



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 2015

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 10, 2015	April 29, 2015
23	Friday, April 24, 2015	May 13, 2015
24	Friday, May 8, 2015	May 27, 2015

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 10, 2015, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Human resources—promotional lists, grievances, appeal of disciplinary actions, educational leave, sick leave insurance program, application of Hatch Act, 54.2(4), 61.1, 61.2(6), 63.10(4), 64.16(3), 65.3 Notice **ARC 1936C**..... 4/1/15

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]“umbrella”
Trade practices, 16.1 to 16.25, 16.40 to 16.44, 16.60, 16.75, 16.90, 16.105, 16.106 Notice **ARC 1915C**..... 3/18/15

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”
General supervision of dental assistants, 1.1 Notice **ARC 1941C** 4/1/15
Dental assistants—expanded function procedures, general and public health supervision, 20.2 to 20.16 Notice **ARC 1940C** 4/1/15

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”
Fees; renewal requirements, 12.1, 12.2, 12.4 to 12.6, 12.9, 20.4, 20.8 Notice **ARC 1919C**..... 3/18/15
Issuance of licenses and endorsements, amendments to chs 13, 14, 18, 19, 27 Notice **ARC 1918C**..... 3/18/15
Career and technical secondary authorization; multioccupations endorsement, adopt 13.28(33), 22.9; rescind ch 17 Notice **ARC 1917C** 3/18/15
Behind-the-wheel driving instructor authorization—classroom instruction, 23.1 Notice **ARC 1920C** 3/18/15

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”
Air quality, 20.2, 20.3, 22.1 to 22.3, 22.100, 22.200 to 22.209, 22.300, 23.1, 25.3, 31.20(1), 33.3(1) Filed **ARC 1913C** 3/18/15
Withdrawal of water from Cambrian-Ordovician (Jordan) aquifer, 50.2, 52.4(3), 52.9(3), 53.7 Notice **ARC 1914C** 3/18/15
Renewal of general permit no. 6—discharge of wastewater associated with well construction activities, 64.15(6) Filed Emergency After Notice **ARC 1912C**..... 3/18/15
Water supply and wastewater treatment operator certification—military service and veteran reciprocity, 81.1, 81.7, 81.9(2), 81.11(3) Filed **ARC 1911C**..... 3/18/15

HUMAN SERVICES DEPARTMENT[441]

Medicaid for employed people with disabilities—premiums, 75.1(39)“b”(3) Notice **ARC 1951C**..... 4/1/15
Increase in average statewide private-pay cost of nursing facility services and of charges for institutional care, 75.23(3), 75.24(3)“b” Notice **ARC 1952C**..... 4/1/15
Reimbursement methodology for non-state-owned psychiatric medical institutions for children (PMICs), 79.1(2), 85.25, 88.62(1) Notice **ARC 1921C**..... 3/18/15
Child development homes—safety standards, prohibition from involvement in child care, removal of transition exception, 110.5, 110.7(3)“f”(1), 110.13 Filed **ARC 1933C** 4/1/15
Child development homes—documentation of medication administration, provider qualifications, limit on number of coproviders, 110.5(1)“d,” 110.9(2)“b,” 110.10(2) Filed **ARC 1935C**..... 4/1/15

INSPECTIONS AND APPEALS DEPARTMENT[481]

Contested case proceedings, 10.12, 11.6, 11.7, 11.14 Notice **ARC 1934C**..... 4/1/15
Inspection standards for food establishments and food processing plants, 31.1, 31.2(9) Filed **ARC 1928C**..... 4/1/15
Informal conference on health care facility contested citation—request for surveyor worksheets, 56.14(3)“b” Notice **ARC 1939C** 4/1/15
Nursing facilities—provisional administrator, 58.8(4) Notice **ARC 1938C**..... 4/1/15
Elder group homes, assisted living programs, adult day services—rescission of definition of “applicant or certificate holder,” 67.1 Notice **ARC 1942C** 4/1/15
Elder group homes, assisted living programs, adult day services—change of ownership or program manager, application for certification, amendments to chs 68 to 70 Filed **ARC 1927C** 4/1/15
Bingo, amendments to ch 103 Filed **ARC 1929C** 4/1/15
Amusement devices, amendments to chs 104, 105 Filed **ARC 1930C** 4/1/15

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Delivery and receipt of notices of cancellation, suspension, forfeiture, nonrenewal and termination, amendments to chs 20, 30, 35, 39, 40 Notice **ARC 1943C** 4/1/15

IOWA FINANCE AUTHORITY[265]

Update of implementation sentence, ch 1 Filed **ARC 1944C** 4/1/15
 Update of implementation sentences, 2.1, 2.2, 2.4 to 2.6, 2.9, 2.10 Filed **ARC 1945C** 4/1/15
 Update of implementation sentence, ch 3 Filed **ARC 1946C** 4/1/15
 Small business loan program, rescind ch 5 Filed **ARC 1947C** 4/1/15
 Group home facilities loan program, rescind ch 6 Filed **ARC 1948C** 4/1/15

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health standards for crane safety—adoption by reference, 26.1 Filed **ARC 1908C** 3/18/15

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

State parks and recreation areas—cabins, open shelters, Honey Creek resort, 61.5(1), 61.15 Notice **ARC 1937C** 4/1/15

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Military service and veteran reciprocity, ch 18 Filed **ARC 1910C** 3/18/15

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Physician assistants—on-site visits by supervising physician, 327.4(2) Filed **ARC 1909C** 3/18/15

PUBLIC HEALTH DEPARTMENT[641]

Central registry for brain and spinal cord injuries, 21.1 to 21.6 Notice **ARC 1950C** 4/1/15
 Grants to counties program for testing, reconstructing and plugging private water wells, 24.1, 24.2, 24.5 to 24.7, 24.9(2), 24.14(3) Filed **ARC 1932C** 4/1/15
 Limited radiologic technologist examination fee, 42.9(2)"e"(3) Filed **ARC 1931C** 4/1/15
 Vision screening, ch 52 Filed **ARC 1924C** 4/1/15
 Local public health services, ch 80 Filed **ARC 1925C** 4/1/15
 Licensure standards for substance use disorder and problem gambling treatment programs, ch 155 Filed **ARC 1926C** 4/1/15

REGENTS BOARD[681]

Criteria for admission to state universities, amendments to ch 1 Notice **ARC 1916C** 3/18/15

REVENUE DEPARTMENT[701]

Redevelopment tax credit program for brownfield and grayfield sites, 42.41, 52.39 Filed **ARC 1949C** 4/1/15

TRANSPORTATION DEPARTMENT[761]

Extension of junkyard control to national highway system, 116.1 to 116.3 Filed **ARC 1923C** 4/1/15
 Federal regulations applicable to carriers—adoption by reference, amendments to ch 520 Notice **ARC 1922C** 4/1/15

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
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Human resources—promotional lists, grievances, appeal of disciplinary actions, educational leave, sick leave insurance program, application of Hatch Act, 54.2(4), 61.1, 61.2(6), 63.10(4), 64.16(3), 65.3 IAB 4/1/15 ARC 1936C	Room 8, A Level Hoover State Office Bldg. Des Moines, Iowa	April 21, 2015 9 to 10 a.m.
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ALCOHOLIC BEVERAGES DIVISION[185]

Trade practices, 16.1 to 16.25, 16.40 to 16.44, 16.60, 16.75, 16.90, 16.105, 16.106 IAB 3/18/15 ARC 1915C	Division Boardroom 1918 S.E. Hulsizer Rd. Ankeny, Iowa	April 10, 2015 10 a.m. (If requested)
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ATTORNEY GENERAL[61]

Victim services support program, 9.50 to 9.57, 9.59 to 9.65 IAB 3/4/15 ARC 1889C	Conference Room, Ground Floor Crime Victims Compensation Division Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	April 3, 2015 10 a.m.
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DENTAL BOARD[650]

General supervision of dental assistants, 1.1 IAB 4/1/15 ARC 1941C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	April 21, 2015 2 p.m.
Dental assistants—expanded function procedures, general and public health supervision, 20.2 to 20.16 IAB 4/1/15 ARC 1940C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	April 21, 2015 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Fees; renewal requirements, 12.1, 12.2, 12.4 to 12.6, 12.9, 20.4, 20.8 IAB 3/18/15 ARC 1919C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
Issuance of licenses and endorsements, amendments to chs 13, 14, 18, 19, 27 IAB 3/18/15 ARC 1918C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
Career and technical secondary authorization; multioccupations endorsement, adopt 13.28(33), 22.9; rescind ch 17 IAB 3/18/15 ARC 1917C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
Behind-the-wheel driving instructor authorization—classroom instruction, 23.1 IAB 3/18/15 ARC 1920C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Withdrawal of water from Cambrian-Ordovician (Jordan) aquifer, 50.2, 52.4(3), 52.9(3), 53.7 IAB 3/18/15 ARC 1914C	Meeting Room A, Public Library 1401 5th St. Coralville, Iowa (Please park in lower level lot and <i>not</i> in the two rows by library entrance.)	April 8, 2015 1 p.m.
	Conference Room 2N, Water Supply Section Wallace State Office Bldg. Des Moines, Iowa	April 9, 2015 11 a.m.
	Meeting Room (Large), Public Library 424 Central Ave. Fort Dodge, Iowa	April 10, 2015 11 a.m.

INSURANCE DIVISION[191]

Delivery and receipt of notices of cancellation, suspension, forfeiture, nonrenewal and termination, amendments to chs 20, 30, 35, 39, 40 IAB 4/1/15 ARC 1943C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	April 21, 2015 2 p.m.
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NATURAL RESOURCE COMMISSION[571]

State parks and recreation areas—cabins, open shelters, honey creek resort, 61.5(1), 61.15 IAB 4/1/15 ARC 1937C	Conference Room 4W Wallace State Office Bldg. Des Moines, Iowa	April 21, 2015 2 p.m.
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PUBLIC HEALTH DEPARTMENT[641]

Central registry for brain and spinal cord injuries, 21.1 to 21.6 IAB 4/1/15 ARC 1950C (ICN Network)	Room 517, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa Teleconference access: 1-866-685-1580 Conference code: 0009990482	April 22, 2015 1 to 2 p.m.
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TRANSPORTATION DEPARTMENT[761]

Federal regulations applicable to carriers—adoption by reference, amendments to ch 520 IAB 4/1/15 ARC 1922C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 23, 2015 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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 Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 1936C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 8A.104(5), the Department of Administrative Services (DAS) proposes to amend Chapter 54, “Recruitment, Application and Examination,” Chapter 61, “Grievances and Appeals,” Chapter 63, “Leave,” Chapter 64, “Benefits,” and Chapter 65, “Political Activity,” Iowa Administrative Code.

The Department of Administrative Services is continuing its effort to review its administrative rules in accordance with Executive Order 71 by amending certain human resources rules to eliminate conflict with statute, aligning rules for the phased retirement program with changes to the Iowa Code, reflecting changes in federal law, and making other actions that reflect and clarify departmental practice.

The Department of Administrative Services does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules concerning waivers.

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on April 21, 2015. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to Caleb.Hunter@iowa.gov.

A public hearing will be held on April 21, 2015, from 9 to 10 a.m. in Room 8, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Administrative Services of their specific needs by calling (515)281-3351.

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

These amendments are intended to implement Iowa Code chapter 8A, subchapter III.

The following amendments are proposed.

ITEM 1. Amend subrule 54.2(4) as follows:

54.2(4) Application for eligible lists. Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

(1) ~~Permanent employees~~ Persons who have attained permanent employee status, including permanent employees of the board of regents and community-based corrections;

(2) Persons enrolled in work experience programs who have successfully completed at least 90 calendar days 480 hours in the program are eligible to apply for promotional vacancies for a period of one year from the date of the successful completion of the work experience program;

(3) Persons who have been formally enrolled in the department’s intern development program for a period of at least 90 calendar days 480 hours are eligible to apply for promotional vacancies for a period of one year from the date of the successful completion of the work experience program; and

(4) Disabled veterans who are enrolled in a job training program in accordance with the provisions of rule 11—57.9(8A) and have worked a minimum of 160 hours up to a maximum of 780 hours: are eligible to apply for promotional vacancies for a period of one year from the date of successful completion of the job training program; and

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

(5) Noncontract employees who have been laid off are eligible to apply for promotional vacancies for a period of one year from the date of layoff.

b. No change.

ITEM 2. Amend rule **11—61.1(8A)**, first unnumbered paragraph, as follows:

Grievances shall state the issues involved, the relief sought, the date the incident or violation took place and any rules involved and shall be filed on forms prescribed by the director. Grievances involving suspension, reduction in pay within the same pay grade, disciplinary demotion, or discharge shall may be filed as appeals in accordance with subrule 61.2(6) and commence with Step 3 of the grievance procedure described in subrule 61.1(1).

ITEM 3. Amend subrule 61.2(6) as follows:

61.2(6) Appeal of disciplinary actions. Any nontemporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, shall may bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in subrule 61.2(5).

ITEM 4. Rescind subrule **63.10(4)**.

ITEM 5. Rescind and reserve subrule **64.16(3)**.

ITEM 6. Amend rule 11—65.3(8A) as follows:

11—65.3(8A) Application of Hatch Act. In addition to the restrictions set forth in rules 11—65.1(8A) and 11—65.2(8A), employees occupying state positions ~~financed in whole or in part~~ wholly funded by federal "grant-in-aid" or other specific federal funding, are subject to the provisions of the federal Hatch Act. Where compliance with the political restrictions of the Hatch Act ~~are~~ is required for the receipt of federal funds, the appointing authority shall identify those state positions so covered. The employees under those further political activity restrictions shall be made aware of the additional restrictions by posting or other written notification from the appointing authority.

Persons found by proper authority to have violated the provisions of the federal Hatch Act are subject to summary discharge.

ARC 1941C

DENTAL BOARD[650]

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 147.76 and 272C.2, the Dental Board hereby gives Notice of Intended Action to amend Chapter 1, "Administration," Iowa Administrative Code.

The purpose of the proposed amendment is to clarify the definition of "general supervision of a dental assistant" and to add the use of a curing light and intraoral camera to the list of services that can be delegated to a dental assistant under general supervision. This amendment also serves to ensure that the definition of "general supervision of a dental assistant" is consistent in both Chapter 1 and Chapter 20.

DENTAL BOARD[650](cont'd)

Current rules regarding the general supervision of a dental assistant have consistently been interpreted to require that a dentist first examine the patient prior to delegating services to be provided by a dental assistant. This amendment clearly specifies this requirement and adds to the list of services which can be delegated to a dental assistant under general supervision.

Any interested person may make written comments on the proposed amendment on or before April 21, 2015. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309, or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on April 21, 2015, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

This amendment is subject to waiver or variance pursuant to 650—Chapter 7.

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

This amendment is intended to implement Iowa Code chapters 153 and 272C.

The following amendment is proposed.

Amend rule **650—1.1(153)**, definition of “General supervision of a dental assistant,” as follows:

“*General supervision of a dental assistant*” means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, and intraoral suctioning, and use of a curing light and intraoral camera. The dentist need not be present in the facility while these services are being provided.

ARC 1940C

DENTAL BOARD[650]

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 147.76 and 272C.2, the Dental Board hereby gives Notice of Intended Action to amend Chapter 20, “Dental Assistants,” Iowa Administrative Code.

The purposes of the proposed amendments are as follows: to clarify general supervision requirements for dental assistants, add to the list of permissible services a dental assistant may perform under general supervision, increase the number of expanded function procedures which may be delegated to a registered dental assistant and set the education and training requirements for those procedures, and permit registered dental assistants to work under public health supervision in certain settings.

Current rules regarding the general supervision of a dental assistant have consistently been interpreted to require that a dentist first examine the patient prior to delegating services to be provided by a dental assistant. These amendments clearly specify this requirement.

These amendments increase the number of services a dentist may delegate to a dental assistant under general supervision by adding the use of a curing light and intraoral camera.

Current rules authorize a licensed dentist to delegate 9 expanded function procedures to a properly trained registered dental assistant. These amendments would increase the number of procedures to 16 procedures, define the supervision requirements for the performing of all expanded functions, and set education and training requirements for all expanded functions.

Current rules authorize dental assistants to work under the personal, direct, or general supervision of a licensed dentist. These amendments would authorize an Iowa-licensed dentist to provide public health supervision to a registered dental assistant if the services are provided in a public or private school, public health agencies, hospitals, or the armed forces.

DENTAL BOARD[650](cont'd)

Any interested person may make written comments on the proposed amendments on or before April 21, 2015. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309, or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on April 21, 2015, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendments are subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, a positive impact on jobs has been found for dental assistants, who will now be able to perform more procedures and work in more settings.

These amendments are intended to implement Iowa Code sections 153.38 and 153.39.

The following amendments are proposed.

ITEM 1. Amend rule **650—20.2(153)**, definition of “General supervision,” as follows:

“*General supervision*” means that a dentist has examined the patient and has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light and intraoral camera. The dentist need not be present in the facility while these services are being provided.

ITEM 2. Adopt the following **new** definition of “Public health supervision” in rule **650—20.2(153)**:

“*Public health supervision*” means all of the following:

1. The dentist authorizes and delegates the services provided by a registered dental assistant to a patient in a public health setting, with the exception that services may be rendered without the patient’s first being examined by a licensed dentist;

2. The dentist is not required to provide future dental treatment to patients served under public health supervision;

3. The dentist and the registered dental assistant have entered into a written supervision agreement that details the responsibilities of each licensee/registrant, as specified in subrule 20.16(2); and

4. The registered dental assistant has an active Iowa registration and a minimum of three years of clinical practice experience.

ITEM 3. Rescind subrule **20.3(3)**.

ITEM 4. Renumber subrule **20.3(4)** as **20.3(3)**.

ITEM 5. Renumber rules **650—20.4(153)** to **650—20.14(153)** as **650—20.5(153)** to **650—20.15(153)**.

ITEM 6. Adopt the following **new** rule 650—20.4(153):

650—20.4(153) Expanded function requirements.

20.4(1) Supervision requirements. Registered dental assistants may only perform expanded function procedures which are delegated by and performed under the direct supervision of a dentist licensed pursuant to Iowa Code chapter 153. Dental assistant trainees are not eligible to perform expanded function procedures.

20.4(2) Expanded function training required. A registered dental assistant shall not perform any expanded function procedures listed in this chapter unless the assistant has successfully met the education and training requirements and is in compliance with the requirements of this chapter.

20.4(3) Education and training requirements. All expanded function training must be prior-approved by the board. The supervising dentist and the registered dental assistant shall be responsible for maintaining in each office of practice documentation of successful completion of the board-approved training.

a. Expanded function training for Level 1 procedures shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or another program, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

DENTAL BOARD[650](cont'd)

(1) An initial assessment to determine the base entry level of all participants in the program. At a minimum, all participants must meet at least one of the following requirements before beginning expanded function training:

1. Be a graduate of an ADA-accredited dental assistant program; or
2. Be currently certified by the Dental Assisting National Board (DANB); or
3. Have at least one year of clinical practice as a registered dental assistant; or
4. Have at least one year of clinical practice as a dental assistant in a state that does not require registration;

- (2) A didactic component;
- (3) A laboratory component, if necessary;
- (4) A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
- (5) A postcourse competency assessment at the conclusion of the training program.

b. Expanded function training for Level 2 procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or a program accredited by the Commission on Dental Accreditation of the American Dental Association.

20.4(4) Expanded function providers.

a. *Basic expanded function provider.* Registered dental assistants who do not wish to become certified as a Level 1 or Level 2 provider may perform select Level 1 expanded function procedures provided they have met the education and training requirements for those procedures. A dentist may delegate to a registered dental assistant only those Level 1 procedures for which the assistant has received the required expanded function training.

b. *Certified Level 1 provider.* Registered dental assistants must successfully complete training for all Level 1 expanded function procedures before becoming a certified Level 1 provider.

(1) A dentist may delegate any of the Level 1 expanded function procedures to dental assistants who are certified Level 1 providers.

(2) Level 1 procedures include:

1. Taking occlusal registrations;
2. Placement and removal of gingival retraction;
3. Fabrication and removal of provisional restorations;
4. Applying cavity liners and bases, desensitizing agents, and bonding systems;
5. Placement and removal of dry socket medication;
6. Placement of periodontal dressings;
7. Testing pulp vitality;
8. Monitoring of nitrous oxide inhalation analgesia;
9. Taking final impressions;
10. Removal of adhesives (hand instrumentation only); and
11. Preliminary charting of existing dental restorations and teeth.

c. *Certified Level 2 provider.* A registered dental assistant must become a certified Level 1 provider and successfully pass a board-approved entrance examination with a score of at least 75 percent before beginning training as a certified Level 2 provider. Registered dental assistants must successfully complete training for all Level 2 expanded function procedures before becoming certified Level 2 providers.

(1) A dentist may delegate any of the Level 1 or Level 2 expanded function procedures to a registered dental assistant who is a certified Level 2 provider.

(2) Level 2 procedures include:

1. Placement and shaping of amalgam following preparation of a tooth by a dentist;
2. Placement and shaping of composite following preparation of a tooth by a dentist;
3. Forming and placement of stainless steel crowns;
4. Taking records for the fabrication of dentures and partial dentures; and
5. Tissue conditioning (soft reline only, where denture is not relieved or modified).

These procedures refer to both primary and permanent teeth.

DENTAL BOARD[650](cont'd)

(3) Notwithstanding 650—paragraph 10.3(1)“e” and paragraph 20.3(2)“e,” for the purposes of this chapter, the removal of adhesives by hand instrumentation does not constitute the removal of “hard natural or synthetic material.”

ITEM 7. Amend renumbered subparagraphs **20.5(1)“b”(1)** and **(2)** as follows:

(1) Reapplying for trainee status. A trainee may “start over” as a dental assistant trainee provided the trainee submits an application in compliance with subrule ~~20.6(1)~~ 20.7(1).

(2) Examination scores valid for three years. A “repeat” trainee is not required to retake an examination (jurisprudence, infection control/hazardous materials, radiography) if the trainee has successfully passed the examination within three years of the date of application. If a trainee has failed two or more examinations, the trainee must satisfy the remedial education requirements in subrule ~~20.10(1)~~ 20.11(1). The trainee status application will not be approved until the trainee successfully completes any required remedial education.

ITEM 8. Amend renumbered subrule 20.5(2) as follows:

20.5(2) Registered dental assistant. A registered dental assistant may perform under general supervision dental radiography, intraoral suctioning, use of a curing light and intraoral camera, and all extraoral duties that are assigned by the dentist and are consistent with these rules. During intraoral procedures, the registered dental assistant may, under direct supervision, assist the dentist in performing duties assigned by the dentist that are consistent with these rules. The registered dental assistant may take radiographs if qualified pursuant to 650—Chapter 22.

ITEM 9. Amend renumbered subparagraph **20.7(2)“b”(2)** as follows:

(2) Evidence of meeting the requirements specified in ~~20.6(2)“a.”~~ 20.7(2)“a.”

ITEM 10. Amend renumbered paragraph **20.11(1)“b”** as follows:

b. A dental assistant who fails the second examination will be required to complete the remedial education requirements set forth in subrule ~~20.10(2)~~ 20.11(2).

ITEM 11. Rescind rule **650—20.15(153)**.

ITEM 12. Adopt the following **new** rule 650—20.16(153):

650—20.16(153) Public health supervision allowed. A dentist may provide public health supervision to a registered dental assistant if the dentist has an active Iowa license and the services are provided in a public or private school, public health agencies, hospitals, or the armed forces.

20.16(1) Public health agencies defined. For the purposes of this rule, public health agencies include programs operated by federal, state, or local public health departments.

20.16(2) Responsibilities. When working together in a public health supervision relationship, a dentist and registered dental assistant shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the registered dental assistant;

(2) Have age- and procedure-specific standing orders for the performance of services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of services;

(3) Specify a period of time in which an examination by a dentist must occur prior to providing further services;

(4) Specify the location or locations where the services will be provided under public health supervision.

b. A registered dental assistant providing services under public health supervision may only provide services which are limited to all extraoral duties, dental radiography, intraoral suctioning, and use of a curing light and intraoral camera and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

DENTAL BOARD[650](cont'd)

- (3) Provide to the patient, parent, or guardian a written plan for referral to a dentist;
- (4) Have each patient, parent, or guardian sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and
- (5) Specify a procedure for creating and maintaining dental records for the patients who are treated, including where these records are to be located.
 - c. The written agreement for public health supervision must be maintained by the dentist and the registered dental assistant and a copy filed with the board office within 30 days of the date on which the dentist and the registered dental assistant entered into the agreement. The dentist and registered dental assistant must review the agreement at least biennially.
 - d. The registered dental assistant shall file annually with the supervising dentist a report detailing the number of patients seen, the services provided to patients and the infection control protocols followed at each practice location.
 - e. A copy of the written agreement for public health supervision shall be filed with the Oral Health Bureau, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

20.16(3) Reporting requirements. Each registered dental assistant who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the oral health bureau of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

ARC 1951C**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).

The Department is requesting these changes because Iowa Code section 249A.3(2)“a”(1)(b) requires that “[t]he maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state.” The average cost to the state for state employees’ health insurance for a single person is \$707 effective January 1, 2015. Therefore, the maximum premium must be set at that amount.

Any interested person may make written comments on the proposed amendments on or before April 21, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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	\$31 <u>\$32</u>
165% of Federal Poverty Level	\$42 <u>\$44</u>
180% of Federal Poverty Level	\$50 <u>\$53</u>
200% of Federal Poverty Level	\$58 <u>\$62</u>
225% of Federal Poverty Level	\$68 <u>\$73</u>
250% of Federal Poverty Level	\$78 <u>\$84</u>
300% of Federal Poverty Level	\$99 <u>\$106</u>
350% of Federal Poverty Level	\$119 <u>\$130</u>
400% of Federal Poverty Level	\$140 <u>\$153</u>
450% of Federal Poverty Level	\$160 <u>\$177</u>
550% of Federal Poverty Level	\$201 <u>\$221</u>
650% of Federal Poverty Level	\$242 <u>\$268</u>
750% of Federal Poverty Level	\$284 <u>\$316</u>
850% of Federal Poverty Level	\$335 <u>\$375</u>
1000% of Federal Poverty Level	\$404 <u>\$451</u>
1150% of Federal Poverty Level	\$475 <u>\$530</u>
1300% of Federal Poverty Level	\$556 <u>\$612</u>
1480% of Federal Poverty Level	\$647 <u>\$707</u>

ARC 1952C

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.

These amendments increase the statewide average cost of nursing facility services to a private-pay person. The statewide average cost of nursing facility services is being revised to reflect the increase in the cost of private-pay rates for nursing facility care in Iowa. The change is not related to rates paid by Medicaid for nursing facility care.

The statewide average cost of nursing facility services is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

The Department conducted a survey of the freestanding nursing facilities, the hospital-based skilled facilities, and special population facilities in Iowa to update the statewide average cost for nursing

HUMAN SERVICES DEPARTMENT[441](cont'd)

facilities. The average private-pay cost per month of nursing facility services increased from \$5,103.24 to \$5,407.24.

These amendments also update the average charges for nursing facilities, psychiatric medical institutions for children (PMICs) and mental health institutions (MHIs) and the maximum Medicaid rate for intermediate care facilities for individuals with intellectual disabilities (ICF/IDs), which are used to determine the disposition of the income of a medical assistance income trust (MAIT).

Nursing facility amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department's survey for statewide average private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey, since recipients are allowed to use the average cost of the specialized care.

- The average charge to a private-pay resident of nursing facility care increased from \$4,666 per month to \$4,952 per month.

The average charges for PMICs and MHIs are based on Medicaid rates because Medicaid is the primary payer of these services.

- The average charge for care in a PMIC increased from \$6,297 per month to \$6,556 per month.
- The average charge for care in an MHI increased from \$20,498 per month to \$24,083 per month.

The Iowa Department of Human Services provided the maximum Medicaid rate for care in an ICF/ID.

- The maximum Medicaid rate for care in an ICF/ID increased from \$25,040 per month to \$27,388 per month.

The increases in these amounts will allow a few additional individuals to qualify for medical assistance with MAITs because the amendments increase the income limit at which all income assigned to a MAIT is considered to be available for Medicaid eligibility purposes.

Any interested person may make written comments on the proposed amendments on or before April 21, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2014~~ 2015, through June 30, ~~2015~~ 2016, this average statewide cost shall be ~~\$5,103.24~~ \$5,407.24 per month or ~~\$167.87~~ \$177.87 per day.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2014~~ 2015, to June 30, ~~2015~~ 2016, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,666~~ \$4,952 per month.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is ~~\$25,040~~ \$27,388 per month.
- (3) The average statewide charge to a resident of a mental health institute is ~~\$20,498~~ \$24,083 per month.
- (4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$6,297~~ \$6,556 per month.
- (5) No change.

ARC 1934C**INSPECTIONS AND APPEALS DEPARTMENT[481]****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 10A.801 and 724.21A, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 10, “Contested Case Hearings,” and Chapter 11, “Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms,” Iowa Administrative Code.

The proposed amendments are technical changes to update filing and service rules for contested case proceedings to permit appropriate use of e-mail and fax transmission of documents to the Administrative Hearings Division and other parties and to ensure consistency between the general rules and those involving permits to carry weapons or acquire firearms. The proposed amendments also clarify that the rehearing procedure required by Iowa Code section 17A.16(2) is applicable to cases involving permits to carry weapons or acquire firearms under Iowa Code section 724.21A.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 21, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

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

These amendments are intended to implement Iowa Code sections 10A.801, 17A.16, and 724.21A.

The following amendments are proposed.

ITEM 1. Amend rule 481—10.12(17A) as follows:

481—10.12(17A) Service and filing of pleadings and other papers documents.

10.12(1) *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, or other document ~~or other paper~~ filed in the contested case proceeding and every ~~paper~~ document relating to discovery in the proceeding shall be served upon each of the parties to the proceeding, including the originating agency. Except for the notice of the hearing and an application for rehearing as provided in Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

10.12(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by ~~delivery or by~~ delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the ~~person’s~~ party or attorney at the party’s or attorney’s last-known mailing address, fax number, or e-mail address. Service by first-class mail is ~~rebuttably presumed to be~~ complete upon mailing, except

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where otherwise specifically provided by statute, rule or order. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.

