This amendment is intended to implement Iowa Code section 249A.4.

The following amendment is proposed.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$ 32 <u>\$33</u>
165% of Federal Poverty Level	\$ 44 <u>\$46</u>
180% of Federal Poverty Level	\$ 53 <u>\$55</u>
200% of Federal Poverty Level	\$ 62 <u>\$64</u>
225% of Federal Poverty Level	\$ 73 <u>\$76</u>
250% of Federal Poverty Level	\$ 84 <u>\$88</u>
300% of Federal Poverty Level	\$ 106 <u>\$110</u>
350% of Federal Poverty Level	\$ 130 <u>\$135</u>
400% of Federal Poverty Level	\$ 153 <u>\$158</u>
450% of Federal Poverty Level	\$ 177 <u>\$183</u>
550% of Federal Poverty Level	\$ 221 <u>\$228</u>
650% of Federal Poverty Level	\$ 268 <u>\$276</u>
750% of Federal Poverty Level	\$ 316 <u>\$324</u>
850% of Federal Poverty Level	\$ 375 <u>\$383</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
1000% of Federal Poverty Level	\$451 <u>\$460</u>
1150% of Federal Poverty Level	\$530 <u>\$539</u>
1300% of Federal Poverty Level	\$612 <u>\$622</u>
1480% of Federal Poverty Level	\$707 <u>\$718</u>
<u>1530% of Federal Poverty Level</u>	<u>\$735</u>
<u>1590% of Federal Poverty Level</u>	<u>\$767</u>

ARC 2475C**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 544B.10 and 546.10(8), the Landscape Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Examinations and Licensing," Iowa Administrative Code.

The proposed amendment to rule 193D—2.6(544B,17A), which pertains to exemptions from the written examination, will add a third alternative to provide licensure for landscape architects who were licensed in another jurisdiction prior to the requirement of passing a state or national examination, which is referred to as "grandparenting," if they meet the requirements listed in new subrule 2.6(3).

Consideration will be given to all written suggestions or comments received on or before April 19, 2016. Comments should be directed to Jill Simbro, Iowa Landscape Architectural Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to jill.simbro@iowa.gov.

A public hearing will be held on April 19, 2016, at 12 noon in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendment. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

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

This proposed amendment was approved by the Board on February 11, 2016.

After analysis and review of this rule making, the Professional Licensing and Regulation Bureau determined that there will be no impact on jobs and no fiscal impact to the state. While the Bureau does not anticipate an impact, if there is one, the impact would lean in favor of increased employment because the amendment provides a licensure avenue that is not currently provided.

This amendment is intended to implement Iowa Code section 544B.10.

The following amendment is proposed.

Amend rule 193D—2.6(544B,17A) as follows:

193D—2.6(544B,17A) Exemption from written examination. The board may exempt from written examination an applicant who meets one of the following criteria:

1. **2.6(1)** The applicant holds a current CLARB certificate; or

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

~~2.~~ **2.6(2)** The applicant holds a license to practice landscape architecture issued upon written examination by another jurisdiction, and has submitted a certificate from the jurisdiction of original licensure verifying that the applicant passed the examination in that jurisdiction-; or

2.6(3) The applicant:

a. Holds an active license to practice landscape architecture issued by another jurisdiction whose current licensure requirements, including the examination requirements, are substantially equivalent to or exceed those required for licensure as a landscape architect in Iowa, and during the time period in which the applicant was issued an initial license in the other jurisdiction, that jurisdiction did not require a written examination for initial applicants, but did require board review and approval of education and experience designed to demonstrate competence to practice;

b. Was grandparented in under the laws of the other jurisdiction, before written examinations for initial licensure were mandated by the other jurisdiction; and

c. Submits a certificate from the jurisdiction of original licensure verifying that the applicant was licensed during the period in which there was no written examination and submits proof of license in good standing.

ARC 2478C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.39, 481A.134, 481A.135, 483A.27, 483A.27A, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 15, “General License Regulations,” Iowa Administrative Code.

The Commission is proposing to amend Chapter 15 to implement the new hunter apprentice program created by the passage of 2015 Iowa Acts, Senate File 392, (signed by Governor Branstad on April 8, 2015) and to make other minor amendments, as follows:

1. 2015 Iowa Acts, Senate File 392, established an apprentice hunting license that will be available for interested persons 16 years of age or older. This program allows an eligible person to purchase, up to two times, a hunting license without having completed the hunter education program. 2015 Iowa Acts, Senate File 392, also changed the name of the “hunter safety and ethics education program” to “hunter education program” to align with a national rebranding effort underway. This rule making proposes to adopt and implement these legislative changes (see rules 567—15.27(483A), 567—15.41(483A), and 567—15.42(483A));

2. A reference to Iowa Code chapter 456A is added to the list of chapters for which disposition reports are required (see subrule 15.16(2));

3. The definition of multiple offender included in the introductory paragraph to subrule 15.16(3) is stricken because “multiple offender” is already a defined term in subrule 15.16(1);

4. Paddlefish are added to the license conviction point list contained in subrule 15.16(3) due to the creation of a paddlefish season in Iowa Code section 483A.6A;

5. The type of broadhead for use with crossbows during the regular bow season is updated to be the same type as that required for archery equipment during the late muzzleloader deer season as found in 571—Chapter 106 (see subrule 15.22(5));

6. Subrule 15.42(2) is stricken so that the chapter accurately reflects the statutory parameters of the program as contained in Iowa Code section 483A.27(2); namely, that although individuals typically must complete the hunter education course, pass the test, and demonstrate safe handling of a firearm, demonstration of safe handling of a firearm is optional for residents 18 years of age or older; and

NATURAL RESOURCE COMMISSION[571](cont'd)

7. Rule 571—15.43(321G,462A,483A) is rescinded because the requirements of this rule are also found in 571—Chapter 12 and are therefore duplicative and unnecessary.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 20, 2016. Written comments may be directed to Megan Wisecup, Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by e-mail at Megan.Wisecup@dnr.iowa.gov; or by fax at (515)725-8201. Persons who wish to convey their comments orally may contact Ms. Wisecup at (515)238-4968 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on April 20, 2016, from 1 to 2 p.m. in the 4E Conference Room of the Wallace State Office Building, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The proposed amendments will have a positive impact on jobs in this state. The Commission is anticipating increased license sales due to the hunter apprentice program, which will likely result in positive economic benefits to the following businesses that rely on outdoor recreation: hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

These amendments are intended to implement Iowa Code chapters 456A, 481A, and 483A.

The following amendments are proposed.

ITEM 1. Amend subrule 15.16(2), introductory paragraph, as follows:

15.16(2) *Record-keeping procedures.* For the purpose of administering this rule, it shall be the responsibility of the clerk of district court for each county to deliver, on a weekly basis, disposition reports of each charge filed under Iowa Code chapters 456A, 481A, 481B, 482, 483A, 484A, 484B, and 716 to the department. Dispositions and orders of the court of all cases filed on the chapters listed in this subrule shall be sent to the department regardless of the jurisdiction or the department of the initiating officer.

ITEM 2. Amend subrule 15.16(3) as follows:

15.16(3) *Point values assigned to convictions.* ~~For the purposes of defining a multiple offender, the person shall be classified as a multiple offender when the person equals or exceeds a total of five points during a consecutive three-year period using the values attached to the following offenses.~~ Point values for convictions shall be assessed as stated in this subrule. Multiple citations and convictions of the same offense will be added as separate convictions:

a. Convictions of the following offenses shall have a point value of three ~~attached to them~~:

(1) to (10) No change.

(11) The unlawful taking of any fish, game, or fur-bearing animal ~~by illegal methods~~.

(12) to (20) No change.

(21) Violation of Iowa Code ~~section~~ sections 483A.27(7) and 483A.27A.

(22) Any violation of Iowa Code ~~Supplement~~ section 716.8 as amended by 2008 Iowa Acts, House File 2612, section 21, while hunting deer.

b. Convictions of the following offenses shall have a point value of two ~~attached to them~~:

(1) to (7) No change.

(8) No valid resident license relating to deer, ~~or~~ turkey, or paddlefish.

(9) to (15) No change.

(16) Attempting to unlawfully take any fish, game, or fur-bearing animals ~~by illegal methods~~.

(17) to (20) No change.

(21) Failure to tag deer, ~~or~~ turkey, or paddlefish.

(22) to (24) No change.

NATURAL RESOURCE COMMISSION[571](cont'd)

c. All other convictions of provisions in Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B shall have a point value of one ~~attached to them~~.

ITEM 3. Amend subrule 15.22(5) as follows:

15.22(5) Restrictions. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer or turkey. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead ~~with at least three blades~~.

ITEM 4. Adopt the following new rule 571—15.27(483A):

571—15.27(483A) Apprentice hunter designation.

15.27(1) A person who is 16 years of age or older and meets all the requirements of Iowa Code section 483A.27A may purchase, up to two times, a hunting license with an apprentice hunter designation on the license without first completing a hunter education course.

15.27(2) A hunting license with an apprentice hunter designation issued pursuant to Iowa Code section 483A.27A is valid from the date issued to January 10 of the succeeding calendar year.

ITEM 5. Amend rule 571—15.41(483A), introductory paragraph, as follows:

571—15.41(483A) Hunter ~~safety and ethics~~ education program. This division clarifies the term “hunting license” as used in Iowa Code section 483A.27 in relation to the hunter ~~safety and ethics~~ education course requirement, clarifies the need for exhibiting a hunter ~~safety and ethics~~ education course certificate when applying for a deer or wild turkey license, and explains the requirements for individuals who wish to demonstrate their knowledge of hunter ~~safety and ethics~~ education so as to be eligible to qualify for purchase of an Iowa hunting license. For the purpose of this division, a hunting license, pursuant to Iowa Code sections 483A.1 and 483A.24, includes:

ITEM 6. Amend rule 571—15.42(483A) as follows:

571—15.42(483A) Testing procedures.

15.42(1) General testing procedures.

a. Upon completion of the required curriculum, each person shall score a minimum of 75 percent on the written or oral test provided by the department and demonstrate safe handling of a firearm. Based on the results of the written or oral test and demonstrated firearm safe handling techniques as prescribed by the department, the volunteer instructor shall determine the persons who shall be issued a certificate of completion.

b. Notwithstanding paragraph 15.42(1) “a” above, a resident who is 18 years of age or older may obtain a certificate of completion without demonstrating the safe handling of a firearm.

15.42(2) ~~Special testing out provisions.~~ ~~Any person born after January 1, 1972, who does not complete the required ten-hour hunter safety and ethics course (as described in Iowa Code section 483A.27, subsection (1)), must meet the following requirements to be eligible to purchase an Iowa hunting license:~~

a. ~~To comply with Iowa Code section 483A.27, subsection (5), an individual must pass a written examination compiled by the department of natural resources under the direct supervision of a state conservation officer or certified hunter safety instructor.~~

b. ~~If the applicant does not pass the examination by a score of 95 percent or more, the applicant must then wait seven days to take the examination again.~~

c. ~~If the applicant does not pass the second examination with a score of 95 percent or more, the applicant must successfully complete the ten-hour safety and ethics course to obtain a certificate of completion (as described in Iowa Code section 483A.27, subsection (2)).~~

15.42(3) 15.42(2) Exemptions. The following groups of individuals do not need hunting licenses and therefore do not need to satisfactorily complete a hunter ~~safety and ethics~~ education course:

a. and b. No change.

NATURAL RESOURCE COMMISSION[571](cont'd)

~~15.42(4)~~ **15.42(3)** *Deer and wild turkey license applications.* Individuals are not required to exhibit a certificate showing satisfactory completion of a hunter safety and ethics education course only when applying for a deer or wild turkey license.

ITEM 7. Rescind and reserve rule ~~571—15.43(321G,462A,483A).~~

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 4.00%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective March 9, 2016, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .35%

These are minimum rates only. All time deposits 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 2471C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments implement the changes in employment service definitions as provided by the Centers for Medicaid and Medicare Services (CMS) in its September 16, 2011, Informational Bulletin and in the CMS 2015 Technical Guide.

These amendments also change the provider qualifications, scope of services, duration, limitation and reimbursement methodologies for the home- and community-based services (HCBS) prevocational and supported employment services within the habilitation services program and the intellectual disability (ID) and brain injury (BI) waivers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2114C** on August 19, 2015. The Department received 190 comments from 23 respondents resulting in recognition of needed further revision of the amendments proposed in the original Notice of Intended Action. Consequently, an Amended Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2380C** on February 3, 2016. The Department received comments from one respondent during the comment period for the Amended Notice of Intended Action. The comments and the Department’s responses are shown below.

Comment 1: The respondent commented in support of the rules generally and highlighted several aspects of the amended rules that the respondent considered “positives,” including the alignment of the Department and Iowa Vocational Rehabilitation Services (IVRS) and that the rates in the amendments are built from a staff-cost model.

Department response 1: The Department thanks the respondent for the respondent’s advocacy for employment for all Iowans.

Comment 2: The respondent, noting a technical error in subparagraph 83.82(1)“p”(4), suggested that the term “small-group supported employment” should be changed to “prevocational.”

Department response 2: The Department agrees with the respondent and has changed “small-group supported employment services” to “prevocational services” in subparagraph 83.82(1)“p”(4).

Comment 3: The respondent commented regarding specifics of the career exploration activity in prevocational service and asked whether the career exploration activity could be allowed in small groups of up to four individuals to allow agencies the latitude to provide all or part of this service with more highly qualified staff.

Department response 3: The career exploration service is intended to be delivered primarily one to one to assist the person in determining if the person wants to work and where the person’s employment interests lie in order to develop a career plan that will assist with employment service planning. Members could receive some career exploration activities, such as business tours, benefit information and financial literacy classes, or attendance at career fairs, in small groups of up to four members. Developing the member’s actual career plan, however, remains a one-to-one service. The Department accepts the respondent’s recommendation and has revised the introductory paragraph of subparagraph 78.27(9)“a”(1) to read as follows:

“(1) Career exploration. Career exploration activities are designed to develop an individual career plan and facilitate the member’s experientially based informed choice regarding the goal of individual employment. Career exploration may be provided in small groups of no more than four members to participate in career exploration activities that include business tours, attending industry education events, benefit information, financial literacy classes, and attending career fairs. Career exploration

HUMAN SERVICES DEPARTMENT[441](cont'd)

may be authorized for up to 34 hours, to be completed over 90 days in the member's local community or nearby communities and may include but is not limited to the following activities:"

Comment 4: The respondent asked that "workplace readiness assessment" be added to the list of activities under career exploration.

Department response 4: The Department does not support this recommendation. CMS does not include this specific wording in their informational letter on employment services including prevocational and career planning at <https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-09-16-2011.pdf>.

In addition, Medicaid is prohibited from funding a service that is available under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401 et seq.). Workplace readiness assessment is a service funded routinely by IVRS up to 60 units (or 15 hours) currently at \$16.37/unit or \$65.48/hour.

Comment 5: Three of the respondent's comments were a request for more hours for nonbillable activities, such as travel time, in the rate development model for individual supported employment, long-term job coaching, and job development. The comments asserted that an inequity exists between rural and urban service providers regarding miles and travel time required to do the job in rural areas.

Department response 5: The Department does not support this recommendation. The new rate structure allows billing of time "on behalf of" the client, and the model from which the rates were built does include the nonbillable activities at the levels agreed upon by the members of the employment services redesign workgroup. Providers located in urban areas could argue that they have inequities not experienced by rural providers, such as a greater pool of job candidates competing against their job seekers, and greater time spent in metro traffic. The model used by the Department results in a budget-neutral proposal as required by law.