10.12(3) *Filing with the division.* After a matter has been assigned to the division, and until a proposed decision is issued, ~~documents~~ every pleading, motion, or other document shall be filed with the division, rather than the originating agency. ~~All papers filed after the notice is issued~~ documents that are required to be served upon a party shall be filed simultaneously with the division.

a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

(1) ~~Delivered to the division of appeals and fair hearings, department of inspections and appeals at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;~~

(2) Delivered to an established courier service for immediate delivery to the division;

(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or

(4) ~~Sent~~ Transmitted by facsimile ~~transmission~~ (fax) to (515)281-4477, by electronic mail (e-mail) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 10.12(3), paragraph "b."

b. All documents filed with the division pursuant to these rules, except a person's request or demand for a contested case proceeding, (see Iowa Code subsection 17A.12(9)), may be filed by facsimile ~~transmission~~ (fax), electronic mail (e-mail), or by other electronic means approved by the division. ~~A copy shall be filed for each case involved.~~ A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.

10.12(4) *Proof of mailing.* Adequate proof of mailing includes the following:

a. A legible United States postal service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, ~~Appeals Administrative Hearings Division, Lucas Wallace State Office Building, 2nd Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319,~~ and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(date)

(signature)

ITEM 2. Rescind rule 481—11.6(17A) and adopt the following **new** rule in lieu thereof:

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

11.6(1) *When service is required.* Every pleading, motion, or other document filed in the contested case proceeding shall be served on each of the parties to the proceeding, including the agency. Except for an application for rehearing as provided in rule 481—11.14(17A) and Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

11.6(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the party or attorney at the party's or attorney's last-known mailing address, fax number, or e-mail address.

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Service by first-class mail is complete upon mailing. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.

11.6(3) Filing with the division. Every pleading, motion, or other document in the contested case proceeding shall be filed with the division. All documents that are required to be served upon a party shall be filed simultaneously with the division.

a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

(1) Delivered to the division at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;

(2) Delivered to an established courier service for immediate delivery to the division;

(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or

(4) Transmitted by facsimile (fax) to (515)281-4477, by electronic mail (e-mail) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 11.6(3), paragraph “b.”

b. All documents filed with the division pursuant to these rules, except a person’s written appeal pursuant to rule 481—11.2(724), may be filed by facsimile (fax), electronic mail (e-mail), or other electronic means approved by the division. A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.

11.6(4) Proof of mailing. Adequate proof of mailing includes the following:

a. A legible United States postal service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(date)

(signature)

This rule is intended to implement Iowa Code section 724.21A.

ITEM 3. Amend rule 481—11.7(17A) as follows:

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

ITEM 4. Adopt the following **new** rule 481—11.14(17A):

481—11.14(17A) Rehearing. An applicant, permittee, or agency aggrieved by an administrative law judge’s final decision rescinding or sustaining the agency’s denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division

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

within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. An application for rehearing shall be deemed to have been denied unless the administrative law judge grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies.

This rule is intended to implement Iowa Code sections 724.21A and 17A.16.

ARC 1939C**INSPECTIONS AND APPEALS DEPARTMENT[481]****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 135C.14 and 135C.36, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 56, “Fining and Citations,” Iowa Administrative Code.

The amendment to Chapter 56 removes a facility's option to request surveyor worksheets for the citation(s) being disputed at an informal conference. The Department is the designated State Survey Agency for the federal Centers for Medicare and Medicaid Services (CMS) and conducts certification surveys and investigations on its behalf to ensure compliance with federal regulations. CMS recently provided the Department with written notice that surveyor worksheets created or collected during federal surveys and investigations are releasable for federal informal dispute resolution only through a valid federal Freedom of Information Act request. Because the Department simultaneously conducts federal and state surveys and investigations and holds federal informal dispute resolution meetings simultaneously with state informal conferences, the proposed amendment to subrule 56.14(3) is intended to maintain consistency between state and federal requirements.

The Department does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual.

The proposed amendment was initially reviewed by the State Board of Health at its March 11, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 21, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

This amendment is intended to implement Iowa Code sections 135C.14 and 135C.36.

The following amendment is proposed.

Amend paragraph **56.14(3)“b”** as follows:

b. Request for informal conference. The request for an informal conference must be in writing, addressed to the compliance officer and include the following:

- (1) Identification of the citation(s) being disputed; and
- (2) The type of informal conference requested: face-to-face or telephone conference; and.
- ~~(3) A request for surveyor worksheets for the citation(s) being disputed, if desired.~~

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INSPECTIONS AND APPEALS DEPARTMENT[481]

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 135C.14 and 135C.36, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 58, “Nursing Facilities,” Iowa Administrative Code.

The proposed amendment makes technical changes to clarify the rule related to the appointment of a provisional administrator at a nursing facility when the facility has, through no fault of its own, lost its administrator and has been unable to replace the administrator.

The Department does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual.

The proposed amendment was initially reviewed by the State Board of Health at its March 11, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 21, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

This amendment is intended to implement Iowa Code sections 135C.14 and 135C.36.

The following amendment is proposed.

Amend subrule 58.8(4) as follows:

58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator. ~~provided that no~~

a. No facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 12 consecutive months in any 12-month period and further provided that:

~~*a. b.* The facility shall notify the department has been notified prior to the date in writing within ten business days of the administrator’s appointment;. The written notice shall include the estimated time frame for the appointment of the provisional administrator and the reason for the appointment of a provisional administrator. (III)~~

~~*b.* The board of examiners for nursing home administrators has approved the administrator’s appointment and has confirmed such appointment in writing to the department. (III)~~

~~*c.* The provisional administrator’s appointment must be approved by the board of examiners for nursing home administrators. The approval shall be confirmed in writing to the department. (III)~~

ARC 1942C

INSPECTIONS AND APPEALS DEPARTMENT[481]

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 231C.3(1), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services,” Iowa Administrative Code.

The amendment rescinds the definition of “applicant or certificate holder.” This amendment corresponds to recently adopted amendments to Chapters 68, 69, and 70 that clarify the contents of an application for certification and the process for notifying the Department of a change of ownership of a program and add a definition for “change of ownership.” (See **ARC 1927C** herein.) With the adoption of those amendments, the definition for “applicant or certificate holder” is obsolete.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 21, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

This amendment is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2). The following amendment is proposed.

Rescind the definition of “Applicant or certificate holder” in rule **481—67.1(231B,231C,231D)**.

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INSURANCE DIVISION[191]

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 chapter 505, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 20, “Property and Casualty Insurance,” Chapter 30, “Life Insurance Policies and Annuities,” Chapter 35, “Accident and Health Insurance,” Chapter 39, “Long-Term Care Insurance,” and Chapter 40, “Health Maintenance Organizations,” Iowa Administrative Code.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and rules 191—39.22(514G), 191—39.29(514G), 191—40.10(514B) and 191—92.6(508).

The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4)“b,” provides that a requirement under a law, other than Iowa Code chapter 554D, “to send, communicate, or transmit a

INSURANCE DIVISION[191](cont'd)

record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law.” The notification laws contain varied statutory language, all with the express intent to require that policyholders are provided reasonable advance notice that insurance coverage will cease on a date certain. Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Iowa Code section 505B.1(6) provides “[i]f a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.” This provision must be applied in the context of the importance of the actual receipt by policyholders of notices of cancellation, suspension, forfeiture, nonrenewal or termination. The presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law. The Iowa Supreme Court has held that “[p]roof that a document was properly mailed raises a presumption that it was received.” *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982). Electronic transmission does not carry a similar presumption of receipt, so verification or acknowledgment of receipt would be required for electronic delivery of all notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer. As of the date these amendments are proposed, the Commissioner has not found, reviewed or evaluated any reliable electronic verification or acknowledgment methods, so the Commissioner must conclude that electronic transmissions currently fail to satisfy the notice requirements of the Iowa Code sections referenced above. However, additional communication by electronic means of these notices may be provided by the insurer as a service to the policyholder.

The Division intends that insurance companies doing business in Iowa must be in compliance with these amendments beginning July 1, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 21, 2015. Such written materials should be directed to Doug Ommen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail doug.ommen@iid.iowa.gov.

Also, there will be a public hearing on April 21, 2015, at 2 p.m., at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519.

The following amendments are proposed.

ITEM 1. Reserve rules **191—20.73** to **191—20.79**.

ITEM 2. Adopt the following **new** division heading in **191—Chapter 20**:

DIVISION IV

CANCELLATIONS, SUSPENSIONS, FORFEITURES, NONRENEWALS AND TERMINATIONS

ITEM 3. Adopt the following **new** rule 191—20.80(505B,515,515D,518,518A,519):

191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of property and casualty insurance.

20.80(1) Purpose. The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8, by clarifying the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry

INSURANCE DIVISION[191](cont'd)

a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

20.80(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 515, 518, and 518A.

20.80(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

20.80(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions fail to satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 4. Reserve rules **191—20.81** to **191—20.89**.

ITEM 5. Adopt the following **new** rule 191—30.9(505,508):

191—30.9(505,508) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuities.

30.9(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse, nonrenewal and termination by an insurer, so as to require reasonable procedures for providing notice to policyholders of the consequences of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuity contracts. In universal life contracts, specific advance notice is required by rule 191—92.6(508). The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) “b,” provides that a requirement under a law to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

30.9(2) Scope. This rule shall apply to all insurance companies that issue contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25.

30.9(3) Delivery and proof of receipt. For any notice of cancellation, forfeiture, lapse, nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

30.9(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of this rule or of rule 191—92.6(508). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

INSURANCE DIVISION[191](cont'd)

ITEM 6. Reserve rule **191—30.10**.

ITEM 7. Adopt the following **new** heading before new rule 191—35.9(509B,513B,514D) in **191—Chapter 35**:

GENERAL ACCIDENT AND HEALTH INSURANCE REQUIREMENTS

ITEM 8. Adopt the following **new** rule 191—35.9(509B,513B,514D):

191—35.9(509B,513B,514D) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of accident and health insurance.

35.9(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5 and 514D.3. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

35.9(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 512B, 515, and 520.

35.9(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by an insurer under Iowa Code sections 509B.5, 513B.5 and 514D.3 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

35.9(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5 and 514D.3. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 9. Adopt the following **new** rule 191—39.33(514G):

191—39.33(514G) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of long-term care insurance.

39.33(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse, nonrenewal and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code section 514G.111 and rules 191—39.22(514G) and 191—39.29(514G). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

39.33(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapter 508 or 515.

39.33(3) Delivery and proof of receipt. For any notice of cancellation, forfeiture, lapse, nonrenewal or termination by an insurer under Iowa Code section 514G.111 and rules 191—39.22(514G) and 191—39.29(514G) to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

39.33(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions fail to satisfy the notice requirements of Iowa Code section 514G.111 and

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rules 191—39.22(514G) and 191—39.29(514G). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 10. Amend paragraph **40.10(3)“h”** as follows:

h. State that the enrollee may request such hearing by forwarding one copy of the notice of cancellation, marked to request a hearing, to the Commissioner of Insurance, ~~Lucas State Office Building~~ Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319.

ITEM 11. Adopt the following new rule 191—40.26(514B):

191—40.26(514B) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of enrollment.

40.26(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

40.26(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to operate an HMO under the provisions of Iowa Code chapter 514B.

40.26(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

40.26(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.

This rule is intended to implement Iowa Code chapter 505B.

ARC 1937C

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), 461A.3, 461A.47 and 463C.6, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, “State Parks, Recreation Areas, and State Forest Camping,” Iowa Administrative Code.

The proposed amendments:

1. Establish cabin rental fees for the new two-bedroom modern family cabins that will be constructed at Lake Darling State Park in 2015 and restructure the listing for Lake Darling to clarify the different cabin types and fees (new and existing).

NATURAL RESOURCE COMMISSION[571](cont'd)

2. Remove the cabin fee for the cabin at Wilson Island that was destroyed in the 2011 flood. The cabin is not being replaced.

3. Establish two new categories of open picnic shelters: large open shelters and beach cabana-style open shelters. Rental fees for both are also established.

4. Update the listing of park rules to which Honey Creek Resort State Park is subject.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 21, 2015. Such written materials should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)725-8201. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)725-8486 or at the State Parks Bureau offices on the fourth floor of the Wallace State Office Building in Des Moines, Iowa.

There will be a public hearing on April 21, 2015, at 2 p.m. in the Wallace State Office Building, Conference Room 4W, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code sections 455A.5(6), 461A.3, 461A.47, 461A.57, and 463C.6.

The following amendments are proposed.

ITEM 1. Amend paragraph **61.5(1)“a”** as follows:

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

	Per Night*	Per Week
Backbone State Park, Delaware County		
Renovated modern cabins	\$ 50	\$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk State Park, Sac County	100	600
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	35	210
<u>Camping cabins</u>	<u>35</u>	<u>210</u>
<u>Two-bedroom cabins</u>	<u>85</u>	<u>510</u>
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Nine Eagles State Park, Decatur County	75	450
Palisades-Kepler State Park, Linn County	50	300
Pine Lake State Park, Hardin County		
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	35	210

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	Per Night*	Per Week
Prairie Rose State Park, Shelby County	35	210
Springbrook State Park, Guthrie County	200	1200
Stone State Park, Woodbury County	35	210
Union Grove State Park, Tama County	75	450
Waubonsie State Park, Fremont County		
Two-bedroom modern cabins	85	510
One-bedroom modern cabins	60	360
Two-bedroom camping cabins	50	300
One-bedroom camping cabins	35	210
Camping cabin	25	150
Wilson Island State Recreation Area, Pottawattamie County	25	150

*Minimum two nights

- ITEM 2. Rescind paragraph **61.5(1)“d”** and adopt the following **new** paragraph in lieu thereof:
d. Open shelter rental. This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Day</u>
Open shelter	\$25
Large open shelter	\$75
Big Creek State Park, Polk County (Beach Nos. 1-3)	
Brushy Creek State Recreation Area, Webster County (Lakeview Shelter)	
Lake Darling State Park, Washington County (Cottonwood Shelter)	
Open shelter with kitchen	\$75
Beach house open shelter	\$40
Lake Ahquabi State Park, Warren County	
Lake Wapello State Park, Davis County	
Pine Lake State Park, Hardin County	
Springbrook State Park, Guthrie County	
Beach cabana-style open shelter	\$15

- ITEM 3. Rescind paragraphs **61.5(1)“e”** and **“f.”**
 ITEM 4. Reletter paragraphs **61.5(1)“g”** to **“i”** as **61.5(1)“e”** to **“g.”**
 ITEM 5. Amend rule 571—61.15(461A,463C) as follows:

571—61.15(461A,463C) Honey Creek Resort State Park. This chapter shall not apply to Honey Creek Resort State Park, with the exception that subrules ~~61.7(1)~~ 61.7(3) through 61.7(9) and 61.7(11) through 61.7(15) shall apply to the operation and management of Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of the department’s management company may provide such permission in accordance with policies established by the department.

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PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135.22, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 21, “Central Registry for Brain and Spinal Cord Injuries,” Iowa Administrative Code.

The proposed amendments revise the reportable conditions of brain injury to be the same as those specified by rule for eligibility for the home- and community-based services waiver for persons with brain injury under the medical assistance program; the word “traumatic” in reference to brain injury has been removed throughout the rules to reflect this change. Item 8 outlines the information required in each report.

Additional amendments reflect the reportable conditions for brain and spinal cord injury to transition to the International Classification of Diseases, 10th Revision, Clinical Modification.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 21, 2015. Such written comments should be directed to Maggie Ferguson, Brain Injury and Disability Program Manager, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to maggie.ferguson@idph.iowa.gov.

Also, a public hearing will be held on Wednesday, April 22, 2015, from 1 to 2 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The public hearing will originate from Room 517 on the fifth floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, and will be accessible over the Iowa Communications Network (ICN) teleconference system by calling 1-866-685-1580 and entering the conference code 0009990482 when prompted.

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

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

These amendments are intended to implement Iowa Code section 135.22.

The following amendments are proposed.

ITEM 1. Amend rule 641—21.1(135) as follows:

641—21.1(135) Purpose. This chapter describes the central registry for brain and spinal cord injuries. Data from the registry shall be utilized to facilitate prevention strategies and the provision of appropriate rehabilitative services by the department and other state agencies.

ITEM 2. Strike “agency” and “agency’s” wherever they appear in rules **641—21.2(135)**, **641—21.4(135)** and **641—21.5(135)**, subrule **21.6(1)**, the introductory paragraph of subrule **21.6(2)**, and paragraphs **21.6(2)“a”** to **“d”** and **“g”** and insert “department” or “department’s” in lieu thereof, as the context requires.

ITEM 3. Amend rule **641—21.2(135)**, definitions of “Brain injury” and “Reportable case,” as follows:

“Brain injury” means any clinically evident brain damage resulting from trauma or anoxia which temporarily or permanently impairs a person’s physical or cognitive functions clinically evident damage to the brain resulting directly or indirectly from trauma, infection, anoxia, vascular lesions, or tumor

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of the brain, not primarily related to a degenerative disease or aging process, which temporarily or permanently impairs a person's physical, cognitive, or behavioral functions and is diagnosed by a physician.

"Reportable case" means a person who is admitted or transferred to a hospital with a diagnosis of acute ~~traumatic~~ brain or spinal cord injury or a person who is pronounced dead in the emergency department of a hospital with an acute ~~traumatic~~ brain or spinal cord injury.

ITEM 4. Strike "traumatic" wherever it appears in rules **641—21.4(135)** and **641—21.5(135)**, subrule **21.6(1)**, and paragraph **21.6(2)"g."**

ITEM 5. Amend rule 641—21.3(135), introductory paragraph, as follows:

641—21.3(135) Reportable brain and spinal cord injuries. The brain and spinal cord injuries listed below are required to be reported to the Iowa Department of Public Health, ~~Division of Health Protection~~, Lucas State Office Building, Des Moines, Iowa 50319-0075, as part of a statewide population-based registry.

ITEM 6. Rescind subrule 21.3(1) and adopt the following **new** subrule in lieu thereof:

21.3(1) Reportable cases of brain injuries are those that are identified by the following codes from the International Classification of Diseases, 9th Revision, Clinical Modification, or the International Classification of Diseases, 10th Revision, Clinical Modification:

International Classification of Diseases, 9th Revision, Clinical Modification		International Classification of Diseases, 10th Revision, Clinical Modification	
191.00	Malignant neoplasms of brain, cerebrum	C71.0	Malignant neoplasm of cerebrum, except lobes and ventricles
191.10	Malignant neoplasms of brain, frontal lobe	C71.1	Malignant neoplasm of frontal lobe
191.02	Malignant neoplasms of brain, temporal lobe	C71.2	Malignant neoplasm of temporal lobe
191.30	Malignant neoplasms of brain, parietal lobe	C71.3	Malignant neoplasm of parietal lobe
191.40	Malignant neoplasms of brain, occipital lobe	C71.4	Malignant neoplasm of occipital lobe
191.50	Malignant neoplasms of brain, ventricles	C71.5	Malignant neoplasm of cerebral ventricle
191.60	Malignant neoplasms of brain, cerebellum	C71.6	Malignant neoplasm of cerebellum
191.70	Malignant neoplasms of brain, brain stem	C71.7	Malignant neoplasm of brain stem
191.80	Malignant neoplasms of brain, other part of brain, includes midbrain, peduncle, and medulla oblongata	C71.8	Malignant neoplasm of overlapping sites of brain
192.00	Malignant neoplasms of brain, cranial nerves	C72.50	Malignant neoplasm of unspecified cranial nerve
		C72.59	Malignant neoplasm of other cranial nerves
192.10	Malignant neoplasms of brain, cerebral meninges	C70.0	Malignant neoplasm of cerebral meninges
198.30	Secondary malignant neoplasm of brain	C79.31	Secondary malignant neoplasm of brain

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International Classification of Diseases, 9th Revision, Clinical Modification		International Classification of Diseases, 10th Revision, Clinical Modification	
198.40	Secondary malignant neoplasm of other parts of the nervous system, includes cerebral meninges	C79.32	Secondary malignant neoplasm of cerebral meninges
225.00	Benign neoplasm of brain and other parts of the nervous system, brain	C79.49	Secondary malignant neoplasm of other parts of nervous system
225.10	Benign neoplasm of brain and other parts of the nervous system, cranial nerves	D33.2	Benign neoplasm of brain, unspecified
225.20	Benign neoplasm of brain and other parts of the nervous system, cerebral meninges	D33.3	Benign neoplasm of cranial nerves
323.01-323.9	Encephalitis, myelitis and encephalomyelitis	D32.0	Benign neoplasm of cerebral meninges
324.00	Intracranial and intraspinal abscess	D32.9	Benign neoplasm of meninges, unspecified
348.10	Anoxic brain damage	G04.00- G05.4	Encephalitis, myelitis and encephalomyelitis
430.00	Subarachnoid hemorrhage	G06.0	Intracranial abscess and granuloma
431.00	Intracerebral hemorrhage	G06.1	Intraspinal abscess and granuloma
432.00	Other and unspecified intracranial hemorrhage	G93.1	Anoxic brain damage, not elsewhere classified
433.00	Occlusion and stenosis of precerebral arteries	I60.00- I60.8	Nontraumatic subarachnoid hemorrhage
434.00	Occlusion of cerebral arteries	I61.0- I61.9	Nontraumatic intracerebral hemorrhage
435.00	Transient cerebral ischemia	I62.1	Nontraumatic extradural hemorrhage
436.00	Acute, but ill-defined, cerebrovascular disease	I65.01- I65.9	Occlusion and stenosis of precerebral arteries, not resulting in cerebral infarction
437.00	Other and ill-defined cerebrovascular disease	I66.01- I66.9	Occlusion and stenosis of cerebral arteries, not resulting in cerebral infarction
800.00-800.99	Fracture of vault of skull	G45.0- G45.9	Transient cerebral ischemic attacks and related syndromes
801.00-801.99	Fracture of base of skull	I67.89	Other cerebrovascular disease
803.00-803.99	Other and unqualified skull fractures	I67.9	Cerebrovascular disease, unspecified
804.00-804.99	Multiple fractures involving skull or face with other bones	I67.89	Other cerebrovascular disease
850.00-850.99	Concussion	I67.9	Cerebrovascular disease, unspecified
		S02.0XXA; S02.0XXB	Fracture of vault of skull
		S02.1- S02.19	Fracture of base of skull
		S02.91XA	Unspecified fracture of skull
		S02.91XA	Unspecified fracture of skull
		S06.0X0A- S06.0X9A	Concussion

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International Classification of Diseases, 9th Revision, Clinical Modification		International Classification of Diseases, 10th Revision, Clinical Modification	
851.00- 851.99	Cerebral laceration and contusion	S06.31- S06.33	Contusion and laceration of cerebrum
852.00- 852.59	Subarachnoid, subdural, and extradural hemorrhage following injury	S06.4; S06.5; S06.6	Traumatic epidural, subdural, and subarachnoid hemorrhage
853.00- 853.19	Other and unspecified intracranial hemorrhage following injury	S06.36	Traumatic hemorrhage of cerebrum, unspecified
854.00- 854.19	Intracranial injury of other and unspecified nature	S06.8- S06.9	Other specified intracranial injuries and unspecified intracranial injuries
960-979	Poisoning by drugs, medicinal and biological substances	T36-T50	Poisoning by, adverse effect of and underdosing of systemic antibiotics; other systemic anti-infectives and antiparasitics; hormones and their synthetic substitutes and antagonists, not elsewhere classified; nonopioid analgesics, antipyretics and antirheumatics; narcotics and psychodysleptics (hallucinogens); anesthetics and therapeutic gases; antiepileptic, sedative-hypnotic and antiparkinsonism drugs; psychotropic drugs, not elsewhere classified; drugs primarily affecting the autonomic nervous system; primarily systemic and hematological agents, not elsewhere classified; agents primarily affecting the cardiovascular system; agents primarily affecting the gastrointestinal system; agents primarily acting on smooth and skeletal muscles and the respiratory system; topical agents primarily affecting skin and mucous membrane and by ophthalmological, otorhinolaryngological and dental drugs; diuretics and other unspecified drugs, medicaments and biological substances
980-989	Toxic effects of substances	T51-T65	Toxic effect of substances chiefly nonmedicinal as to source alcohol; organic solvents; halogen derivatives; corrosive substances; soaps and detergents; metals; other inorganic substances; carbon monoxide; other gases, fumes and vapors; pesticides; noxious substances eaten as seafood; other noxious substances eaten as food; venomous animals and plants; aflatoxin and other mycotoxin food contaminants; other and unspecified substances

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International Classification of Diseases, 9th Revision, Clinical Modification		International Classification of Diseases, 10th Revision, Clinical Modification	
990-995	Effects of external causes	T33; T66-T71; T73-T75; T78; T80	Other and unspecified effects of other external causes; frostbite; radiation sickness; heat and light; hypothermia; other effects of reduced temperature; air pressure and water pressure; asphyxiation; other deprivation; adult and child abuse, neglect and other mistreatment, confirmed; other and unspecified effects of other external causes; adverse effects not elsewhere classified
994.1	Drowning and nonfatal submersion	T75.1XXA	Unspecified effects of drowning and nonfatal submersion
994.7	Asphyxiation and strangulation	T71.11A- T71.9XXA	Asphyxiation by smothering under pillow; plastic bag; trapped in bed linens; smothering under another person's body; smothering in furniture; hanging; other causes; systemic oxygen deficiency due to low oxygen content in ambient air due to unspecified cause; cave-in or falling earth; trapped in trunk of car; trapped in discarded refrigerator
995.50- 995.59	Child maltreatment syndrome	T74.01XA- T74.92XA	Adult and child abuse, neglect and other maltreatment, confirmed
		T76.01XA- T76.92XA	Adult and child abuse, neglect and other maltreatment, suspected
995.80- 995.89	Adult maltreatment syndrome	T74.01XA- T74.92XA	Adult and child abuse, neglect and other maltreatment, confirmed
		T76.01XA- T76.92XA	Adult and child abuse, neglect and other maltreatment, suspected

ITEM 7. Rescind subrule 21.3(2) and adopt the following **new** subrule in lieu thereof:

21.3(2) Reportable cases of spinal cord injuries are those that are identified by the following codes from the International Classification of Diseases, 9th Revision, Clinical Modification, or the International Classification of Diseases, 10th Revision, Clinical Modification:

a. Fracture.

(1) International Classification of Diseases, 9th Revision, Clinical Modification:

806.00- Fracture of vertebral column with spinal cord injury
806.9

(2) International Classification of Diseases, 10th Revision, Clinical Modification:

S12.000A Unspecified displaced fracture of the first cervical vertebra, initial encounter for closed fracture
S12.000B Unspecified displaced fracture of first cervical vertebra, initial encounter for open fracture
S12.001A Unspecified nondisplaced fracture of first cervical vertebra, initial encounter for closed fracture
S12.001B Unspecified nondisplaced fracture of first cervical vertebra, initial encounter for open fracture
S12.100A Unspecified displaced fracture of second cervical vertebra, initial encounter for closed fracture
S12.100B Unspecified displaced fracture of second cervical vertebra, initial encounter for open fracture

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- S12.101A Unspecified nondisplaced fracture of second cervical vertebra, initial encounter for closed fracture
- S12.101B Unspecified nondisplaced fracture of second cervical vertebra, initial encounter for open fracture
- S12.200A Unspecified displaced fracture of third cervical vertebra, initial encounter for closed fracture
- S12.200B Unspecified displaced fracture of third cervical vertebra, initial encounter for open fracture
- S12.201A Unspecified nondisplaced fracture of third cervical vertebra, initial encounter for closed fracture
- S12.201B Unspecified nondisplaced fracture of third cervical vertebra, initial encounter for open fracture
- S12.300A Unspecified displaced fracture of fourth cervical vertebra, initial encounter for closed fracture
- S12.300B Unspecified displaced fracture of fourth cervical vertebra, initial encounter for open fracture
- S12.301A Unspecified nondisplaced fracture of fourth cervical vertebra, initial encounter for closed fracture
- S12.301B Unspecified nondisplaced fracture of fourth cervical vertebra, initial encounter for open fracture
- S12.400A Unspecified displaced fracture of fifth cervical vertebra, initial encounter for closed fracture
- S12.400B Unspecified displaced fracture of fifth cervical vertebra, initial encounter for open fracture
- S12.401A Unspecified nondisplaced fracture of fifth cervical vertebra, initial encounter for closed fracture
- S12.401B Unspecified nondisplaced fracture of fifth cervical vertebra, initial encounter for open fracture
- S12.500A Unspecified displaced fracture of sixth cervical vertebra, initial encounter for closed fracture
- S12.500B Unspecified displaced fracture of sixth cervical vertebra, initial encounter for open fracture
- S12.501A Unspecified nondisplaced fracture of sixth cervical vertebra, initial encounter for closed fracture
- S12.501B Unspecified nondisplaced fracture of sixth cervical vertebra, initial encounter for open fracture
- S12.600A Unspecified displaced fracture of seventh cervical vertebra, initial encounter for closed fracture
- S12.600B Unspecified displaced fracture of seventh cervical vertebra, initial encounter for open fracture
- S12.601A Unspecified nondisplaced fracture of seventh cervical vertebra, initial encounter for closed fracture
- S12.601B Unspecified nondisplaced fracture of seventh cervical vertebra, initial encounter for open fracture
- S12.9XXA Fracture of neck, unspecified, initial encounter
- S14.101A Unspecified injury at C1 level of cervical spinal cord, initial encounter
- S14.102A Unspecified injury at C2 level of cervical spinal cord, initial encounter
- S14.103A Unspecified injury at C3 level of cervical spinal cord, initial encounter
- S14.104A Unspecified injury at C4 level of cervical spinal cord, initial encounter
- S14.105A Unspecified injury at C5 level of cervical spinal cord, initial encounter
- S14.106A Unspecified injury at C6 level of cervical spinal cord, initial encounter
- S14.107A Unspecified injury at C7 level of cervical spinal cord, initial encounter
- S14.109A Unspecified injury at unspecified level of cervical spinal cord, initial encounter
- S14.111A Complete lesion at C1 level of cervical spinal cord, initial encounter
- S14.112A Complete lesion at C2 level of cervical spinal cord, initial encounter
- S14.113A Complete lesion at C3 level of cervical spinal cord, initial encounter
- S14.114A Complete lesion at C4 level of cervical spinal cord, initial encounter
- S14.115A Complete lesion at C5 level of cervical spinal cord, initial encounter

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- S14.116A Complete lesion at C6 level of cervical spinal cord, initial encounter
- S14.117A Complete lesion at C7 level of cervical spinal cord, initial encounter
- S14.121A Central cord syndrome at C1 level of cervical spinal cord, initial encounter
- S14.122A Central cord syndrome at C2 level of cervical spinal cord, initial encounter
- S14.123A Central cord syndrome at C3 level of cervical spinal cord, initial encounter
- S14.124A Central cord syndrome at C4 level of cervical spinal cord, initial encounter
- S14.125A Central cord syndrome at C5 level of cervical spinal cord, initial encounter
- S14.126A Central cord syndrome at C6 level of cervical spinal cord, initial encounter
- S14.127A Central cord syndrome at C7 level of cervical spinal cord, initial encounter
- S14.131A Anterior cord syndrome at C1 level of cervical spinal cord, initial encounter
- S14.132A Anterior cord syndrome at C2 level of cervical spinal cord, initial encounter
- S14.133A Anterior cord syndrome at C3 level of cervical spinal cord, initial encounter
- S14.134A Anterior cord syndrome at C4 level of cervical spinal cord, initial encounter
- S14.135A Anterior cord syndrome at C5 level of cervical spinal cord, initial encounter
- S14.136A Anterior cord syndrome at C6 level of cervical spinal cord, initial encounter
- S14.137A Anterior cord syndrome at C7 level of cervical spinal cord, initial encounter
- S14.151A Other incomplete lesion at C1 level of cervical spinal cord, initial encounter
- S14.152A Other incomplete lesion at C2 level of cervical spinal cord, initial encounter
- S14.153A Other incomplete lesion at C3 level of cervical spinal cord, initial encounter
- S14.154A Other incomplete lesion at C4 level of cervical spinal cord, initial encounter
- S14.155A Other incomplete lesion at C5 level of cervical spinal cord, initial encounter
- S14.156A Other incomplete lesion at C6 level of cervical spinal cord, initial encounter
- S14.157A Other incomplete lesion at C7 level of cervical spinal cord, initial encounter
- S22.009A Unspecified fracture of unspecified thoracic vertebra, initial encounter for closed fracture
- S22.009B Unspecified fracture of unspecified thoracic vertebra, initial encounter for open fracture
- S22.019A Unspecified fracture of first thoracic vertebra, initial encounter for closed fracture
- S22.019B Unspecified fracture of first thoracic vertebra, initial encounter for open fracture
- S22.029A Unspecified fracture of second thoracic vertebra, initial encounter for closed fracture
- S22.029B Unspecified fracture of second thoracic vertebra, initial encounter for open fracture
- S22.039A Unspecified fracture of third thoracic vertebra, initial encounter for closed fracture
- S22.039B Unspecified fracture of third thoracic vertebra, initial encounter for open fracture
- S22.049A Unspecified fracture of fourth thoracic vertebra, initial encounter for closed fracture
- S22.049B Unspecified fracture of fourth thoracic vertebra, initial encounter for open fracture
- S22.059A Unspecified fracture of T5-T6 vertebra, initial encounter for closed fracture
- S22.059B Unspecified fracture of T5-T6 vertebra, initial encounter for open fracture
- S22.069A Unspecified fracture of T7-T8 vertebra, initial encounter for closed fracture
- S22.069B Unspecified fracture of T7-T8 vertebra, initial encounter for open fracture
- S22.079A Unspecified fracture of T9-T10 vertebra, initial encounter for closed fracture
- S22.079B Unspecified fracture of T9-T10 vertebra, initial encounter for open fracture
- S22.089A Unspecified fracture of T11-T12 vertebra, initial encounter for closed fracture
- S22.089B Unspecified fracture of T11-T12 vertebra, initial encounter for open fracture
- S24.101A Unspecified injury at T1 level of thoracic spinal cord, initial encounter
- S24.102A Unspecified injury at T2-T6 level of thoracic spinal cord, initial encounter

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- S24.103A Unspecified injury at T7-T10 level of thoracic spinal cord, initial encounter
- S24.104A Unspecified injury at T11-T12 level of thoracic spinal cord, initial encounter
- S24.109A Unspecified injury at unspecified level of thoracic spinal cord, initial encounter
- S24.111A Complete lesion at T1 level of thoracic spinal cord, initial encounter
- S24.112A Complete lesion at T2-T6 level of thoracic spinal cord, initial encounter
- S24.113A Complete lesion at T7-T10 level of thoracic spinal cord, initial encounter
- S24.114A Complete lesion at T11-T12 level of thoracic spinal cord, initial encounter
- S24.131A Anterior cord syndrome at T1 level of thoracic spinal cord, initial encounter
- S24.132A Anterior cord syndrome at T2-T6 level of thoracic spinal cord, initial encounter
- S24.133A Anterior cord syndrome at T7-T10 level of thoracic spinal cord, initial encounter
- S24.134A Anterior cord syndrome at T11-T12 level of thoracic spinal cord, initial encounter
- S24.151A Other incomplete lesion at T1 level of thoracic spinal cord, initial encounter
- S24.152A Other incomplete lesion at T2-T6 level of thoracic spinal cord, initial encounter
- S24.153A Other incomplete lesion at T7-T10 level of thoracic spinal cord, initial encounter
- S24.154A Other incomplete lesion at T11-T12 level of thoracic spinal cord, initial encounter
- S32.009A Unspecified fracture of unspecified lumbar vertebra, initial encounter for closed fracture
- S32.009B Unspecified fracture of unspecified lumbar vertebra, initial encounter for open fracture
- S32.10XA Unspecified fracture of sacrum, initial encounter for closed fracture
- S32.10XB Unspecified fracture of sacrum, initial encounter for open fracture
- S32.019A Unspecified fracture of first lumbar vertebra, initial encounter for closed fracture
- S32.019B Unspecified fracture of first lumbar vertebra, initial encounter for open fracture
- S32.029A Unspecified fracture of second lumbar vertebra, initial encounter for closed fracture
- S32.029B Unspecified fracture of second lumbar vertebra, initial encounter for open fracture
- S32.039A Unspecified fracture of third lumbar vertebra, initial encounter for closed fracture
- S32.039B Unspecified fracture of third lumbar vertebra, initial encounter for open fracture
- S32.049A Unspecified fracture of fourth lumbar vertebra, initial encounter for closed fracture
- S32.049B Unspecified fracture of fourth lumbar vertebra, initial encounter for open fracture
- S32.059A Unspecified fracture of fifth lumbar vertebra, initial encounter for closed fracture
- S32.059B Unspecified fracture of fifth lumbar vertebra, initial encounter for open fracture
- S32.2XXA Fracture of coccyx, initial encounter for closed fracture
- S32.2XXB Fracture of coccyx, initial encounter for open fracture
- S34.101A Unspecified injury to L1 level of lumbar spinal cord, initial encounter
- S34.102A Unspecified injury to L2 level of lumbar spinal cord, initial encounter
- S34.103A Unspecified injury to L3 level of lumbar spinal cord, initial encounter
- S34.104A Unspecified injury to L4 level of lumbar spinal cord, initial encounter
- S34.105A Unspecified injury to L5 level of lumbar spinal cord, initial encounter
- S34.109A Unspecified injury to unspecified level of lumbar spinal cord, initial encounter
- S34.111A Complete lesion of L1 level of lumbar spinal cord, initial encounter
- S34.112A Complete lesion of L2 level of lumbar spinal cord, initial encounter
- S34.113A Complete lesion of L3 level of lumbar spinal cord, initial encounter
- S34.114A Complete lesion of L4 level of lumbar spinal cord, initial encounter
- S34.115A Complete lesion of L5 level of lumbar spinal cord, initial encounter
- S34.119A Complete lesion of unspecified level of lumbar spinal cord, initial encounter

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- S34.121A Incomplete lesion of L1 level of lumbar spinal cord, initial encounter
- S34.122A Incomplete lesion of L2 level of lumbar spinal cord, initial encounter
- S34.123A Incomplete lesion of L3 level of lumbar spinal cord, initial encounter
- S34.124A Incomplete lesion of L4 level of lumbar spinal cord, initial encounter
- S34.125A Incomplete lesion of L5 level of lumbar spinal cord, initial encounter
- S34.129A Incomplete lesion of unspecified level of lumbar spinal cord, initial encounter
- S34.131A Complete lesion of sacral spinal cord, initial encounter
- S34.132A Incomplete lesion of sacral spinal cord, initial encounter
- S34.139A Unspecified injury to sacral spinal cord, initial encounter
- S34.3XXA Injury of cauda equina, initial encounter

b. Spinal cord injury.

(1) International Classification of Diseases, 9th Revision, Clinical Modification:

- 952.00- Spinal cord injury without evidence of spinal bone injury
- 952.9

(2) International Classification of Diseases, 10th Revision, Clinical Modification:

- S14.101A Unspecified injury at C1 level of cervical spinal cord, initial encounter
- S14.102A Unspecified injury at C2 level of cervical spinal cord, initial encounter
- S14.103A Unspecified injury at C3 level of cervical spinal cord, initial encounter
- S14.104A Unspecified injury at C4 level of cervical spinal cord, initial encounter
- S14.105A Unspecified injury at C5 level of cervical spinal cord, initial encounter
- S14.106A Unspecified injury at C6 level of cervical spinal cord, initial encounter
- S14.107A Unspecified injury at C7 level of cervical spinal cord, initial encounter
- S14.108A Unspecified injury at C8 level of cervical spinal cord, initial encounter
- S14.109A Unspecified injury at unspecified level of cervical spinal cord, initial encounter
- S14.111A Complete lesion at C1 level of cervical spinal cord, initial encounter
- S14.112A Complete lesion at C2 level of cervical spinal cord, initial encounter
- S14.113A Complete lesion at C3 level of cervical spinal cord, initial encounter
- S14.114A Complete lesion at C4 level of cervical spinal cord, initial encounter
- S14.115A Complete lesion at C5 level of cervical spinal cord, initial encounter
- S14.116A Complete lesion at C6 level of cervical spinal cord, initial encounter
- S14.117A Complete lesion at C7 level of cervical spinal cord, initial encounter
- S14.118A Complete lesion at C8 level of cervical spinal cord, initial encounter
- S14.121A Central cord syndrome at C1 level of cervical spinal cord, initial encounter
- S14.122A Central cord syndrome at C2 level of cervical spinal cord, initial encounter
- S14.123A Central cord syndrome at C3 level of cervical spinal cord, initial encounter
- S14.124A Central cord syndrome at C4 level of cervical spinal cord, initial encounter
- S14.125A Central cord syndrome at C5 level of cervical spinal cord, initial encounter
- S14.126A Central cord syndrome at C6 level of cervical spinal cord, initial encounter
- S14.127A Central cord syndrome at C7 level of cervical spinal cord, initial encounter
- S14.128A Central cord syndrome at C8 level of cervical spinal cord, initial encounter
- S14.131A Anterior cord syndrome at C1 level of cervical spinal cord, initial encounter

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- S14.132A Anterior cord syndrome at C2 level of cervical spinal cord, initial encounter
- S14.133A Anterior cord syndrome at C3 level of cervical spinal cord, initial encounter
- S14.134A Anterior cord syndrome at C4 level of cervical spinal cord, initial encounter
- S14.135A Anterior cord syndrome at C5 level of cervical spinal cord, initial encounter
- S14.136A Anterior cord syndrome at C6 level of cervical spinal cord, initial encounter
- S14.137A Anterior cord syndrome at C7 level of cervical spinal cord, initial encounter
- S14.138A Anterior cord syndrome at C8 level of cervical spinal cord, initial encounter
- S14.151A Other incomplete lesion at C1 level of cervical spinal cord, initial encounter
- S14.152A Other incomplete lesion at C2 level of cervical spinal cord, initial encounter
- S14.153A Other incomplete lesion at C3 level of cervical spinal cord, initial encounter
- S14.154A Other incomplete lesion at C4 level of cervical spinal cord, initial encounter
- S14.155A Other incomplete lesion at C5 level of cervical spinal cord, initial encounter
- S14.156A Other incomplete lesion at C6 level of cervical spinal cord, initial encounter
- S14.157A Other incomplete lesion at C7 level of cervical spinal cord, initial encounter
- S14.158A Other incomplete lesion at C8 level of cervical spinal cord, initial encounter
- S24.101A Unspecified injury at T1 level of thoracic spinal cord, initial encounter
- S24.102A Unspecified injury at T2-T6 level of thoracic spinal cord, initial encounter
- S24.103A Unspecified injury at T7-T10 level of thoracic spinal cord, initial encounter
- S24.104A Unspecified injury at T11-T12 level of thoracic spinal cord, initial encounter
- S24.109A Unspecified injury at unspecified level of thoracic spinal cord, initial encounter
- S24.111A Complete lesion at T1 level of thoracic spinal cord, initial encounter
- S24.112A Complete lesion at T2-T6 level of thoracic spinal cord, initial encounter
- S24.113A Complete lesion at T7-T10 level of thoracic spinal cord, initial encounter
- S24.114A Complete lesion at T11-T12 level of thoracic spinal cord, initial encounter
- S24.131A Anterior cord syndrome at T1 level of thoracic spinal cord, initial encounter
- S24.132A Anterior cord syndrome at T2-T6 level of thoracic spinal cord, initial encounter
- S24.133A Anterior cord syndrome at T7-T10 level of thoracic spinal cord, initial encounter
- S24.134A Anterior cord syndrome at T11-T12 level of thoracic spinal cord, initial encounter
- S24.151A Other incomplete lesion at T1 level of thoracic spinal cord, initial encounter
- S24.152A Other incomplete lesion at T2-T6 level of thoracic spinal cord, initial encounter
- S24.153A Other incomplete lesion at T7-T10 level of thoracic spinal cord, initial encounter
- S24.154A Other incomplete lesion at T11-T12 level of thoracic spinal cord, initial encounter
- S34.109A Unspecified injury to unspecified level of lumbar spinal cord, initial encounter
- S34.139A Unspecified injury to sacral spinal cord, initial encounter
- S34.3XXA Injury of cauda equina, initial encounter

ITEM 8. Adopt the following **new** subrule 21.5(3):

21.5(3) Each report shall contain, at a minimum, all of the following information:

- a. The patient's name;
- b. The patient's address;
- c. The patient's date of birth;
- d. The sex of the patient;
- e. The date, type, and cause of the brain or spinal cord injury;
- f. The patient's score on the Glasgow coma scale, if available; and
- g. Other information required by the department.

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ITEM 9. Amend subrule 21.6(2), introductory paragraph, as follows:

21.6(2) A registry report of a ~~traumatic~~ brain or spinal cord injury ~~that~~ which is submitted to the ~~agency that~~ department and which can be associated with a particular individual shall be released as follows solely by the department and only under the following conditions:

ITEM 10. Rescind paragraph **21.6(2)“e”** and adopt the following **new** paragraph in lieu thereof:

e. To an authorized representative of a study or research project that shall be reviewed and approved by the department's research and ethics review committee and approved by the director of public health. If information identifies individuals with brain or spinal cord injuries, the release of such information for research purposes shall be subject to the terms and conditions set by the department. Such study or research project shall maintain the identifying information as confidential and privileged. A formal memorandum of agreement signed by an authorized representative of the department and the director of the research project shall include provisions that the data provided by the department shall not be copied for retention, resold, or otherwise provided to another person or organization and shall be returned to the department or otherwise destroyed upon completion of the study.

ITEM 11. Rescind paragraph **21.6(2)“f.”**

ITEM 12. Reletter paragraph **21.6(2)“g”** as **21.6(2)“f.”**

ITEM 13. Amend **641—Chapter 21**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 135.22 as ~~amended by 1994 Iowa Acts, House File 2145.~~

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Notice of Intended Action

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 307.10, 307.12, 321.449 and 321.450, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, “Regulations Applicable to Carriers,” Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR) Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the U.S. Department of Transportation.

The amendments to the FMCSR and the HMR that have become final and effective since the 2012 edition of the CFR are listed below. The parts affected are followed by FR citations.

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Amendments to the FMCSR and Federal HMRParts 385 and 390-399 (FR Vol. 77, No. 190, Pages 59818-59829, 10-01-12)

This final rule makes technical corrections throughout Title 49 CFR, Subtitle B, Chapter III. The Federal Motor Carrier Safety Administration (FMCSA) is making minor editorial changes to add revised delegations of authority from the Secretary of Transportation, correct errors and omissions, and improve clarity. This rule does not make any substantive changes to the affected parts of the FMCSR. Effective Date: October 1, 2012.

Parts 107, 171, 172, 173 and 178 (FR Vol. 77, No. 194, Pages 60935-60945, 10-05-12)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are nonsubstantive changes and do not impose new requirements. Effective Date: October 5, 2012.

Part 385 (FR Vol. 77, No. 205, Pages 64759-64762, 10-23-12)

This final rule amends the FMCSR to remove the provision indicating that the FMCSA will consider a 10-day extension of the 45-day period after which passenger and hazardous materials carriers must cease operation after receiving a proposed unsatisfactory safety rating. The FMCSA previously discontinued this practice as a matter of policy and amends the regulation to be consistent with the policy and the statutory language concerning this matter. Although FMCSA will continue to review requests for upgrades of a proposed unsatisfactory safety rating for such carriers, FMCSA no longer grants extensions to the 45-day period. Effective Date: November 23, 2012.

Part 390 (FR Vol. 77, No. 209, Pages 65497-65498, 10-29-12)

This action withdraws the FMCSA's direct final rule of August 27, 2012, amending the definition of "gross combination weight rating" (GCWR) in 49 CFR Parts 383 and 390. The direct final rule would have taken effect on October 26, 2012. However, the FMCSA received several adverse comments and will, therefore, develop a notice of proposed rule making to request public comments on proposed changes to the GCWR definition. The direct final rule published August 27, 2012, (77 FR 51706) was withdrawn effective October 26, 2012.

Parts 171, 172, 173 and 178 (FR Vol. 78, No. 4, Pages 1101-1118, 01-07-13)

This final rule responds to administrative appeals generated as a result of certain amendments adopted in an international harmonization final rule published on January 19, 2011. The January 19, 2011, final rule amended the HMR by revising, removing or adding proper shipping names, the hazard class of a material, packing group assignments, special provisions, packaging authorizations, packaging sections, air transport quantity limitations, and vessel stowage requirements. The amendments were necessary to align the HMR with recent revisions to international standards for the transport of hazardous materials by all modes. In this final rule, the Pipeline and Hazardous Materials Safety Administration (PHMSA) amends the HMR as a result of administrative appeals submitted in response to various amendments adopted in the January 19, 2011, final rule. This final rule also addresses recent actions taken by the International Civil Aviation Organization's Dangerous Goods Panel regarding certain lithium ion battery-powered mobility aids (e.g., wheelchairs, travel scooters) offered by passengers for air transport and passenger notification of hazardous materials restrictions by operators. Further, this final rule adopts amendments to the HMR as a result of two administrative appeals submitted by an appellant in response to a final rule published on February 2, 2010, that revised shipper responsibilities related to packaging design variation, manufacturer notification, and record-keeping requirements for certain packaging types. Effective Date: January 1, 2013.

Parts 171, 172, 173, 177 and 178 (FR Vol. 78, No. 4, Pages 987-1100, 01-07-13)

This final rule amends the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations'

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Recommendations on the Transport of Dangerous Goods—Model Regulations and address a petition for rule making. Voluntary Compliance Date: January 1, 2013. Mandatory Compliance Date: January 1, 2014.

Parts 172, 173 and 178 (FR Vol. 78, No. 45, Pages 14702-14716, 03-07-13)

This final rule amends the HMR in response to petitions for rule making submitted by the regulated community to update, clarify, or provide relief from miscellaneous regulatory requirements. Specifically, PHMSA is amending the record-keeping and package-marking requirements for third-party laboratories and manufacturers to ensure the traceability of packaging; removing the listing for “NA1203, gasohol, gasoline mixed with ethyl alcohol, with not more than 10% alcohol”; harmonizing internationally and providing a limited quantity exception for Division 4.1, self-reactive solids and self-reactive liquids types B through F; allowing smokeless powder classified as a Division 1.4C material to be reclassified as a Division 4.1 material; and providing greater flexibility by allowing the dangerous cargo manifest to be in locations designated by the master of the vessel besides “on or near the vessel’s bridge” while the vessel is in a United States port. Voluntary Compliance Date: March 7, 2013. Mandatory Compliance Date: May 6, 2013.

Parts 171, 172, 173, 177, 178 and 180 (FR Vol. 78, No. 47, Pages 15303-15331, 03-11-13)

This final rule amends the HMR to make miscellaneous amendments to update and clarify certain regulatory requirements. These amendments promote safer transportation practices, eliminate unnecessary regulatory requirements, address a petition for rule making, incorporate a special permit into the HMR, facilitate international commerce, and simplify the regulations. These amendments also update various entries in the Hazardous Materials Table and corresponding special provisions, clarify the lab pack requirements for temperature-controlled materials, and require hazmat employers to make hazmat employee training records available upon request to an authorized official of the U.S. Department of Transportation or an entity explicitly granted authority to enforce the HMR. Effective Date: May 10, 2013. Voluntary Compliance Date: March 11, 2013.

Parts 390, 391, 395 and 396 (FR Vol. 78, No. 50, Pages 16189-16195, 03-14-13)

This final rule promulgates the regulatory exemptions for the “transportation of agricultural commodities and farm supplies” and for “covered farm vehicles” and their drivers enacted by Sections 32101(d) and 32934, respectively, of the Moving Ahead for Progress in the 21st Century Act (MAP-21). Although prior statutory exemptions involving agriculture are unchanged, some of these exemptions overlap with MAP-21 provisions. In these cases, regulated entities will be able to choose the exemption, or set of exemptions, under which to operate. Regulated entities must, however, comply fully with the terms of each exemption they claim. Effective Date: March 14, 2013.

Parts 107 and 171 (FR Vol. 78, No. 74, Pages 22798-22800, 04-17-13)

This final rule revises the references in PHMSA’s regulations to the maximum and minimum civil penalties for a knowing violation of the federal hazardous materials transportation law or a regulation, order, special permit, or approval issued under that law. As amended in MAP-21, effective October 1, 2012, the maximum civil penalty for a knowing violation is now \$75,000, except that the maximum civil penalty is \$175,000 for a violation that results in death, serious illness, or severe injury to any person or substantial destruction of property. In addition, there is no longer a minimum civil penalty amount, except that the minimum civil penalty amount of \$450 applies to a violation relating to training. Effective Date: April 17, 2013.

Part 107 (FR Vol. 78, No. 76, Pages 23503-23506, 04-19-13)

This final rule requires the U.S. Department of Transportation to adjust the amount of the annual registration fee to account for any unexpended balance in the Hazardous Materials Emergency Preparedness Fund. Due to an unexpended balance that has accumulated in the fund, PHMSA is lowering the registration fees for registration year 2013-2014 for all persons, as defined in PHMSA regulations, that transport or offer for transportation in commerce certain categories and quantities of hazardous materials. Specifically, for registration year 2013-2014, the fee for a small business or not-for-profit organization is revised to be \$125 (plus a \$25 processing fee), and for all other businesses, the fee is \$1300 (plus a \$25 processing fee). After the 2013-2014 registration year, the registration fees will return to 2012-2013 registration year levels. Additionally, PHMSA makes an editorial change to

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its regulations to clarify the appropriate fee amounts; there are no substantive changes other than the addition of the fees for 2013-2014 and for 2014-2015 and later. In order to make the change effective for the 2013-2014 registration year and thus draw down the unexpended balance as soon as possible, PHMSA issued this final rule without a prior notice of proposed rule making in accordance with the good-cause exemption specified in the Administrative Procedures Act. Additionally, for good cause, this final rule is effective immediately. Effective Date: April 19, 2013.

Parts 107, 171, 172 and 173 (FR Vol. 78, No. 136, Pages 42457-42478, 07-16-13)

This final rule revises the HMR applicable to the approval of Division 1.4G consumer fireworks and establishes U.S. Department of Transportation-approved fireworks certification agencies that provide an alternative to the approval process for Division 1.4G consumer fireworks. PHMSA is also reformatting the procedural regulations pertaining to certification agencies. These actions clarify regulations with respect to PHMSA's fireworks approval process and provide regulatory flexibility in seeking authorization for the transportation of Division 1.4G consumer fireworks. Effective Date: August 15, 2013.

Parts 172 and 173 (FR Vol. 78, No. 146, Pages 45880-45893, 07-30-13)

This final rule amends the HMR applicable to air bag inflators, air bag modules, and seat-belt pretensioners. The revisions incorporate the provisions of two special permits into the regulations. In addition, PHMSA is amending the current approval and documentation requirements for a material classified as a UN3268 air bag inflator, air bag module, or seat-belt pretensioner. These revisions are intended to reduce the regulatory burden on the automotive industry and facilitate commerce, while continuing to maintain an equivalent level of safety. Effective Date: August 29, 2013. Voluntary Compliance Date: July 30, 2013.

Parts 385, 390 and 392 (FR Vol. 78, No. 164, Pages 52607-52655, 08-23-13)

This final rule amends FMCSA's regulations to require interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the FMCSA via a new electronic online unified registration system (URS). FMCSA establishes fees for the registration system, discloses the cumulative information to be collected in the URS, and provides a centralized cross reference to existing safety and commercial regulations necessary for compliance with the registration requirements. The final rule implements statutory provisions in the Interstate Commerce Commission Termination Act of 1995 and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, 2005. The URS will streamline the registration process and serve as a clearinghouse and depository of information on, and identification of, motor carriers, brokers, freight forwarders, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities required to register with FMCSA. Effective Dates: The final rule is effective October 23, 2015, except for Section 390.19 (amendatory instruction 55) and Section 392.9b (amendatory instruction 61), which were effective November 1, 2013, and except for Section 366.2 (amendatory instruction 19), which is effective April 25, 2016. Compliance Dates: The compliance date for this final rule is October 23, 2015, except that the compliance date for Sections 390.19 and 392.9b is November 1, 2013, and the compliance date for Section 366.2 is April 25, 2016.

Part 385 (FR Vol. 78, No. 178, Pages 56618-56620, 09-13-13)

This final rule amends FMCSA's hazardous materials safety permit rules to update the current incorporation by reference of the "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuramics and Highway Route Controlled Quantities of Radioactive Materials as Defined in 49 CFR Part 173.403." The rules currently reference the April 1, 2012, edition of the out-of-service criteria, and through this final rule, FMCSA incorporates the April 1, 2013, edition. Effective Date: September 13, 2013.

Parts 385, 390, 391, 393, 395, 396 and 397 (FR Vol. 78, No. 185, Pages 58470-58486, 09-24-13)

This final rule makes technical corrections throughout FMCSA's regulations. FMCSA is making minor editorial changes to correct errors and omissions, ensure conformity with the style of the Office

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of the Federal Register, and improve clarity. This rule does not make any substantive changes to the affected parts of the FMCSR. Effective Date: September 24, 2013.

Parts 177 and 392 (FR Vol. 78, No. 186, Pages 58915-58923, 09-25-13)

This final rule amends the FMCSRs and HMRs, respectively, to prohibit a driver of a commercial motor vehicle or of a motor vehicle transporting certain hazardous materials or certain agents or toxins from entering onto a highway-rail grade crossing unless there is sufficient space to drive completely through the grade crossing without stopping. This action is in response to Section 112 of the Hazardous Materials Transportation Authorization Act of 1994, as amended by Section 32509 of MAP-21. The intent of this rule making is to reduce highway-rail grade crossing crashes. Effective Date: October 25, 2013.

Parts 385 and 392 (FR Vol. 78, No. 190, Pages 60226-60234, 10-01-13)

This final rule adopts certain regulations required by MAP-21. The majority of these statutory changes went into effect on October 1, 2012, while others went into effect on October 1, 2013. It is necessary to make conforming changes to ensure that FMCSA's regulations are current and consistent with the applicable statutes. Effective Date: October 1, 2013.

Part 107 (FR Vol. 78, No. 191, Pages 60726-60745, 10-02-13)

This final rule publishes PHMSA's revised statement of policy to update baseline assessments for frequently cited violations of the HMR and to clarify additional factors that affect penalty amounts. This revised statement of policy is intended to provide the regulated community and the general public with information on the hazardous materials penalty assessment process. Effective Date: October 1, 2013.

Parts 107, 171, 172, 173, 177, 178 and 180 (FR Vol. 78, No. 191, Pages 60745-60755, 10-02-13)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR. The intended effect of this rule is to enhance the accuracy of and reduce misunderstandings of the regulations. The amendments contained in this rule are nonsubstantive changes and do not impose new requirements. Effective Date: October 1, 2013.

Part 390 (FR Vol. 78, No. 205, Page 63100, 10-23-13)

This final rule makes corrections to FMCSA's August 23, 2013, final rule regarding the unified registration system. This final rule makes four minor revisions to the unified registration system's final rule to be consistent with FMCSA's "General Technical, Organizational and Conforming Amendments to the Federal Motor Carrier Safety Regulations" final rule published on September 24, 2013. Effective Date: October 23, 2013.

Part 395 (FR Vol. 78, No. 208, Pages 64179-64181, 10-28-13)

This final rule amends FMCSA's December 27, 2011, final rule entitled "Hours of Service of Drivers" to provide an exception from the 30-minute rest break requirement for short-haul drivers who are not required to prepare records of duty status. The FMCSA also removes regulatory text made obsolete by the passing of the July 1, 2013, compliance date for the final rule. This action responds to a decision of the U.S. Court of Appeals for the District of Columbia Circuit. Effective Date: October 28, 2013.

Parts 171, 172, 173 and 178 (FR Vol. 78, No. 211, Pages 65453-65488, 10-31-13)

This final rule corrects editorial errors and amends certain requirements in response to administrative appeals submitted by persons affected by certain final rules published in the Federal Register. Effective Date: October 31, 2013. Voluntary Compliance Date: PHMSA is authorizing voluntary compliance beginning October 31, 2013. Delayed Compliance Date: Unless otherwise specified, compliance with the amendments adopted in this final rule is required beginning January 1, 2014.