Comment 6: The respondent requested that additional time be factored into the rate model for nonbillable job development to allow more time for recruiting and educating Iowa employers regarding integrated community employment.

Department response 6: The Department does not support this recommendation. The new rate structure allows billing of time "on behalf of" the client, and the model from which the rates were built includes the nonbillable activities at the levels agreed upon by the workgroup members. The model used by the Department results in a budget-neutral proposal as required by law.

Comment 7: The respondent commented about the fee schedule's lowest tier of long-term job coaching (LTJC), which is labeled "Tier 1 = 1 contact/month" with a reimbursement of \$67; the respondent commented that actual utilization could involve multiple contacts or up to two hours.

Department response 7: The Department does not support this recommendation. The lowest reimbursement tier for LTJC provides a flexible range for providers to bill within; the rate pays providers for any/all contacts within the range of one contact up to 1.5 hours. The tiers were arrived at based on a full year of utilization data and national recommendations, in addition to the workgroup's recommendations. The workgroup's recommendation was for a rate for maintaining periodic contact, which some of the providers have been doing without reimbursement for years. The rate arrived at (LTJC hourly rate \times 1.5) was deemed appropriate.

Comment 8: The respondent commented that group supported employment should be more incentivized as a stepping stone between the workshop and individual supported employment and suggested that the rates need to incentivize it more heavily over facility-based services. The suggestion was made to alter the group supported employment tiers and rates in the fee schedule to:

Tier 1, groups of 2-3 persons, \$14.80/hour \times 3 and pay as \$44.40 per group

Tier 2, groups of 4-6 persons, \$7.25/hour \times 6 and pay as \$43.50 per group

Tier 3, groups of 7-8 persons, \$5.31/hour \times 8 and pay as \$42.48 per group

Department response 8: The Department does not support this recommendation. Under **ARC 2114C**, the Department proposed to change group supported employment to a tiered rate structure due to comments received as follows:

Tier 1, groups of 2-4 persons, \$11.24/hour/person (\$22.48-\$44.96/hour)

Tier 2, groups of 5-6 persons, \$7.00/hour/person (\$35.00-\$42.00/hour)

HUMAN SERVICES DEPARTMENT[441](cont'd)

Tier 3, groups of 7-8 persons, \$5.00/hour/person (\$35.00-\$40.00/hour)

It appears that these tiers and rates are sufficient to set them apart from facility-based services and to incentivize the use of smaller groups without creating too great a variance between the different group sizes. In addition, services are authorized and reimbursed on an individual member basis; the Department does not have a mechanism to pay “per group” for employment services.

The Council on Human Services adopted these amendments on March 9, 2016.

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

After analysis and review of this rule making, an impact on jobs may be found. Jobs and advancement opportunities for direct support staff within provider agencies should improve based on enhanced reimbursement rates for supported employment services and the qualifications and professional development requirements reflected in these rules. This will be true throughout the state. Additionally, as community employment participation of people with disabilities increases, unmet workforce needs of Iowa businesses could be filled by the largely untapped resource of people with disabilities.

These amendments are intended to implement Iowa Code chapter 249A.

These amendments will become effective May 4, 2016.

The following amendments are adopted.

ITEM 1. Rescind subrule 77.25(8) and adopt the following **new** subrule in lieu thereof:

77.25(8) Prevocational habilitation.

a. The following providers may provide prevocational services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) An agency that is accredited by the Council on Quality and Leadership.

(3) An agency that is accredited by the International Center for Clubhouse Development.

(4) An agency that is certified by the department to provide prevocational services under:

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers’ compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent degree. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.

(2) A person providing direct support shall not be an immediate family member of the member.

(3) A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment service training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.

(4) Prevocational direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 2. Rescind subrule 77.25(9) and adopt the following **new** subrule in lieu thereof:

77.25(9) Supported employment habilitation.

a. The following agencies may provide supported employment services:

(1) An agency that is certified by the department to provide supported employment services under:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. The home- and community-based services intellectual disability waiver pursuant to rule 441—77.37(249A); or

2. The home- and community-based services brain injury waiver pursuant to rule 441—77.39(249A).

(2) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(3) An agency that is accredited by the Council on Accreditation.

(4) An agency that is accredited by the Joint Commission.

(5) An agency that is accredited by the Council on Quality and Leadership.

(6) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an employment specialist or must earn this credential within 24 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 3. Rescind subrule 77.37(16) and adopt the following **new** subrule in lieu thereof:

77.37(16) Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider, or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation for similar services.

(3) An agency that is accredited by the Joint Commission for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (4) Procedures for provision of workers' compensation insurance.
- (5) Procedures for the determination and review of commensurate wages.
- c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.
- d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:
 - (1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold a nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an employment specialist or must earn this credential within 24 months of hire.
 - (2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.
 - (3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.
 - (4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 4. Rescind subrule 77.37(26) and adopt the following **new** subrule in lieu thereof:

77.37(26) Prevocational service providers.

- a. Providers of prevocational services must be accredited by one of the following:
 - (1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.
 - (2) The Council on Quality and Leadership accreditation in supports for people with disabilities.
- b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:
 - (1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.
 - (2) Member vacation, sick leave and holiday compensation.
 - (3) Procedures for payment schedules and pay scale.
 - (4) Procedures for provision of workers' compensation insurance.
 - (5) Procedures for the determination and review of commensurate wages.
- c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:
 - (1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.
 - (2) A person providing direct support shall not be an immediate family member of the member.
 - (3) A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.
 - (4) Prevocational direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 5. Rescind subrule 77.39(15) and adopt the following **new** subrule in lieu thereof:

77.39(15) Supported employment providers.

- a. The following agencies may provide supported employment services:

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(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation for similar services.

(3) An agency that is accredited by the Joint Commission for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Individuals may not provide supported employment services except when the services are purchased through the consumer choices option.

d. Direct support staff providing individual or small-group supported employment or long-term job coaching services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

(1) Individual supported employment: bachelor's degree or commensurate experience, preferably in human services, sociology, psychology, education, human resources, marketing, sales or business. The person must also hold a nationally recognized certification (ACRE or College of Employment Services (CES) or similar) as an employment specialist or must earn this credential within 24 months of hire.

(2) Long-term job coaching: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(3) Small-group supported employment: associate degree, or high school diploma or equivalent and 6 months' relevant experience. A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the ACRE certified training program. The person must also hold or obtain, within 24 months of hire, nationally recognized certification in job training and coaching.

(4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 6. Rescind subrule 77.39(22) and adopt the following new subrule in lieu thereof:

77.39(22) *Prevocational services providers.*

a. Providers of prevocational services must be accredited by one of the following:

(1) The Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider or a community employment service provider.

(2) The Council on Quality and Leadership accreditation in supports for people with disabilities.

b. Providers responsible for the payroll of members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

(1) Subminimum wage laws and regulations, including the Workforce Investment Opportunity Act.

(2) Member vacation, sick leave and holiday compensation.

(3) Procedures for payment schedules and pay scale.

(4) Procedures for provision of workers' compensation insurance.

(5) Procedures for the determination and review of commensurate wages.

c. Direct support staff providing prevocational services shall meet the following minimum qualifications in addition to other requirements outlined in administrative rule:

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- (1) A person providing direct support without line-of-sight supervision shall be at least 18 years of age and possess a high school diploma or equivalent. A person providing direct support with line-of-sight supervision shall be 16 years of age or older.
- (2) A person providing direct support shall not be an immediate family member of the member.
- (3) A person providing direct support shall, within 6 months of hire or within 6 months of May 4, 2016, complete at least 9.5 hours of employment services training as offered through DirectCourse or through the Association of Community Rehabilitation Educators (ACRE) certified training program.
- (4) Supported employment direct support staff shall complete 4 hours of continuing education in employment services annually.

ITEM 7. Adopt the following new definitions in subrule **78.27(1)**:

"Benefits education" means providing basic information to understand and access appropriate resources to pursue employment, and knowledge of work incentives and the Medicaid for employed persons with disabilities (MEPD) program. Benefits education may include gathering information needed to pursue work incentives and offering basic financial management information to members, families, guardians and legal representatives.

"Career exploration," also referred to as "career planning," means a person-centered, comprehensive employment planning and support service that provides assistance for waiver program participants to obtain, maintain or advance in competitive employment or self-employment. Career exploration is a focused, time-limited service engaging a participant in identifying a career direction and developing a plan for achieving competitive, integrated employment at or above the state's minimum wage. The outcome of this service is documentation of the participant's stated career objective and a career plan used to guide individual employment support.

"Career plan" means a written plan documenting the member's stated career objective and used to guide individual employment support services for achieving competitive, integrated employment at or above the state's minimum wage.

"Customized employment" means an approach to supported employment which individualizes the employment relationship between employees and employers in ways that meet the needs of both. Customized employment is based on an individualized determination of the strengths, needs, and interests of the person with a disability and is also designed to meet the specific needs of the employer. Customized employment may include employment developed through job carving, self-employment or entrepreneurial initiatives, or other job development or restructuring strategies that result in job responsibilities being customized and individually negotiated to fit the needs of the individual with a disability. Customized employment assumes the provision of reasonable accommodations and supports necessary for the individual to perform the functions of a job that is individually negotiated and developed.

"Individual employment" means employment in the general workforce where the member interacts with the general public to the same degree as nondisabled persons in the same job, and for which the member is paid at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons without disabilities.

"Individual placement and support" means an evidence-based supported employment model that helps people with mental illness to seek and obtain employment.

"Integrated community employment" means work (including self-employment) for which an individual with a disability is paid at or above minimum wage and not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by employees who are not disabled, where the individual interacts with other persons who are not disabled to the same extent as others who are in comparable positions, and which presents opportunities for advancement that are similar to those for employees who are not disabled. In the case of an individual who is self-employed, the business results in an income that is comparable to the income received by others who are not disabled and are self-employed in similar occupations.

"Supported employment" means the ongoing supports to participants who, because of their disabilities, need intensive ongoing support to obtain and maintain an individual job in competitive or

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customized employment, or self-employment, in an integrated work setting in the general workforce at or above the state's minimum wage or at or above the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. The outcome of this service is sustained paid employment at or above the minimum wage in an integrated setting in the general workforce in a job that meets personal and career goals. Supported employment services can be provided through many different service models.

"Supported self-employment" includes services and supports that assist the participant in achieving self-employment through the operation of a business; however, Medicaid funds may not be used to defray the expenses associated with starting up or operating a business. Assistance for self-employment may include aid to the individual in identifying potential business opportunities; assistance in the development of a business plan, including potential sources of business financing and other assistance in developing and launching a business; identification of the supports necessary for the individual to operate the business; and ongoing assistance, counseling and guidance once the business has been launched.

"Sustained employment" means an individual employment situation that the member maintains over time but not for less than 90 calendar days following the receipt of employment services and supports.

ITEM 8. Rescind subrule 78.27(9) and adopt the following **new** subrule in lieu thereof:

78.27(9) Prevocational service habilitation. "Prevocational services" means services that provide career exploration, learning and work experiences, including volunteer opportunities, where the member can develop non-job-task-specific strengths and skills that lead to paid employment in individual community settings.

a. Scope. Prevocational services are provided to persons who are expected to be able to join the general workforce with the assistance of supported employment. Prevocational services are intended to develop and teach general employability skills relevant to successful participation in individual employment. These skills include but are not limited to the ability to communicate effectively with supervisors, coworkers and customers; an understanding of generally accepted community workplace conduct and dress; the ability to follow directions; the ability to attend to tasks; workplace problem-solving skills and strategies; general workplace safety and mobility training; the ability to navigate local transportation options; financial literacy skills; and skills related to obtaining employment.

Prevocational services include career exploration activities to facilitate successful transition to individual employment in the community. Participation in prevocational services is not a prerequisite for individual or small-group supported employment services.

(1) Career exploration. Career exploration activities are designed to develop an individual career plan and facilitate the member's experientially based informed choice regarding the goal of individual employment. Career exploration may be provided in small groups of no more than four members to participate in career exploration activities that include business tours, attending industry education events, benefit information, financial literacy classes, and attending career fairs. Career exploration may be authorized for up to 34 hours, to be completed over 90 days in the member's local community or nearby communities and may include but is not limited to the following activities:

1. Meeting with the member and the member's family, guardian or legal representative to introduce them to supported employment and explore the member's employment goals and experiences,
2. Business tours,
3. Informational interviews,
4. Job shadows,
5. Benefits education and financial literacy,
6. Assistive technology assessment, and
7. Job exploration events.

(2) Expected outcome of service.

1. The expected outcome of prevocational services is individual employment in the general workforce, or self-employment, in a setting typically found in the community, where the member

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interacts with individuals without disabilities, other than those providing services to the member or other individuals with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other persons; and for which the member is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

2. The expected outcome of the career exploration activity is a written career plan that will guide employment services which lead to community employment or self-employment for the member.

b. Setting. Prevocational services shall take place in community-based nonresidential settings.

c. Concurrent services. A member's individual service plan may include two or more types of nonresidential habilitation services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of time (e.g., the same hour).

d. Exclusions. Prevocational services payment shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that funding is not available to the individual for the service under these programs shall be maintained in the service plan of each member receiving prevocational services.

(2) Services available to the individual that duplicate or replace education or related services defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.).

(3) Compensation to members for participating in prevocational services.

(4) Support for members volunteering in for-profit organizations and businesses other than for-profit organizations, or businesses that have formal volunteer programs in place (e.g., hospitals, nursing homes), and support for members volunteering to benefit the service provider.

(5) The provision of vocational services delivered in facility-based settings where individuals are supervised for the primary purpose of producing goods or performing services or where services are aimed at teaching skills for specific types of jobs rather than general skills.

(6) A prevocational service plan with the goal or purpose of the service documented as maintaining or supporting the individual in continuing prevocational services or any employment situation similar to sheltered employment.

e. Limitations.

(1) Time limitation for members starting prevocational services. For members starting prevocational services after May 4, 2016, participation in these services is limited to 24 calendar months. This time limit can be extended to continue beyond 24 months if one or more of the following conditions apply:

1. The member who is in prevocational services is also working in either individual or small-group community employment for at least the number of hours per week desired by the member, as identified in the member's current service plan; or

2. The member who is in prevocational services is also working in either individual or small-group community employment for less than the number of hours per week the member desires, as identified in the member's current service plan, but the member has services documented in the member's current service plan, or through another identifiable funding source (e.g., Iowa vocational rehabilitation services (IVRS)), to increase the number of hours the member is working in either individual or small-group community employment; or

3. The member is actively engaged in seeking individual or small-group community employment or individual self-employment, and services for this are included in the member's current service plan or services funded through another identifiable funding source (e.g., IVRS) are documented in the member's service plan; or

4. The member has requested supported employment services from Medicaid and IVRS in the past 24 months, and the member's request has been denied or the member has been placed on a waiting list by both Medicaid and IVRS; or

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5. The member has been receiving individual supported employment services (or comparable services available through IVRS) for at least 18 months without obtaining individual or small-group community employment or individual self-employment; or

6. The member is participating in career exploration activities as described in subparagraph 78.27(9) "a"(1).

(2) Time limitation for members enrolled in prevocational services. For members enrolled in prevocational services on or before May 4, 2016, participation in these services is limited to 90 business days beyond the completion of the career exploration activity including the development of the career plan described in subparagraph 78.27(9) "a"(1). This time limit can be extended as stated in paragraphs 78.27(9) "e"(1) "1" through "6." If the criteria in paragraphs 78.27(9) "e"(1) "1" through "6" do not apply, the member will not be reauthorized to continue prevocational services.