Part 391 (FR Vol. 79, No. 009, Pages 2377-2380, 01-14-14)

This final rule amends FMCSA's regulations to keep in effect until January 30, 2015, the requirement that interstate drivers subject to either the commercial driver's license (CDL) or the commercial learner's permit (CLP) regulations, as well as to the federal physical qualification requirements, must retain paper copies of their medical examiner's certificate when operating a commercial motor vehicle. Interstate motor carriers are also required to retain copies of their drivers' medical certificates in their driver qualification files. This action is being taken to ensure that the medical qualifications of CDL holders and CLP holders are documented adequately until all state driver licensing agencies are able to post

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the drivers' self-certification whether the physical qualifications standards are applicable to them and the medical examiner's certificate information, on the commercial driver's license information system (CDLIS) driver record. This rule does not, however, extend the compliance dates for the state driver licensing agencies to collect and to post to the CDLIS driver record the CDL holder's self-certification about applicable standards and the medical examiner's certificate. Effective Date: January 14, 2014.
Part 385 (FR Vol. 79, No. 14, Pages 3520-3542, 01-22-14)

This final rule amends FMCSA's regulations to enable FMCSA to suspend or revoke the operating authority registration of for-hire motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations, or operate multiple entities under common control to conceal noncompliance with safety regulations. These amendments implement Section 4113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by Section 32112 of MAP-21, and are designed to enhance the safety of commercial motor vehicle operations on the nation's highways. Effective Date: February 21, 2014.

Parts 107, 171, 172, 173 and 178 (FR Vol. 79, No. 52, Pages 15033-15046, 03-18-14)

This final rule amends the HMR to adopt provisions contained in certain widely used or longstanding special permits and certain competent authority approvals that have established safety records. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations, provided that an equivalent level of safety is maintained. An approval is a document that is required under an international standard (i.e., International Maritime Dangerous Goods Code, International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air), or is specifically provided for in the HMR, and is issued by the Associate Administrator for Hazardous Materials Safety. These revisions are intended to provide wider access to the regulatory flexibility offered in special permits and approvals and to eliminate the need for numerous renewal requests, thus reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety. Effective Date: April 17, 2014.

Parts 383 and 390 (FR Vol. 79, No. 53, Pages 15245-15250, 03-19-14)

This final rule amends the FMCSRs by revising the definition of "gross combination weight rating" (or GCWR) to clarify the applicability of FMCSR's safety regulations for single-unit trucks (vehicles other than truck tractors) when the single-unit trucks are towing trailers and the GCWR information is not included on the vehicle manufacturer's certification label. Effective Date: April 18, 2014.

Part 385 (FR Vol. 79, No. 94, Pages 27766-27768, 05-15-14)

This final rule amends FMCSA's hazardous materials safety permits rules to update the current incorporation by reference of the "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as Defined in 49 CFR Part 173.403." Currently, the rules reference the April 1, 2013, edition of the out-of-service criteria, and through this final rule, FMCSA incorporates the April 1, 2014, edition. Effective Date: May 15, 2014.

Parts 171, 172, 173, 177 and 178 (FR Vol. 79, No. 133, Pages 40589-40618, 07-11-14)

This final PHMSA rule, in coordination with the Nuclear Regulatory Commission, amends requirements in the HMR governing the transportation of Class 7 (radioactive) materials based on recent changes contained in the International Atomic Energy Agency (IAEA) publication "Regulations for the Safe Transport of Radioactive Material, 2009 Edition, IAEA Safety Standards Series No. TS-R-1." The purposes of this rule making are to harmonize requirements of the HMR with international standards for the transportation of Class 7 (radioactive) materials and to update, clarify, correct, or provide relief from certain regulatory requirements applicable to the transportation of Class 7 (radioactive) materials. Effective Date: October 1, 2014.

Parts 171, 172 and 173 (FR Vol. 79, No. 151, Pages 46011-46040, 08-06-14)

This final PHMSA rule, developed in consultation with the Federal Aviation Administration, modifies the requirements governing the transportation of lithium cells and batteries. This final rule revises hazard communication and packaging provisions for lithium batteries and harmonizes the HMR with applicable provisions of the United Nations' Model Regulations, the International Civil Aviation Organization's

TRANSPORTATION DEPARTMENT[761](cont'd)

Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the International Maritime Dangerous Goods Code. Effective Date: August 6, 2014.

Part 107 (FR Vol. 79, No. 152, Pages 46194-46200, 08-07-14)

This final rule amends PHMSA's hazardous materials procedural regulations. Specifically, this final rule prohibits a person who fails to pay a civil penalty as ordered, or fails to abide by a payment agreement, from performing activities regulated by the HMR until payment is made. Effective Date: September 8, 2014.

These proposed amendments also rescind rule 761—520.8(321) and adopt in lieu thereof a new rule to include the planting and harvesting periods pertaining to agricultural operations to comply with the agricultural operations hours of service exception as stated in 49 CFR 395.1(k). Other proposed amendments strike a definition that is no longer needed, correct citations to the Iowa Code and Iowa Administrative Code and ensure consistency with the Iowa Code.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than April 21, 2015.

A meeting to hear requested oral presentations is scheduled for Thursday, April 23, 2015, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by May 4, 2015.

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

These amendments are intended to implement Iowa Code sections 321.449 and 321.450.

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2012~~ 2014).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2012~~ 2014).

ITEM 3. Rescind the definition of “Gasoline” in rule **761—520.2(321)**.

ITEM 4. Amend rule **761—520.2(321)**, definitions of “Farm customer” and “Rules adopted under this section concerning physical and medical qualifications,” as follows:

“*Farm customer*” as used in Iowa Code section 321.450(3), ~~unnumbered paragraph 3~~, means a retail consumer residing on a farm or in a rural area or city with a population of 3000 or less.

TRANSPORTATION DEPARTMENT[761](cont'd)

“Rules adopted under this section concerning physical and medical qualifications” as used in Iowa Code section sections 321.449(5) and Iowa Code section 321.450(2), ~~unnumbered paragraph 2~~, means the regulations in 49 CFR 391.11(b)(4) and 49 CFR Part 391, Subpart E.

ITEM 5. Amend paragraph **520.3(1)“c”** as follows:

c. Unregistered farm trailers as defined in ~~761—subrule 400.1(3)~~ rule 761—400.1(321), pursuant to Iowa Code section 321.123.

ITEM 6. Amend subrule 520.4(1) as follows:

520.4(1) Pursuant to Iowa Code section 321.450(3), ~~unnumbered paragraph 3~~, “retail dealers of fertilizers, petroleum products, and pesticides and their employees while delivering fertilizers, petroleum products, and pesticides to farm customers within a ~~100-air-mile~~ one-hundred-mile radius of their retail place of business” are exempt from 49 CFR 177.804; and, pursuant to Iowa Code section 321.449(4), they are exempt from 49 CFR Parts 391 and 395. However, pursuant to Iowa Code section 321.449, the retail dealers and their employees under the specified conditions are subject to the regulations in 49 CFR Parts 390, 392, 393, 396 and 397.

ITEM 7. Amend rule 761—520.7(321), introductory paragraph, as follows:

761—520.7(321) Driver’s statement. A “driver” as used in Iowa Code section sections 321.449(5) and Iowa Code section 321.450(2), ~~unnumbered paragraph 2~~, shall carry at all times a notarized statement of employment. The statement shall include the following:

ITEM 8. Rescind rule 761—520.8(321) and adopt the following new rule in lieu thereof:

761—520.8(321) Planting and harvesting periods. In accordance with the provisions of 49 CFR 395.1, the planting and harvesting periods pertaining to agricultural operations are March 15 through June 30 and October 4 through December 14.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

USURY

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

April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%

ARC 1933C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 110, "Child Development Homes," Iowa Administrative Code.

These amendments update administrative rules regarding a number of requirements pertaining to child development homes as follows:

These amendments update the minimum requirements for first-aid kits in child development homes.

These amendments modify administrative rules to allow tamper-resistant electrical outlets to be used in addition to safety caps.

Fire safety rules indicate that combustible materials must be kept away from heating elements. The fire marshal recommends a distance of three feet, and child care providers are held to the three-foot-distance requirement. These amendments adopt the three-foot-distance requirement.

Iowa Code section 237A.3A states, in part, that "[t]he rules shall require a child development home to be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration." These amendments add the aforementioned provision.

Iowa Code section 237A.5(2)"i"(2) states, in part, that "[i]f within five years prior to the date of application for registration or license under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been . . . found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of founded abuse." The language of subparagraph 110.7(3)"f"(1) specifically includes "founded child abuse that was determined to be physical abuse" and does not include dependent adult abuse; therefore, the subparagraph is broadened to include dependent adult abuse by removing the word "child."

Finally, these amendments rescind rule 441—110.13(237A) to remove an outdated exception that applied to providers renewing a previously issued registration on or after December 2002. This transition time period has been in effect for 12 years and is no longer valid or needed.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1863C** on February 4, 2015. The Department received no comments from the public during the public comment period. One change has been made to the amendments published under Notice of Intended Action. The word "disposable" has been added before "tweezers" in the last sentence of paragraph 110.5(1)"c" in Item 1.

The Council on Human Services adopted these amendments on March 11, 2015.

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

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

These amendments are intended to implement Iowa Code section 237A.3A.

These amendments will become effective June 1, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **110.5(1)"c"** as follows:

c. A first-aid kit shall be available and easily accessible whenever children are in the child development home, in the outdoor play area, in vehicles used to transport children, and on field trips. The kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in an area inaccessible to children. The kit shall, at a minimum, include adhesive bandages, antiseptic cleaning materials, disposable tweezers, and disposable plastic gloves.

ITEM 2. Amend paragraph **110.5(1)"e"** as follows:

e. Electrical wiring shall be maintained, with and all accessible electrical outlets shall be tamper-resistant outlets or shall be safely capped and electrical. Electrical cords shall be properly used.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Improper use includes running cords under rugs, over hooks, through door openings, or other use that has been known to be hazardous.

ITEM 3. Amend paragraph **110.5(1)“f”** as follows:

f. Combustible materials shall be kept a minimum of three feet away from furnaces, stoves, water heaters, and gas dryers.

ITEM 4. Adopt the following **new** paragraph **110.5(1)“y”**:

y. The child development home shall be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration.

ITEM 5. Amend subparagraph **110.7(3)“f”(1)** as follows:

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:

1. Conviction of a controlled substance offense under Iowa Code chapter 124.
2. Founded ~~child~~ abuse that was determined to be physical abuse.

ITEM 6. Rescind and reserve rule **441—110.13(237A)**.

[Filed 3/11/15, effective 6/1/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1935C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments update requirements for child development home providers as follows:

These amendments add a requirement that providers must document medication given to a child while the child is in the provider's care.

These amendments allow for a provider who is unable to access a copy of the provider's GED or high school diploma to show verification of higher education participation.

Category “C” child development homes regularly operate with a provider and coprovider. There have been requests by child development home providers to allow for numerous coproviders. Child development homes, if allowed numerous coproviders, would more closely resemble child care centers, which have different licensing requirements. These amendments clarify that there shall be no more than two providers named on a registration certificate for a child development home.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1862C** on February 4, 2015. The Department received no comments from the public during the public comment period. However, in the course of a technical review, the Department determined that the change of administrative rules as proposed in Item 2 of the Notice of Intended Action may be impacted by pending legislative requirements. As a result, the changes originally proposed in Item 2 have not been adopted and subsequent items have been renumbered.

The Council on Human Services adopted these amendments on March 11, 2015.

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

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

These amendments are intended to implement Iowa Code section 237A.3A.

These amendments will become effective June 1, 2015.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend paragraph **110.5(1)“d”** as follows:

d. Medications shall be given only with the parent’s or doctor’s written authorization. Each prescribed medication shall be accompanied by a physician’s or pharmacist’s direction. Both nonprescription and prescription medications shall be in the original container with directions intact and labeled with the child’s name. All medications shall be stored properly and, when refrigeration is required, shall be stored in a separate, covered container so as to prevent contamination of food or other medications. All medications shall be stored so they are inaccessible to children. Any medication administered to a child shall be recorded, and the record shall indicate the name of the medication, the date and time of administration, and the amount given.

ITEM 2. Amend paragraph **110.9(2)“b”** as follows:

b. The provider shall have a high school diploma, ~~or~~ GED, or documentation of current or previous enrollment in credit-based coursework from a postsecondary educational institution that is an accredited college or university.

ITEM 3. Amend subparagraph **110.10(2)“a”(2)** as follows:

(2) The provider shall have a high school diploma, ~~or~~ GED, or documentation of current or previous enrollment in credit-based coursework from a postsecondary educational institution that is an accredited college or university.

ITEM 4. Adopt the following **new** paragraph **110.10(2)“c”**:

c. No more than two named providers shall be allowed on a registration certificate.

[Filed 3/11/15, effective 6/1/15]

[Published 4/1/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1928C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code chapters 137C and 137D and sections 10A.104 and 137F.2, the Department of Inspections and Appeals hereby amends Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

This rule making makes technical corrections to Chapter 31, which was last amended in 2013. The amendments update references to the most current version of the Code of Federal Regulations (CFR) related to food processing and add two additional CFR provisions.

The amendments:

- Clarify provisions related to certified food protection managers and add an exception for certain taverns that serve food;
- Reinstate an exception to the Food Code related to reduced oxygen packaging of meat products in retail operations, which was inadvertently omitted in the 2013 revision;
- Update food processing standards from the 2013 CFR to the 2014 CFR;
- Add provisions related to certain color additives; and
- Add provisions related to canned vegetables.

Prior to drafting the rule making, the Department circulated the proposed amendments to municipal corporations under agreement with the Department, affected state agencies, and industry, professional and consumer groups. Comments were reviewed, and changes were incorporated into the proposed rule making as appropriate.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1861C**. The Department received no comments during the public comment period. The adopted amendments are identical to those published under Notice of Intended Action.

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

The Department does not believe that the adopted amendments pose a financial hardship on any regulated entity or individual.

The rules are subject to waiver under the Department's general waiver provisions contained in 481—Chapter 6.

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

These amendments are intended to implement Iowa Code chapters 10A and 137F.

These amendments shall become effective May 6, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 31.1(1) as follows:

31.1(1) *Certified food protection manager required.* For purposes of section 2-102.12 of the 2009 Food Code with Supplement, establishments that sell only prepackaged foods are not required to employ an individual who ~~has completed~~ is a certified food protection manager ~~course~~. Temporary food establishments are not required to employ an individual who ~~has completed~~ is a certified food protection manager ~~course~~. Bars or taverns at which food is not prepared, where customers may purchase alcoholic beverages, and where the serving of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn, or peanuts and the reheating of commercially prepared foods that do not require assembly, such as frozen pizza or prepackaged sandwiches, are not required to employ an individual who is a certified food protection manager. For all other establishments, the following time frames apply for employment of an individual who ~~has completed~~ is a certified food protection manager ~~course~~:

a. For establishments newly licensed after January 1, 2014, the requirement of section 2-102.12 must be met within six months of licensure.

b. Establishments in existence as of January 1, 2014, that do not receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 by January 1, 2018.

c. Establishments in existence as of January 1, 2014, that receive a foodborne illness risk factor or public health intervention violation on or before July 1, 2017, shall meet the requirement of section 2-102.12 within six months of the violation.

d. If the individual meeting the requirement of section 2-102.12 leaves employment with an establishment required to meet section 2-102.12, the establishment shall meet the requirement of section 2-102.12 within six months.

ITEM 2. Amend subrule **31.1(8)**, paragraph “(F),” as follows:

(F) A HACCP PLAN is not required when a FOOD ESTABLISHMENT packages raw meat and poultry using a REDUCED OXYGEN PACKAGING method and includes on the package a 30-day “sell by” date from the date the raw meat or poultry was packaged or uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

- (1) Labeled with the production time and date,
- (2) Held at 5°C (41°F) or less during refrigerated storage, and
- (3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.

ITEM 3. Amend subrule 31.2(9), introductory paragraph, as follows:

31.2(9) *Adoption of Code of Federal Regulations.* The following parts of the Code of Federal Regulations (April 1, ~~2013~~ 2014) are adopted:

ITEM 4. Reletter paragraphs **31.2(9)“e”** to **“ah”** as **31.2(9)“f”** to **“ai.”**

ITEM 5. Adopt the following **new** paragraph **31.2(9)“e”**:

- e. 21 CFR Part 74.101 to 74.706 (listing of color additives subject to certification).

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

ITEM 6. Reletter paragraphs **31.2(9)“ai”** to **“bg”** as **31.2(9)“ak”** to **“bi.”**

ITEM 7. Adopt the following **new** paragraph **31.2(9)“aj”**:

aj. 21 CFR Part 155 (canned vegetables).

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1927C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2), the Department of Inspections and Appeals hereby amends Chapter 68, “Elder Group Homes,” Chapter 69, “Assisted Living Programs,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

These amendments clarify the contents of an application for certification and the process for notifying the Department of a change of ownership of a program and add a definition for “change of ownership.” These amendments require assisted living programs, elder group homes, and adult day services programs to notify the Department when a change of program manager occurs.

The Department does not believe that the amendments pose a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1860C**. The Department received no comments during the public comment period. These amendments are identical to those 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 sections 231B.2(1), 231C.3(1), and 231D.2(2).

These amendments shall become effective May 6, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of “Change of ownership” in rule **481—68.1(231B)**:
“Change of ownership” means the purchase, transfer, assignment or lease of a certified elder group home and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 2. Amend subrule 68.4(1) as follows:

68.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of the~~ after the effective date of the change.

ITEM 3. Amend subrule 68.4(2) as follows:

68.4(2) A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 68.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

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

ITEM 4. Amend subrule 68.4(3) as follows:

68.4(3) A statement disclosing whether any of the individuals listed in subrule 68.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 5. Rescind rule 481—68.10(231B) and adopt the following new rule in lieu thereof:

481—68.10(231B) Change of ownership—notification to the department.

68.10(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

68.10(2) In order to transfer certification, the applicant must:

- a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231B and 481—Chapter 67 and this chapter; and
- b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

68.10(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 6. Adopt the following new subrule 68.19(5):

68.19(5) The program shall notify the department in writing within ten business days of a change in the program's manager.

ITEM 7. Adopt the following new definition of "Change of ownership" in rule **481—69.1(231C)**:

"Change of ownership" means the purchase, transfer, assignment or lease of a certified assisted living program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 8. Amend subrule 69.4(1) as follows:

69.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 9. Amend subrule 69.4(2) as follows:

69.4(2) A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 69.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 10. Amend subrule 69.4(3) as follows:

69.4(3) A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home,

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

home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect ~~of residents, patients, tenants or participants~~.

ITEM 11. Amend subrule 69.10(1) as follows:

69.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days of after the effective date of the change.

ITEM 12. Amend subrule 69.10(2) as follows:

69.10(2) A statement ~~affirming that disclosing whether~~ the individuals listed in subrule 69.10(1) have ~~not~~ been convicted of a felony ~~or an aggravated~~ or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 13. Amend subrule 69.10(3) as follows:

69.10(3) A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for tenants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 14. Rescind rule 481—69.17(231C) and adopt the following new rule in lieu thereof:

481—69.17(231C) Change of ownership—notification to the department.

69.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

69.17(2) In order to transfer certification, the applicant must:

- a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231C and 481—Chapter 67 and this chapter; and
- b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

69.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 15. Adopt the following new subrule 69.29(7):

69.29(7) The program shall notify the department in writing within ten business days of a change in the program's manager.

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

ITEM 16. Adopt the following **new** definition of “Change of ownership” in rule **481—70.1(231D)**:
 “*Change of ownership*” means the purchase, transfer, assignment or lease of a certified adult day services program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

ITEM 17. Amend subrule 70.4(1) as follows:

70.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 18. Amend subrule 70.4(2) as follows:

70.4(2) A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 70.4(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 19. Amend subrule 70.4(3) as follows:

70.4(3) A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1₂ or licensed hospital as defined in Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 20. Amend subrule 70.10(1) as follows:

70.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees ~~and of the designated manager~~, as well as stockholders, partners or any individuals who have greater than a 5 10 percent equity interest in ~~the program~~. each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list ~~within~~ no later than ten working days ~~of~~ after the effective date of the change.

ITEM 21. Amend subrule 70.10(2) as follows:

70.10(2) A statement ~~affirming that~~ disclosing whether the individuals listed in subrule 70.10(1) have ~~not~~ been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse code in laws of any state.

ITEM 22. Amend subrule 70.10(3) as follows:

70.10(3) A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1₂ or licensed hospital as defined under Iowa Code section 135B.1 ~~or a boarding home as defined in 2009 Iowa Acts, Senate File 484, section 3 (to be codified as Iowa Code Supplement section 135O.1)~~, which has been closed in any state due to removal of program, agency, or facility licensure or certification or

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due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services ~~for participants~~ to prevent abuse or neglect of residents, patients, tenants or participants.

ITEM 23. Rescind rule 481—70.17(231D) and adopt the following **new** rule in lieu thereof:

481—70.17(231D) Change of ownership—notification to the department.

70.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

70.17(2) In order to transfer certification, the applicant must:

a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231D and 481—Chapter 67 and this chapter; and

b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

70.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

ITEM 24. Adopt the following **new** subrule 70.29(4):

70.29(4) The program shall notify the department in writing within ten business days of a change in the program's manager.

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1929C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99B.13, the Department of Inspections and Appeals hereby amends Chapter 103, "Bingo," Iowa Administrative Code.

The adopted amendments implement changes made to Iowa Code section 99B.7(8)"b" and update outdated provisions of the administrative rules.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1858C**. The Department received no comments during the public comment period. However, changes have been made to the Noticed amendments to provide consistency in the definitions of "senior citizen group home" and "senior citizen housing project," to reflect the deletion of a rescinded paragraph by relettering the paragraphs in subrule 103.4(3), and to change the term "withholding tax" to "withholding taxes" in Item 12 to be consistent with other usage throughout the chapter.

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

These amendments are intended to implement Iowa Code sections 99B.2 and 99B.7.

These amendments shall become effective May 6, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of "Senior citizen," "Senior citizen center," "Senior citizen group home," "Senior citizen housing project," and "Senior citizen organization" in rule **481—103.1(10A,99B)**:

"*Senior citizen*" means a person who is 60 years of age or older.

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“*Senior citizen center*” means a facility that maintains a contract with the local area agency on aging. A senior citizen center is a multipurpose or activity center that provides a broad range of services designed for senior citizens and is open to all senior citizens without financial restrictions. A qualified organization which is a senior citizen center shall be controlled by the senior citizens served by the center.

“*Senior citizen group home*” means a facility built or acquired by a governmental entity or a charitable organization and that is exempt under Section 501(c) of the Internal Revenue Code, has one or more buildings, consists of at least ten private rooms or apartments, and is 75 percent occupied by senior citizens. Other units may be occupied by disabled persons without respect to age. A qualified organization which is a senior citizen group home shall be controlled by a resident council which consists of at least five members selected in a democratic manner by the residents.

“*Senior citizen housing project*” means a facility of at least ten residential units acquired or constructed by a governmental entity or a charitable organization to provide housing to senior citizens. A qualified organization which is a senior citizen housing project shall be controlled by a resident council which consists of at least five members selected in a democratic manner by the residents.

“*Senior citizen organization*” means a senior citizen center, a senior citizen group home or a senior citizen housing project, as defined in these rules.

ITEM 2. Amend rule 481—103.2(10A,99B) as follows:

481—103.2(10A,99B) License.

103.2(1) License required—exception. A license is required in order to conduct a bingo occasion unless all of the following requirements are met:

a. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.

b. Participants in the bingo occasion are not charged to play.

c. Any prize awarded at the bingo occasion is donated.

d. The bingo occasion is conducted as an activity and not for fundraising purposes.

103.2(2) Issuance. Licenses are issued for two years or 14 days. Licenses issued for 14 days are called limited licenses. Under a 14-day license, a bingo occasion may be conducted only once per each 7 consecutive calendar days during the period specified in the license. Before any organization may conduct bingo ~~games or occasions~~, an application must be approved by the department. The license shall be prominently displayed and is valid only at the gambling location named.

103.2(3) Location. Bingo occasions are restricted to the location ~~applied~~ for which application is made by the qualified organization and approved by the department. A license may be transferred to a different location only after application by the licensee and approval by the department.

103.2(4) Application. Application forms are available from the Social and Charitable Gambling Unit, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083, or by calling (515)281-6848. ~~A short form application for school district boards of directors is available from the department.~~ Applications may also be obtained by visiting <http://dia.iowa.gov/> and clicking on “Social and Charitable Gambling.” The Web site has a link to the department’s online licensing system and downloadable application forms.

103.2(5) Senior citizen organizations—exceptions. Senior citizen organizations, as defined in this chapter, may request the following exceptions:

a. More than 14 bingo occasions to be held in one month.

b. More than 3 bingo occasions to be held in one week.

c. Bingo occasions to last longer than four hours.

103.2(6) Examples. ~~Examples~~ The following are examples of various circumstances that affect affecting whether a license is granted are:

± a. Qualified organization X applies for and is issued a two-year license to conduct bingo occasions at 313 Cherry Street, Des Moines, Iowa. The license is effective from August 1, 1981 2012, to July 31, 1983 2014. On October 1, 1981 2012, qualified organization Y applies for a 14-day limited license to conduct bingo at the same location. The license is approved and issued because a limited license can be issued for the same location used for a two-year bingo license.

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~~2. b.~~ ABC qualified organization applies for and is issued a two-year qualified organization license to conduct bingo at 1002 West 2nd Avenue in Jones Town, Iowa. The license is effective from October 1, ~~1981~~ 2012, to September 30, ~~1983~~ 2014. On November 15, ~~1981~~ 2012, EFG qualified organization applies for a two-year qualified organization license for the same location. A license may be issued to EFG organization for the same location during the same period to conduct any games of chance, games of skill or raffles. EFG organization shall not conduct bingo at the location.

~~3. c.~~ Hometown ~~community school district~~ Community School applies for and is issued a two-year qualified organization license to conduct games of skill, games of chance and raffles at the grade school building. The license is effective from September 1, ~~1981~~ 2012, to August 31, ~~1983~~ 2014. During the time that the Hometown ~~school~~ Community School license is in effect, the school-sponsored pep club applies for a 14-day limited license to conduct games of skill at the grade school building. The school-sponsored pep club may be issued a limited license for the same location during the same time. Under this example, the school-sponsored pep club would not be required to obtain a separate license, because school-affiliated organizations may operate separate events under a ~~school district's~~ school's two-year license.

This rule is intended to implement Iowa Code section 99B.7.

ITEM 3. Amend rule 481—103.3(99B) as follows:

481—103.3(99B) Bingo occasion. A qualified organization may conduct only 3 bingo occasions per week, but not more than 14 occasions per month, under a two-year qualified organization license. A week starts on Sunday and ends on Saturday. An occasion begins when the first ball is called and shall end no more than four hours later.

~~103.3(1) No admission fee may be charged. However, a person may be required to purchase one game for \$1 or less to enter the room where bingo is being played.~~

~~103.3(2) 103.3(1) Receipts.~~ At the end of each occasion, the person conducting the games shall announce both the gross receipts and the use to which the net receipts will be dedicated and distributed.

~~103.3(3) Senior citizen organizations named and defined in this subrule may request the following exceptions:~~

- ~~• More than 14 occasions may be held in one month.~~
- ~~• More than three occasions may be held in one week.~~
- ~~• Occasions may last longer than four hours.~~

~~a. A senior citizen is a person who is 60 years of age or older.~~

~~b. A senior citizen center is a facility which maintains a contract with the local area agency on aging. It is a multipurpose or activity center, provides a broad range of services designed for senior citizens and is open to all senior citizens without financial restrictions. A qualified organization which is a senior citizen center shall be controlled by the senior citizens served by the center.~~

~~c. A senior citizen housing project is a facility of at least ten residential units acquired or constructed by a governmental entity or a charitable organization to provide housing to senior citizens. A qualified organization which is a senior citizen housing project shall be controlled by a resident council which consists of at least five members selected in a democratic manner by the residents.~~

~~d. A senior citizen group home is a facility built or acquired by a governmental entity or a charitable organization. It must be exempt under Section 501(e) of the Internal Revenue Code, have one or more buildings, consist of at least ten private rooms or apartments, and be 75 percent occupied by senior citizens. Other units may be occupied by handicapped persons without respect to age. A qualified organization which is a senior citizen group home shall be controlled by a residents council which has at least five members selected in a democratic manner by the residents.~~

~~e. 103.3(2) Senior citizen organization licensure exception requirements.~~ To conduct bingo occasions under the exceptions allowed to senior citizen organizations subrule 103.2(5), a qualified senior citizen organization must satisfy the department that it qualifies for the exception. The organization must:

(1) a. Be recognized as a senior citizens' citizen center, a senior citizens' citizen housing project, or a senior citizens' citizen group home;

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~~(2)~~ b. Conduct bingo occasions for at least one month within the limitations on hours and number of occasions required by this rule and Iowa Code section 99B.7(1) “c” prior to requesting the exception;

~~(3)~~ c. Submit, upon request, records of daily activities referred to in paragraphs “f” and “g” 103.3(3) “a” and “b”; and

(4) d. Verify that the majority of patrons at the organization’s bingo occasions also participate in other activities of the senior ~~citizens~~² citizen center or are residents of the senior citizen housing project or group home.

103.3(3) Senior citizen organization record requirements.

~~f.~~ a. A qualified organization which is a senior ~~citizens~~² citizen center shall maintain, for each bingo occasion conducted, a record showing:

(1) The total number of players; and

(2) A list of all senior citizen players who participate in activities of the senior ~~citizens~~² citizen center other than bingo, including specific activities and dates of participation.

~~g.~~ b. A qualified organization which is a senior ~~citizens~~² citizen housing project or group home shall maintain, for each bingo occasion conducted, a record showing:

(1) The total number of players; and

(2) A list of all players who are residents of the housing project or group home.

~~h.~~ c. An organization qualifying for the exception shall review its daily records of participation on a monthly basis. If the majority of the patrons during the previous calendar month do not meet the participation or residence requirement, the organization shall no longer qualify for the exception.

~~i.~~ **103.3(4) When a senior citizen organization no longer qualifies for licensure exceptions.** A senior citizen organization which no longer qualifies for the ~~exception~~ licensure exceptions shall adhere to the limits on hours and number of occasions required of other organizations until it can reestablish eligibility for the exception. Within seven days after becoming aware of its disqualification, the organization shall notify the department in writing that it no longer qualifies for the ~~exception~~ licensure exceptions.