ITEM 9. Rescind subrule 78.27(10) and adopt the following new subrule in lieu thereof:

78.27(10) Supported employment services.

a. *Individual supported employment.* Individual supported employment involves supports provided to, or on behalf of, the member that enable the member to obtain and maintain individual employment. Services are provided to members who need support because of their disabilities.

(1) Scope. Individual supported employment services are services provided to, or on behalf of, the member that enable the member to obtain and maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.

(2) Expected outcome of service. The expected outcome of this service is sustained employment, or self-employment, paid at or above the minimum wage or the customary wage and level of benefits paid by an employer, in an integrated setting in the general workforce, in a job that meets personal and career goals. Successful transition to long-term job coaching, if needed, is also an expected outcome of this service. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time.

(3) Setting. Individual supported employment services shall take place in integrated work settings. For self-employment, the member's home can be considered an integrated work setting. Employment in the service provider's organization (not including a sheltered workshop or similar type of work setting where members are paid for the production of goods or services) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where interactions are predominantly with coworkers or business associates who do not have disabilities or with the general public.

(4) Individual employment strategies include but are not limited to: customized employment, individual placement and support, and supported self-employment. Service activities are individualized and may include any combination of the following:

1. Benefits education.
2. Career exploration (e.g., tours, informational interviews, job shadows).
3. Employment assessment.
4. Assistive technology assessment.
5. Trial work experience.
6. Person-centered employment planning.
7. Development of visual/traditional résumés.
8. Job-seeking skills training and support.
9. Outreach to prospective employers on behalf of the member (e.g., job development; negotiation with prospective employers to customize, create or carve out a position for the member; employer needs analysis).
10. Job analysis (e.g., work site assessment or job accommodations evaluation).
11. Identifying and arranging transportation.
12. Career advancement services (e.g., assisting a member in making an upward career move or seeking promotion from an existing employer).
13. Reemployment services (if necessary due to job loss).

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14. Financial literacy and asset development.
 15. Other employment support services deemed necessary to enable the member to obtain employment.
 16. Systematic instruction and support during initial on-the-job training including initial on-the-job training to stabilization.
 17. Engagement of natural supports during initial period of employment.
 18. Implementation of assistive technology solutions during initial period of employment.
 19. Transportation of the member during service hours.
 20. Initial on-the-job training to stabilization activity.
- (5) Self-employment. Individual employment may also include support to establish a viable self-employment opportunity, including home-based self-employment. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time. In addition to the activities listed under subparagraph 78.27(10) "a"(4), assistance to establish self-employment may include:
1. Aid to the member in identifying potential business opportunities.
 2. Assistance in the development of a business plan, including identifying potential sources of business financing and other assistance in developing and launching a business.
 3. Identification of the long-term supports necessary for the individual to operate the business.
- b. Long-term job coaching.* Long-term job coaching is support provided to, or on behalf of, the member that enables the member to maintain an individual job in competitive employment, customized employment or self-employment in an integrated work setting in the general workforce.
- (1) Scope. Long-term job coaching services are provided to or on behalf of members who need support because of their disabilities and who are unlikely to maintain and advance in individual employment absent the provision of supports. Long-term job coaching services shall provide individualized and ongoing support contacts at intervals necessary to promote successful job retention and advancement.
- (2) Expected outcome of service. The expected outcome of this service is sustained employment paid at or above the minimum wage in an integrated setting in the general workforce, in a job that meets the member's personal and career goals. An expected outcome of supported self-employment is that the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time.
- (3) Setting. Long-term job coaching services shall take place in integrated work settings. For self-employment, the member's home can be considered an integrated work setting. Employment in the service provider's organization (not including a sheltered workshop or similar type of work setting) can be considered employment in an integrated work setting in the general workforce if the employment occurs in a work setting where interactions are predominantly with coworkers or business associates who do not have disabilities, or with the general public, and if the position would exist within the provider's organization were the provider not being paid to provide the job coaching to the member.
- (4) Service activities. Long-term job coaching services are designed to assist the member with learning and retaining individual employment, resulting in workplace integration, and which allows for the reduction of long-term job coaching over time. Services are individualized, and service plans are adjusted as support needs change and may include any combination of the following activities with or on behalf of the member:
1. Job analysis.
 2. Job training and systematic instruction.
 3. Training and support for use of assistive technology/adaptive aids.
 4. Engagement of natural supports.
 5. Transportation coordination.
 6. Job retention training and support.
 7. Benefits education and ongoing support.
 8. Supports for career advancement.
 9. Financial literacy and asset development.

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10. Employer consultation and support.
11. Negotiation with employer on behalf of the member (e.g., accommodations; employment conditions; access to natural supports; and wage and benefits).
12. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the job setting.
13. Transportation of the member during service hours.
14. Career exploration services leading to increased hours or career advancement.
- (5) Self-employment long-term job coaching. Self-employment long-term job coaching may include support to maintain a self-employment opportunity, including home-based self-employment. In addition to the activities listed under subparagraph 78.27(10)“b”(4), assistance to maintain self-employment may include:
 1. Ongoing identification of the supports necessary for the individual to operate the business;
 2. Ongoing assistance, counseling and guidance to maintain and grow the business; and
 3. Ongoing benefits education and support.
- (6) The hours of support for long-term job coaching are based on the identified needs of the member as documented in the member’s comprehensive service plan.
- c. *Small-group supported employment.* Small-group supported employment services are training and support activities provided in regular business or industry settings for groups of two to eight workers with disabilities. The outcome of this service is sustained paid employment experience, skill development, career exploration and planning leading to referral for services to obtain individual integrated employment or self-employment for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.
 - (1) Scope. Small-group supported employment services must be provided in a manner that promotes integration into the workplace and interaction between members and people without disabilities (e.g., customers, coworkers, natural supports) in those workplaces. Examples include but are not limited to mobile crews and other business-based workgroups employing small groups of workers with disabilities in employment in integrated business settings; and small-group activities focused on career exploration and development of strengths and skills that contribute to successful participation in individual community employment.
 - (2) Expected outcome of service. Small-group supported employment services are expected to enable the member to make reasonable and continued progress toward individual employment. Participation in small-group supported employment services is not a prerequisite for individual supported employment services. The expected outcome of the service is sustained paid employment and skill development which leads to individual employment in the community.
 - (3) Setting. Small-group supported employment services shall take place in integrated, community-based nonresidential settings separate from the member’s residence.
 - (4) Service activities. Small-group supported employment services may include any combination of the following activities:
 1. Employment assessment.
 2. Person-centered employment planning.
 3. Job placement (limited to service necessary to facilitate hire into individual employment paid at minimum wage or higher for a member in small-group supported employment who receives an otherwise unsolicited offer of a job from a business where the member has been working in a mobile crew or enclave).
 4. Job analysis.
 5. On-the-job training and systematic instruction.
 6. Job coaching.
 7. Transportation planning and training.
 8. Benefits education.
 9. Career exploration services leading to career advancement outcomes.

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10. Other workplace support services may include services not specifically related to job skill training that enable the waiver member to be successful in integrating into the individual or community setting.

11. Transportation of the member during service hours.

d. Service requirements for all supported employment services.

(1) Community transportation options (e.g., transportation provided by family, coworkers, carpools, volunteers, self or public transportation) shall be identified by the member's interdisciplinary team and utilized before the service provider provides the transportation to and from work for the member. If none of these options are available to a member, transportation between the member's place of residence and the employment or service location may be included as a component part of supported employment services.

(2) Personal care or personal assistance and protective oversight may be a component part of supported employment services, but may not comprise the entirety of the service.

(3) Activities performed on behalf of a member receiving long-term job coaching or individual or small-group supported employment shall not comprise the entirety of the service.

(4) Concurrent services. A member's individual service plan may include two or more types of nonresidential services (e.g., individual supported employment, long-term job coaching, small-group supported employment, prevocational services, and day habilitation); however, more than one service may not be billed during the same period of time (e.g., the same hour).

(5) Integration requirements. In the performance of job duties, the member shall have regular contact with other employees or members of the general public who do not have disabilities, unless the absence of regular contact with other employees or the general public is typical for the job as performed by persons without disabilities.

(6) Compensation. Members receiving these services are compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities. For supported self-employment, the member earns income that is equal to or exceeds the average income for the chosen business within a reasonable period of time. For small-group supported employment, if the member is not compensated at or above minimum wage, the compensation to the member shall be in accordance with all applicable state and federal labor laws and regulations.

e. Limitations. Supported employment services are limited as follows:

(1) Total monthly costs of supported employment may not exceed the monthly cap on the cost of waiver services set for the individual waiver program.

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed \$3,029.00 per month.

(3) Individual supported employment is limited to 240 units per calendar year.

(4) Long-term job coaching is limited in accordance with 441—subrule 79.1(2).

(5) Small-group supported employment is limited to 160 units per week.

f. Exclusions. Supported employment services payments shall not be made for the following:

(1) Services that are available to the individual under a program funded under Section 110 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.). Documentation that the service is not available to the individual under these programs shall be maintained in the service plan of each member receiving individual supported employment or long-term job coaching services.

(2) Incentive payments, not including payments for coworker supports, made to an employer to encourage or subsidize the employer's participation in a supported employment program.

(3) Subsidies or payments that are passed through to users of supported employment programs.

(4) Training that is not directly related to a member's supported employment program.

(5) Services involved in placing and stabilizing members in day activity programs, work activity programs, sheltered workshop programs or other similar types of vocational or prevocational services furnished in specialized facilities that are not a part of the general workplace.

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(6) Supports for placement and stabilization in volunteer positions or unpaid internships. Such volunteer learning and unpaid training activities that prepare a person for entry into the general workforce are addressed through prevocational services and career exploration activities.

(7) Tuition for education or vocational training.

(8) Individual advocacy that is not related to integrated individual employment participation or is not member-specific.

(9) Medicaid funds may not be used to defray the expenses associated with starting up or operating a business.

ITEM 10. Rescind subrule 78.41(7) and adopt the following **new** subrule in lieu thereof:

78.41(7) Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 11. Rescind subrule 78.41(13) and adopt the following **new** subrule in lieu thereof:

78.41(13) Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 12. Rescind subrule 78.43(4) and adopt the following **new** subrule in lieu thereof:

78.43(4) Supported employment services. Supported employment services are service activities provided pursuant to subrule 78.27(10).

ITEM 13. Rescind subrule 78.43(11) and adopt the following **new** subrule in lieu thereof:

78.43(11) Prevocational services. Prevocational services are service activities provided pursuant to subrule 78.27(9).

ITEM 14. Amend subrule **79.1(2)**, provider category “HCBS waiver services providers,” by rescinding paragraphs “19” and “23” and adopting the following **new** paragraphs in lieu thereof:

Provider category	Basis of reimbursement	Upper limit
19. Supported employment:		
Individual supported employment	Fee schedule	Fee schedule in effect May 4, 2016. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
Long-term job coaching	Fee schedule	Fee schedule in effect May 4, 2016. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
Small-group supported employment (2 to 8 individuals)	Fee schedule	Fee schedule in effect May 4, 2016. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.
23. Prevocational services, including career exploration	Fee schedule	Fee schedule in effect May 4, 2016.

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ITEM 15. Amend subrule **79.1(2)**, provider category “Home- and community-based habilitation services,” as follows:

Provider category	Basis of reimbursement	Upper limit
Home- and community-based habilitation services:		
1. to 3. No change.		
4. Prevocational habilitation <u>Career exploration</u>	See 79.1(24) “d” <u>Fee schedule</u>	Effective 7/1/13: \$13.47 per hour or \$48.22 per day. Fee schedule in effect May 4, 2016.
5. Supported employment:		
Activities to obtain a job:		
Job development	See 79.1(24) “d”	\$909 per unit (job placement). Maximum of two units per 12 months.
<u>Individual supported employment</u>	<u>Fee schedule</u>	<u>Fee schedule in effect May 4, 2016. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
Employer development	See 79.1(24) “d”	\$909 per unit (job placement). Maximum of two units per 12 months.
<u>Long-term job coaching</u>	<u>Fee schedule</u>	<u>Fee schedule in effect May 4, 2016. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
Enhanced job search	See 79.1(24) “d”	Effective 7/1/13: Maximum of \$8.75 per 15-minute unit and 104 units per 12 months.
<u>Small-group supported employment (2 to 8 individuals)</u>	<u>Fee schedule</u>	<u>Fee schedule in effect May 4, 2016. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,029.00 per month.</u>
Supports to maintain employment	See 79.1(24) “d”	Effective 7/1/13: \$1.55 per 15-minute unit for services in an enclave setting; \$4.95 per 15-minute unit for personal care; and \$8.75 per 15-minute unit for all other services. Total not to exceed \$2,883.71 per month. Maximum of 160 units per week.

ITEM 16. Amend subrule 79.1(15), introductory paragraph, as follows:

79.1(15) *HCBS retrospectively limited prospective rates.* This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; ~~HCBS supported employment enhanced job search activities~~; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency.

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ITEM 17. Rescind subparagraphs **79.1(24)“a”(4)** and **(5)**.

ITEM 18. Renumber subparagraph **79.1(24)“a”(6)** as **79.1(24)“a”(4)**.

ITEM 19. Amend **441—Chapter 83**, preamble, as follows:

Medicaid waiver services are services provided to maintain persons in their own homes or communities who would otherwise require care in a medical ~~institutions~~ institution, including support for persons to seek and maintain employment in the community. Provision of these services must be cost-effective. Services are limited to certain targeted client groups for whom a federal waiver has been requested and approved. Services provided through the waivers are not available to other Medicaid recipients as the services are beyond the scope of the Medicaid state plan.

ITEM 20. Amend subrule 83.61(1) as follows:

83.61(1) Eligibility criteria. All of the following criteria must be met. The person must:

a. to *f.* No change.

g. For individual supported employment and long-term job coaching services:

(1) Be at least 16 years of age.

~~(2) Rescinded IAB 7/1/98, effective 7/1/98.~~

~~(3) (2) Not be eligible for supported employment service funding under Public Law 94-142 or for the Rehabilitation Act of 1973. The services must not be available to the member through one of the following:~~

~~1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or~~

~~2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).~~

~~(4) (3) Not reside in a medical institution.~~

~~(4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.~~

h. For small-group supported employment services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

~~1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or~~

~~2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).~~

~~(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.~~

~~(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.~~

~~(5) Not reside in a medical institution.~~

i. For prevocational services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

~~1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or~~

~~2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).~~

~~(3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.~~

~~(4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.~~

~~(5) Not reside in a medical institution.~~

~~*h.* *j.* Choose HCBS intellectual disability waiver services rather than ICF/ID services.~~

~~*i.* *k.* To be eligible for interim medical monitoring and treatment services the consumer must be:~~

~~(1) Under the age of 21;~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Currently receiving home health agency services under rule 441—78.9(249A) and require medical assessment, medical monitoring, and regular medical intervention or intervention in a medical emergency during those services. (The home health aide services for which the consumer is eligible must be maximized before the consumer accesses interim medical monitoring and treatment.);

(3) Residing in the consumer's family home or foster family home; and

(4) In need of interim medical monitoring and treatment as ordered by a physician.

~~l.~~ l. Be assigned an HCBS intellectual disability payment slot pursuant to subrule 83.61(4).