~~103.3(4) Bingo exceptions.~~ An organization that is exempt from federal income taxes under Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in Iowa Code section 422.3 shall be authorized to conduct a bingo occasion without a license as otherwise required by this chapter if all of the following requirements are met:

~~a.~~ Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.

~~b.~~ Participants in the bingo occasion are not charged to play.

~~c.~~ Any prize awarded at the bingo occasion shall be donated.

~~d.~~ The bingo occasion is conducted as an activity and not for fundraising purposes.

This rule is intended to implement Iowa Code section 99B.7(1) “c.”

ITEM 4. Amend rule 481—103.4(99B) as follows:

481—103.4(99B) Game of bingo. Each game shall meet all of the elements requirements of the definition of “bingo” in Iowa Code section 99B.1(4)(5) to be a legal game of bingo. Games ordinarily considered bingo may be played.

103.4(1) A fair and legal game shall meet at least all of the following criteria:

a. No player may be required to buy a packet or to play one game in order to play another game; Concealed numbers on a playing face are not allowed.

b. The game requires an announcer or caller;

c. Numbers shall be announced so all players can hear clearly;

d. A free space is or spaces are allowed;

e. The game proceeds as the caller selects and announces the numbers. If a caller miscalls a number or misreads a ball, only the number on the ball may be used. Miscalled numbers are invalid;

f. House rules may require that a player have the last number called for a bingo. If not posted in the house rules, the player is not required to have the last number called.

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g. Each game ends when it is determined that a player has covered the announced pattern of spaces. The caller or another worker shall verify the numbers on winning cards. The caller checks for additional bingos and officially closes the game.

h. Wild numbers are allowed, but must be chosen using a random selection method.

~~103.4(2) Activities on the following list are not allowed:~~

~~*a.* Video bingo and games of chance such as barnyard bingo;~~

~~*b.* Free numbers. A free space may be given;~~

~~*c.* Concealed numbers on a playing face; or~~

~~*d.* Rescinded IAB 9/29/04, effective 11/3/04.~~

~~103.4(3)~~ **103.4(2)** Any player may request that all numbers drawn and all numbers not drawn be verified when the winning card or cards are verified. Numbers shall be verified in the presence of the member in charge and the caller. The player who requested verification may observe the count.

~~103.4(4)~~ **103.4(3)** The cost to play each game shall not exceed ~~\$1~~ \$5. Cards or games may be sold only within the premises of the bingo occasion. The cost for each packet, playing face, or tear sheet shall be the same for each participant, i.e., the cost for an opportunity to play shall be equal. Players may pay for games with cash or, at the option of the licensee, checks.

a. All cards or games shall be assigned a price.

b. The price shall be posted. Cards may be sold only for the posted price.

~~*c.* Rescinded IAB 5/1/91, effective 6/5/91.~~

~~*d.*~~ *c.* Free games shall not be given. Free games include gift cards redeemable for games. This paragraph does not prohibit giving free concession items such as food, beverages or daubers.

~~*e.*~~ *d.* Bingo games allowing for a trade-in of a bingo card during a bingo game for not more than fifty cents per trade-in may be allowed.

~~103.4(5)~~ **103.4(4)** Cards for each category shall be distinctly marked. Each shall be easy to distinguish from all others.

a. Bingo games or cards may be printed on only one side.

b. In each game, the bingo operator must ensure that duplicate playing faces are not sold.

This rule is intended to implement Iowa Code sections 99B.1(5), 99B.3(1) and 99B.7(1).

ITEM 5. Amend subrule 103.5(3) as follows:

103.5(3) The following information shall be correctly posted before the beginning of each bingo occasion and shall not be changed after the bingo occasion begins:

a. Description of each game to be played;

b. Price of each game;

c. Prize for each game or method for determining the prize for each game; and

d. Jackpot rules, if any.

EXAMPLE: Single bingo \$1 per game, \$50 payout.

ITEM 6. Amend rule ~~481—103.5(99B)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~99B.1(20)~~ 99B.1(24).

ITEM 7. Amend subrule **103.6(1)**, Note, as follows:

NOTE: Prizes of more than \$600 require the deduction of 5 percent withholding taxes, ~~plus any applicable local option or school taxes, for the state of Iowa.~~ See 103.6(6), paragraph 103.6(5) "g."

ITEM 8. Rescind subrule **103.6(2)**.

ITEM 9. Renumber subrules **103.6(3)** to **103.6(6)** as **103.6(2)** to **103.6(5)**.

ITEM 10. Amend renumbered subrule 103.6(2) as follows:

103.6(2) Prizes awarded in games with more than one winner shall be shared equally. It is permissible to round ~~to the nearest dollar~~ up or down, provided doing so does not exceed the maximum payout for that particular game.

Examples of prizes awarded in games with more than one winner:

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1. Two winners with a total of three bingos: Player 1 has two bingos in separate squares, and Player 2 has one bingo in one square. Player 1 receives 2/3 of the prize, and Player 2 receives 1/3 of the prize.

2. Multiple winners equally splitting a prize with rounding to the nearest dollar: Six players all win the single \$100 prize. The appropriate payout is \$16.66 each, but rounding to the nearest dollar (\$17) for each winner would result in a payout of \$102, in violation of the maximum payout for a nonjackpot bingo game.

ITEM 11. Amend renumbered subrule 103.6(3) as follows:

~~103.6(3) Merchandise such as scholarships, airline tickets and other similar items awarded as prizes shall not be converted to cash by the donor or provider. Winning lottery tickets or shares awarded as prizes may be converted to cash pursuant to lottery rules and statutes. An animal shall not be awarded as a prize for persons participating in a game or fair event.~~

ITEM 12. Amend renumbered paragraph 103.6(5)“g” as follows:

~~g. Cash prizes over \$600 require the deduction of 5 percent withholding tax, plus any applicable local option or school tax taxes. This tax is to be withheld by the organization conducting the game. The amount deducted shall be remitted to the Iowa department of revenue on behalf of the prize winner.~~

ITEM 13. Amend subrule 103.7(4) as follows:

~~103.7(4) Persons conducting bingo and paid~~ Paid workers shall not play during an a bingo occasion in which they work. Persons conducting bingo shall not play during any bingo occasion conducted by the qualified organization for which they work. A person conducting bingo includes: persons overseeing the bingo games, persons controlling and accounting for the bingo occasion’s net receipts, persons directing the work of bingo workers, and any persons having management or oversight responsibilities.

ITEM 14. Amend rule 481—103.9(99B) as follows:

481—103.9(99B) Location. Bingo occasions may be conducted on premises either owned or leased by the qualified organization.

1. All buildings in which bingo is occasions are conducted must meet state or local standards for occupancy and safety.

2. The name of the licensee shall be posted on the sign of each building or location where bingo occasions are held.

3. A name which is closely associated with the licensee and which clearly identifies the lawful uses of the proceeds may also be used. Generic-type names, such as “Nelson Street Bingo” or “Uncle Bob’s Bingo,” shall not be used.

~~4. 4.~~ The rent shall not be related to nor be a percentage of the receipts.

~~5. 5.~~ The licensee may terminate any lease or rental agreement without paying a penalty or forfeiting money or a deposit. Damage deposit money is excepted.

~~6. 6.~~ Alcoholic beverages may be served in a bingo location if that location possesses a beer permit or liquor license.

~~7. 7.~~ The lessor of the building shall not participate in conducting bingo.

~~8. 8.~~ During a bingo occasion, the lessor shall not sell any beverage, food or any other merchandise in the area room in which bingo is played.

~~9. 9.~~ Only one licensed organization may hold bingo occasions at a location. However, the following exception applies: A 14-day limited licensee may hold bingo occasions at the same location.

This rule is intended to implement Iowa Code section 99B.7.

ITEM 15. Rescind paragraph 103.13(2)“b” and adopt the following **new** paragraph in lieu thereof:

b. Daily Bingo Inventory Usage (Table C). This form must show:

(1) For each loose sheet of bingo paper sold, the color, paper size, game(s) played, daily count start, purchases, voids, number of sheets sold, and daily count end.

(2) If packets are purchased preassembled, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end.

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(3) If packets are assembled by the organization, the color of the top sheet, paper size, daily count start, purchases, voids, number of packets sold, and daily count end. Also, each loose sheet of bingo paper used to assemble the packet must be accounted for by decreasing the applicable loose sheet bingo paper inventory under subparagraph 103.13(2)“b”(1) at the time of assembly.

ITEM 16. Rescind paragraph **103.13(2)“c”** and adopt the following **new** paragraph in lieu thereof:
c. Records shall be maintained for three years for review by the department.

ITEM 17. Amend subrule **103.14(1)**, Exception, as follows:

EXCEPTION: Limited funds of the organization may be deposited to pay initial or unexpected emergency expenses. The amount of nonbingo funds deposited in the bingo account shall not exceed ~~\$750~~ \$7500. Records shall be kept which identify this money.

ITEM 18. Amend paragraph **103.14(3)“c”** as follows:

c. To transfer proceeds from a bingo checking account to a bingo savings account pending disbursement for a qualified purpose.

ITEM 19. Amend rule 481—103.15(10A,99B) as follows:

481—103.15(10A,99B) Bingo savings account and bingo change fund.

103.15(1) Bingo savings account. When an organization places bingo receipts in any savings account, bingo funds shall be separate and recognizable from all other funds of the same organization. All funds in a bingo savings account shall be transferred into that account from a bingo checking account. Funds shall be transferred back to the bingo checking account before they are spent.

103.15(2) Bingo change fund. Moneys used as a change fund, if necessary, should be provided by the organization for each bingo occasion. The change fund can increase or decrease as appropriate for the anticipated participation in the bingo occasion. The balance of the change fund at the end of the fiscal year must be dedicated by July 30 and reported as required by rule 481—103.16(10A,99B). The fiscal year begins July 1 and ends June 30 of the following year. The change fund should be maintained in a secure manner.

This rule is intended to implement Iowa Code sections section 99B.2(3) and 99B.7(1)“p.”.

ITEM 20. Amend rule 481—103.16(10A,99B) as follows:

481—103.16(10A,99B) Reports.

103.16(1) Each organization which conducts bingo shall submit a report of all transactions for each calendar quarter fiscal year. ~~The quarterly report form shall be provided by the department.~~ The fiscal year begins July 1 and ends June 30 of the following year.

- ~~1. The first quarter is from January 1 to March 31;~~
- ~~2. The second quarter is from April 1 to June 30;~~
- ~~3. The third quarter is from July 1 to September 30;~~
- ~~4. The fourth quarter is from October 1 to December 31.~~

103.16(2) Annual gambling reports may be completed online by visiting http://dia.iowa.gov/ and clicking on “Social and Charitable Gambling.” A paper version of the annual gambling report may be obtained from the Social and Charitable Gambling Unit, Iowa Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or by telephone (515)281-6840.

103.16(3) ~~Reports written on forms provided by the department~~ are due 30 days after the end of the quarter fiscal year. When the due date is on Saturday, Sunday, or a legal holiday, the report is due the next business day. ~~481—subrule 100.8(2) contains further specific information.~~

103.16(4) The department may require a qualified organization to submit records of specific occasions with the quarterly annual report.

103.16(5) All transactions of any school group or parent support group using a district schoolwide license shall be on the quarterly annual report.

This rule is intended to implement Iowa Code sections 99B.2(4) and 99B.16.

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ITEM 21. Amend rule 481—103.18(10A,99B) as follows:

481—103.18(10A,99B) Penalties. Failure to comply with the law and these rules may cause a gambling license to be denied, suspended or revoked. Criminal violations are governed by Iowa Code sections 99B.2(2), 99B.2(4), 99B.2(5), 99B.7(6), 99B.9(4), 99B.15, and 99B.16.

ITEM 22. Adopt the following new rule 481—103.19(99B):

481—103.19(99B) Electronic bingo.

103.19(1) A qualified organization may lease electronic bingo equipment from a manufacturer or distributor licensed by the department. For purposes of this rule, “electronic bingo equipment” means an electronic device that aids in the use of a bingo card during a bingo game.

103.19(2) Electronic bingo equipment shall be used only by disabled individuals.

a. For purposes of this rule, “disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

b. “Disability” does not include any of the following:

- (1) Homosexuality or bisexuality.
- (2) Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
- (3) Compulsive gambling, kleptomania, or pyromania.
- (4) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

103.19(3) Electronic bingo devices shall be used in the following manner:

a. Each player may input into the device each number called or the device may automatically daub each number as the number is called.

b. Each player must notify the game operator or caller of the winning pattern of bingo by means other than use of the electronic bingo device.

c. Each player is limited to playing a maximum of 54 card faces per game.

d. The cost per bingo game must be the same as it would be if the individual were to purchase the same amount of paper or hard cards.

e. Players of electronic bingo shall not be required to play more cards than they would be required to play if using paper or hard cards.

f. Each electronic bingo device shall produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards loaded, cost of electronic bingo cards loaded, and the date and time of the transaction. Images of cards or faces stored in an electronic bingo device must be exact duplicates of the printed faces if the faces are printed.

g. The department may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the electronic bingo device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing.

h. All electronic bingo devices must be loaded and enabled for play on the premises where the game will be played.

i. All electronic bingo devices shall be rented or otherwise provided to a player only by a qualified organization, and no part of the proceeds of the rental of such devices shall be paid to a landlord or a landlord’s employee or agent or member of the landlord’s immediate family.

j. If a player’s call of a bingo is disputed by another player, or if a department representative makes a request, one or more cards stored on an electronic bingo device shall be printed by the organization.

k. Players may exchange a defective electronic bingo device for another electronic bingo device provided a disinterested player verifies that the device is not functioning.

This rule is intended to implement Iowa Code section 99B.7(8) “*b.*”

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

ITEM 23. Rescind Table C at the end of **481—Chapter 103** and adopt the following **new** Table C in lieu thereof:

DAILY BINGO SUMMARY—INVENTORY USAGE

TABLE C

Licensee's Name:
Qualified Organization License #:
Address:
City, State, ZIP:

Today's Date: _____

Loose Sheet Bingo Paper Inventory								
Color	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids/ Packet Assembly	(-) # Sold	(+/- Over/ Under)	Daily Count End

Preassembled Bingo Packets								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Purchases	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

Bingo Packets Assembled In-House								
<i>When you assemble these packets, you must also decrease the applicable loose sheet bingo paper inventory above using the column Voids/Packet Assembly.</i>								
Color on Top	Paper Size	Game(s) Played	Daily Count Start	(+) Assembled	(-) Voids	(-) # Sold	(+/- Over/ Under)	Daily Count End

ITEM 24. Rescind and reserve **Table D** at the end of **481—Chapter 103**.

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1930C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code section 99B.13, the Department of Inspections and Appeals hereby amends Chapter 104, “General Provisions for All Amusement Devices,” and Chapter 105, “Registered Amusement Devices,” Iowa Administrative Code.

The adopted amendments are technical changes to make the rules consistent with current statutory language, including changing prize limits from \$5 to \$50 and updating penalties. These amendments also eliminate the requirement for an annual report, which is not required by the Iowa Code, and change instances of “electrical and mechanical” to “electrical or mechanical” to make the terminology consistent.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1859C**. The Department received no comments during the public comment period. These amendments are identical to those 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 section 99B.13.

These amendments shall become effective May 6, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **481—104.1(10A,99B)**, definitions of “Amusement device” and “Prize,” as follows:

“*Amusement device*” means an electrical ~~and~~ or mechanical device possessed and used in accordance with Iowa Code section 99B.10. An amusement device is not a game of skill or chance as defined in Iowa Code section 99B.1, a gambling device, or a device that plays poker, blackjack, or keno. Roulette wheels, slot machines, and other devices specified in Iowa Code section 725.9 as gambling devices are not amusement devices.

“*Prize*” means a ticket(s) or token(s) that is dispensed by an amusement device as an award for use and that is worth up to \$5 ~~\$50~~ in merchandise.

ITEM 2. Amend rule 481—104.2(99B) as follows:

481—104.2(99B) Device restrictions. An amusement device, except for an amusement device which shall be registered pursuant to ~~2007 Iowa Acts, Senate File 510, section 2(1)“f,”~~ Iowa Code section 99B.10(1)“f,” may be owned, possessed, or offered for use by any person at any location. All amusement devices shall comply with all of the following:

1. to 3. No change.
4. The device may be designed or adapted to award merchandise or tickets or tokens redeemable for merchandise not to exceed a retail value of more than \$5 ~~\$50~~ per play or game.
5. to 9. No change.

ITEM 3. Amend subrule 104.4(1) as follows:

104.4(1) Merchandise with a retail value of no more than \$5 ~~\$50~~ per transaction may be awarded.

ITEM 4. Amend paragraph **104.4(3)“c”** as follows:

c. Tickets or tokens may be redeemed for merchandise if the retail value of the merchandise does not exceed \$5 ~~\$50~~ per transaction.

ITEM 5. Amend paragraph **104.4(3)“d”** as follows:

d. Tickets or tokens may be accumulated to purchase merchandise not greater than \$5 ~~\$50~~ per transaction in retail value.

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

ITEM 6. Amend paragraph **104.4(3)“e”** as follows:

e. Tickets or tokens may be redeemed for food and beverage if the combined value of the food and beverage does not exceed \$5 \$50 per transaction.

ITEM 7. Amend rule 481—104.5(99B) as follows:

481—104.5(99B) Registration. An amusement device must be registered if it meets the registration requirements set forth in ~~2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ Iowa Code section 99B.10(1)“f.” Additional licenses or registrations under Iowa Code chapter 99B are not required.

ITEM 8. Amend the following definitions in rule **481—105.1(10A,99B)**:

“*Amusement device registration availability*” means a registration position which becomes available:

1. ~~when~~ When a distributor or owner:

- ~~is~~ Is going out of business,
- ~~fails~~ Fails to renew a registration by the renewal due date, or
- ~~has~~ Has an electrical ~~and~~ or mechanical device seized by law enforcement and the seizure is upheld through a forfeiture hearing; or

2. ~~when~~ When any other legal order has been issued which pertains to violations of Iowa Code chapter 99B, 123, or 123A.

“*Distributor*” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person who owns electrical ~~and~~ or mechanical amusement devices that are registered as provided in Iowa Code section 99B.10(4) and that are offered for use at more than a single location or premises.

“*Manufacturer*” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that originally produces an electrical ~~and~~ or mechanical amusement device required to be registered under Iowa Code section 99B.10(4) or produces individual components for use in such a device.

“*Manufacturer’s representative*” means, for the purposes of Iowa Code sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state that promotes or sells electrical ~~and~~ or mechanical amusement devices required to be registered under Iowa Code section 99B.10(4) or promotes or sells individual components for use in such devices on behalf of a manufacturer of such devices or components. An agreement between the manufacturer’s representative and the manufacturer may be in place, but is not necessary.

“*Owner*” means, for the purposes of Iowa Code sections 99B.10A and 99B.10B, any person that owns an operable ~~electrical and mechanical amusement device required to be registered under 2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ registered electrical or mechanical amusement device. An owner that operates for profit is allowed up to two machines at a single location. An owner that meets the requirements of Iowa Code section 99B.7(1)“*m*” is allowed up to four machines at a single location.

“*Prize*” means a ticket(s) or token(s) that is dispensed by a registered amusement device as an award for use and that is worth up to \$5 \$50 in merchandise.

“*Registered amusement device*” means an electrical ~~and~~ or mechanical amusement device in operation subject to registration by the department pursuant to ~~2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ Iowa Code section 99B.10(1)“f” and includes both the external and internal components. Any change in the registered amusement device, including the external and internal components of the registered amusement device, constitutes a new registered amusement device for which registration by the owner is required. The word “change” as used herein does not include repairs or replacement of parts that do not change or alter the operation of the device as originally registered by the owner. If the repairs or replacement parts alter the operation of the device as originally registered, then the device must be reregistered before it is made available for operation.

“*Security mechanism*” means an appliance which prevents a person from operating an electrical ~~and~~ or mechanical amusement device by not allowing the acceptance of money until action is taken by the owner or owner’s designee to allow the person to operate the device.

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

ITEM 9. Amend subrule 105.2(1) as follows:

105.2(1) The number of electrical ~~and~~ or mechanical amusement devices registered by the department shall not exceed 6,928, the total number of devices registered by the department as of April 28, 2004.

ITEM 10. Amend subrule 105.2(2) as follows:

105.2(2) The department shall not initially register an electrical ~~and~~ or mechanical amusement device that is required to be registered pursuant to ~~2007 Iowa Acts, Senate File 510, section 2(1)“f.”~~ to an owner for a location for which only a Class “B” or a Class “C” beer permit has been issued pursuant to Iowa Code chapter 123 on or after April 28, 2004.

ITEM 11. Amend subrule **105.2(3)**, Example 1, as follows:

EXAMPLE 1: An electrical ~~and~~ or mechanical amusement device is registered with the department and is located at a convenience store that has a Class “C” beer permit.

1. If the amusement device needs to be repaired, the owner may repair it without losing the registration position or buying a new registration tag. A repair constitutes any changes to a device as long as the type of game and the number of devices in a location is not changed.

2. If the amusement device needs to be replaced because it is defective, it must be replaced with the same game in order to keep the registration position.

3. The amusement device cannot be moved from one location to another under a Class “B” or a Class “C” beer permit, even if the number of registered devices at a location does not change.

4. If a location with a Class “B” or a Class “C” beer permit had only one amusement device registered on April 28, 2004, the maximum number of devices allowed at that location shall be one.

ITEM 12. Amend subrule 105.2(6) as follows:

105.2(6) The registered amusement device shall be registered in accordance with these rules and shall comply with all of the requirements of Iowa Code section 99B.10 ~~as amended by 2007 Iowa Acts, Senate File 510, section 2,~~ this chapter, 481—Chapter 104, and any other applicable laws or rules.

ITEM 13. Amend subrule 105.2(8) as follows:

105.2(8) If the department, or the department’s designee, determines that a registered amusement device is not in compliance with the requirements of this chapter or any other provision of Iowa law, the device may be subject to seizure, and any registration associated with the device, including the registration of the manufacturer, manufacturer’s representative, distributor, or owner, may be revoked or suspended.

ITEM 14. Amend paragraph **105.2(10)“c”** as follows:

c. A person may request to be added to the waiting list by calling or writing the department at Department of Inspections and Appeals, Social and Charitable ~~Gaming~~ Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; (515)281-6848 6840.

ITEM 15. Amend subrule **105.2(11)**, Example 3, as follows:

EXAMPLE 3: An amusement device is located in a bar that has the appropriate liquor license. On April 28, 2004, this location had only one amusement device. An additional amusement device may be added to this location.

1. If the amusement device needs to be repaired, it may be repaired without the loss of the device’s registration position.

2. If the amusement device is defective and needs to be replaced, it can be replaced with the same game under the original registration without the incurring of additional charges.

3. If the amusement device is replaced with a new amusement device that has a different game, before the device is moved to the premises, the process for initial registration shall be followed pursuant to this chapter and Iowa Code chapter 99B ~~as amended by 2007 Iowa Acts, Senate File 510~~. The replacement of the amusement device creates an amusement device registration availability, and the position will be offered to the next person on the waiting list pursuant to this rule.

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

ITEM 16. Amend subrule 105.2(14) as follows:

105.2(14) The registration application for all new amusement devices must be accompanied by the receipt, invoice, or bill of sale containing the seller's name, company name, and address, transaction date, ~~and motherboard serial number, and name of the game.~~

ITEM 17. Amend subrule 105.5(1) as follows:

105.5(1) Each person that registers with the department shall pay an annual registration fee as follows:

- a. For a manufacturer or manufacturer's representative, \$2,500, ~~effective upon renewal.~~
- b. For a distributor, \$5,000, ~~effective upon renewal.~~
- c. For an owner of no more than two ~~electrical and mechanical amusement devices registered as provided in Iowa Code section 99B.10(4)~~ registered amusement devices at a single location or premises that is not an organization that meets the requirements of Iowa Code section 99B.7(1) "m," \$2,500. ~~The registration fee shall be effective immediately.~~

ITEM 18. Amend subrule 105.5(2) as follows:

105.5(2) Registration forms are available from the Department of Inspections and Appeals, Social and Charitable ~~Gaming~~ Gambling Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083, or by telephone at (515)281-6848 6840.

ITEM 19. Amend subrule 105.6(5), introductory paragraph, as follows:

105.6(5) Each electrical ~~and or~~ or mechanical amusement device required to be registered pursuant to Iowa Code section 99B.10 ~~as amended by 2007 Iowa Acts, Senate File 510, section 2,~~ shall include on the amusement device a counting mechanism.

ITEM 20. Amend subrule 105.6(6) as follows:

105.6(6) Each electrical ~~and or~~ or mechanical device required to be registered pursuant to Iowa Code section 99B.10 at a location for which only a Class "B" or a Class "C" beer permit has been issued pursuant to Iowa Code chapter 123 shall include on the device a security mechanism that prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.

ITEM 21. Amend rule 481—105.7(99B) as follows:

481—105.7(99B) Violations. Failure to comply with the limitations imposed on the use and possession of registered amusement devices in Iowa Code chapter 99B may result in the following:

1. Conviction for illegal gambling may result under the provisions of Iowa Code chapter 725.
2. Suspension or revocation of a wine or beer permit or of a liquor license may result under the provisions of Iowa Code chapter 123.
3. Property may be forfeited under the provisions of Iowa Code chapter 809.
4. Violation of any laws pertaining to gambling may result in suspension or revocation of a registration as prescribed in Iowa Code section 99B.10B or 99B.10C.
5. ~~The department may revoke a registration or refuse to issue a registration for cause.~~
6. ~~A registration may be revoked if the registrant or agent of the registrant violates or permits a violation of Iowa Code chapter 99B.~~
7. 5. A Unless otherwise prescribed in Iowa Code section 99B.10B or 99B.10C, a registration may be revoked upon the violation of any rule adopted by the department under this chapter gambling law, rule or regulation including Iowa Code chapter 99B, 481—Chapter 104, or this chapter.
8. 6. A registration may be revoked if the registrant or an agent of the registrant engages in any act or omission that would have permitted the department to refuse to issue a registration under Iowa Code chapter 99B.
9. ~~The registration of a registered amusement device may be revoked upon evidence of noncompliance with any laws or rules governing such devices.~~

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

~~40. 7.~~ A person under the age of 21 shall not participate in the operation of an electrical ~~and or~~ mechanical amusement device. A person who violates the provisions of Iowa Code section 99B.10C(1) commits a scheduled violation under Iowa Code section 805.8C(4).

~~41. A person owning or leasing an electrical and mechanical amusement device who knowingly allows a person under the age of 21 to participate in the operation of an electrical and mechanical amusement device or a person who knowingly participates in the operation of an electrical and mechanical amusement device with a person under the age of 21 is guilty of a simple misdemeanor.~~

~~The period for revocation or refusal to issue or both shall not exceed two years.~~

ITEM 22. Amend subrule 105.9(1) as follows:

105.9(1) The department may revoke, suspend, or deny a registration issued pursuant to Iowa Code section 99B.10A as amended by 2007 Iowa Acts, Senate File 510, sections 3 and 4, for cause following 30 days' written notice delivered by certified mail, return receipt requested, or by personal service and an opportunity for hearing pursuant to 481—105.8(10A,99B).

ITEM 23. Rescind subrules **105.9(6)** and **105.9(9)**.

ITEM 24. Renumber subrules **105.9(7)**, **105.9(8)** and **105.9(10)** as **105.9(6)**, **105.9(7)** and **105.9(8)**.

ITEM 25. Amend rule 481—105.10(99B) as follows:

481—105.10(99B) Reports Annual verification of device location. Each distributor, ~~or owner, or~~ qualified organization that owns amusement devices shall ~~annually submit a report of the volume of business activity for each device by location and a cumulative total for all locations, with the annual distributor or owner registration, verify all device locations.~~

105.10(1) The report forms are available from the Department of Inspections and Appeals, Social and Charitable Gaming Unit, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. The report form shall contain all information required by the department of inspections and appeals to accurately determine the volume of business activity for each device. Information collected by the department as part of the reporting process shall be considered confidential pursuant to 481—paragraph 5.13(1)“e.”

105.10(2) Distributors, owners, and qualified organizations may also complete the report form electronically at the following Web site: <https://dia.iowa.gov/gmms>.

105.10(3) The reports are due July 31. When the due date falls on Saturday, Sunday or a legal holiday, the report is due on the next business day. The reporting period begins July 1 and ends the following June 30.

105.10(4) Records pertaining to the volume of business of the amusement device shall be maintained for a period of five years and shall be made available upon request to representatives of the department or the department's designee.

ITEM 26. Amend paragraph **105.11(1)“a”** as follows:

a. The applicant and responsible person's history of compliance with Iowa Code sections 99B.10, 99B.10A and 99B.10B as amended by 2007 Iowa Acts, Senate File 510, and with other gambling laws and rules.

ITEM 27. Amend rule 481—105.12(10A,99B) as follows:

481—105.12(10A,99B) Suspension or revocation of a registration. If a registrant or the person responsible for the amusement device violates the law, including Iowa Code chapter 99B as amended by 2007 Iowa Acts, Senate File 510, 481—Chapter 104, this chapter, or any other laws or administrative rules, the registrant's registration may be suspended or revoked.

Examples of violations of law or rules include: awarding cash prizes, redeeming tokens or tickets for more than \$5 \$50 of merchandise in a transaction, allowing a person less younger than 21 years of age to use a registered amusement device, moving an amusement device without updating its registration to the new location, allowing an amusement device in a location without the appropriate liquor control license, and failing to file an annual report verification of device location.

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

ITEM 28. Amend **481—Chapter 105**, implementation sentence, as follows:
 These rules are intended to implement Iowa Code ~~chapter 99B as amended by 2007 Iowa Acts, Senate File 510~~ sections 99B.10, 99B.10A, 99B.10B, and 99B.10C.

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1944C**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 1, “General,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1764C**. The Authority received no public comment on the proposed amendment. No changes were made to the amendment published under Notice.

The Iowa Finance Authority adopted this amendment on March 11, 2015.

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

This amendment is intended to implement 2015 Iowa Code section 16.5.

This amendment will become effective on May 6, 2015.

The following amendment is adopted.

Amend **265—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 17A.3(1) and ~~16.5(17).~~ 16.5(1)“r.”