~~k.~~ m. For residential-based supported community living services, meet all of the following additional criteria:

(1) Be less than 18 years of age.

(2) Be preapproved as appropriate for residential-based supported community living services by the bureau of long-term care. Requests for approval shall be submitted in writing to the DHS Bureau of Long-Term Care, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, and shall include the following:

1. Social history;

2. Case history that includes previous placements and service programs;

3. Medical history that includes major illnesses and current medications;

4. Current psychological evaluations and consultations;

5. Summary of all reasonable and appropriate service alternatives that have been tried or considered;

6. Any current court orders in effect regarding the child;

7. Any legal history;

8. Whether the child is at risk of out-of-home placement or the proposed placement would be less restrictive than the child's current placement for services;

9. Whether the proposed placement would be safe for the child and for other children living in that setting; and

10. Whether the interdisciplinary team is in agreement with the proposed placement.

(3) Either:

1. Be residing in an ICF/ID;

2. Be at risk of ICF/ID placement, as documented by an interdisciplinary team assessment pursuant to paragraph 83.61(2)“a”; or

3. Be a child whose long-term placement outside the home is necessary because continued stay in the home would be a detriment to the health and welfare of the child or the family, and all service options to keep the child in the home have been reviewed by an interdisciplinary team, as documented in the service file.

~~l.~~ n. For day habilitation, be 16 years of age or older.

~~m.~~ o. For the consumer choices option as set forth in 441—subrule 78.41(5)₂ not be living in a residential care facility.

ITEM 21. Adopt the following new paragraphs **83.82(1)“n”** to **“p”**:

n. For individual supported employment and long-term job coaching services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or

2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

(3) Not reside in a medical institution.

(4) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in this outcome.

o. For small-group supported employment services:

(1) Be at least 16 years of age.

(2) The services must not be available to the member through one of the following:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
- (3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment.
- (4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive small-group supported employment services was made.
- (5) Not reside in a medical institution.
- p.* For prevocational services:
 - (1) Be at least 16 years of age.
 - (2) The services must not be available to the member through one of the following:
 1. Special education and related services as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1401 et seq.); or
 2. A program funded under Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).
 - (3) Have documented in the waiver service plan a goal to achieve or to sustain individual employment and an expectation that this service will result in community employment.
 - (4) Have documented in the waiver service plan that the choice to receive individual supported employment services was offered and explained in a manner sufficient to ensure informed choice, after which the choice to receive prevocational services was made.

[Filed 3/9/16, effective 5/4/16]

[Published 3/30/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2472C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The Department and the Hospital Licensing Board reviewed Chapter 51 and determined certain changes were necessary to update outdated references and otherwise update the chapter.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

The Hospital Licensing Board reviewed and approved the proposed amendments at its September 9, 2015, meeting. The State Board of Health initially reviewed the proposed amendments at its November 12, 2015, meeting and approved them at its March 9, 2016, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 9, 2015, as **ARC 2302C**. The Department received no comments during the comment period. However, one change has been made from the Notice at the request of a member of the Administrative Rules Review Committee. In Item 8, the word "creed" has been retained as it was felt the word encompassed not only a religious belief but also included a duty to service.

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

These amendments are intended to implement Iowa Code sections 135B.7 and 135B.34.

These amendments shall become effective May 4, 2016.

The following amendments are adopted.

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

ITEM 1. Rescind the definitions of “Person” and “Registered nurse” in rule **481—51.1(135B)**.

ITEM 2. Amend subrule 51.2(4) as follows:

51.2(4) Posting of license. The license shall be conspicuously posted on the main premises of the hospital.

ITEM 3. Amend subrule 51.2(5) as follows:

51.2(5) The department shall recognize, in lieu of its own licensure inspection, the comparable inspections and inspection findings of The Joint Commission (~~JC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), or the Center for Improvement in Healthcare Quality (CIHQ) if the department is provided with copies of all requested materials relating to the inspection process. In cases of the initial licensure, the department may require its own inspection when needed in addition to comparable accreditations to allow the hospital to begin operations. The department may also initiate its own inspection when it is determined that the inspection findings of ~~the JC~~ TJC, AOA, DNV GL, or CIHQ are insufficient to address concerns identified as possible licensure issues.

ITEM 4. Amend subrule 51.2(6) as follows:

51.2(6) Hospitals not accredited by ~~the JC~~ TJC, AOA, DNV GL, or CIHQ shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F, ~~as of October 1, 2006~~. Licensed-only hospitals shall be inspected utilizing the requirements of this chapter. The department may promulgate additional standards. The department may recognize, in lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey.

ITEM 5. Amend rule 481—51.3(135B) as follows:

481—51.3(135B) Quality improvement program.

51.3(1) There shall be an ongoing hospitalwide quality improvement program. This program is to be designed to improve, as needed, the quality of patient care by:

- ~~1. a.~~ Assessing clinical patient care;
- ~~2. b.~~ Assessing nonclinical and patient-related services within the hospital;
- ~~3. c.~~ Developing remedial action as needed; and
- ~~4. d.~~ Ongoing monitoring and evaluating of the progress of remedial action taken.

~~51.3(1)~~ **51.3(2)** The governing body shall ensure there is an effective hospitalwide patient-oriented quality improvement program.

~~51.3(2)~~ **51.3(3)** The quality improvement program shall involve active participation of physician members of the hospital’s medical staff and other health care professionals, as appropriate. Evidence of this participation will include ongoing case review and assessment of other patient care problems which have been identified through the quality improvement process.

~~51.3(3)~~ **51.3(4)** ~~There shall be a written plan for the quality improvement program that:~~ The quality improvement plan may include external, state, local, federal, and regional benchmarking activities designed to improve the quality of patient care. The quality improvement plan shall be written and may address the following:

- ~~a. Describes the~~ The program’s objectives, organization, scope, and mechanisms for overseeing the effectiveness of monitoring, evaluation, and problem-solving activities;
- ~~b. Ensures~~ The participation from all departments, services (including services provided both directly and under contract), and disciplines;
- ~~c. Provides for An~~ An assessment of participation through a quality improvement committee meeting on an established periodic basis;
- ~~d. Provides for~~ The coordination of quality improvement activities;
- ~~e. Ensures~~ The communication, reporting and documentation of all quality improvement activities on a regular basis to the governing board, the medical staff, and the hospital administrator;

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

~~f. Provides for an~~ An annual evaluation by the governing board of the effectiveness of the quality improvement program; and

~~g. Addresses~~ The accessibility and confidentiality of materials relating to, generated by or part of the quality improvement process.

This rule is intended to implement Iowa Code chapter 135B.

ITEM 6. Amend subrule 51.5(3) as follows:

51.5(3) A hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths or osteopathic surgeons, dentists, certified health service providers in psychology, physician assistants, ~~or~~ advanced registered nurse practitioners or pharmacists licensed under Iowa Code chapter 147, 148, 148C, 149, 150, 150A, 152, or 153, or 155 or section 154B.7 solely by reason of the license held by the practitioner or solely by reasons of the school or institution in which the practitioner received ~~medical schooling~~ health care education or postgraduate training if the ~~medical schooling~~ health care education or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States Department of Education.

ITEM 7. Amend rule 481—51.6(135B), introductory paragraph, as follows:

481—51.6(135B) Patient rights and responsibilities. The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities. In developing a statement of principles, the hospital may use reference statements of patient rights and responsibilities developed by the American Hospital Association, The Joint Commission (~~HC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), the Center for Improvement in Healthcare Quality (CIHQ), and other appropriate sources.

ITEM 8. Amend paragraph **51.6(2)“a”** as follows:

a. Access to treatment regardless of age, race, creed, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, national origin, sexual orientation, gender identity or expression, diagnosis, or source of payment for care;

ITEM 9. Rescind subrule 51.7(1) and adopt the following **new** subrule in lieu thereof:

51.7(1) Definitions.

“*Abuse*” means the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain or mental anguish. Neglect is a form of abuse and is defined as the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

“*Child abuse*” means the same as provided for in Iowa Code section 232.68.

“*Dependent adult abuse*” means the same as provided for in Iowa Code section 235E.1.

“*Domestic abuse,*” as defined in Iowa Code section 236.2, means the commission of assault under any of the following circumstances:

1. The assault is between family or household members who resided together at the time of the assault;
2. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault;
3. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time; or
4. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.

“*Elder abuse*” means the same as provided for in Iowa Code section 235F.1.

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“Family or household members,” as defined in Iowa Code section 236.2, are spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity, except children under the age of 18.

ITEM 10. Amend subrule 51.7(2), introductory paragraph, as follows:

51.7(2) *Abuse prohibited.* Each patient shall receive kind and considerate care at all times and shall be free from ~~mental, physical, and sexual~~ all forms of abuse or harassment.

ITEM 11. Amend subrule 51.7(3), introductory paragraph, as follows:

51.7(3) *Domestic Hospital response to domestic abuse.* Each hospital shall establish and implement protocols with respect to victims of domestic abuse.

ITEM 12. Renumber subrule **51.7(4)** as **51.7(5)**.

ITEM 13. Adopt the following new subrule 51.7(4):

51.7(4) *Hospital response to elder abuse.* Each hospital shall establish and implement protocols with respect to victims of elder abuse.

a. The policies and procedures shall at a minimum provide for:

- (1) An interview with the victim in a place that ensures privacy;
- (2) Confidentiality of the person’s treatment and information; and
- (3) Education of appropriate emergency department staff to assist in the identification of victims of elder abuse.

b. The treatment records of victims of elder abuse shall include:

- (1) An assessment of the extent of abuse to the victim specifically describing the location and extent of the injury and reported pain;
- (2) A record of the treatment and intervention by health care provider personnel;
- (3) A record of the need for follow-up care and specification of the follow-up care to be given (e.g., X-rays, surgery, consultation, similar care); and
- (4) The victim’s statement of how the injury occurred.

ITEM 14. Amend renumbered subrule 51.7(5) as follows:

51.7(5) *Child Mandatory reporting of child abuse and dependent adult abuse.* Each hospital shall ensure that written policies and procedures cover all requirements for the mandatory reporting of abuse pursuant to the Iowa Code. Each hospital shall provide that the treatment records of victims of child abuse or dependent adult abuse include a statement that the department of human services’ protective services was contacted.

ITEM 15. Amend rule 481—51.8(135B) as follows:

481—51.8(135B) Organ, and tissue and eye —requests and procurement.

51.8(1) Each hospital licensed in accordance with Iowa Code chapter 135B shall have in place written policies and protocols for organ, and tissue and eye donation. ~~Hospital policies and protocols for organ and tissue donation shall require that the patient, or appropriate person able to consent on behalf of the patient, be made aware of the option to donate as well as the option to refuse donation and the ability, if any, to revoke consent once given.~~

a. Hospitals shall be familiar with the revised uniform anatomical gift law Act, Iowa Code chapter 142C, and shall develop policies and protocols for consent to organ, and tissue and eye donation by either the patient or an appropriate person to consent on the patient’s behalf consistent with that law’s Act’s provisions. Hospitals shall ensure that the specific organ, tissue and eye procurement requirements are met, as provided in 42 CFR 482.45 or 42 CFR 485.643.

b. ~~Hospital policies and protocols for organ and tissue donation shall set forth the responsibilities of the attending physician or physicians, nursing staff, and other appropriate hospital staff persons in the organ and tissue donation process. At a minimum, the policies shall set forth who in particular is authorized to make an organ or tissue donor request and that all such requests shall be made only in accordance with clearly delineated written protocol approved by the hospital’s medical staff and governing board.~~

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~~c.—Hospital policies and protocols for organ and tissue donation shall provide that the attending physician inform appropriate family members or others of impending death or that death has occurred prior to an organ or tissue donor request.~~

~~d.—Hospital policies and protocols for organ and tissue donation shall set forth those situations in which donation shall not be made including, but not necessarily limited to, the following:~~

~~(1) Where the patient is not medically suitable, as determined by the organ or tissue procurement organization;~~

~~(2) Where the hospital lacks the appropriate facilities or equipment for maintaining the patient or the organs for the time and in the manner necessary to facilitate appropriate procurement of the organ(s);~~

~~(3) Where the medical examiner has refused to release the body, except a donor request may be made where the medical examiner indicates that the body will be available at a time where the patient remains medically suitable for organ or tissue donation;~~

~~(4) Where the hospital has appropriate documentation that the patient or the appropriate person to consent on behalf of the patient does not want to consider the donation option;~~

~~(5) Rescinded IAB 8/6/03, effective 9/10/03.~~

~~e.—Hospital policies and protocols for organ and tissue donation shall require documentation in the patient's medical record of the fact that a donor request was made and either accepted or refused, stating to whom the request was made and who accepted or refused; or that a donor request was not made, stating the reason why no request was made; or that a consent previously given was subsequently revoked.~~

~~f.—Method and manner of consent, where consent to organ or tissue donation has been given, shall be noted in the patient's medical record. Where revocation of consent, if applicable, occurs, the manner and method of revocation shall also be noted in the patient's medical record.~~

~~g.—Where the patient has validly executed a donation prior to death, attempt will be made to notify appropriate family members, if reasonably available, of the donation before the procurement process begins.~~

~~h.—Hospital policies and protocols for organ and tissue donation shall provide for ongoing communication with the patient's family or other appropriate representatives regarding the donation process, the present status of that process and unexpected delays in the process, and family rights and responsibilities following organ or tissue donation.~~

51.8(2) Determination of death.

~~a.—No organ or tissue shall be removed from a donor until death has been determined according to the requirements of Iowa law and generally acceptable standards of medical practice.~~

~~b.—Death is defined by Iowa Code section 702.8 as a condition determined by the following standards:~~

~~A person will be considered dead if in the announced opinion of a physician licensed pursuant to Iowa Code chapter 148, 150, or 150A, a physician assistant licensed pursuant to Iowa Code chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to Iowa Code chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.~~

~~c.—The surgeon performing the organ removal shall not participate in the determination of brain death.~~

~~d.—The patient's medical record shall include documentation of the date and time of death and identification of the practitioner or practitioners who determined death, as provided in 51.8(2) "b."~~

51.8(3) Determination of medical suitability.

~~a.—At or near the time of the patient's death or when death has occurred, no organ and tissue donor request shall be made until the patient has been determined by the designated organ or tissue procurement organization to be medically suitable for organ or tissue donation.~~

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~~b. Each hospital shall consult with a recognized organ and tissue procurement program or programs in establishing medical requirements for organ and tissue donation and in evaluating a particular patient's suitability for donation. Where required by federal law, hospitals shall work only with organ or tissue procurement organizations designated by the Department of Health and Human Services (DHHS). Organ and tissue procurement programs maintain guidelines for determining medical suitability and generally will provide a hospital with a copy of those guidelines which may be incorporated into the hospital's own policies and protocol for organ and tissue donation.~~

51.8(4) Organ and tissue procurement.

~~a. Hospital policies and protocol for organ and tissue donation shall set forth the process to be used for contacting an organ procurement organization (OPO).~~

~~b. Hospitals with an agreement with the designated OPO shall take into account the terms and conditions of the agreement in developing their policies and protocols. Hospitals shall contact only the OPO designated by the federal Department of Health and Human Services.~~

~~c. Generally an OPO will assume the costs of procuring medically suitable organs and tissues, including costs borne by the donating hospital in maintaining the patient until organ retrieval can occur as well as in the retrieval process itself. A hospital shall be familiar with its financial obligations, if any, in the procurement process and with cost accounting/reporting responsibilities it bears, if any, under Medicare and Medicaid. In situations, if any, where the patient or the patient's family may be liable for certain costs associated with organ donation or procurement, the patient or person able to consent for the patient shall be fully informed of the potential financial obligations at the time of request and before consent is either given or refused.~~

~~d. When an organ or tissue is retrieved for transplantation purposes, the hospital shall ensure that the medical records of the donor and, if applicable, the recipient fulfill the requirements for any surgical inpatient medical record. Medical record documentation shall include the method of maintenance of the patient while awaiting organ or tissue retrieval and operative report documentation (including an autopsy if an autopsy has been performed) regarding the removal of the organ or tissue.~~

~~e. The procurement process shall not occur until necessary consent by the patient or appropriate person to consent on behalf of the patient is received and documented. Also, in cases requiring the involvement of the medical examiner, release of the body must be authorized by the medical examiner and documented.~~

~~f. Where a donor specifies to whom the organ or tissue donation is to be made, the hospital shall first contact the named donee to determine whether the donee accepts the donation. Where the donee refuses the donation or is unable for other reasons to accept, then the hospital shall document in the medical record the fact that the donation was not accepted. The hospital shall then notify the appropriate consenting party that the donation was not accepted and determine whether the consenting party desires to make further donation. A hospital shall make good faith effort to cooperate in the donation/procurement process where a specific donee has been named but shall not be required to participate in the donation process where procurement for a specific donee would result in undue burden or unreasonable cost to the hospital; in such situations, the hospital shall notify the appropriate consenting party and determine whether the consenting party desires to make further donation.~~

~~g. Where consent has been given for organ or tissue donation, revocation of prior consent, if applicable, shall not be effective once surgical procedures have begun on either the donor or the recipient.~~

51.8(5) Informed consent. Hospital policies and protocols for organ and tissue donation shall be consistent with informed consent provisions provided by the organ or tissue procurement organization.

51.8(6) Confidentiality. Hospital policies and protocols for organ and tissue donation shall provide that donor and recipient patient-identifying information shall be kept confidential except and only to the extent necessary to assist and complete the procurement and transplant process.

51.8(7) Training of hospital personnel. Hospital policies and protocols for organ and tissue donation shall include provisions for initial and ongoing training of hospital medical, nursing, and other appropriate staff persons regarding the various aspects of the organ and tissue donation and procurement process. The type and extent of training will vary from hospital to hospital, based on factors such as likelihood of medically suitable donors, capabilities for maintaining organ donors/patients, referral

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~~sources for potential organ and tissue donor candidates, and overall participation in organ and tissue procurement and transplants.~~

This rule is intended to implement Iowa Code section 135B.7.

ITEM 16. Amend subrule 51.9(2) as follows:

51.9(2) Registered ~~nurse(s)~~ nurses shall utilize the nursing process in the ~~provision~~ practice of nursing ~~care to each patient,~~ consistent with accepted and prevailing practice. The nursing process is ongoing and includes:

a. Nursing ~~assessment~~ assessments about the health status of the patient, analysis of the data, and formation of a nursing diagnosis; an individual or group.

b. Formulation of a nursing diagnosis based on analysis of the data from the nursing assessment.

~~b. c.~~ Planning of nursing care, which includes determining goals and priorities for actions which that are based on the nursing diagnosis;

~~c. d.~~ Nursing interventions implementing the plan of care;

~~d. e.~~ Evaluation of ~~patient~~ the individual's or group's status in relation to established goals and the plan of care.

ITEM 17. Amend subrule 51.9(4) as follows:

51.9(4) All nurses employed in a hospital who practice nursing as a registered nurse or licensed practical nurse shall ~~be licensed in Iowa~~ hold an active Iowa license or hold an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

ITEM 18. Amend subrule 51.9(5) as follows:

51.9(5) There shall be a director of nursing service with administrative and executive competency who shall ~~be a registered nurse licensed in the state of Iowa~~ hold an active Iowa license or hold an active license in another state and be recognized for licensure in this state pursuant to the nurse licensure compact in Iowa Code section 152E.1.

ITEM 19. Amend subrule 51.9(6) as follows:

51.9(6) ~~Supervisors and head nurses~~ Nursing management shall have had preparation courses and experience in accordance with hospital policy commensurate with the responsibility of the specific assignment.

ITEM 20. Amend subrule 51.9(7) as follows:

51.9(7) All ~~nonprofessional workers~~ unlicensed personnel performing patient-care service shall be under the supervision of a registered nurse. ~~Their~~ The duties of unlicensed personnel shall be defined in writing by the hospital, ~~and they~~ unlicensed personnel shall be instructed in all duties assigned to them.

ITEM 21. Amend subrule 51.12(1) as follows:

51.12(1) *Medical records.* Accurate and complete medical records shall be ~~written~~ maintained for all patients and signed by the ~~attending physician~~ appropriate provider. These records shall be filed and stored in an accessible manner ~~in the hospital~~ and in accordance with the statute of limitations as specified in Iowa Code chapter 614.

ITEM 22. Rescind subrule 51.12(3) and adopt the following **new** subrule in lieu thereof:

51.12(3) *Electronic records.* In addition to the access provided in 481—subrule 50.10(2), an authorized representative of the department shall be provided unrestricted access to electronic records pertaining to the care provided to the patients of the hospital.

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

b. The hospital shall provide a terminal where the authorized representative may access records.

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

ITEM 23. Amend subrule 51.14(1) as follows:

51.14(1) General requirements. Hospital pharmaceutical services shall be licensed in accordance with Iowa board of pharmacy ~~examiners~~ rules in 657—~~Chapter~~ Chapters 7, 8, 9, 10, 11, 20, 21, 22 and 40.

ITEM 24. Amend subrule 51.14(3) as follows:

51.14(3) Medication orders. All verbal orders must be authenticated ~~in writing and signed by signature or other secure electronic method by~~ the prescribing practitioner within a period not to exceed 30 days following a patient's discharge.

When ~~telephone, oral~~ verbal or electronic mechanisms are used to transmit medication orders, they must be accepted only by personnel that are authorized to do so by hospital policies and procedures in a manner consistent with federal and state law.

ITEM 25. Amend paragraph **51.14(4)“a”** as follows:

a. Specify the ~~circumstances~~ clinical situations under which the drug is to be administered;

ITEM 26. Amend paragraph **51.14(4)“c”** as follows:

c. Be reviewed and revised by the ~~prescribing practitioner~~ medical staff and the hospital's nursing and pharmacy leadership on a regular basis as specified by hospital policies and procedures;

ITEM 27. Amend paragraph **51.14(4)“e”** as follows:

e. Be dated, ~~signed~~ authorized by signature or other secure electronic method by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record.

ITEM 28. Adopt the following new rule 481—51.15(135B):

481—51.15(135B) Orders other than medication. All verbal orders must be authenticated by the ordering practitioner within a period not to exceed 30 days following a patient's discharge. When verbal or electronic mechanisms are used to transmit orders, the orders must be accepted only by personnel who are authorized to accept them by hospital policies and procedures in a manner consistent with federal and state law.

ITEM 29. Amend paragraph **51.20(2)“a”** as follows:

a. All food shall be handled, prepared, served, and stored in compliance with the requirements of the ~~2005 Food and Drug Administration Food Code with Supplement~~ adopted under provisions of Iowa Code section 137F.2.

ITEM 30. Amend paragraph **51.20(2)“c”** as follows:

c. Policies and procedures shall be developed and maintained ~~in consultation with representatives of the medical staff, nursing staff, food and nutrition service staff, pharmacy staff, and administration to govern the provision of food and nutrition services.~~ Policies and procedures shall be approved by the medical staff, administration, and governing body.

ITEM 31. Amend paragraph **51.20(2)“e”** as follows:

e. Therapeutic diets shall be provided as ~~prescribed~~ ordered by the qualified health care practitioner, including a registered, licensed dietitian, and shall be planned, prepared, and served with supervision or consultation from the registered, licensed dietitian. Persons responsible for therapeutic diets shall have sufficient knowledge of food to make appropriate substitutions when necessary.

ITEM 32. Amend paragraph **51.20(2)“f”** as follows:

f. The patient's ~~diet card shall state~~ likes, dislikes, food allergies, and other pertinent information shall be included with the patient's diet information.

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ITEM 33. Amend subparagraph **51.20(2)“g”(1)** as follows:

(1) Menus for regular and therapeutic diets shall be ~~written, approved, dated and~~ nutritionally appropriate, meet the needs of patients, and be available in the food service area at least one week in advance.

ITEM 34. Amend rule 481—51.22(135B) as follows:

481—51.22(135B) Equipment for patient care. Hospital equipment shall be selected, maintained and utilized in accordance with the manufacturer's specifications and the needs of the patients.

~~51.22(1) Furnishings, supplies and equipment. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(2) Hot water bags. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(3) Restraints. Rescinded IAB 3/30/94, effective 5/4/94. See rule 51.7(135B).~~

~~51.22(4) Signals. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(5) Screens. Rescinded IAB 12/1/99, effective 1/5/00.~~

~~51.22(6) Storage space. Rescinded IAB 12/1/99, effective 1/5/00.~~

ITEM 35. Amend rule 481—51.24(135B), introductory paragraph, as follows:

481—51.24(135B) Infection control. There shall be proper policies and procedures for the prevention and control of communicable diseases. The hospital shall provide for compliance with the current rules for the control of communicable disease as provided by the state Iowa department of public health in 641—Chapter 1, 1987 and 1988 current Centers for Disease Control and Prevention (CDC) guidelines on universal precautions and 1985 CDC guidelines for hand washing for isolation precautions.

ITEM 36. Amend paragraph **51.24(1)“b”** as follows:

b. Segregation of communicable cases shall include policies for ~~the medical, nursing and lay staffs~~ staff, providing for proper isolation technique in order to prevent cross-infection.

ITEM 37. Amend subrule 51.24(2) as follows:

51.24(2) Visitors. ~~The governing authority of the hospital shall establish proper policies and procedures for the control of visitors to all services in the hospital in accordance with hospital practice. In the maternity area, each hospital should develop its own criteria, control measures, and protocols to ensure against introduction of infection in this critical area. These criteria should be reviewed and approved by the committee of the hospital.~~

ITEM 38. Amend subrule 51.24(3) as follows:

51.24(3) Health examinations assessments. Health examinations assessments for all contracted or employed personnel who provide direct services shall be required at the commencement of employment and thereafter at least every four years.

a. “Direct services” means services provided through person-to-person contact. “Direct services” excludes services provided by individuals such as building contractors, repair workers, or others who are in the hospital for a very limited purpose, who are not in the hospital on a regular basis, and who do not provide any treatment or services for the patients of the hospital.

b. The health assessment may be performed by the person's primary care provider.

c. ~~The examination health assessment shall include, at a minimum, the health status of the employee vital signs and an assessment for infectious or communicable diseases. Consideration shall be given to requiring health examinations at shorter intervals for those employees working in high-risk areas.~~

d. Screening and testing for tuberculosis shall be conducted pursuant to 481—Chapter 59.

ITEM 39. Amend subrule 51.26(1) as follows:

51.26(1) Written policies and procedures shall be implemented governing surgical services that are consistent with the needs of the patient and the resources of the hospital.

a. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:

~~a.~~ (1) Surgical services under the direction of a qualified doctor of medicine or osteopathy.

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~~b.~~ (2) Delineation of the privileges and qualifications of individuals authorized to provide surgical services as set forth in the hospital's medical staff bylaws and in accordance with subrule 51.5(4). The surgical service must maintain a roster of these individuals specifying the surgical privileges of each. Surgical privileges shall be reviewed and updated at least once every two years.

~~c.~~ (3) Immediate availability of at least one registered nurse for the operating room suites to respond to emergencies.

~~d.~~ (4) The qualifications and job descriptions of nursing personnel, surgical technicians, and other support personnel and continuing education required.

~~e.~~ (5) Appropriate staffing for surgical services including physician and anesthesia coverage and other support personnel.

~~f.~~ (6) Availability of ancillary services for surgical patients including, but not limited to: blood banking, laboratory, radiology, and anesthesia.

~~g.~~ (7) Infection control and disease prevention, including aseptic surveillance and practice, identification of infected and noninfected cases, sterilization and disinfection procedures, and ongoing monitoring of infections and infection rates.

~~h.~~ (8) Housekeeping requirements.

~~i.~~ (9) Safety practices.

~~j.~~ (10) Ongoing quality assessment, performance improvement, and process improvement.

~~k.~~ (11) Provisions for the pathological examination of tissue specimens either directly or through contractual arrangements.

~~l.~~ (12) Appropriate preoperative teaching and discharge planning.

~~b.~~ ~~Reference sources to guide hospitals~~ Hospitals may consider the most recent edition of the following publications in the development of policies and procedures ~~are~~: "Statement of Principles," ~~March 1994 Edition~~, American College of Surgeons; and "Standards and Recommended Practices," ~~1995 Edition~~, Association of Operating Room Nurses.

ITEM 40. Amend subrule 51.26(4) as follows:

51.26(4) ~~An A full~~ operative report must be written or dictated ~~promptly~~ within 24 hours following surgery and signed by the individual conducting the surgery.

ITEM 41. Amend subrule 51.28(2) as follows:

51.28(2) Policies and procedures may be adjusted as appropriate to reflect provision of anesthesia services in inpatient, or outpatient, ~~or one-day surgery~~ settings.

ITEM 42. Amend rule 481—51.30(135B) as follows:

481—51.30(135B) Emergency services.

51.30(1) All hospitals shall provide for emergency service which offers reasonable care within the medical capabilities of the facility in determining whether an emergency exists, renders care appropriate to the facility and at a minimum renders lifesaving first aid and makes appropriate referral to a facility that is capable of providing needed services.

~~51.30(1)~~ **51.30(2)** The hospital ~~has~~ shall have written policies and procedures specifying the scope and conduct of patient care to be provided in the emergency service. The policies shall:

a. ~~The policies specify~~ Specify the mechanism for providing physician coverage at all times as ~~defined by the medical staff bylaws.~~

b. ~~The policies provide~~ Provide for a ~~planned, formal training program~~ required of all personnel providing patient care in the emergency service. ~~This program shall cover emergency care for patients of all ages.~~

c. ~~The policies require~~ Require that a medical record be kept on every patient given treatment in the emergency service and establish the medical record documentation. The documentation should include, at a minimum, appropriate information regarding the medical screening provided, except where the person refuses, then notation of patient refusal; physician documentation of the presence or absence of an emergency medical condition or active labor; physician documentation of transfer or discharge,

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stating the basis for transfer or discharge; and where transfer occurs, identity of the facility of transfer, acceptance of the patient by the facility of transfer, and means of transfer of the patient.