[Filed 3/12/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1945C**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5C, the Iowa Finance Authority hereby amends Chapter 2, “Loan Programs,” Iowa Administrative Code.

The purpose of these amendments is to update the implementation sentences for seven rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1763C**. The Authority received no public comment on the proposed amendments. No changes were made to the amendments published under Notice.

The Iowa Finance Authority adopted these amendments on March 11, 2015.

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

These amendments are intended to implement 2015 Iowa Code sections 16.5, 16.5C, 16.38, and 16.39.

These amendments will become effective on May 6, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **265—2.1(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.5(5), 16.5(14), 16.12(3).~~ 16.5 and 16.5C.

ITEM 2. Amend rule **265—2.2(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.12(4), 16.14(4), 16.5(15).~~ 16.5 and 16.5C.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 3. Amend rule **265—2.4(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.5(9), 16.12(4), 16.18 and 16.18(2)~~. 16.5 and 16.5C.

ITEM 4. Amend rule **265—2.5(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 16.5(15)~~. sections 16.5 and 16.5C.

ITEM 5. Amend rule **265—2.6(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 16.12, 16.14, 16.17(3), 16.18(2), 16.20 and 16.21~~. section 16.5C.

ITEM 6. Amend rule **265—2.9(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~16.20 to 16.22~~. 16.5C, 16.38, and 16.39.

ITEM 7. Amend rule **265—2.10(16)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 16.22 and 16.38.

[Filed 3/12/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1946C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5, and 16.5C, the Iowa Finance Authority hereby amends Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1762C**. The Authority received no public comment on the proposed amendment. No changes were made to the amendment published under Notice.

The Iowa Finance Authority adopted this amendment on March 11, 2015.

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

This amendment is intended to implement 2015 Iowa Code sections 16.5(1)“r” and 16.5C.

This amendment will become effective on May 6, 2015.

The following amendment is adopted.

Amend **265—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~16.5(17), 16.18(1) and 16.18(2)~~. 16.5(1)“r” and 16.5C.

[Filed 3/12/15, effective 5/6/15]

[Published 4/1/15]

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ARC 1947C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby rescinds Chapter 5, “Small Business Loan Program,” Iowa Administrative Code.

The purpose of this amendment is to rescind the administrative rules for an obsolete program.

IOWA FINANCE AUTHORITY[265](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1760C**. The Authority received no public comment on the proposed amendment. This amendment is identical to that published under Notice.

The Iowa Finance Authority adopted this amendment on March 11, 2015.

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

This amendment is intended to implement Iowa Code section 16.5.

This amendment will become effective on May 6, 2015.

The following amendment is adopted.

Rescind and reserve **265—Chapter 5**.

[Filed 3/12/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1948C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby rescinds Chapter 6, “Group Home Facilities Loan Program,” Iowa Administrative Code.

The purpose of this amendment is to rescind the administrative rules for an obsolete program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1759C**. The Authority received no public comment on the proposed amendment. This amendment is identical to that published under Notice.

The Iowa Finance Authority adopted this amendment on March 11, 2015.

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

This amendment is intended to implement Iowa Code section 16.5.

This amendment will become effective on May 6, 2015.

The following amendment is adopted.

Rescind and reserve **265—Chapter 6**.

[Filed 3/12/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1932C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11(26), the Department of Public Health (IDPH) hereby amends Chapter 24, “Private Well Testing, Reconstruction, and Plugging—Grants to Counties,” Iowa Administrative Code.

The amendments update the Grants to Counties program, including references to the Iowa Code and reimbursement rates for Grants to Counties activities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 21, 2015, as **ARC 1840C**. A public hearing was held on February 10, 2015. One comment was received from a county health department regarding the reimbursement rate for private water well plugging activities. No changes were made to the Noticed amendment in response to this comment. IDPH will conduct

PUBLIC HEALTH DEPARTMENT[641](cont'd)

training statewide with current Grants to Counties programs to ensure that county partners understand the reimbursement structure impacted by this rule change.

The only change from the Notice is the addition of the phrase “will be paid” in subrules 24.5(1) to 24.5(3) to make the construction parallel to that of subrules 24.5(4) to 24.5(7).

These amendments were adopted by the State Board of Health on March 11, 2015.

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

These amendments are intended to implement Iowa Code sections 455E.11 and 135.11(26).

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 641—24.1(135) as follows:

641—24.1(135) Applicability. These rules apply to administration of the grants to counties program by the department in accordance with Iowa Code sections 135.11(29)(26) and 455E.11(2) “b”(3)(b) ~~, subsection 2, paragraph “b,” subparagraph (3), subdivision (b)~~, for the purpose of testing private water wells, reconstructing private water wells, and the proper plugging of abandoned private water wells (including cisterns that present a contamination risk to groundwater); within the jurisdiction of each county board of health.

ITEM 2. Adopt the following new definition of “Public water supply” in rule **641—24.2(135)**:

“*Public water supply*” means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days during the year.

ITEM 3. Amend subrules 24.5(1) to 24.5(7) as follows:

24.5(1) Up to ~~\$500~~ \$1,000 will be paid for private water well-related training expenses, including registration, mileage, and per diem for employees attending department-approved trainings. Training approval is granted to water well-related training sponsored by the department, the Iowa Environmental Health Association, the Iowa Public Health Association, the Iowa Water Well Association, the Iowa department of natural resources, and or the Iowa Ground Water Association. The annual conference sponsored by the Iowa Onsite Waste Water Association is also approved. Other trainings must receive approval of the department ~~prior to submitting~~ before a voucher for expenses is submitted.

24.5(2) Up to ~~\$250~~ \$500 will be paid for ~~equipment expenses~~ supplies related to the grants to counties program. Eligible ~~equipment~~ includes supplies include, but ~~is~~ are not limited to, Global Positioning System (GPS) units, private water well data software, inspection ~~equipment~~ supplies, cameras, and sampling equipment.

24.5(3) Up to ~~\$250~~ \$1,000 will be paid for advertising and promotional expenses to educate county residents about the availability of funds for private water well testing, abandoned well plugging, and private water well reconstruction.

24.5(4) ~~\$75~~ Actual costs will be paid for each private water well test conducted under the program, including ~~\$45~~ \$60 for administrative expenses. At a minimum, well sampling shall include analyses for total nitrate (including nitrite) and total coliform bacteria. Optional analyses may also include arsenic.

24.5(5) ~~\$475~~ Up to \$575 will be paid for each abandoned private water well plugging conducted in accordance with ~~567 IAC —Chapter 39~~, including \$75 for administrative expenses. Private water well plugging must be conducted by a certified individual as defined in ~~567 IAC —Chapter 82~~ or by the well owner under direct supervision by the county.

24.5(6) Up to \$375 will be paid for each cistern plugging but only for those cisterns deemed by the administrative authority to impact groundwater, including \$75 for administrative expenses. Cistern plugging must be conducted by a certified individual as defined in ~~567 IAC —Chapter 82~~ or by the well owner under direct supervision by the county.

24.5(7) Up to ~~\$600~~ \$1,000 in reconstruction costs plus 33 percent of actual reconstruction costs for administrative purposes will be paid for each private water well reconstruction. Grant funds may be used to conduct reconstruction intended to preclude contamination due to surface water intrusion by

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coliform or other infectious bacteria. Examples include repairs of casing, well caps, or pitless adapters, and elimination of well pits.

ITEM 4. Renumber subrules **24.6(5)** to **24.6(8)** as **24.6(6)** to **24.6(9)**.

ITEM 5. Adopt the following **new** subrules 24.6(5) and 24.6(10):

24.6(5) Plugging and reconstruction of wells that are not private water supply wells.

24.6(10) Reimbursement of any individual or entity other than the well owner.

ITEM 6. Amend subrule 24.7(3) as follows:

24.7(3) *Qualified staff.* Staff ~~performing services~~ conducting water well sampling, providing oversight of well or cistern plugging, providing oversight of well reconstructions, or providing technical assistance under this agreement shall complete a minimum of 12 hours of continuing education every year as approved by the Iowa Environmental Health Association Environmental Health Registry Program.

ITEM 7. Amend subrule 24.7(8) as follows:

24.7(8) ~~Workplan~~ *Procedures manual.* A detailed ~~workplan~~ procedures manual including, but not limited to, the following:

a. The ~~names and~~ qualifications of personnel responsible for carrying out the program.

b. No change.

c. A description of ~~any proposed~~ the environmental health and public information programs related to the private well testing, abandoned well plugging, or private well reconstruction programs.

d. Methods to be used by the applicant for selecting private water wells for testing, abandoned private water wells for plugging, or private water wells for reconstruction and the method to address the number of tests which will be reimbursed for individual property owners.

e. to h. No change.

ITEM 8. Amend subrule 24.9(2) as follows:

24.9(2) *Submission.* The department will notify each county board of health of the grant application due date at least 60 days prior to the ~~grant application~~ due date. Completed applications must be received by the Iowa Department of Public Health, Division of Acute Disease Prevention, Emergency Response and Environmental Health, 321 E. 12th Street, Des Moines, Iowa 50319, by the close of business on the application due date. Applications not received by the application due date will be considered ineligible to receive funding during the appropriate fiscal year.

ITEM 9. Amend subrule 24.14(3) as follows:

24.14(3) The continuation or renewal of a grant shall be contingent upon the county's acceptable performance in carrying out its responsibilities described in the ~~workplan~~ procedures manual and in meeting the grant program goals and objectives. All grants will be issued for ~~not more than a period of~~ one year concurrent with a state fiscal year. Applicants must reapply to continue or renew any grant within the specified grant application acceptance period. The department may deny the awarding of a grant extension or may withdraw a grant if it is determined that the county has not carried out the grant responsibilities.

ITEM 10. Amend **641—Chapter 24**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 455E.11 and 135.11~~(29)~~(26).

[Filed 3/11/15, effective 7/1/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1931C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 42, “Permit to Operate Ionizing Radiation Producing Machines or Administer Radioactive Materials,” Iowa Administrative Code.

This amendment increases the nonrefundable fee required of individuals applying to take the limited radiologic technologist examination. This fee increase is necessary to cover an increase in the fee assessed to the Department by the American Registry of Radiologic Technologists (ARRT) for providing this test. A passing score on this test administered through the ARRT is required in order for individuals to apply for the limited radiologic technologist permit. The ARRT sets the fee for providing the limited radiologic technologist examination, and effective January 1, 2015, the ARRT raised the fee from \$100 to \$125. The Department collects fees from the individual when the individual applies to take the limited radiologic technologist examination. The Department is subsequently invoiced by the ARRT when the examination is provided.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 21, 2015, as **ARC 1841C**. No comments were received. This amendment is identical to the one published under Notice of Intended Action.

The State Board of Health adopted this amendment on March 11, 2015.

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

This amendment is intended to implement Iowa Code section 136C.3.

This amendment will become effective on May 6, 2015.

The following amendment is adopted.

Amend subparagraph **42.9(2)“e”(3)** as follows:

(3) Each individual making application to take an examination as a limited radiologic technologist in 42.9(2)“e”(1)“1” or “3” must submit an application and nonrefundable fee of ~~\$110~~ \$135 to the department each time the individual takes the examination.

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1924C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.39D, the Department of Public Health hereby adopts new Chapter 52, “Vision Screening,” Iowa Administrative Code.

This amendment establishes new rules governing vision screening for children.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 21, 2015, as **ARC 1838C**. A public hearing was held on February 10, 2015.

Eight comments were received from Prevent Blindness Iowa. The following is a summary of the comments and the Department’s responses:

Comment 1: Add a definition of “community-based organization” to include “...utilizes approved age-appropriate, acceptable child vision screening tests approved by IDPH.”

Response: The Department added a definition of “community-based organization” to rule 641—52.2(135).

Comment 2: Expand on or change the definition of “child vision screening workgroup”; the child vision screening workgroup that determines approved screening methods needs to be comprised

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of individuals who have expertise and experience with vision screening, including representatives from the School Nurse Organization, the Department of Education, a licensed ophthalmologist and a licensed optometrist or member organizations' designees who have direct experience conducting vision screening or performing eye examinations.

Response: The definition of "child vision screening workgroup" was revised to emphasize that the workgroup includes licensed ophthalmologists and licensed optometrists who are highly trained medical providers and who have direct experience conducting vision screening or performing eye examinations. Representatives of leading vision organizations (or the representatives' designees) may also have direct experience in conducting vision screening or performing eye examinations.

Comment 3: Instead of defining only "photoscreening," include a definition more inclusive of instrument-based equipment (including photoscreening, autorefractors and such instruments).

Response: The Department identified "photoscreening" in the legislation as a vision screening method that would satisfy the requirement for the vision screening law. Through the rule-making process, the Department identified photoscreening as one of two classified instrument-based vision screening methods. The Department was asked to include both instrument-based screening methods, although the methods are very different in the type of vision impairments they detect. Therefore, a definition of "autorefractor" has been added in rule 641—52.2(135), and autorefraction is referenced in subrule 52.4(3) as a potential acceptable child vision screening test that may be approved by the Department in consultation with the child vision screening workgroup.

Comment 4: Remove the last sentence of subrule 52.4(3): "These tests may include but are not limited to photoscreening and online vision screening."

Response: The Department revised the last sentence in subrule 52.4(3) to read: "These tests may include but are not limited to instrument-based vision screening methods (such as photoscreening or autorefraction) and online vision screening." The sentence now includes both instrument-based methods as potential acceptable child vision screening tests.

Comment 5: Remove the last sentence of subrule 52.6(3): "A parent or guardian may submit a completed student vision card to satisfy this requirement." There is concern about the vision screening card being named and added to the definition in the rules implementing Iowa Code section 135.39D, vision screening, as a method of reporting and providing a definition. Iowa Code section 280.7A, pertaining to student eye care, allows for a student vision card to be distributed to children registering for kindergarten or a preschool program. The student vision card should not be referenced in the rules under 641—52.2(135) or in paragraph 52.8(3)"c." Rationale:

5a. The Department identified that there are several ways to report vision screening results. The student vision screening card is only one of many methods that will be used to report. By naming the student vision card, which is not mentioned in Iowa Code section 135.39D, the rules provide more weight to using the student vision card than other forms that may be submitted. In addition, the card is only distributed to children registering for kindergarten or a preschool program and is therefore not available to third grade students.

5b. Naming the student vision card will create more confusion for school administrators, nurses, and parents/guardians about what is mandated in Iowa. By naming only the student vision card as a method of acceptable reporting, many will assume that the mandate is that the child must have an eye examination prior to entering kindergarten.

Response: The last sentence of subrule 52.6(3) was removed. The Department added new subrule 52.6(5) to clarify that parents/guardians have several options for the screening of a child's vision in order to meet the requirements of the law. If a parent/guardian chooses for a child to receive a comprehensive eye examination, the parent/guardian may submit a completed vision card to satisfy the vision screening requirement.

Comment 6: Add "Prevent Blindness Iowa" to the list of community eye health referral resources in 52.8(2).

Response: The Department added Prevent Blindness Iowa to the list of potential community eye health referral resources in subrule 52.8(2) and added the definition of "Prevent Blindness Iowa" to rule 641—52.2(135).

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Comment 7: Strike paragraph 52.8(3)“c” or add “eye examination.” (Paragraph “c” reads as follows: “All student vision cards provided to the school; and.”) Naming the student vision card will create more confusion for school administrators, nurses, and parents/guardians on what is mandated in Iowa. By naming just the student vision card as a method of acceptable reporting, many will assume that the mandate requires a child to have an eye exam prior to entering kindergarten. The student vision card is covered as part of evidence in 52.8(3)“a” and “d”; if needed, wording can be added ... (after) vision screening or eye examination results. 52.8(3)“a,” “b” and “d” as written cover all evidence the schools need to provide.

Response: The Department made changes to subrule 52.8(3) to be consistent with the provisions of rule 641—52.6(135). Paragraph 52.8(3)“c” was not adopted, and in paragraphs 52.8(3)“a” and “c” (proposed paragraph 52.8(3)“d”), language was added to clarify that schools may submit evidence of a child’s vision screening or comprehensive eye examination.

Comment 8: 641—52.10(135) is confusing. Please clarify. The interpretation of 52.10(1) is that the person who performs the screening refers the child after a failed vision screening and that persons performing vision screenings shall contact parents or guardians...to provide information on obtaining necessary vision screening correction. Subrule 52.10(2) is interpreted that doctors, community-based groups, etc. will follow up with all children referred after the screening to make sure they received an eye exam and/or provide resources. Clarify if this interfaces with Iowa Code section 135.39D(8).

Response: No changes to the Noticed rules were made in response to this comment. Both subrules 52.10(1) and 52.10(2) correspond to Iowa Code sections 135.39D(7) and 135.39D(8). In Iowa Code section 135.39D(7), the law requires that the person who performed the vision screening, if the person is not a licensed ophthalmologist or licensed optometrist, refer the child to a licensed ophthalmologist or licensed optometrist for a comprehensive eye examination. This requirement is addressed in subrule 52.10(1). In Iowa Code section 135.39D(8), the law directs the Department to establish procedures to contact parents or guardians of children identified as having potential vision impairment. This requirement is addressed in subrule 52.10(2). In rule, the Department establishes the procedure by requiring the person performing the vision screening (following standard practice) to contact the parents of children identified as having potential vision impairment in order to provide information on obtaining necessary vision correction.

The State Board of Health adopted this amendment on March 11, 2015.

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

These rules are intended to implement Iowa Code section 135.39D.

These rules will become effective May 6, 2015.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 52:

CHAPTER 52 VISION SCREENING

641—52.1(135) Purpose. The purpose of the child vision screening program is to improve the eye health and vision of Iowa’s children. The child vision screening program establishes a comprehensive vision evaluation effort to facilitate early detection and referral for treatment of visual impairment in order to reduce vision impairment in children.

641—52.2(135) Definitions. For purposes of this chapter, the following definitions apply:

“*Advanced registered nurse practitioner*” or “*ARNP*” means a person licensed to practice under rule 655—7.1(152).

“*Autorefractor*” means a method of vision screening involving skiascopy methods or wave-front technology to evaluate the refractive error of each eye. Depending on the autorefractor being used, this method allows for immediate results interpreted by the operator or the instrument as a pass or fail.

“*Child vision screening workgroup*” means a group of eye health professionals in the state of Iowa established by the director and comprised of licensed ophthalmologists, licensed optometrists,

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representatives or designees of leading vision organizations, and other stakeholders as determined by the director.

“Community-based organization” means a public or private nonprofit organization of demonstrated effectiveness that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community that include utilizing approved age-appropriate, acceptable child vision screening tests approved by the department.

“Comprehensive eye examination” means a clinical diagnostic assessment performed by an optometrist or ophthalmologist to assess a person’s level of vision and to detect any abnormality or diseases.

“Department” means the Iowa department of public health.

“Elementary school” means an Iowa public or accredited nonpublic school that a kindergarten or third grade student would attend.

“Iowa KidSight” means a joint project of the Lions Clubs of Iowa and the University of Iowa, Department of Ophthalmology and Visual Sciences, dedicated to enhancing the early detection and treatment of vision impairments in Iowa’s young children (target population six months of age through kindergarten age) through screening and public education.

“IRIS” means the immunization registry information system as established in 641—Chapter 7.

“Online vision screening” means a vision screening test administered from the Internet to a child to assess vision and includes vision test results and recommendations.

“Ophthalmologist” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148 and board-certified in ophthalmology as a specialist in medical and surgical eye problems.

“Optometrist” means a person licensed to practice optometry pursuant to Iowa Code chapter 154.

“Photoscreening” means a method of vision screening employing an automated technique that uses the red reflex of the eye to screen for eye problems and produces immediate readable results and a timely report of the results thereafter.

“Physician” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery pursuant to Iowa Code chapter 148.

“Physician assistant” means a person licensed to practice as a physician assistant pursuant to Iowa Code chapter 148C.

“Potential vision impairment” means that a child’s vision appears to be compromised and there is reason for the child to be seen by an ophthalmologist or optometrist.

“Prevent Blindness Iowa” means the nonprofit organization dedicated to preventing blindness and preserving sight through vision screening, advocacy, education, community service, training and research.

“Student vision card” means a card distributed by the Iowa Optometric Association to all schools in Iowa pursuant to Iowa Code section 280.7A. The student vision card recommends children receive a complete eye health examination.

“Vision screening” means an eye testing program that is age- and developmentally appropriate and that assesses visual acuity or other risk factors contributing to refractive errors and other conditions.

641—52.3(135) Persons included and persons excluded.

52.3(1) The parent or guardian of a child who is to be enrolled in a public or accredited nonpublic elementary school shall ensure the child is screened for vision impairment at least once before enrollment in kindergarten and again before enrollment in grade three. The child vision screening requirements specified in this chapter apply to all persons seeking first-time enrollment in kindergarten or third grade in a public or accredited nonpublic elementary school in Iowa.

52.3(2) The child vision screening requirement shall not apply if the child vision screening conflicts with a parent’s or guardian’s genuine and sincere religious belief.

52.3(3) A child shall not be prohibited from attending school based upon failure of a parent or guardian to ensure the child has received the vision screening required by these rules.

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641—52.4(135) Child vision screening components.

52.4(1) The requirement for a child vision screening may be satisfied by any of the following:

- a. A vision screening or comprehensive eye examination by an ophthalmologist or optometrist.
- b. A vision screening conducted at a pediatrician's or family practice physician's office, a free clinic, a child care center, a local public health department, a public or accredited nonpublic school, or a community-based organization or by an advanced registered nurse practitioner or physician assistant.

52.4(2) All vision screening methods, including emerging vision screening technologies, shall be age-appropriate and shall be approved by the department. A list of acceptable child vision screening tests will be reviewed and updated annually by the department in consultation with the child vision screening workgroup and will be listed on the department's Web site. These tests may include but are not limited to instrument-based vision screening methods (such as photoscreening or autorefractometry) and online vision screening.

641—52.5(135) Time line for valid vision screening.

52.5(1) Kindergarten. To be valid, a minimum of one child vision screening shall be performed on a child no earlier than one year prior to the date of the child's enrollment in kindergarten and no later than six months after the date of the child's enrollment in kindergarten.

52.5(2) Grade three. To be valid, a minimum of one child vision screening shall be performed on a child no earlier than one year prior to the date of the child's enrollment in the third grade and no later than six months after the date of the child's enrollment in the third grade.

52.5(3) Substantial compliance. A child vision screening may also be deemed valid by the department if the department determines the child has substantially complied with the child vision screening requirements.

641—52.6(135) Proof of child vision screening.

52.6(1) The parent or guardian of a child enrolled in kindergarten or third grade shall ensure that evidence of a child vision screening is submitted to the school district or accredited nonpublic elementary school in which the child is enrolled either electronically through IRIS pursuant to subrule 52.6(2) or in hard copy or electronic form pursuant to subrule 52.6(3).

52.6(2) If the child's vision screening results were electronically submitted to IRIS, the parent or guardian may notify the school district or accredited nonpublic elementary school of such submission to satisfy the requirement for evidence of a child vision screening.

52.6(3) If evidence of the child vision screening is not electronically submitted to IRIS, the parent or guardian shall provide evidence of the child vision screening in hard copy or electronic form directly to the school. Hard copy or electronic evidence of the vision screening shall include the child's first name, last name, date of birth and ZIP code; evidence of the vision screening including the date of screening, left eye results, right eye results, vision screening result of "pass" or "fail," and designation of "yes" or "no" for referral made; and the name of the provider who performed the vision screening.

52.6(4) Submission of a faxed copy, photocopy, or electronic copy of the child vision screening results is acceptable.

52.6(5) If a parent or guardian chooses for a child to receive a comprehensive eye examination completed by an ophthalmologist or optometrist in lieu of a vision screening, the parent or guardian may submit a completed student vision card to satisfy the requirement of this rule.

641—52.7(135) Child vision screening reporting.

52.7(1) A person authorized to perform a child vision screening required by this chapter shall report results of the child vision screening to the department.

a. An ophthalmologist or optometrist shall report the hard-copy results to the parent or guardian to be forwarded to the department via the school or shall report the results via IRIS if available.

b. A pediatrician's or family practice physician's office, a free clinic, a child care center, a local public health department, a public or accredited nonpublic school, or a community-based organization

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or an ARNP or physician assistant shall report the hard-copy results to the parent or guardian to be forwarded to the department via the school or shall report the results via IRIS if available.

c. Results from an online vision screening administered from the Internet shall be generated in a hard-copy report to the parent or guardian to be forwarded to the department via the school or results shall be reported via IRIS if available.

d. The results of photoscreening vision screening, including those performed by Iowa KidSight, shall be reported by hard copy to the parent or guardian to be forwarded to the department via the school or shall be reported via IRIS if available.

52.7(2) The department will collect and maintain results of the vision screenings submitted in hard copy or through IRIS.

641—52.8(135) School requirements.

52.8(1) Each public and accredited nonpublic elementary school, in collaboration with the department, shall provide the parents or guardians of students enrolled in the school with vision screening referral resources prior to enrollment or during the enrollment period.

52.8(2) Each public and accredited nonpublic elementary school shall provide to parents or guardians of students for whom evidence of a child vision screening is not submitted community eye health referral resources, including but not limited to contact information for the local public health department, maternal and child health agency, Iowa KidSight, Prevent Blindness Iowa, the department, or an optometric or ophthalmology society.

52.8(3) Each public and accredited nonpublic elementary school shall arrange for the following to be forwarded to the department:

a. Evidence of child vision screening or comprehensive eye examination results provided by parents or guardians;

b. A list of students whose parents or guardians indicate that the students' results were reported through IRIS; and

c. Any other evidence of vision screening or comprehensive eye examination provided to the school.

641—52.9(135) Iowa's child vision screening database module and follow-up. The department may develop and maintain a statewide child vision screening database module in IRIS to collect and maintain child vision screening results, to ensure students receive the required vision screening, and to monitor eye health.

52.9(1) The database module shall consist of vision screening information, including identifying and demographic data.

52.9(2) Database module reporting shall comply with rule 641—52.7(135).

52.9(3) Restricted uses of database module. The database module information shall not be used to:

a. Market services to students or nonstudents;

b. Assist in bill collection services; or

c. Locate or identify students or nonstudents for any purpose other than those expressly provided in this rule.

52.9(4) Confidentiality of database module information. Child vision screening information, including identifying and demographic data maintained in the database module, is confidential and may not be disclosed except under the following limited circumstances:

a. The department may release information from the database module to the following:

(1) The person who received the child vision screening or the parent or guardian of the person who received the child vision screening;

(2) Users of the database module that complete an agreement with the department that specifies the conditions under which the database module can be accessed and that have been issued an organization code and username by the department;

(3) Persons or entities requesting child vision screening data in an aggregate form that does not identify an individual either directly or indirectly;

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(4) Agencies that complete an agreement with the department which specifies conditions for access to database module information and how that information will be used;

(5) A representative of a state or federal agency, or an entity bound by that state or federal agency, to the extent the information is necessary to perform a legally authorized function of the agency or the department. The state or federal agency is subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa; or

(6) Licensed health care providers, agencies, and other persons involved with vision screenings, eye examinations, follow-up services, and intervention services as necessary to administer this chapter.

b. Approved database module users shall not release child vision screening data except to the person who received the child vision screening; the parent or guardian of the person who received the child vision screening; health records staff of schools; medical, optometry, ophthalmology or health care providers providing continuity of care; and other approved users of the database module.

641—52.10(135) Referral requirements.

52.10(1) If a vision screening identifies a potential vision impairment in a child, the person who performed the vision screening shall, if the person is not an ophthalmologist or optometrist, refer the child to an ophthalmologist or optometrist for a comprehensive eye examination.

52.10(2) Persons performing vision screenings shall contact parents or guardians of children identified as having potential vision impairment based on the results of a vision screening required pursuant to this chapter or a comprehensive eye examination required pursuant to subrule 52.10(1) in order to provide information on obtaining necessary vision correction.

These rules are intended to implement Iowa Code section 135.39D.

[Filed 3/11/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1925C

PUBLIC HEALTH DEPARTMENT[641]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11(13), the Department of Public Health hereby rescinds Chapter 80, "Local Public Health Services," Iowa Administrative Code, and adopts a new Chapter 80 with the same title.

The rules in new Chapter 80 include updated funding language to reflect the two current appropriations for community capacity/local board of health and healthy aging. The rules include revised funding formulas as recommended by a workgroup representing local public health agencies. The rules in new Chapter 80 also update Iowa Code references, definitions, minimum agency requirements for coordination of services, and qualifications for home care aides and case management services.

Notice of Intended Action was published in the January 21, 2015, Iowa Administrative Bulletin as **ARC 1839C**. A public hearing was held on February 10, 2015.

The Department received three comments.

The first comment recommended omitting subparagraphs 80.3(4)"a"(3) and 80.3(5)"a"(3) and (4) and stated a concern that these criteria were inadequate to qualify a person for the relevant positions. Chapter 80 identifies only minimum requirements. The authorized agency is responsible for determining the requirements for each position, which may include requirements above and beyond those listed in Chapter 80. No changes were made to the Noticed rules as a result of this comment.

The second comment requested that additional language be included in rule 641—80.4(135) (utilization of LPHS contract funding) to allow local public health departments to utilize the funds for activities in support of Public Health Accreditation Board (PHAB) accreditation. Billable activities

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for the local public health services grant are not prescribed in Chapter 80, as they are outlined in the contract documents. No change was made to the Noticed rules as a result of this comment.

The third comment was a general statement of concern about the funding available at the local level and the formula used to determine the allocated amount; however, no suggestion about revisions to Chapter 80 was made. A workgroup that included two representatives from each region developed the new funding formula. No changes were made to the Noticed rules based on this comment.

The adopted rules are identical to those published under Notice.

The State Board of Health adopted these amendments on March 11, 2015.

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

These rules are intended to implement Iowa Code section 135.11(13).

These rules will become effective on July 1, 2015.

The following amendment is adopted.

Rescind 641—Chapter 80 and adopt the following new chapter in lieu thereof:

CHAPTER 80
LOCAL PUBLIC HEALTH SERVICES

641—80.1(135) Purpose. The purpose of the local public health services (LPHS) contract is to implement the core public health functions, deliver essential public health services, and increase the capacity of local boards of health (LBOH) to promote healthy people and healthy communities.

641—80.2(135) Definitions. For the purposes of these rules, the following definitions apply:

“Allocation” means the process to distribute funds.