~~d. The policies and procedures are reviewed and approved annually by the governing board.~~

~~51.30(2) Hospital policies and procedures shall be developed in accordance with the hospital's medical, technological, personnel and equipment capabilities.~~

ITEM 43. Amend subrule 51.32(1) as follows:

~~51.32(1) All general or specialized hospitals providing for the obstetrical care of maternity patients shall be properly organized and equipped to provide accommodations for mothers and newborn infants. The supervision of the maternity area shall be under the direction of a qualified registered nurse, and there shall be accommodations for the isolation of infected cases.~~

ITEM 44. Amend subrule 51.32(2) as follows:

~~51.32(2) Written policies and procedures shall be implemented governing obstetric and neonatal services that are consistent with the needs of the patient and resources of the hospital.~~

~~a. Policies and procedures shall be developed in consultation with and with the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:~~

~~a. (1) Obstetric and neonatal services under the direction of a qualified doctor of medicine or osteopathy.~~

~~b. (2) Delineation of the privileges and qualifications of individuals authorized to provide obstetrical/gynecological service as set out in the hospital's medical staff bylaws.~~

~~c. (3) The qualifications of nursing personnel and continuing education required.~~

~~d. (4) Adequate staffing for obstetrical and newborn services.~~

~~e. (5) Location and arrangement of obstetric and newborn services.~~

~~f. (6) Infection control and disease prevention.~~

~~g. (7) Ongoing quality assessment.~~

~~b. Reference sources to guide hospitals~~ Hospitals may consider the most recent edition of the following publications in the development of policies and procedures ~~are:~~ 641—Chapter 150, Iowa Regionalized System of Perinatal Health Care, Iowa Administrative Code, and Guidelines for Perinatal Care, ~~Fourth Edition,~~ American Academy of Pediatrics, American College of Obstetrics and Gynecology.

ITEM 45. Amend rule 481—51.34(135B) as follows:

481—51.34(135B) Pediatric services.

~~51.34(1) All general or specialized hospitals providing pediatric care shall be properly organized and equipped to provide appropriate accommodations for children. The supervision of the pediatric area shall be under the direction of a qualified registered nurse.~~

~~51.34(2) Written policies and procedures shall be implemented governing pediatric services that are consistent with the needs of the child and resources of the hospital.~~

~~a. Policies and procedures shall be developed in consultation with and the approval of the hospital's medical staff. At a minimum, the policies and procedures shall provide for:~~

~~a. (1) Pediatric services under the medical direction of a qualified doctor of medicine or osteopathy.~~

~~b. (2) Delineation of the privileges and qualifications of individuals authorized to provide pediatric services as set out in the hospital's medical staff bylaws.~~

~~c. (3) The qualifications of nursing personnel and continuing education required, including care in the event of emergency situations.~~

~~d. (4) Adequate staffing and equipment for pediatric services including ancillary services. Staff participating in the care of pediatric patients shall have an interest in pediatrics and shall have specialized education appropriate to their profession for the care of pediatric patients.~~

~~e. (5) Ancillary services for pediatric patients shall be available and include, but not be limited to, pharmaceutical care, laboratory services, respiratory therapy, physical therapy and speech therapy.~~

~~f. (6) Ongoing quality assessment.~~

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~~g. (7)~~ Written protocol for transfer of pediatric patients in the event the hospital does not have capability to provide care for these patients.

~~b. Reference sources to guide hospitals~~ Hospitals may consider the most recent editions of the following publications in the development of policies and procedures: ~~are the~~ American Academy of Pediatrics' 1994 Policy Reference Guide and policy statements which are published on a monthly basis in "Pediatrics" and the "Pediatric & Neonatal Dosage Handbook," ~~Third Edition,~~ American Pharmaceutical Pharmacists Association.

~~51.34(3)~~ There shall be proper facilities and procedures for the isolation of pediatric patients with communicable diseases.

ITEM 46. Amend subrule 51.36(1), introductory paragraph, as follows:

51.36(1) Any ~~institution~~ hospital operating as a psychiatric hospital or operating a ~~designated~~ psychiatric unit shall:

ITEM 47. Amend paragraph **51.36(2)"a"** as follows:

a. Director of inpatient psychiatric services. The director of inpatient psychiatric services shall be a doctor of medicine or osteopathy qualified to meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. The number and qualifications of doctors of medicine, ~~or~~ doctors of osteopathy or advanced registered nurse practitioners certified in psychiatric or mental health nursing on staff must be adequate to provide essential psychiatric and medical services.

ITEM 48. Amend paragraph **51.36(2)"b"** as follows:

b. Director of psychiatric nursing services. The director of psychiatric nursing services shall:

(1) Be a registered nurse who has a master's degree in psychiatric or mental health nursing; ~~or~~

(2) Be an advanced registered nurse practitioner certified in psychiatric or mental health nursing;

or

~~(2)~~ (3) Be qualified by education and two years' experience in the care of persons with mental disorders.

ITEM 49. Amend paragraph **51.36(3)"f"** as follows:

f. Be reviewed as needed ~~or at least every 30 days~~ by the interdisciplinary team for the continued appropriateness of the plan and for a determination of needed changes.

ITEM 50. Rescind and reserve rule **481—51.40(135B)**.

ITEM 51. Amend subrule **51.41(1)**, definition of "Employee," as follows:

"Employee" means any individual who is paid, either by the hospital or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors) to provide direct or indirect services to patients of a hospital.

ITEM 52. Amend subrule 51.53(5) as follows:

51.53(5) The hospital shall meet the Medicare conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, ~~as of October 1, 2004.~~

ITEM 53. Amend subrule 51.53(7) as follows:

51.53(7) The department shall recognize, in lieu of its own inspection, the comparable inspections and inspections findings of The Joint Commission (~~JC~~) (TJC), the American Osteopathic Association (AOA), ~~Det Norske Veritas (DNV)~~ DNV GL – Healthcare (DNV GL), or the Center for Improvement in Healthcare Quality (CIHQ) if the department is provided with copies of all requested materials relating to the inspections and the inspection process.

[Filed 3/9/16, effective 5/4/16]

[Published 3/30/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2474C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board of the Department of Public Health hereby amends Chapter 25, “State Plumbing Code,” Iowa Administrative Code.

The amendments update the state plumbing code from the 2012 edition of the Uniform Plumbing Code (UPC) to the 2015 edition of the Uniform Plumbing Code. The Plumbing and Mechanical Systems Board adopts all existing amendments to the Uniform Plumbing Code as well as adopts additional amendments to the 2015 UPC.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2317C** on December 23, 2015. A public hearing was held on January 12, 2016. No one attended the hearing. One written comment was received pointing out an additional reference to the International Building Code that needed to be updated from the 2012 edition to the 2015 edition.

Minor changes have been made from the amendments that were published under Notice of Intended Action. In Item 1, the copyright statement for the International Plumbing Code (IPC) has been modified in accordance with the IPC publication permission guidelines. In Item 5, the word “pipe” has been added after the word “waste” in paragraph 25.4(3)“b” for clarification. In relettered paragraph 25.4(3)“h” in Item 7, the reference to the International Building Code has been updated from the 2012 version to the 2015 version. In Item 8, the table for minimum number of required plumbing fixtures has been updated to match the 2015 version of Table 403.1 from the International Plumbing Code. The only substantive change to the table is in the lettered table endnotes. In Item 9, references to the International Plumbing Code have been updated.

These rules are subject to waiver under the Board’s general waiver provisions contained in 641—Chapter 31.

The Plumbing and Mechanical Systems Board of the Department of Public Health adopted these amendments on February 15, 2016.

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

These amendments are intended to implement Iowa Code section 105.4.

These amendments will become effective June 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 641—25.1(105) as follows:

641—25.1(105) Adoption. Section 101 and Chapters 2 to 17 of the Uniform Plumbing Code, ~~2012~~ 2015 Edition, as published by the International Association of Plumbing and Mechanical Officials, 4755 E. Philadelphia Street, Ontario, California 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4 ~~as amended by 2013 Iowa Acts, Senate File 427, section 5.~~ Portions of this chapter reproduce excerpts from the ~~2012~~ 2015 International Plumbing Code, ~~International Code Council, Inc., Copyright 2014; Washington, D.C.; International Code Council.~~ Such excerpts are reproduced with permission, all rights reserved. www.ICCSAFE.org

ITEM 2. Amend rule 641—25.3(105) as follows:

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, ~~2012~~ 2015 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

ITEM 3. Amend subrule 25.4(2) as follows:

25.4(2) The following ~~amendment~~ amendments shall apply to UPC Chapter 3:

a. Subsection 301.4.1 Permit Application. Delete the subsection.

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b. Subsection 314.4.1 Installation of Thermoplastic Pipe and Fittings. Trench width for thermoplastic pipe shall be limited to six times the outside diameter of the piping at the base. Thermoplastic piping shall be bedded in not less than 4 inches (102 mm) of aggregate bedding material supporting the pipe. Initial backfill shall encompass the pipe. Aggregate material shall be three-eighths (3/8) inch p-gravel or 1-inch clean class one bedding.

ITEM 4. Reletter paragraphs **25.4(3)“a”** to **“e”** as **25.4(3)“g”** to **“k.”**

ITEM 5. Adopt the following **new** paragraphs **25.4(3)“a”** to **“f”**:

a. Section 407.3 Limitation of Hot Water Temperature for Public Lavatories. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

b. Section 408.4 Waste Outlet. Modify the section by adding the following exception to the end of the section: “Exception: In a residential dwelling unit where a 2-inch waste pipe is not readily available and approval of the Authority Having Jurisdiction has been granted, the waste outlet, fixture tailpiece, trap and trap arm may be 1½ inch when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed.”

c. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

d. Section 410.3 Limitation of Water Temperature in Bidets. Modify the section by adding the following sentence to the end of the section: “These devices shall be installed at or as close as possible to the point of use.”

e. Section 416.5 Drain. Modify the section by deleting the last sentence, which states: “Where a drain is provided, the discharge shall be in accordance with Section 811.0.”

f. Section 418.3 Location of Floor Drains. Modify the section by adding the following to the end of the section: “(5) Rooms equipped with a water heater.”

ITEM 6. Amend relettered paragraph **25.4(3)“g”** as follows:

g. Subsection 421.1 General. Modify the subsection by deleting “Table 1401.1 of this code” and inserting the following in lieu thereof: “Chapter 11 of the ~~2012~~ 2015 International Building Code.”

ITEM 7. Amend relettered paragraph **25.4(3)“h”** as follows:

h. Section 422.1 Fixture Count. Modify the section by deleting the first paragraph and inserting the following in lieu thereof: “Plumbing fixtures shall be provided in each building, for the type of building occupancy, and in the minimum number shown in Table 403.1 of the International Plumbing Code, reprinted here as Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with Section 1004 of the ~~2012~~ 2015 International Building Code. Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility.”

ITEM 8. Amend relettered paragraph **25.4(3)“j”** as follows:

j. Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof:

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (Reprinted, with permission,* from the 2012 2015 International Plumbing Code, excerpt from IPC Table 403.1)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{c,f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 ^d	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		A-2 ^d	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		A-3 ^d	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
		A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (Reprinted, with permission,* from the 2012 2015 International Plumbing Code, excerpt from IPC Table 403.1)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e,f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly (cont'd)	A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink ^g
3	Educational	E	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		(See Section 416)	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home recipient	1 per room ^c		1 per room ^c		1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care ^b	1 per 25		1 per 35		—	1 per 100	—
			Visitors, other than residential care	1 per 75		1 per 100		—	1 per 500	—

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (Reprinted, with permission,* from the 2012 2015 International Plumbing Code, excerpt from IPC Table 403.1)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e,f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
5	Institutional (cont'd)	I-3	Prisons ^b	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers ^b	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
			Employees ^b	1 per 25		1 per 35		—	1 per 100	—
		I-4	Adult day care and child care	1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink ^g
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a
 (Reprinted, with permission,* from the 2012 2015 International Plumbing Code, excerpt from IPC Table 403.1)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ¹ (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7	Residential (cont'd)	R-3	One- and two-family dwellings	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		<u>R-3</u>	<u>One- and two-family dwellings and lodging houses with five or fewer guestrooms</u>	<u>1 per dwelling unit</u>		<u>1 per dwelling unit</u>		<u>1 per dwelling unit</u>	—	<u>1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit</u>
		R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	S-1 and S-2	Structures for the storage of goods, warehouses, storehouses and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		See Section 416	1 per 1,000	1 service sink

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a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.

b Toilet facilities for employees shall be separate from facilities for inmates or care recipients.

c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy provided that each patient sleeping unit has direct access to the toilet room and provision for privacy for the toilet room user is provided.

d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.

~~e The minimum number of required drinking fountains shall comply with Table 403.1 and Chapter 11 of the International Building Code.~~

~~f Drinking fountains are not required for an occupant load of 15 or fewer.~~

g For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.

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ITEM 9. Amend relettered paragraph **25.4(3)“k”** as follows:

k. Insert the following text at the end of Chapter 4, ~~reprinted with permission from the 2012 International Plumbing Code:~~

“422.6 Pay Facilities. Where pay facilities are installed and permissible under Iowa law, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge. ~~(Reprinted from IPC 403.3.5)~~

“422.7 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies. ~~(Reprinted from IPC~~ the 2015 International Plumbing Code section 419.2)”

ITEM 10. Renumber subrules **25.4(5)** to **25.4(13)** as **25.4(6)** to **25.4(14)**.

ITEM 11. Adopt the following new subrule 25.4(5):

25.4(5) The following amendments shall apply to UPC Chapter 6:

a. Section 603.4.8 Drain Lines. Modify the section by adding the following language to the end of the section: “or in accordance with the manufacturer’s drain-sizing chart for installation.”

b. Section 609.11 Pipe Insulation. Delete sections 609.11 through 609.11.2 and insert the following in lieu thereof:

Section 609.11 Pipe Insulation. Insulation of domestic hot water piping shall be in accordance with the applicable energy conservation code.

c. Section 611.4 Sizing of Residential Softeners. Modify the section by adding the following to the end of the last sentence in the section: “or as specified in the manufacturer’s installation instructions.”

d. Section 612 Residential Fire Sprinkler Systems. Delete sections 612.0 through 612.7.2.

ITEM 12. Amend renumbered subrules 25.4(8) and 25.4(9) as follows:

25.4(8) The following amendment shall apply to UPC Chapter 9:

a. Section 906.7 Frost or Snow Closure. Modify the section by deleting “two (2) inches (50.8 mm)” in the first sentence and inserting “three (3) inches (76.2 mm)” in lieu thereof.

b. Section 908.2.2 Size. Delete the second sentence in this section and insert the following new sentence in lieu thereof: “The wet vent shall be not less than 2 inches (50 mm) in diameter for 6 drainage fixture units (dfu) or less, and not less than 3 inches (80 mm) in diameter for 7 dfu or more.”

25.4(9) The following amendment shall apply to UPC Chapter 10:

a. Table 1002.2 Horizontal Lengths of Trap Arms. Delete the table and insert the following table in lieu thereof:

TABLE 1002.2
Horizontal Lengths of Trap Arms
(Except for Water Closets and Similar Features)^{1,2}

Trap Arm Diameter (inches)	Distance Trap to Vent Minimum (inches)	Length Maximum (feet)
1¼	2½	5
1½	3	6
2	4	8
3	6	12
4	8	12
Exceeding 4	2 × Diameter	12

For SI units: 1 inch = 25.4 mm

Notes:

¹Maintain ¼ inch per foot slope (20.8 mm/m).

²The developed length between the trap of a water closet or similar fixture (measured from the top of the closet flange to the inner edge of the vent) and its vent shall not exceed 6 feet (1829 mm).

b. Section 1014.1.3 Food Waste Disposers and Dishwashers. Modify the section by deleting the second sentence and inserting the following in lieu thereof: “Commercial food waste disposers shall discharge into the building’s drainage system in accordance with the requirements of the Authority Having Jurisdiction.”

[Filed 3/10/16, effective 6/1/16]

[Published 3/30/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2473C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board of the Department of Public Health hereby amends Chapter 61, “State Mechanical Code,” Iowa Administrative Code.

The amendments update the state mechanical code from the 2012 edition of the International Mechanical Code (IMC) to the 2015 edition of the International Mechanical Code as required by Iowa Code section 105.4. An additional amendment adds section 504.8.2 of the IMC related to dryer duct installations. The amendments also update the edition of the National Fuel Gas Code from the 2012 edition to the 2015 edition and update the Liquefied Petroleum Gas Code from the 2011 edition to the 2014 edition. The amendments update the reference to the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 62.1 to the 2013 edition.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2274C** on December 9, 2015. A public hearing was held on December 29, 2015. No one attended the hearing, and no written comments were received. These amendments are identical to those published under Notice.

These rules are subject to waiver under the Board’s general waiver provisions contained in 641—Chapter 31.

The Plumbing and Mechanical Systems Board of the Department of Public Health adopted these amendments on January 20, 2016.

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

These amendments are intended to implement Iowa Code section 105.4.

These amendments will become effective June 1, 2016.

The following amendments are adopted.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 1. Amend rule 641—61.2(105), introductory paragraph, as follows:

641—61.2(105) Adoption by reference. The provisions of the International Mechanical Code, ~~2012~~ 2015 edition, published by the International Code Council, ~~5203 Leesburg Pike, Suite 600, Falls Church, VA 22041~~ 4051 West Flossmoor Road, Country Club Hills, IL 60478, are hereby adopted by reference as the requirements for the design, installation, maintenance, alteration, and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings, with the following amendments:

ITEM 2. Amend subrule 61.2(2) as follows:

61.2(2) In section 101.2, delete the phrase “International Fuel Gas Code” and insert in lieu thereof “NFPA 54, National Fuel Gas Code, ~~2012~~ 2015 edition; NFPA 58, Liquefied Petroleum Gas Code, ~~2011~~ 2014 edition; the provisions of 661—Chapter 226; and the state plumbing code.”

ITEM 3. Amend subrule 61.2(4) as follows:

61.2(4) Delete section 401.1 and insert in lieu thereof the following new section:

401.1 Scope. This chapter shall govern the ventilation of spaces within a building intended to be occupied. These buildings shall meet either the requirements of ASHRAE Standard 62.1, “Ventilation for Acceptable Indoor Air Quality,” ~~2010~~ 2013 edition, published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers, 1791 Tullie Circle N.E., Atlanta, GA 30329, or the requirements contained in this chapter. Mechanical exhaust systems, including exhaust systems serving clothes dryers and cooking appliances; hazardous exhaust systems; dust, stock, and refuse conveyor systems; subslab soil exhaust systems; smoke control systems; energy recovery ventilation systems; and other systems specified in Section 502 shall comply with Chapter 5.

ITEM 4. Renumber subrules **61.2(6)** and **61.2(7)** as **61.2(7)** and **61.2(8)**.

ITEM 5. Adopt the following new subrule 61.2(6):

61.2(6) Delete section 504.8.2 and insert in lieu thereof the following new section:

504.8.2 Duct Installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined by screws or similar fasteners that protrude into the inside of the duct.

[Filed 3/10/16, effective 6/1/16]

[Published 3/30/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2476C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.143, the Department of Public Health hereby amends Chapter 113, “Public Health Response Teams,” Iowa Administrative Code.

The current rules in Chapter 113 allow only sponsor agencies to sponsor a public health response team (PHRT). These amendments provide that either the Department or a sponsor agency may sponsor a disaster medical assistance team (DMAT), environmental health response team (EHRT), logistical support response team (LSRT), Iowa mortuary operational team (IMORT), or other public health response team (PHRT) as directed by the Department Director. These amendments also change the name of the Center for Disaster Operations and Response to the Bureau of Emergency and Trauma Services.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2367C** on January 20, 2016. No public comment was received. These amendments are identical to those published under Notice.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The Department of Public Health adopted these amendments on March 9, 2016.
After analysis and review of this rule making, no impact on jobs has been found.
These amendments are intended to implement Iowa Code section 135.143.
These amendments will become effective May 5, 2016.
The following amendments are adopted.

ITEM 1. Amend the following definitions in rule **641—113.1(135)**:

“Disaster medical assistance team” or “DMAT” means a public health response team that is sponsored by the department or a sponsor agency, and approved by the department, to provide medical assistance in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143.

“Environmental health response team” or “EHRT” means a public health response team that is sponsored by the department or a sponsor agency, and approved by the department, to provide environmental health expertise and assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

“Iowa mortuary operational response team” or “IMORT” means a public health response team that is sponsored by the department or a sponsor agency, and approved by the department, to provide decedent care in the event of a mass fatality disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

“Logistical support response team” or “LSRT” means a public health response team that is sponsored by the department or a sponsor agency, and approved by the department, to provide logistical support and assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143.

“Public health response team” or “PHRT” means a team of professionals, including licensed health care providers, nonmedical professionals skilled and trained in disaster or emergency response, and public health practitioners, that is sponsored by the department or a sponsor agency, a hospital or other entity, and approved by the department, to provide assistance in the event of a disaster or threatened disaster or other incident defined in Iowa Code section 135.143. “Public health response team” shall include a disaster medical assistance ~~teams~~ team, an environmental health response team, a logistical support response team, the Iowa mortuary operational response team and other teams established and approved upon written order of the director to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources.

ITEM 2. Amend subrule 113.2(1) as follows:

113.2(1) The department, through the division of acute disease prevention, ~~and emergency response and environmental health, center for disaster operations and response~~ bureau of emergency and trauma services, shall establish, register, and approve public health response teams to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources in the event of a disaster or threatened disaster or other incident as defined in Iowa Code section 135.143. The primary purpose of the public health response teams is to respond to Iowa incidents and to provide support for Iowa medical and public health personnel, hospitals, and resources. A public health response team may also be requested to respond to an out-of-state disaster or emergency pursuant to the emergency management assistance compact at Iowa Code section 29C.21.

ITEM 3. Amend subrules 113.4(1) and 113.4(3) as follows:

113.4(1) Registration and approval. An individual may apply to the department ~~through a sponsor agency~~ to be a public health response team member. The applicant shall apply on the Iowa statewide registry of volunteers (iSERV) Web site or on a form approved by the department and shall provide all requested information ~~requested by the department and sponsor agency~~. The department shall register and approve an individual to serve as a PHRT member when the department is satisfied that the individual satisfies the requirements of this chapter and will perform on a PHRT in compliance with Iowa Code section 135.143 and this chapter. Upon registration and approval of an individual, the department shall provide the individual with written notification that the individual is registered with the department and

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has been approved to serve on a public health response team. The written notification shall also include the effective date of the approval and the terms and conditions of approval.

113.4(3) Effect of revocation. If the department revokes a public health response team member's approval, the action ~~shall revoke~~ may preclude future eligibility, but shall not negate defense and indemnification coverage or other protection for covered acts or omissions which occurred during the effective date of approval.

ITEM 4. Amend paragraphs **113.5(1)“a”** and **“b”** as follows:

a. An entity may make application to the department to be a sponsor agency ~~of a PHRT~~ pursuant to subrule 113.3(1). An individual may make application ~~to the department~~ to be a member of a PHRT pursuant to subrule 113.4(1).

b. ~~The department, in conjunction with the sponsor agencies,~~ shall establish the Iowa Volunteer Public Health Response Team Operational Procedures Manual. The operational procedures shall be in writing and shall be provided to each PHRT member. All PHRT members and sponsor agencies shall follow the PHRT operational procedures as established by the department. The Iowa Volunteer Public Health Response Team Operational Procedures Manual is available through the Iowa Department of Public Health, Center for Disaster Operations and Response Bureau of Emergency and Trauma Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 5. Amend paragraph **113.5(2)“b”** as follows:

b. The sponsor agency ~~for each team~~ or department, as applicable, shall be responsible for maintaining adequate staffing.

ITEM 6. Amend subrule 113.5(3) as follows:

113.5(3) Licensure and educational requirements.

a. Each PHRT member shall hold and maintain an active unrestricted license, registration, or certification to practice in Iowa (if applicable) in the member's respective medical or health care profession.

b. No change.

~~*c.* In addition to the requirements in paragraph 113.5(3)“b,” the PHRT leadership shall complete training as specified in the team annex to the Iowa Volunteer Public Health Response Team Operational Procedures Manual.~~

~~*d. c.* A sponsor agency shall~~ may provide specific position training to PHRT members as determined to be necessary by the sponsor agency and as approved by the department.

~~*e. d.* A sponsor agency, in conjunction with the~~ The department, shall develop and implement training exercises to test the team's notification process, deployment readiness, and response capabilities.

~~*f. e.* The sponsor agency~~ or department, as applicable, shall be responsible for documenting each PHRT member's completion of required training.

ITEM 7. Amend subrule 113.5(4) as follows:

113.5(4) Deployment and standdown.

a. No change.

~~*b.* On-call team schedules shall be established and distributed by the department and shall be followed by the PHRTs and sponsor agencies.~~

~~*c. b.* Deployment and standdown procedures are outlined in the Iowa Volunteer Public Health Response Team Operational Procedures Manual and shall be followed by all PHRT members.~~

ITEM 8. Amend subrule 113.7(1) as follows:

113.7(1) Upon obtaining knowledge or becoming aware of any injury allegedly arising out of the negligent rendering of, or the negligent failure to render, medical or other services as a public health response team member, ~~such~~ the member ~~or the member's sponsor agency~~ shall provide written notice

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to the department, as soon as practicable, containing to the extent obtainable the circumstance of the alleged injury, the name and address of the injured, and any other relevant information.

[Filed 3/11/16, effective 5/5/16]

[Published 3/30/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2477C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 141, "Love Our Kids Grant," Iowa Administrative Code.

The amendments:

- Remove references to EMS regions that are no longer in existence.
- Lift restrictions related to the number of awards and funding limits for projects. This modification will allow for better utilization of available funding, thereby ensuring timely utilization of funds to complete injury prevention and education initiatives.
- Remove a reference to <http://ruralhealth.hrsa.gov>, which is the Web site used to identify federally appointed rural areas.
- Clarify acceptable uses of funding.
- Revise the rules relating to the application process and application denial so that the rules remain consistent with Department policies and with 641—Chapter 176.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2366C** on January 20, 2016. No public comment was received. These amendments are identical to those published under Notice.

The Department of Public Health adopted these amendments on March 9, 2016.

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

These amendments are intended to implement Iowa Code sections 147A.4 and 321.34.

These amendments will become effective May 5, 2016.

The following amendments are adopted.

ITEM 1. Rescind the definitions of "Director," "Fiscal year" and "Service delivery area" in rule **641—141.1(321)**.

ITEM 2. Amend rule **641—141.1(321)**, definition of "Service program," as follows:

"Service program" or "service" means any medical care ambulance service or nontransport service that has received authorization by the department.

ITEM 3. Amend subrule 141.3(3) as follows:

141.3(3) Following the disbursement of the funds pursuant to subrule 141.3(1), ~~depending upon availability of funds, up to 24 contracts, with a goal of funding at least three per EMS region for \$1500 each, funding may be made available to statewide, regional and local agencies or service programs that are located within the federally appointed rural areas (listing of eligible rural counties can be found at <http://ruralhealth.hrsa.gov>) and have as their responsibility the responsible for development, promotion, and implementation of injury prevention and education initiatives for children. To the extent possible, funds shall be awarded and equally distributed to applicants across all geographic areas of the state.~~

ITEM 4. Amend rule 641—141.4(321) as follows:

641—141.4(321) Use of funds. Funds may be used for injury prevention initiatives specified within the guidelines for children aged birth to 21, including but not limited to:

1. Education and training materials;
2. Training Equipment, supplies, and materials ~~and equipment~~;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

3. ~~Safety equipment~~ Public information and education campaigns;
4. ~~Public information and education campaigns~~ Conferences/seminars/workshops;
5. ~~Conferences/seminars/workshops~~ Contractual services;
6. ~~Systems development;~~ Personnel costs.
7. ~~Contractual services;~~
8. ~~Personnel costs.~~

ITEM 5. Amend rule 641—141.5(321) as follows:

641—141.5(321) Application process. An application for a love our kids grant is required. ~~and Applications are available from the Iowa Department of Public Health, Bureau of EMS Emergency and Trauma Services,~~ Lucas State Office Building, Des Moines, Iowa 50319-0075. The application process is as follows:

141.5(1) Applications from qualified applicants shall be submitted to the department ~~prior to July 1 of each year~~ in accordance with the department's approved application process.

141.5(2) The department shall review the application, and may request clarification, approve the application, partially approve, request clarification or request a new application or deny the application.

ITEM 6. Amend rule 641—141.6(321) as follows:

641—141.6(321) Application denial or partial denial—appeal. An applicant may appeal the denial of a timely submitted application. Appeals shall be conducted pursuant to 641—Chapter 176.

141.6(1) ~~Denial or partial denial of an application shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the applicant of denial or partial denial shall be served by restricted certified mail, return receipt requested, or by personal service.~~

141.6(2) Any request for appeal concerning denial or partial denial shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 30 days of the receipt of the department's notice. The address is Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. Prior to or at the hearing, the department may rescind the denial or partial denial. If no request for appeal is received within the 30-day time period, the department's notice of denial or partial denial shall become the department's final agency action.

141.6(3) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

141.6(4) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 4, Iowa Administrative Code.

141.6(5) When the hearing officer makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 141.6(6).

141.6(6) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

141.6(7) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.

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- ~~c. A statement of all matters officially noticed.~~
- ~~d. All questions and offers of proof, objections and rulings on them.~~
- ~~e. All proposed findings and exceptions.~~
- ~~f. The proposed decision and order of the administrative law judge.~~

~~141.6(8) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.~~

~~141.6(9) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.~~

~~141.6(10) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.~~

~~141.6(11) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.~~

[Filed 3/11/16, effective 5/5/16]

[Published 3/30/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/30/16.

ARC 2468C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," and Chapter 10, "Thoroughbred and Quarter Horse Racing," Iowa Administrative Code.

Item 1 clarifies the qualified agreements that must be submitted to the Commission for approval.

Item 2 extends the duration of occupational licenses to three years.

Item 3 requires jockeys to be licensed prior to the first post time of the race card for the day in which the horse is entered.

Item 4 amends the definitions of "overnight race," "post time," "purse race" and "stakes race."

Item 5 requires that any person on horseback on facility grounds must wear a helmet and safety vest.

Item 6 clarifies instances in which stewards' decisions cannot be appealed.

Item 7 clarifies when stall positions will be given.

Item 8 clarifies how and when horses on a veterinarian's list are removed.

Item 9 clarifies the proper recording of a horse's sex.

Item 10 provides clarification of what is required for a jockey's safety vest.

Item 11 provides clarification of a horse's eligibility when the horse appears on any other jurisdiction's list.

Item 12 clarifies an instance where a horse is excused by the stewards.

Item 13 clarifies instances of coupling.

Item 14 provides clarifications for entries in split or divided races.

Item 15 provides clarification concerning the naming and engaging of riders.

Item 16 provides clarification regarding limitations on scratches.

Item 17 provides clarification pertaining to required workouts.

Item 18 provides clarification on equipment changes.

RACING AND GAMING COMMISSION[491](cont'd)

Item 19 provides clarification regarding a valid open claim certificate.

Item 20 changes the number of claims allowed.

Item 21 provides clarification pertaining to transfers after claims.

Item 22 provides clarification concerning an instance in which stewards may disallow a claim.