“Appropriation” means the funding category.

“Authorized agency” means a contractor or a private nonprofit or governmental organization delivering all or part of the LPHS funded by the LPHS contract.

“Community” means the aggregate of persons with common characteristics such as race, ethnicity, age, or occupation or other similarities such as location.

“Consumer” means an individual, family, or community utilizing essential public health services through the LPHS contract.

“Contractor” means a local board of health (LBOH).

“Core public health functions” means the scope of activities which serve as a broad framework for public health agencies. Core public health functions are:

1. Assessment, which means to regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs and personal health services and epidemiologic and other studies of health problems.

2. Policy development, which means efforts to serve the public interest in the development of comprehensive public health policies by promoting the use of a scientific knowledge base in decision making about public health and by taking the lead in comprehensive public health policy development.

3. Assurance, which means public health efforts to assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging actions by other entities (private or public sector), by requiring such action through regulation, or by providing services directly.

“Department” means the Iowa department of public health.

“Elderly” means an individual aged 60 years and older.

“Essential public health services” means activities carried out by the authorized agency fulfilling core public health functions. Essential public health services include:

1. Monitoring health status and understanding health issues facing the community.
2. Protecting people from health problems and health hazards.
3. Giving people information they need to make healthy choices.
4. Engaging the community to identify and solve health problems.
5. Developing public health policies and plans.
6. Enforcing public health laws and regulations.

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7. Helping people receive health services.
8. Maintaining a competent public health workforce.
9. Evaluating and improving programs and interventions.
10. Contributing to and applying the evidence base of public health.

“*Evaluation*” means the process to measure the effectiveness of interventions by measuring outcomes against previously established goals and objectives.

“*Financial resources*” means the unrestricted assets owned by a consumer and, if applicable, the consumer’s spouse. The place of residence and one vehicle are exempt from consideration of resources.

“*Formula*” means the mathematical calculation applied to the state appropriation to determine the amount of available funds to be distributed to each county.

“*Health promotion*” means organizational, economic and environmental supports and education to stimulate healthy behaviors in individuals, groups or communities.

“*Home care aide*” means an individual who is trained and supervised to provide services, care, and emotional support to consumers in the home or in the community.

“*Income*” means all sources of revenue for the consumer and, if applicable, the consumer’s spouse.

“*Local board of health*” or “*LBOH*” means a county, city or district board of health as defined in Iowa Code section 137.102.

“*Low income*” means the U.S. Census Bureau’s Small Area Income and Poverty Estimates (SAIPE) (All Ages in Poverty) used to determine low income.

“*LPHS*” means local public health services.

“*Nonprofit*” means an entity meeting the requirements for tax-exempt status under the U.S. Internal Revenue Code.

“*Orientation*” means a period or process of introduction and adjustment to adapt the individual’s knowledge and skills from prior education to the individual’s current job duties.

“*Outcome*” means an action or event that follows as a result or consequence of the provision of a service or support.

“*Personal health services*” means health services delivered to individuals, including primary care, specialty care, hospital care, emergency care, and rehabilitative care. For the purpose of the LPHS contract, personal health services include nursing and home care aide activities.

“*Population-based services*” means interventions or activities for a community to promote health and to prevent disease, injury, disability, premature death, and exposure to environmental hazards.

“*Procedures*” means the steps to be taken to implement a policy.

“*Protective services*” means interventions or activities for a child or adult to alleviate, protect against, or prevent situations which could lead to abuse or neglect. For the purposes of the LPHS contract, protective services require an order from the justice system.

“*Restricted assets*” means assets typically involving a penalty for early withdrawal, such as IRA accounts, KEOGH accounts, 401(k) accounts, employee retirement accounts, and other deferred tax protected assets involving a penalty for early withdrawal.

“*Sliding fee scale*” means a scale of consumer fee responsibility based on an assessment of the consumer’s ability to pay all or a portion of the charge for services.

“*Unrestricted assets*” means assets that can be converted to cash.

“*Vulnerable population*” means individuals or groups in the community who are unable to promote and protect their personal or environmental health.

641—80.3(135) Local public health services (LPHS). Local public health services improve the health of the entire community; prevent illness; enhance the quality of life; provide services to safeguard the health and wellness of the community; reduce, prevent, and delay institutionalization of consumers; and preserve and protect families.

80.3(1) Priority population. The LPHS contract serves individuals throughout the lifespan and prioritizes service to vulnerable populations in Iowa.

80.3(2) Appropriations. The fiscal appropriations which assist in supporting LPHS are determined annually by the general assembly.

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80.3(3) Contractor assurance. In order to receive funding, the contractor shall provide to the department assurance that authorized agencies meet all applicable federal, state, and local requirements. The contractor may directly provide or subcontract all or part of the delivery of services. The contractor shall ensure that each authorized agency complies with Title IV of the Civil Rights Act, the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act of 1973 and with affirmative action requirements. In addition, the contractor shall ensure that each authorized agency has, at a minimum, the following:

- a. A governing board;
- b. Program policies and procedures;
- c. A consumer appeals process;
- d. Records appropriate to the level of consumer care;
- e. Personnel policies and procedures which, at a minimum, include:
 - (1) Delegation of authority and responsibility for agency administration;
 - (2) Staff supervision;
 - (3) A staff training program for the identification and reporting of child and dependent adult abuse to the department pursuant to Iowa Code sections 232.69 and 235B.3;
 - (4) An employee grievance procedure;
 - (5) Annual employee performance evaluations;
 - (6) A nondiscrimination policy;
 - (7) An employee orientation program; and
 - (8) Current job descriptions;
- f. Fiscal management, which shall, at a minimum, include:
 - (1) An annual budget;
 - (2) Fiscal policies and procedures which follow generally accepted accounting practices; and
 - (3) An annual audit performed according to usual and customary accounting principles and practices;
- g. Evaluation of agency and program activities which shall, at a minimum, include:
 - (1) Evidence of an annual evaluation; and
 - (2) Methods of reporting outcomes of evaluation to the LBOH.

80.3(4) Coordination of public health services.

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating public health services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) who is licensed to practice nursing in the state of Iowa and who has a recommended minimum of two years of related public health experience; or
- (2) Possess a bachelor's degree or higher in public health, health administration, nursing or other applicable field from an accredited college or university; or
- (3) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of public health services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(4) "a."

80.3(5) Coordination of home care aide services.

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals performing coordination of home care aide services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or
- (2) Possess a bachelor's degree in social work, sociology, family and consumer science, education, or other health or human services field; or
- (3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa; or
- (4) Be an individual with two years of related public health experience.

b. Individuals who are responsible for the coordination of home care aide services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(5) "a."

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80.3(6) Home care aide services.

a. The authorized agency shall ensure that each individual assigned to perform home care aide services meets one of the following:

(1) Be an individual who has completed orientation to home care in accordance with agency policy. At a minimum, orientation shall include four hours on the role of the home care aide; two hours on communication; two hours on understanding basic human needs; two hours on maintaining a healthy environment; two hours on infection control in the home; and one hour on emergency procedures. The individual shall have successfully passed an agency written test and demonstrated the ability to perform skills for the assigned tasks; or

(2) Be an individual who is in the process of receiving education or has completed the educational requirements but is not licensed as an LPN or RN, has documentation of successful completion of coursework related to the tasks to be assigned, and has demonstrated the ability to perform the skills for the assigned tasks; or

(3) Be an individual who possesses a license to practice nursing as an LPN or RN in the state of Iowa; or

(4) Be an individual who is in the process of receiving education or who possesses a degree in social work, sociology, family and consumer science, education, or other health and human services field; has documentation of successful completion of coursework related to the tasks to be assigned; and has demonstrated the ability to perform the skills for the assigned tasks.

b. The authorized agency shall ensure that services or tasks assigned are appropriate to the individual's prior education and training.

c. The authorized agency shall ensure documentation of each home care aide's completion of at least 12 hours of annual in-service (prorated to employment).

d. The authorized agency shall establish policies for supervision of home care aides.

e. The authorized agency shall maintain records for each consumer. The records shall include:

- (1) An initial assessment;
- (2) A plan of care;
- (3) Assignment of home care aide;
- (4) Assignment of tasks;
- (5) Reassessment;
- (6) An update of the plan of care;
- (7) Home care aide documentation; and
- (8) Documentation of supervision of home care aides.

80.3(7) Coordination of case management services.

a. The authorized agency is responsible for determining the ability of a job applicant to meet the requirements outlined in the job description. At a minimum, individuals responsible for coordinating case management services shall meet one of the following criteria:

- (1) Be a registered nurse (RN) licensed to practice nursing in the state of Iowa; or
- (2) Possess a bachelor's degree with at least one year of experience in the delivery of services to vulnerable populations; or
- (3) Be a licensed practical nurse (LPN) licensed to practice nursing in the state of Iowa.

b. A home care aide with an equivalent of two years' experience may be delegated coordination of case management services as long as a qualified individual who meets one of the criteria in paragraph 80.3(7) "a" retains responsibility and provides supervision.

c. Individuals who are responsible for the coordination of case management services on or before June 30, 2015, are exempt from the criteria in paragraph 80.3(7) "a."

d. Case management services shall be provided at the direction of the consumer. The documentation to support the case management services shall include at a minimum:

- (1) An initial assessment of the consumer's needs;
- (2) Development and implementation of a service plan to meet the identified needs;
- (3) Linking of the consumer to appropriate resources and natural supports; and
- (4) Reassessment and updating of the consumer's service plan at least annually.

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641—80.4(135) Utilization of LPHS contract funding. The contractor may bill public health activities to the LPHS contract based on the identified needs of the community.

80.4(1) Planning process. Annually, the contractor shall initiate a planning process with input from authorized agencies in order for the contractor to identify the utilization of LPHS contract funding.

80.4(2) Funder of last resort. The LPHS contract shall be billed as the funder of last resort.

- a. The LPHS contract shall be billed at the authorized agency's cost or charge, whichever is less.
- b. The LPHS contract shall not be billed for services eligible for third-party reimbursement (e.g., Medicare, Medicaid, private insurance, approved Iowa waivers, or other federal or state funds).
- c. The LPHS contract shall not be billed for the balance between the authorized agency cost or charge, whichever is less, and the allowed reimbursement from a third-party payer.
- d. The LPHS contract shall not be billed for fees waived by the authorized agency.
- e. The LPHS contract shall not be billed for services provided in a previous fiscal year.

80.4(3) Cost analysis. The authorized agency shall complete, at a minimum, an annual cost report for each approved LPHS contract activity using a method approved by the department. The authorized agency shall maintain documentation to support each cost report. Expenses to be included in an annual cost report must be documented by the agency as received before the expenses can be included in the cost report.

80.4(4) Fees and donations.

a. Authorized agencies shall use fees billed and donations received from consumers to support the activities billed to the LPHS contract.

b. Fees for services provided shall be based on a financial assessment which determines the consumer's financial responsibility.

c. Fees for services may be established by the authorized agency except for services described in subparagraph 80.4(4) "f"(6).

d. Donations shall be accepted.

e. A financial assessment that considers financial resources and income and determines the consumer's financial responsibility shall be completed for nursing (skilled and health maintenance) activities and all home care aide activities.

(1) The financial assessment shall be updated annually by the authorized agency.

(2) An authorized agency may consider additional health care-related expenses or financial resources above \$10,000 when determining the consumer's fee according to an agency's policy.

(3) Restricted assets shall not be considered as a resource in the determination of a consumer's financial responsibility for services.

(4) Unrestricted assets shall be considered in the determination of a consumer's financial responsibility for services in the sliding fee calculation.

f. Sliding fee scale. The following instructions apply to the use of the sliding fee scale.

(1) The authorized agency shall establish a sliding fee scale for all home care aide activities and nursing (skilled and health maintenance) activities.

(2) The sliding fee scale shall be based on the authorized agency's charge for services.

(3) The authorized agency shall determine the amount the consumer will pay according to the sliding fee scale prior to providing the service.

(4) A fee shall be charged to consumers who have an income at or above 200 percent of the most recent federal poverty guidelines.

(5) No fee shall be charged to consumers who have an income at or below 75 percent of the most recent federal poverty guidelines and have financial resources of \$10,000 or less.

(6) No fee shall be charged for protective services or communicable disease follow-up services.

(7) An authorized agency may charge a fee according to the authorized agency's policy for services other than those described in subparagraphs 80.4(4) "f"(1) to (6).

80.4(5) Alternative plan. A request and written plan is required for the use of the LPHS contract funds for any activity that is not one of the current activities identified in the contract documents. The request and plan shall be based on an assessment of the needs of the community and shall be submitted by the contractor to the department for approval. The plan shall:

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- a. Identify essential public health services to be delivered;
- b. Describe the activity to be delivered;
- c. Identify target populations to be served; and
- d. Describe the anticipated impact due to the use of an alternative plan.

80.4(6) Reallocation. The department will annually determine the potential for unused funds from contracts. If funds are available, reallocation of the funds shall be at the discretion of the department.

641—80.5(135) Right to appeal.

80.5(1) Denial, reduction or termination of services.

a. When an authorized agency denies, reduces or terminates services funded by the LPHS contract against the wishes of a consumer, the authorized agency shall notify the consumer of the following:

- (1) The action taken;
- (2) The reason for the action; and
- (3) The consumer's right to appeal.

b. If a consumer files an appeal, the authorized agency shall provide services to the consumer throughout the appeals process, unless the agency receives a waiver from the department pending the outcome of the appeal.

80.5(2) Local appeals process.

a. The authorized agency shall have a written procedure through which consumers funded by the LPHS contract may appeal to the contractor. The written procedure shall, at a minimum, include:

- (1) The method of notification of the right to appeal;
- (2) The procedure for conducting the appeal;
- (3) Time limits for each step;
- (4) Notification of the consumer's right to appeal to the contractor (that is, the local board of health (LBOH)); and
- (5) Notification of the outcome of the appeal. The notification shall include the facts used to reach the decision and the conclusions drawn from the facts to support the decision of the authorized agency.

b. The written appeals procedure and the record of appeals filed (including the record and disposition of each) shall be available for inspection by authorized representatives of the department.

80.5(3) Appeal to department.

a. If a consumer is dissatisfied with the decision of the local appeal, the consumer may appeal to the Iowa department of public health within 15 days of the receipt of the local contractor's appeal decision. The appeal shall be made in writing and sent by certified mail, return receipt requested, to the Division Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. Department review. The department shall evaluate the appeal based upon the merits of the local appeal documentation. A department decision affirming, reserving, or modifying the local appeal decision shall be issued within 30 days of the receipt of all local appeal documentation. The department decision shall be in writing and sent by certified mail, return receipt requested, to the consumer, the contractor, and the authorized agency.

80.5(4) Further appeal. The consumer may appeal the department's decision within 10 days of the receipt of the department's decision. The appeal shall be made in writing and sent to the Director, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Upon receipt of an appeal that meets contested case status, the department shall forward the appeal within 5 working days to the department of inspections and appeals pursuant to the rules adopted by the department of inspections and appeals regarding the transmission of contested cases. The continued process for appeals shall be governed by 641—Chapter 173, Iowa Administrative Code.

641—80.6(135) Community capacity/local board of health and healthy aging funds. The purpose of community capacity/local board of health and healthy aging funds is to assist an LBOH in implementing core public health functions, providing essential public health services that promote healthy aging

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throughout the lifespan, and enhancing health promotion and disease prevention services with a priority given to older Iowans and vulnerable populations.

80.6(1) *Allocation for community capacity/local board of health.* The appropriation to each county board of health is determined by the following formula: 40 percent of the total allocation shall be divided so that an equal amount is available for use in each county in the state. The remaining 60 percent shall be allocated to each county according to the county's population based upon the published data by the U.S. Census Bureau, which is the data available three months prior to the release of the LPHS application.

80.6(2) *Allocation for healthy aging.* The allocation for the healthy aging appropriation is determined by the following formula: 15 percent of the total appropriation shall be divided so that an equal amount is available for use in each county in the state. The remaining 85 percent shall be allocated to each county according to that county's proportion of state residents with the following demographic characteristics:

a. Sixty percent of the funds shall be allocated according to the number of elderly persons living in the county based upon the bridged-race population estimates produced by the U.S. Census Bureau in collaboration with the National Center for Health Statistics (NCHS).

b. Forty percent of the funds shall be allocated according to the number of low-income persons living in the county based upon the U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE).

These rules are intended to implement Iowa Code subsection 135.11(13).

[Filed 3/11/15, effective 7/1/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1926C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 125.7, 135.150, and 136.3, the Department of Public Health hereby rescinds Chapter 155, "Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs," and adopts new Chapter 155, "Licensure Standards for Substance Use Disorder and Problem Gambling Treatment Programs," Iowa Administrative Code.

The rules in new Chapter 155 describe procedures and programs related to licensure standards for substance use disorder and problem gambling treatment programs. The rules in new Chapter 155 implement changes that have been made to Iowa Code chapter 125. In these new rules, the standards conform to statutory changes, match revisions to national practice standards, align with national accreditation standards for similar programs, and are simplified compared to the current standards. The rules clarify and add detail to the program licensure application process, policies and procedures manual requirements, and corrective action plan requirements.

Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as **ARC 1745C**. An Amended Notice of Intended Action was published in the January 7, 2015, Iowa Administrative Bulletin as **ARC 1814C**. The Amended Notice extended the deadline for public comment and included a public hearing, which was held on January 27, 2015. The Department received public comment and made changes based on the public comment.

1. To correct an oversight, paragraph 155.11(2)"a" was revised to increase the amount of time the licensee shall have to show compliance with the written corrective action plan. The amount of time was increased from 60 days to 90 days from the date of submission of the plan.

2. To correct an oversight, paragraph "6" of subparagraph 155.21(8)"b"(1) was revised to increase the amount of time that staff shall have to become fully certified or licensed. The amount of time was increased from one year to two years from the date on which the person began to provide licensed program services.

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3. The term “substance-related disorder” was replaced with the term “substance use disorder” throughout new Chapter 155. Substance use disorder is the term currently in use in the Diagnostic and Statistical Manual (DSM) 5.

A comment was received recommending that the Department consider revising subparagraph 155.21(21)“c”(6), which relates to fuse box requirements for juvenile facilities. No changes were made to the subparagraph. The Department will study how other regulatory bodies handle the issue and will consider making changes in this regard the next time Chapter 155 is updated.

The State Board of Health adopted this amendment on March 11, 2015.

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

These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

These rules will become effective on May 6, 2015.

The following amendment is adopted.

Rescind 641—Chapter 155 and adopt the following new chapter in lieu thereof:

CHAPTER 155
LICENSURE STANDARDS FOR SUBSTANCE USE DISORDER AND
PROBLEM GAMBLING TREATMENT PROGRAMS

641—155.1(125,135) Definitions. Unless otherwise indicated, the following definitions shall apply to the specific terms used in these rules:

“*Addictive disorder*” means a substance use disorder and problem gambling.

“*Addictive disorder professional*” means an individual who is qualified by virtue of certification or license and education, training and experience to provide program services.

“*Administration*” means the direct application of a prescription medication to a patient by a prescriber or the prescriber’s authorized agent.

“*Admission*” means the point at which an initial assessment has been completed sufficient to determine the patient’s need and eligibility for program services, and the patient has agreed to begin treatment.

“*Admission, continued service, and discharge criteria*” means the ASAM criteria dimensions to be considered in determining the level of care appropriate for the patient.

“*Applicant*” means a person, facility, or legal entity that has applied for an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

“*Application*” means the process through which an applicant requests an initial license, renewal of a license, or a license under deemed status pursuant to these rules.

“*ASAM criteria*” means the most current version of the clinical guide for the treatment of addictive, substance use and co-occurring conditions as published by the American Society of Addiction Medicine (ASAM).

“*Assessment*” means the ongoing process of evaluating a patient’s strengths, resources, preferences, limitations, problems, and needs; determining the licensed program services needed by the patient; determining the patient’s eligibility for program services; and identifying treatment plan priorities, in accordance with the ASAM criteria and accepted standards of practice.

“*Board*” means the state board of health created pursuant to Iowa Code chapter 136.

“*Care coordination*” or “*case management*” means the collaborative process which assesses, plans, implements, coordinates, monitors and evaluates the options and services, both internal and external to the program, to meet patient needs, using communication and available resources to promote quality care and effective outcomes.

“*Chemical substance*” means alcohol, wine, spirits and beer as defined in Iowa Code chapter 123 and controlled substances as defined in Iowa Code section 124.101.

“*Chemical substitutes and antagonists program*” means an opioid treatment program that provides opioid treatment services in accordance with Iowa Code section 125.21 and rule 641—155.35(125,135).

“*Clinically managed*” means that program services are directed by addictive disorder professionals.

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“Clinically managed high-intensity residential treatment” means the ASAM criteria level of care totaling at least 50 hours of clinically managed inpatient treatment services per week.

“Clinically managed low-intensity residential treatment” means the ASAM criteria level of care totaling at least five hours of clinically managed inpatient treatment services per week.

“Clinically managed medium-intensity residential treatment” means the ASAM criteria level of care totaling at least 30 hours of clinically managed inpatient treatment services per week.

“Clinical oversight” means oversight provided by an individual who, by virtue of certification or license and education, training and experience is qualified to oversee treatment services in accordance with subrule 155.21(3).

“Committee” means the substance abuse and gambling treatment program committee appointed by the state board of health pursuant to Iowa Code section 136.3(13).

“Concerned person” means an individual who is seeking treatment services due to problems arising from a personal relationship with an individual with an addictive disorder.

“Confidentiality” means protection of patient information in compliance with state and federal law.

“Crisis stabilization” means medically monitored subacute inpatient services for individuals with urgent addictive disorder needs requiring immediate intervention, assessment, and mobilization of family, community and program resources.

“Culturally and environmentally specific” means integrating into assessment and treatment the customs and beliefs of a given population, as well as awareness and acceptance of diversity regarding conditions, circumstances and influences affecting an individual or group.

“Data reporting” means the required submission of certain patient demographic and program services information to the department by a program.

“Department” means the Iowa department of public health.

“Detoxification” means the safe management of intoxication states and withdrawal states in accordance with the ASAM criteria and accepted standards of practice.

“Dimension” means one of the six ASAM criteria patient biopsychosocial areas to be considered in the assessment process to identify patient needs and determine the appropriate level of care for admission and continued services.

“Director” means the director of the Iowa department of public health.

“Discharge” means the point at which the patient ceases participation in licensed program services, marking the end of a specific encounter or episode of care. Discharge does not require termination of the relationship between the patient and the program.

“Discharge planning” means the process, begun at admission, of determining a patient’s continued need for licensed program services and of developing a plan to address ongoing patient needs following discharge.

“Division” means the department’s division of behavioral health, which acts as the single state authority for the federal substance abuse prevention and treatment block grant and associated state of Iowa addictive disorder appropriations and funding.

“Early intervention” means the ASAM criteria level of care which explores and addresses problems or risk factors that appear to be related to an addictive disorder and which helps the individual recognize potential harmful consequences.

“Enhanced program” means a licensee that provides enhanced treatment services in accordance with paragraph 155.2(2)“j” and rule 641—155.34(125,135).

“Enhanced treatment services” means licensed program services provided in accordance with paragraph 155.2(2)“j” and rule 641—155.34(125,135).

“Facility” means an institution, a detoxification center, or an installation providing care, maintenance or treatment for persons with substance use disorders licensed by the department under Iowa Code section 125.13, hospitals licensed under Iowa Code chapter 135B, or the state mental health institutes designated by Iowa Code chapter 226. “Facility” also means the physical areas such as grounds, buildings, or portions thereof under administrative control of the program.

“Governing body” means the person, group, or legal entity that has ultimate authority and responsibility for the overall operation of the program.

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“Inpatient” means 24-hour licensed program services.

“Intensive outpatient treatment” means the ASAM criteria level of care totaling a minimum of nine hours of clinically managed outpatient treatment services per week for adults or a minimum of six hours of clinically managed outpatient treatment services per week for juveniles.

“Level of care” or *“level of service”* means the different ASAM criteria service options. “Level of care” also means certain licensed program services under these rules.

“Licensed program services” means the services a licensee may be authorized to provide under these rules.

“Licensee” means a program licensed by the department pursuant to these rules.

“Licensure” means the issuance of a license by the department pursuant to these rules which validates the licensee’s compliance with these rules and authorizes the licensee to operate a program in the state of Iowa.

“Licensure weighting report” means the division’s report that is used to determine an applicant’s level of compliance with these rules and the length of time a license will be in effect.

“Maintenance” means the prolonged, scheduled administration of an opiate agonist medication such as buprenorphine or methadone by an opioid treatment program in accordance with federal and state laws, rules and regulations.

“Management of care” means the ongoing application of the ASAM criteria and the coordination of care to ensure the appropriate provision of licensed program services to a patient.

“May” means a term used in the interpretation of a standard to reflect an acceptable method that is recognized but not necessarily preferred.

“Medically managed” means that the inpatient program services that involve daily medical care in a hospital setting are directed by a prescriber.

“Medically managed intensive inpatient treatment” means the ASAM criteria level of care for medically managed inpatient treatment services.

“Medically monitored” means that the program services are directed by addictive disorder professionals with medical oversight by a prescriber.

“Medically monitored intensive inpatient treatment” means the ASAM criteria level of care for medically monitored subacute inpatient treatment services.

“Medication-assisted treatment” means the medically monitored use of certain substance use disorder medications in combination with other treatment services.

“Opioid treatment program” means a substance use disorder treatment program or a substance use disorder and problem gambling treatment program licensed to provide opioid treatment services in accordance with Iowa Code section 125.21 and rules 641—155.2(125,135) and 641—155.35(125,135).

“Opioid treatment services” means medically monitored outpatient maintenance services provided in accordance with federal and state laws, rules and regulations.

“Outpatient” means non-24-hour licensed program services.

“Outpatient treatment” means the ASAM criteria level of care totaling less than nine hours of clinically managed outpatient treatment services per week for adults and less than six hours of clinically managed outpatient treatment services per week for juveniles.

“OWI evaluation” means an assessment completed solely for the purpose of compliance with the substance abuse evaluation requirements of Iowa Code chapter 321J.

“Partial/day treatment” means the ASAM criteria level of care totaling 20 or more hours of clinically managed outpatient treatment services per week.

“Patient” means an individual who participates in licensed program services.

“Placement” means selection of an appropriate licensed program service, based on ongoing assessment.

“Prescriber” means a licensed health care professional with the authority to prescribe medication in accordance with Iowa law.

“Prevention” means activities aimed at minimizing the use of potentially addictive substances, lowering risk in at-risk individuals, or minimizing potential adverse consequences of substance use or gambling.

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"Prime programming time" means any period of the day, as determined by a program treating juveniles, when special attention or supervision is necessary.

"Problem gambling" means a gambling disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Program" means a person, facility, institution, building, agency or legal entity that provides one or more of the services stated in subrule 155.2(2) and is required to be licensed under these rules.

"Quality improvement" means the process of objectively and systematically monitoring and evaluating the quality and appropriateness of patient care and program services and operations to resolve identified problems and to make continued improvements.

"Recovery" means the process of addressing an addictive disorder and working toward personally defined health and well-being.

"Recovery supports" means the broad range of nontreatment services, such as transportation, that assists patients in their recovery efforts.

"Region" means the geographic grouping of counties for conducting the department's responsibilities under Iowa Code chapter 125.

"Rehabilitation" means the restoration of an optimal state of health by medical, psychological, and social means, including peer group support.

"Residential" means clinically managed inpatient treatment services.

"Resiliency- and recovery-oriented system of care" means coordinated, person-centered approaches to health promotion, prevention, early intervention, treatment and recovery support that build on the protective factors and strengths of individuals to sustain or achieve health and well-being.

"Rule" means each department statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the procedure or practice requirements of the division. The term includes the amendment or repeal of existing rules as specified in the Iowa Code.

"Screening" means the brief review of a patient's or potential patient's current risk factors for an addictive disorder or medical or mental health condition to determine if they indicate a need for immediate admission or referral. Screening is not an assessment and is not sufficient to develop a treatment plan, rule out an addictive disorder, or determine that admission to treatment or referral to other services is not indicated.

"Self-administration of medication" means the process whereby a properly trained and qualified staff person observes a patient take medication prescribed by a prescriber.

"Shall" means the term used to indicate a mandatory statement, the only acceptable method under these rules.

"Should" means the term used in the interpretation of a standard to reflect the commonly accepted method, but allowing for the use of effective alternatives.

"Staff" means any individual who conducts an activity on behalf of a program as an employee, agent, consultant, contractor, volunteer or other status.

"Standards category" means the grouping of standards, such as clinical, administrative or programming, in the licensure weighting report.

"Subacute" means medically monitored inpatient services for individuals who require management, supervision and treatment to reduce immediate risk of danger to self or others or severe disability or complication of an addictive disorder or an addictive disorder and a medical or mental health condition.

"Substance abuse treatment and rehabilitation facility" or *"substance abuse treatment program"* means a program required to be licensed under these rules.

"Substance use disorder" means a substance use disorder that results in a functional impairment of sufficient impact and duration to meet diagnostic criteria specified within the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Time frames" means the periods of time specified throughout the standards.

"Treatment" means the broad range of planned services to identify and change patterns of behavior that are maladaptive, destructive or injurious to health; or to restore appropriate levels of physical, psychological or social functioning. Such services may include assessment; care coordination;

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crisis stabilization; detoxification; early intervention; health promotion; individual, group and family counseling; management of care; and medication administration, provided by addictive disorder professionals and a mix of medical, mental health and peer professionals as appropriate to the structure of the program.

“Treatment planning” means the process, based on ongoing assessment, by which a patient and qualified staff identify and rank problems, establish agreed-upon goals, and decide on the treatment services and resources to be utilized.

“Variance” or *“waiver”* means action by the committee or division that suspends the requirements of a standard on a case-by-case basis in accordance with 641—Chapter 178.

641—155.2(125,135) Licensing. In accordance with Iowa Code section 125.13, a person shall not maintain or conduct a substance use disorder program without having first obtained a license for the program from the department, and in accordance with Iowa Code section 135.150, a person shall not maintain or conduct a problem gambling treatment program funded by the department unless the person has obtained a license for the program from the department. The provision of treatment to a patient through any electronic means, regardless of the location of the program or facility, shall constitute the practice of treatment in the state of Iowa and shall be subject to regulation in accordance with Iowa Code chapter 125, Iowa Code section 135.150, and these rules. An applicant shall apply for one license only. The department shall award one license only to an applicant or licensee.