Item 23 provides limitations on compounded medications.

Item 24 provides clarifications with regard to use of approved NSAIDs.

Notice of Intended Action was published in the December 23, 2015, Iowa Administrative Bulletin as **ARC 2320C**. On January 12, 2016, at 9 a.m., a public hearing was held at the Iowa Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. There were two attendees representing the same stakeholder interests, and both individuals made verbal comments. In addition, the Commission received a follow-up letter from this stakeholder interest after the hearing. The concerns shared related to the proposed change specified in Item 6. There was concern that the proposed amendment raised constitutional concerns, namely with regard to due process.

The Commission reviewed and discussed the comment received both with legal counsel and at the Commission's meeting on March 3, 2016. No changes have been made to the amendments published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F.

These amendments will become effective May 4, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 5.4(8) as follows:

5.4(8) Commission approval of contracts and business arrangements.

a. Qualifying agreements.

(1) All contracts and business arrangements entered into by a facility are subject to commission jurisdiction. Written and verbal contracts and business arrangements involving a related party or in which the term exceeds three years or the total value in a calendar year exceeds \$100,000 regardless of payment method are agreements that qualify for submission to and approval by the commission. Contracts and business arrangements with entities licensed pursuant to rule 491—11.13(99F) are exempt from submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

1. Any obligation that expends, encumbers, or loans facility assets to anyone other than a not-for-profit entity, ~~or a unit of government for the payment of taxes, or utilities~~ an entity that provides water, sewer, gas or electric utility services to the facility.

2. No change.

3. A previously approved qualifying agreement, if consideration exceeds the approved amount in a calendar year by the greater of \$100,000 or 25 percent or if the commission approval date of an ongoing contract is more than five years old.

4. No change.

(2) No change.

(3) A qualifying agreement must be submitted within 30 days of execution. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval. Qualifying agreements ~~that are ongoing or open-ended~~ need only be submitted on initiation, unless there is a material change in terms or noncompliance with 5.4(8) "*b*"(4); or to comply with 5.4(8) "*a*"(1)"3."

b. Purpose of review. The commission conducts reviews to serve the public interest to ensure that:

(1) to (3) No change.

(4) Iowa resources, goods and services are utilized. Resources, goods, and services shall be considered to be made in Iowa, be provided by Iowans, or emanate from Iowa if one or more of the following apply:

1. to 7. No change.

RACING AND GAMING COMMISSION[491](cont'd)

A facility shall be considered to have utilized a substantial amount of Iowa resources, goods, services and entertainment in compliance with Iowa Code sections 99D.9 and 99F.7(4) ~~as amended by 2004 Iowa Acts, House File 2302, section 11 and section 43, respectively;~~ if the facility demonstrates to the satisfaction of the commission that preference was given to the extent allowed by law and other competitive factors.

c. and d. No change.

ITEM 2. Amend rule 491—6.8(99D,99F) as follows:

491—6.8(99D,99F) Duration of license. A license issued by the commission is valid for ~~two~~ three calendar years. The license shall expire at the end of the ~~second~~ third calendar year, unless an extension is granted by the administrator.

ITEM 3. Amend rule 491—6.29(99D) as follows:

491—6.29(99D) Time by which owner, jockey and trainer must be licensed. The owner (includes stable names, partnerships, and corporations), the jockey and the trainer of a horse entered to race must ~~both~~ be licensed by the first post time of the race card for the day in which the horse is entered.

ITEM 4. Amend the following definitions in rule **491—10.1(99D)**:

“Overnight race,” also known as a purse race, means a race for which entries close 96 hours or less, before the time set for the first race of the day on which the race is to be run contest for which entries close at a time set by the racing secretary.

“Post time” means the scheduled starting time for horses to arrive at the starting gate for a contest.

“Purse race” means a race for money or other prize to which the owners of horses entered do not contribute money toward its purse and for which entries close less than 96 hours prior to its running.

“Stakes race” means a contest in which nomination (if applicable), entry, and starting fees contribute to the purse. No overnight race shall be considered a stakes race. Special designations or classifications for stakes races such as “graded stakes” or “black type” shall be determined by the appropriate breed registries or recognized authorities.

ITEM 5. Amend subrule 10.2(9) as follows:

10.2(9) Helmets and vests. ~~A facility shall not allow any~~ Any person on horseback on facility grounds unless that person is wearing shall wear a protective helmet and safety vest ~~of a type approved by the commission.~~

ITEM 6. Amend subparagraph **10.4(4)“a”(6)** as follows:

(6) General enforcement provisions. Stewards shall enforce the laws of Iowa and the rules of the commission. The laws of Iowa and the rules of racing apply equally during periods of racing. They supersede the conditions of a race and the regulations of a racing meet and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the facility. The decision of the stewards as to the extent of a disqualification of any horse in any race shall be final ~~for purposes of distribution of the pari-mutuel pool. The administrative standard of review for a disqualification decision is abuse of discretion.~~ A decision by the stewards regarding a disqualification of a horse due to a foul, interference, or a riding infraction may not be appealed.

ITEM 7. Amend subparagraph **10.4(8)“a”(3)** as follows:

(3) Assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions ~~more than ten minutes~~ on race day before post time for the each race;

ITEM 8. Amend paragraph **10.4(17)“g,”** introductory paragraph, as follows:

g. A horse placed on the veterinarian’s list ~~in Iowa~~, bleeders exempt, may be allowed to enter only after it has been ~~removed from the list~~ approved by the commission veterinarian. Any horse placed on the veterinarian’s list will be removed from any future race in which the horse has been entered. Requests for the removal of any horse from the veterinarian’s list will be accepted only after a minimum of three calendar days have elapsed from the placing of the horse on the veterinarian’s list ~~have elapsed.~~ Removal from the list will be at the discretion of the commission veterinarian, who may require satisfactory

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workouts or examinations to adequately demonstrate that the problem that caused the horse to be placed on the list has been rectified. Horses that are entered to race and then placed on the veterinarian's list for any reason will not be allowed to enter a race for a minimum of three calendar days beginning the day after the horse was scheduled to race.

ITEM 9. Amend subparagraph **10.5(1)“a”(14)** as follows:

(14) ~~Immediately~~ Properly recording the sex of the horses in the trainer's care with the horse identifier and the racing secretary and ~~immediately~~ reporting the alteration of the sex of a horse in the trainer's care to the horse identifier and the racing secretary.

ITEM 10. Amend subparagraph **10.5(2)“q”(2)** as follows:

(2) A jockey's weight shall include the jockey's clothing, boots, saddle and its attachments. A safety vest shall be mandatory, shall weigh no more than two pounds, and shall be designed to provide shock-absorbing protection to the upper body of ~~at least a rating of five as defined by the British Equestrian Trade Association.~~

ITEM 11. Amend subparagraph **10.6(1)“a”(10)** as follows:

(10) A horse appears on the ~~starter's list, stewards' list, paddock list, or Iowa~~ veterinarian's list, notwithstanding a horse appearing on the veterinarian's list as a "bleeder." In addition, a horse appearing on any starter's, stewards', or paddock judge's list, or the veterinarian's list in another jurisdiction, is ineligible unless the horse is removed from the list by the day of the race and approved by the board of stewards to enter.

ITEM 12. Amend subparagraph **10.6(1)“b”(4)** as follows:

(4) A horse is brought to the paddock and is not in the care of and saddled by a currently licensed trainer or assistant trainer unless excused by the stewards.

ITEM 13. Amend paragraph **10.6(2)“c”** as follows:

c. Coupling. There will be no coupled entries in any race. In races, excluding stakes races, that overfill, trainers must declare preference of runners with identical ownership at time of entry. Same-owner, second-choice horses will be least preferred. A trainer or owner may not enter more than three horses in a race unless the race is split or divided.

ITEM 14. Adopt the following new subparagraphs **10.6(2)“d”(3)** and **(4)**:

(3) A trainer shall be allowed to enter more than the maximum number of entries allowed under paragraph 10.6(2)“c” if the entries are declared at time of entry as “split entry only” and preference is given by the trainer for the trainer's first three entries.

(4) The racing secretary shall split an overnight race so that common ownership, identical ownership, or common trainer will divide as equally as possible between two or more races.

ITEM 15. Rescind paragraph **10.6(2)“l”** and adopt the following new paragraph in lieu thereof:

l. Naming/engaging of riders. Riders must be named at the time of entry. If, at the conclusion of the draw of a race, a trainer does not have a rider, all riders who are available shall be made known to the trainer at that time via telephone or in person by the stewards or their designee. A trainer who does not name a rider prior to the conclusion of the draw of a race, and reasonable attempts have been employed to contact the trainer with no response, shall have an available rider engaged at the facility placed on the horse, determination of which shall be drawn by lot. Riders properly engaged as a first or second call in a race must fulfill their engagements as required in paragraph 10.5(2)“*l.*”

ITEM 16. Amend paragraph **10.6(8)“c”** as follows:

c. *Limitation on scratches.* No horse shall be permitted to be scratched from a race if the horses remaining in the race number fewer than seven betting interests, unless the stewards permit a lesser number. When the number of requests to scratch would, if granted, leave a field of fewer than seven, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race. Veterinarian scratches will be preferred and accepted without regard to the number of entries.

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ITEM 17. Amend paragraph **10.6(9)“a”** as follows:

a. When required. No horse shall be allowed to start unless the horse has raced in an official race or has an approved official timed workout satisfactory to the stewards. A horse that has not started for a period of 60 days or more shall be ineligible to race until it has completed a published workout satisfactory to the stewards prior to the day of the race in which the horse is entered. The workout must have occurred within the previous 30 days for a thoroughbred or within the previous 60 days for a quarter horse. Horses that have not started for a period of six months or more must have two published workouts, one of which must have occurred within the previous 30 days for thoroughbreds or within the previous 60 days for quarter horses. First-time starters must have at least two published workouts ~~and with one having occurred within the previous 30 days for thoroughbreds or within the previous 60 days for quarter horses,~~ be approved from the gate by the starter, and have a published workout from the starting gate.

ITEM 18. Amend paragraph **10.6(10)“b”** as follows:

b. Equipment change. No licensee may change the equipment used on a horse from that used in the horse's last race, unless with permission of the stewards. No licensee may add blinkers or cheek pieces to a horse's equipment or discontinue their use without the prior approval of the starter ~~and the stewards.~~ First-time starters must race with or without blinkers or cheek pieces in accordance with the gate approval card issued by the starter. In the paddock prior to a race, a horse's tongue may be tied down with clean bandages, clean gauze, or with a tongue strap.

ITEM 19. Amend paragraph **10.6(18)“a”(1)“3”** as follows:

3. Has a valid open claim certificate. Any person not licensed as an owner, or a licensed authorized agent for the account of the same, or a licensed owner not having foal paper(s) registered with the racing secretary's office or who has not started a horse at the current meeting may request an open claim certificate from the commission. The person must submit a completed application for a prospective owner's license to the commission. The applicant must have the name of the trainer licensed by the commission who will be responsible for the claimed horse. A nonrefundable fee must accompany the application along with any financial information requested by the commission. The names of the prospective owners shall be prominently displayed in the offices of the commission and the racing secretary. The application will be processed by the commission; and when the open claim certificate is exercised, an owner's license will be issued.

ITEM 20. Rescind subparagraph **10.6(18)“a”(2)** and adopt the following new subparagraph in lieu thereof:

(2) Number of claims. An ownership entity (sole owner, partnership, racing stable, corporation or owner/trainer acting as an owner) shall not claim more than one horse in a race. An authorized agent or trainer acting on behalf of an ownership entity shall not submit more than one claim in a race with or without commonality of ownership.

ITEM 21. Rescind paragraph **10.6(18)“g”** and adopt the following new paragraph in lieu thereof:

g. Transfer after claim.

(1) Forms. Upon a successful claim, the stewards shall issue in triplicate, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the commission, the stewards, and the racing secretary.

(2) No claimed horse shall be delivered by the original owner to the successful claimant until the claim is approved by the stewards. Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse becomes a starter; and said successful claimant becomes the owner of the horse unless the claim is voided by the stewards under the provisions of this paragraph. Only a horse which is officially a starter in the race may be claimed. A subsequent disqualification of the horse by order of the stewards shall have no effect upon the claim.

(3) The stewards shall void the claim and return the horse to the original owner if:

1. The claimed horse suffers a fatality during the running of the race, dies, or is euthanized before leaving the track.

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2. The commission veterinarian, during the veterinarian's observation of the horse coming off the track or upon its arrival to the test barn, determines the horse will be placed on the veterinarian's list as unsound or lame. The stewards shall not void the claim if, prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the commission veterinarian determines the horse will be placed on the veterinarian's list as unsound or lame. An election made under this rule shall be entered on the claim form.

3. The race is called off, canceled, or declared no contest.

(4) Other-jurisdiction rules. The commission will recognize and be governed by the rules of any other jurisdiction regulating title and claiming races when ownership of a horse is transferred or affected by a claiming race conducted in that other jurisdiction.

(5) Determination of sex and age. The claimant, within 48 hours, shall be responsible for determining the age and sex of the horse claimed notwithstanding any designation of sex and age appearing in the program or in any racing publication. Horses that are spayed or gelded shall be properly identified as such in the program. If the claimant finds that a mare is in fact spayed or that the status of a male horse is inaccurate as stated by the program, the claimant may return the horse for full refund of the claiming price.

(6) Affidavit by claimant. The stewards may, if they determine it necessary, require any claimant to execute a sworn statement that the claimant is claiming the horse for the claimant's own account or as an authorized agent for a principal and not for any other person.

(7) Delivery required. No person shall refuse to deliver a properly claimed horse to the successful claimant. The claimed horse shall be disqualified from entering any race until delivery is made to the claimant.

(8) Obstructing the rules of claiming. No person or licensee shall obstruct or interfere with another person or licensee in claiming any horse, enter into any agreement with another to subvert or defeat the object and procedures of a claiming race, or attempt to prevent any horse entered from being claimed.

ITEM 22. Amend paragraph **10.6(18)"i"** as follows:

i. Deceptive Disallowance of claim. The stewards may cancel and disallow any claim within 24 hours after a race if they determine that a claim was made upon the basis of a lease, sale, or entry of a horse made for the purpose of fraudulently obtaining the privilege of making a claim; or if an eligible claimant improperly obtains information or access to horses by being present in the paddock during the claiming race unless the claimant has a horse in that claiming race, as determined solely by the stewards. In the event of a disallowance, the stewards may further order the return of a horse to its original owner and the return of all claim moneys.

ITEM 23. Adopt the following **new** subparagraph **10.7(1)"d"(6)**:

(6) No person shall possess, use, or distribute a compounded medication within the premises of the facility if there is a Food and Drug Administration-approved equivalent of that substance available for purchase unless approved by the commission veterinarian. Veterinary drugs shall be compounded in accordance with all applicable state and federal laws. Compounded medication shall be dispensed only by prescription issued by a licensed veterinarian to meet the medical needs of a specific horse and for use only in that specific horse. All compound medications must be labeled as required by law.

ITEM 24. Amend paragraph **10.7(1)"k"** as follows:

k. Non-steroidal anti-inflammatory drugs (NSAIDs).

(1) The use of one of three approved NSAIDs shall be permitted under the following conditions:

1. The level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – ~~40~~ 2 nanograms per milliliter.

2. No change.

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3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below 1 microgram per milliliter, flunixin in a concentration below 3 nanograms per milliliter, or ketoprofen in a concentration below 1 nanogram per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) No change.

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