155.2(1) Program licenses. The department shall offer the following program licenses:

- a. A substance use disorder assessment and OWI evaluation-only program license.
- b. A substance use disorder treatment program license.
- c. A problem gambling treatment program license.
- d. A substance use disorder and problem gambling treatment program license.

155.2(2) Licensed program services. The license will delineate the licensed program service(s) the program is authorized to provide and will specify that each licensed program service is licensed for adults, juveniles, or adults and juveniles. Licensed program services are:

- a. Substance use disorder assessment and OWI evaluation only, provided by a substance use disorder assessment and OWI evaluation-only program;
- b. Outpatient treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- c. Intensive outpatient treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- d. Partial/day treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- e. Clinically managed low-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- f. Clinically managed medium-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- g. Clinically managed high-intensity residential treatment, provided by a substance use disorder treatment program, a problem gambling treatment program, or a substance use disorder and problem gambling treatment program;
- h. Medically monitored intensive inpatient treatment, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;
- i. Medically managed intensive inpatient treatment, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;
- j. Enhanced treatment services, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program;

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k. Opioid treatment services, provided by a substance use disorder treatment program or a substance use disorder and problem gambling treatment program.

155.2(3) Licensing body. The committee shall:

- a.* Consider and approve or deny all license applications, suspensions and revocations;
- b.* Advise the department on policies governing the performance of the department in the discharge of any duties imposed on the department by law;
- c.* Advise or make recommendations to the board relative to addictive disorder programs in this state; and
- d.* Perform other duties as assigned by the board.

641—155.3(125,135) Types of licenses.

155.3(1) The department may issue an initial license for 270 days to a new applicant scoring a minimum rating of 70 percent in each standards category on the licensure weighting report. An initial license shall expire in 270 days and shall not be extended or renewed.

155.3(2) The department may issue a license subsequent to an initial license for one, two, or three years based on the applicant's rating on the licensure weighting report.

- a.* An applicant achieving a rating of 95 percent or higher in each standards category may qualify for a three-year license.
- b.* An applicant achieving a rating of less than 95 percent but not less than 90 percent in each standards category may qualify for a two-year license.
- c.* An applicant achieving a rating of less than 90 percent but not less than 70 percent in each standards category may qualify for a one-year license.
- d.* A license for one, two, or three years shall expire on the date noted on the license and shall not be extended but may be renewed upon application.

155.3(3) The department may issue a license under deemed status to an applicant providing required documentation of accreditation by a recognized accreditation body. A deemed-status license shall be effective for the same time frame as that of the accreditation granted by the accreditation body, up to three years.

641—155.4(125,135) Nonassignability.

155.4(1) A license issued by the department for the operation of a program applies both to the licensee and the facility in which the program is operated. A license is not transferable.

155.4(2) A closing program is one which intends to cease providing licensed program services. The licensee shall notify the division 30 days before ceasing service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the division its plan to transition patients and locate records. When a program closes, the program's license is void on the date the program ceases providing licensed program services, and the license shall be returned to the department.

155.4(3) A closed program is one which has ceased providing licensed program services. The licensee shall notify the division immediately of ceased service provision. The licensee shall be responsible for the transition of patients to another program and for the preservation of all records. The licensee shall include in its notice to the division its plan to transition patients and locate records. When a program is closed, the program's license is void on the date the program ceased providing licensed program services, and the license shall be returned to the department.

155.4(4) A person, facility or legal entity acquiring a licensed, closing or closed program for the purpose of operating a program shall apply for a license.

641—155.5(125,135) Application procedures. The division shall provide license application forms on the department's Web site and at its office. An applicant shall submit application materials to the division. The division will proceed with inspection of the applicant upon receipt of a complete application. To be complete, an application must include all required materials and be responsive to all licensure standards, as described in these rules.

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155.5(1) Application information. An applicant shall submit application materials on the forms provided and in the required format. Application materials shall include, but may not be limited to:

a. The name and address of the applicant and, if the applicant is part of a larger organization, the name and address of the larger organization.

b. The name and address of the applicant's executive director and, if the applicant is part of a larger organization, the name and address of the executive director of the larger organization.

c. The names, titles, dates of employment, education, and years of current job-related experience of the applicant's staff; and the table of organization. If the applicant is part of a larger organization or has multiple organizational components and physical facilities, the relationships between the larger organization, organizational components and physical facilities must be shown on the table of organization, with the applicant and applicant's staff positions clearly delineated.

d. The names and addresses of members of the applicant's governing body, sponsors, and advisory boards; and the current articles of incorporation and bylaws.

e. The names and addresses of individuals, facilities, organizations, and legal entities with which the applicant has a contractual or affiliation agreement pertaining to licensed program services.

f. A description of the licensed program services to be provided by the applicant and a calendar showing program services each week.

g. For each physical facility, copies of reports substantiating compliance with federal, state and local laws, rules and regulations, to include appropriate Iowa department of inspections and appeals rules, state fire marshal rules and fire ordinances, and local health, fire, occupancy, and safety regulations.

h. Information required for programs admitting juveniles as described under Iowa Code section 125.14A.

i. Fiscal management information, to include a recent audit or opinion of auditor and program board minutes to reflect approval of the program's budget and insurance.

j. Insurance coverage related to professional and general liability, building, workers' compensation, and fidelity bond.

k. The address of each physical facility.

l. The written policies and procedures manual that covers all the requirements of these rules.

155.5(2) Application time frame. An applicant seeking to be licensed subsequent to a 270-day initial license or a licensee seeking to renew a one-, two-, or three-year license or to significantly change a currently licensed program shall submit an application at least 90 days before expiration of the current license or before the program change.

155.5(3) License under deemed status. An organization seeking to be licensed under deemed status shall submit an application.

641—155.6(125,135) Technical assistance. The division may provide technical assistance to an applicant or licensee.

155.6(1) An applicant may request technical assistance regarding these rules and the licensure process.

155.6(2) A licensee may request technical assistance regarding these rules and the licensure process or to bring areas of noncompliance with these rules into compliance.

155.6(3) The division may require a licensee to receive technical assistance to bring areas of noncompliance with these rules into compliance.

641—155.7(125,135) Inspection of applicants.

155.7(1) Inspection of applicants. The division shall inspect each applicant. Inspection shall include review of the complete application and may include, but may not be limited to, review of patient records, review of applicant data reporting, and interviews with staff and patients. Inspection shall include on-site inspection unless specifically waived as allowed under these rules. The division will send the applicant a report of inspection findings within 30 business days of the inspection.

155.7(2) On-site inspection. The division will schedule an on-site inspection of an applicant within 60 business days of receipt of the applicant's complete application.

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- a. The division may waive on-site inspection of an applicant that is:
 - (1) A licensee applying to renew a license when the applicant's licensed program services are limited to substance use disorder assessment and OWI evaluation services only, outpatient treatment, or intensive outpatient treatment.
 - (2) An applicant applying for a license under deemed status.
- b. The department shall not be required to provide advance notice of the on-site inspection to the applicant.
- c. The on-site inspection team will consist of designated employees or agents of the division.
- d. The on-site inspection team will inspect the applicant to verify application information and determine compliance with all laws, rules and regulations.

641—155.8(125,135) License—approval. The department shall issue a license upon approval of an application for a license by the committee. The license shall become effective on the date approved by the committee.

155.8(1) Committee meeting preparation. The division shall prepare an inspection findings report with a license recommendation for presentation at a committee meeting held within 60 business days from the date of the inspection findings report.

- a. The division will provide public notice of committee meetings in accordance with Iowa Code section 21.4.
- b. The division shall provide committee members with the inspection findings report and license recommendation for each application to be acted upon at each committee meeting.

155.8(2) Committee meeting format.

- a. The chairperson or chairperson's designee shall call the meeting to order at the designated time.
- b. Division staff will review each application, inspection findings report, and license recommendation, as directed by the chairperson or the chairperson's designee.
- c. The chairperson or the chairperson's designee may give the applicant and the public the opportunity to provide comment on each application.
- d. After any applicant and public comments are heard, the committee will make a decision to approve or initially deny the application for a license.

641—155.9(125,135) Written corrective action plan. A program approved for a license shall submit a written corrective action plan to the division within 30 days following the committee meeting to bring any area of noncompliance with these rules into compliance.

155.9(1) The written corrective action plan shall include, but may not be limited to:

- a. Any area of noncompliance specified in the inspection findings report;
- b. The corrective measures to be taken by the program for each area of noncompliance; and
- c. The completion date for each corrective measure.

155.9(2) The department may inspect the licensee, including on-site inspection, to review the implemented corrective measures and report to the committee.

641—155.10(125,135) Grounds for denial of license.

155.10(1) The committee may deny an application for a license for any of the following reasons:

- a. The application is not complete, is not timely or otherwise does not meet the requirements of these rules.
- b. The applicant fails to achieve the minimum licensure weighting report rating required for a 270-day initial license or a one-, two- or three-year license.
- c. Lack of patients or patient records for review.
- d. Violation of any of the following grounds for discipline:
 - (1) Submission of fraudulent or misleading information.
 - (2) Violation by a program or staff of any statute or rule pertaining to programs, including violation of any provision of these rules, or failure to adhere to program policies and procedures adopted pursuant to these rules.

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- (3) Failure to comply with licensure, inspection, health, fire, occupancy, safety, sanitation, zoning, or building codes or regulations required by federal, state or local law.
- (4) Sanction, modification, termination, withdrawal, refused renewal, suspension, or revocation of accreditation by an accreditation body.
- (5) Sanction, modification, termination, withdrawal, refused renewal, suspension, revocation, or refused issuance of a federal registration to distribute or dispense controlled substances.
- (6) Commission of or permitting, aiding or abetting commission of an unlawful act.
- (7) Conviction of a member of the governing body, a director, administrator, chief executive officer, or other managing staff person of a felony or misdemeanor related to the management, operation or integrity of the program.
- (8) Use of untruthful or improbable statements in advertising.
- (9) Conduct or practices determined to be detrimental to the general health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.
- (10) Violation of a patient's confidentiality or willful, substantial, or repeated violation of a patient's rights.
- (11) Defrauding a patient, potential patient, concerned person, visitor, staff or third-party payor.
- (12) Inappropriate conduct by staff, including sexual or other harassment or exploitation of a patient, potential patient, concerned person, visitor or staff.
- (13) Utilization of treatment techniques that endanger the health, safety, or welfare of a patient, potential patient, concerned person, visitor, staff or member of the public.
- (14) Discrimination or retaliation against a patient, potential patient, concerned person, visitor, staff, or member of the public who has submitted a complaint or information to the department.
- (15) Failure to allow an employee or agent of the department access to the program or facility for the purpose of inspection, investigation, or other activity necessary to the performance of the department's duties.
- (16) Failure to submit an acceptable written corrective action plan or failure to comply with a corrective action plan issued pursuant to rule 641—155.9(125,135) or 641—155.16(125,135).
- (17) Violation of an order of the committee or violating the terms or conditions of a consent agreement or informal settlement between a program and the committee.

155.10(2) Reserved.

641—155.11(125,135) Denial, suspension or revocation of a license. The committee may deny an application for a license. The committee may suspend or revoke a license for any of the grounds for discipline pursuant to paragraph 155.10(1)“d.”

155.11(1) Initial notice from committee. When the committee determines to deny, suspend or revoke a one-, two-, or three-year license or a license under deemed status, the division shall notify the applicant or licensee by certified mail, return receipt requested. Such notice shall provide the applicant or licensee the opportunity to submit a written corrective action plan or written objections to the division.

155.11(2) Submission of corrective action plan or objections. An applicant notified of denial of a one-, two-, or three-year license or a license under deemed status or a licensee notified of suspension or revocation of a license may submit a written corrective action plan or written objections to the division within 20 days after receipt of the notice.

a. Written corrective action plan. The written corrective action plan must meet the requirements of paragraphs 155.9(1)“a” to “c.” If the applicant or licensee submits a written corrective action plan, the applicant or licensee shall have 90 days from the date of submission within which to show compliance with the plan. The applicant or licensee shall submit any information to the committee that the committee requests or that the applicant or licensee deems pertinent to show compliance with the plan. The department may inspect the licensee, including on-site inspection, to review the implemented corrective measures and report to the committee.

b. Objections. If the applicant or licensee submits written objections, the applicant or licensee shall submit to the committee any information that the committee or the applicant or licensee deems pertinent to support the applicant's or licensee's defense.

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155.11(3) *Decision of committee.* Following receipt of a written corrective action plan and expiration of the 90-day compliance period, or following receipt of written objections, or when a written corrective action plan or written objections have not been received within the 20-day time period, the committee may meet to determine whether to proceed with the denial, suspension or revocation. The division shall send notice of this meeting to the applicant or licensee by certified mail, return receipt requested, ten days prior to the committee meeting, notifying the program director and the program board chairperson of the time, place and date of the committee meeting.

155.11(4) *Notice of decision and opportunity for contested case hearing.*

a. When the committee determines to deny, suspend, or revoke a license, the applicant or licensee shall be given written notice by restricted certified mail.

b. The applicant or licensee may request a hearing on the determination. The request must be in writing and sent by certified mail, return receipt requested, to the department's address within 30 days of the notice issued by the division. Failure to request a hearing will result in final action by the committee.

155.11(5) *Summary suspension.* If the committee or department finds that the health, safety or welfare of the public is endangered by continued operation of a program, the committee or department may order summary suspension of a license, pursuant to Iowa Code sections 17A.18 and 125.15A, pending proceedings for revocation or other actions in accordance with Iowa Code sections 17A.18A and 125.15A. These proceedings shall be promptly instituted and determined.

641—155.12(125,135) *Contested case hearing.* An applicant or licensee may contest the denial, suspension or revocation of a license by requesting a hearing before an administrative law judge from the department of inspections and appeals. The applicant or licensee will be notified by certified mail, return receipt requested, of the date of the hearing, no less than 30 days before the hearing.

155.12(1) *Failure to appear.* If a party fails to appear in a contested case hearing proceeding after proper service of notice, the administrative law judge shall, in such a case, enter a default judgment against the party failing to appear.

155.12(2) *Conduct of hearing.* Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense.

a. The hearing shall be informal, and all relevant evidence shall be admissible. Effect will be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. When the hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

b. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

c. Witnesses present at the hearing shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

d. The record in a contested case shall include:

- (1) All pleadings, motions and intermediate rulings.
- (2) All evidence received or considered and all other submissions.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections and rulings therein.
- (5) All proposed findings and exceptions.
- (6) Any decision, opinion or report by the administrative law judge presiding at the hearing.

e. Oral proceedings shall be open to the public and shall be recorded either by mechanized means or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party with the expense of the transcription charged to the requesting party. The recording or stenographic notes of oral proceedings or the transcription thereof shall be filed with and maintained by the agency for at least five years from the date of decision.

f. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.

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155.12(3) Continuance. For good cause, the administrative law judge may continue hearings beyond the time originally scheduled or recessed. Requests for continuance shall be made to the administrative law judge in writing at least three days prior to the scheduled hearing date. Continuances will not be granted less than three days before the hearing except in exigent circumstances.

155.12(4) Decision. Findings of fact shall be based solely on the evidence in the record and upon matters officially noticed in the record.

a. The decision of the administrative law judge shall be the final decision unless there is an appeal to the board within 20 days of the receipt of the decision.

b. A proposed or final decision or order in a contested case hearing shall be in writing. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Parties will be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order by certified mail, return receipt requested. In the case of a proposed decision, parties shall be notified of the right to appeal the decision to the board.

155.12(5) Appeal to the board.

a. Either party may request that the board review the proposed decision. The request shall be in writing and mailed within 20 days of receipt of the proposed decision.

b. The parties shall have an opportunity to submit briefs to the board. The board will review the record and any briefs. No new evidence shall be admitted unless requested and allowed by the board.

c. Oral presentation will be made to the board at a time set by the board.

d. The board shall issue its decision in writing within 30 days after conclusion of the hearing.

641—155.13(125,135) Rehearing application. Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within 20 days after the issuance of any final decision by the board in a contested case. A copy of such application for rehearing shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the board grants the application within 20 days after its filing.

641—155.14(125,135) Judicial review. An applicant or licensee that is aggrieved or adversely affected by the board's final decision and that has exhausted all adequate administrative remedies may seek judicial review of the board's decision pursuant to and in accordance with Iowa Code section 17A.19.

641—155.15(125,135) Issuance of a license after denial, suspension or revocation. After denial, suspension, or revocation of a license, the former applicant or licensee shall not have a license issued within one year of the effective date of the denial, suspension or revocation. After one year, the former applicant or licensee may submit an application for a 270-day initial license. For purposes of this rule, "former applicant or licensee" shall include any director, officer, administrator, chief executive officer, or other managing staff of the former applicant or licensee.

641—155.16(125,135) Complaints and investigations.

155.16(1) Complaints. Any person may file a complaint with the department against any program licensed pursuant to this chapter. The complaint shall be made in writing and shall be e-mailed, mailed or delivered to the health facility officer at the Division of Behavioral Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. The complaint shall include the name and address of the complainant, the name of the program, and a concise statement of the allegations against the program, including the specific alleged violations of Iowa Code chapter 125 or this chapter, if known. A complaint may also be initiated upon the committee's own motion or by the department when an emergency exists that is deemed to endanger the health, safety or welfare of a patient, potential patient, concerned person, visitor, staff or the public, pursuant to evidence received by the department. Timely filing of complaints is required to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

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155.16(2) *Evaluation and investigation.* Upon receipt of a complaint, the division shall make a preliminary review of the allegations contained in the complaint. The division may request that the complainant submit the complaint to the program's grievance process. Unless the division concludes that the complaint is intended solely to harass a program or lacks a reasonable basis, or is more reasonably addressed through the program's grievance process, the department shall conduct an investigation of the program that is the subject of the complaint as soon as is practicable. The program that is the subject of the complaint shall be given an opportunity to informally respond to the allegations contained in the complaint either in writing or through a personal interview or conference with department staff.

155.16(3) *Investigative report.* Within 30 days after completion of the investigation, the division shall prepare a written investigative report and shall submit the report to the executive director of the program, the chairperson of the governing body of the program, and the committee. This report shall include the nature of the complaint and shall indicate if the complaint allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the program, if received; and a recommendation for action.

155.16(4) *Review of investigations.* The committee shall review the investigative report at its next regularly scheduled meeting and shall determine appropriate action.

a. Closure. If the committee determines that the allegations contained in the complaint are unsubstantiated, the committee shall close the case and the division shall promptly notify the complainant and the program by letter.

b. Referral for further investigation. If the committee determines that the complaint warrants further investigation, the committee shall refer the complaint to the department for further investigation.

c. Written corrective action plan. If the committee determines that the allegations contained in the complaint are substantiated and corrective action is warranted, the committee may require the program to submit and comply with a written corrective action plan. A program shall submit a written corrective action plan to the division within 20 business days after receiving a request for such plan. The written corrective action plan shall include a plan for correcting areas of noncompliance as required by the committee and a time frame within which such plan shall be implemented. The plan is subject to department approval. Requiring a written corrective action plan is not formal disciplinary action. Failure to submit or comply with a written corrective action plan may result in formal disciplinary action against the program.

d. Disciplinary action. If the committee determines that the allegations contained in the complaint are substantiated and disciplinary action is warranted, the committee may proceed with such action in accordance with rule 641—155.11(125,135).

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

641—155.17(125,135) License revision. A licensee shall submit a written request to the division to revise a license at least 30 days prior to any change of address, executive director, clinical oversight staff, facility, or licensed program service. The division will determine if the requested revision can be approved or if the change is significant enough to require the submission of an application for license renewal by the licensee.

641—155.18(125,135) Deemed status.

155.18(1) *Accreditation.* The committee shall approve a license under deemed status for an applicant accredited by a recognized national accreditation body when the committee determines that

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the accreditation is for the same licensed program services as those addressed by these rules and when such accreditation is consistent with these rules.

a. An applicant for a license under deemed status shall submit a copy of the entire accreditation body survey or inspection report, certificate of accreditation, accreditation conditions, and corrective action requirements and plans with the applicant's application.

b. The committee may accept the division's review of an accreditation body's survey or inspection report, certificate of accreditation, and conditions or corrective action plans as meeting the requirements for inspection for those licensed program services described in these rules.

c. An applicant for a license under deemed status shall be licensed only for licensed program services that are described in these rules.

d. A program licensed under deemed status shall be licensed for the same period of time as that for which the program is accredited, up to three years.

155.18(2) *National accreditation bodies.* The national accreditation bodies recognized for the purposes of licensure under deemed status are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation of Children and Family Services (COA).

d. The American Osteopathic Association (AOA).

155.18(3) *Credentials and expectations of accreditation bodies.* The accreditation credentials of an accreditation body shall specify the types of organizations, programs and services the body accredits.

155.18(4) *Responsibilities of programs licensed under deemed status.*

a. A program licensed under deemed status shall meet all requirements of these rules and all applicable laws and regulations.

b. A program licensed under deemed status may submit an application for licensure of licensed program services covered by these rules that are not covered by the accreditation.

155.18(5) *Rights and responsibilities of committee and department.* The committee and the department shall retain the following responsibilities and rights for deemed status applicants and licensees:

a. The department may inspect the applicant or licensee.

b. The division shall investigate complaints in accordance with these rules and recommend and require corrective action or other sanctions. Complaints, findings, and required corrective action may be reported to the accreditation body.

c. The committee shall review and act upon a license under deemed status when complaints have been founded, when the national accreditation body identifies noncompliance with accreditation, when accreditation expires without renewal, or when accreditation is sanctioned, modified, terminated, withdrawn, suspended or revoked.

641—155.19(125,135) *Funding.* The issuance of a license shall not be construed as a commitment on the part of either the state or federal government to provide funds to such licensee.

641—155.20(125,135) *Inspection.* An applicant or licensee agrees as a condition of licensure:

155.20(1) To permit properly designated representatives of the department to enter into and inspect any and all programs and facilities for which a license has been applied or issued to verify information contained in the application or to ensure compliance with all laws, rules, and regulations relating thereto, during all hours of operation of said applicant or licensee and at any other reasonable hour.

155.20(2) To permit properly designated representatives of the department to audit and collect statistical data from all records maintained by the applicant or licensee. An applicant or licensee that does not permit inspection by the department or examination of all records, including financial records, records pertaining to methods of administration, general and special dietary programs, and the disbursement of medications and methods of supply, and any other records the committee deems relevant, shall not be licensed.

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641—155.21(125,135) General standards for all programs. The following standards shall apply to all programs. For programs for which both the general standards and specific standards apply, both sets of standards shall be met.

155.21(1) Governing body. The program shall have a formally designated governing body that complies with Iowa Code chapter 504 and that is the ultimate authority for program operations.

a. The governing body shall develop and adopt written bylaws and policies that define the powers and duties of the governing body, its committees, its advisory groups, and the executive director. These bylaws and policies shall be reviewed and revised by the governing body as necessary.

b. The bylaws shall minimally specify the following:

- (1) The type of membership;
- (2) The term of appointment;
- (3) The frequency of meetings;
- (4) The attendance requirements; and
- (5) The quorum necessary to transact business.

c. The governing body shall maintain minutes of all meetings, and the minutes shall be available for review by the department and shall include, but not necessarily be limited to:

- (1) Date of the meeting;
- (2) Names of members attending;
- (3) Topics discussed; and
- (4) Decisions reached and actions taken.

d. The duties of the governing body shall include, but may not be limited to:

- (1) Appointment of a qualified executive director, who shall have the responsibility and authority for the management of the program in accordance with the governing body's established policies;
- (2) Establishment of effective controls to ensure that quality services are provided;
- (3) Review and approval of the program's annual budget; and
- (4) Approval of all contracts.

e. The governing body shall approve policies and procedures for the effective operation of the program.

f. The governing body shall be responsible for all funds, equipment, and supplies and the facility in which the program operates. The governing body shall be responsible for the appropriateness and adequacy of services provided by the program.

g. The governing body shall at least annually prepare a report, which shall include, but may not be limited to:

- (1) The name, address, occupation, and place of employment of each governing body member;
- (2) Disclosure of any family relationship a member of the governing body has with a program staff member;
- (3) The names and addresses of any owners or controlling parties whether they are individuals, partnerships, a corporation body, or a subdivision of other bodies;
- (4) Disclosure of any potential conflict of interest a member of the governing body may have.

h. The governing body shall ensure that the program has malpractice, liability and workers' compensation insurance for all staff and a fidelity bond that covers all staff.

155.21(2) Executive director. The executive director shall have primary responsibility for program operations. The duties of the executive director shall be clearly defined in accordance with the policies established by the governing body.

155.21(3) Clinical oversight. The program shall designate a treatment supervisor to oversee provision of licensed program services.

155.21(4) Policies and procedures manual. The program shall maintain and implement a written policies and procedures manual that documents the program's compliance with these rules. The manual shall describe the program's licensed program services and related activities, specify the policies and procedures to be followed, and govern all staff.

a. The manual shall have a table of contents.

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b. Revisions to the manual shall be entered with the date and with the name and title of the staff person making the revisions.

155.21(5) Staff development and training. The program's policies and procedures shall establish a staff development and training plan that encompasses all staff and all licensed program services, considers the professional continuing education requirements of certified and licensed staff, and is available to all staff.

a. The program shall designate a staff person responsible for the staff development and training plan.

b. The staff person responsible for the staff development and training plan shall conduct an annual needs assessment.

c. The staff development and training plan shall describe orientation for new staff which includes an overview of the program and licensed program services, confidentiality, tuberculosis and blood-borne pathogens, including HIV/AIDS, and culturally and environmentally specific information. Orientation shall also address the specific responsibilities of each staff person and community resources specific to the staff person's responsibilities.

d. The staff development and training plan shall address training when program operations or licensed program services change.

e. The staff development and training plan may include on-site training activities. The program shall maintain minutes of on-site training that include the name and date of the training, the training topic, the name and title of the trainer, and the names of staff attending the training.

155.21(6) Data reporting. The program's policies and procedures shall describe how the program reports required data to the division in accordance with department requirements and processes.

155.21(7) Fiscal management. The program's policies and procedures shall ensure proper fiscal management, which shall include:

a. The preparation and maintenance of an annual written budget, which shall be reviewed and approved by the governing body prior to the beginning of the budget year.

b. A fiscal management system maintained in accordance with generally accepted accounting principles, including internal controls to reasonably protect program assets. This shall be verified by an annual independent fiscal audit of the program by the state auditor's office or a certified public accountant based on an agreement entered into by the governing body. A program with an annual budget of \$100,000 or less shall conduct a fiscal audit no less than every three years.

c. An insurance program that provides for the protection of the physical and financial resources of the program and provides coverage for all people, buildings, and equipment. The insurance program shall be reviewed annually by the governing body.

155.21(8) Personnel. The program shall have personnel policies and procedures.

a. Personnel policies and procedures shall address:

- (1) Recruitment and selection of staff;
- (2) Wage and salary administration;
- (3) Promotions;
- (4) Employee benefits;
- (5) Working hours;
- (6) Vacation and sick leave;
- (7) Lines of authority;
- (8) Rules of conduct;
- (9) Disciplinary actions and termination;
- (10) Methods for handling cases of inappropriate patient care;
- (11) Work performance appraisal;
- (12) Staff accidents and safety;
- (13) Staff grievances;
- (14) Prohibition of sexual harassment;
- (15) Implementation of the Americans with Disabilities Act;
- (16) Implementation of the Drug-Free Workplace Act;

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- (17) Use of social media; and
- (18) Implementation of equal employment opportunity.

b. The program shall have for each position and each staff person a written job description that describes the duties of each position and staff and the qualifications required for each position.

(1) A staff person providing screening, OWI evaluation, assessment or treatment services in accordance with these rules shall be qualified as an addictive disorder professional by meeting at least one of the following conditions:

1. Be certified or licensed as a substance use disorder or problem gambling counselor by a national or state organization approved by the division.

2. Be licensed as a marital and family therapist or a mental health counselor under Iowa Code chapters 154D and 147, an independent social worker under Iowa Code chapters 154C and 147, or another independent professional authorized by the Iowa Code to diagnose and treat mental disorders as specified in the most current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

3. Be licensed as a master social worker under Iowa Code chapters 154C and 147.

4. Be licensed as a bachelor social worker under Iowa Code chapters 154C and 147.

5. Be temporarily or provisionally certified or licensed as allowed under a certification or license acceptable to the division. Such staff person must meet all requirements of the temporary or provisional certification or license, must be supervised by a staff person meeting one of the requirements of paragraphs "1" to "4" above, and must be fully certified or licensed within two years of the date on which the person began to provide licensed program services.

6. A staff person employed on and after July 1, 2010, who is not qualified as described in any of the paragraphs "1" to "5" above shall be deemed qualified while the person is in the process of being certified or licensed under a certification or license acceptable to the division. Such staff must meet the requirements of the certification or licensure process, must be supervised by a staff person meeting one of the requirements of paragraphs "1" to "4" above, and must be fully certified or licensed within two years of the date on which the person began to provide licensed program services. The two-year time frame is continuous from the person's date of first employment by the program, including if the person changes employment from one program to another.

7. A person employed before July 1, 2010, and continuously since that date at a program licensed pursuant to this chapter, who is not qualified as described in any of the paragraphs "1" to "5" above, shall be deemed qualified as long as such person remains employed by that program and that program remains licensed. Such staff shall maintain a minimum of 30 hours of training every two years, including a minimum of 3 hours of ethics training, and shall be supervised by a staff person meeting at least one of the conditions of paragraphs "1" to "4" above.

(2) The program shall review job descriptions annually and whenever there is a change in a position's duties or required qualifications.

(3) The program shall include job descriptions in the personnel section of the policies and procedures manual.

c. The program shall conduct a written evaluation of job performance with each staff person at least annually. The evaluation shall include the opportunity for the staff person to comment.

d. The program shall maintain a personnel record on each staff person. The record shall contain, as applicable:

(1) Verification of training, experience, qualifications, and professional credentials;

(2) Job performance evaluations;

(3) Incident reports;

(4) Disciplinary action taken; and

(5) Documentation of review of and agreement to adhere to confidentiality laws and regulations.

This review and agreement shall occur prior to the staff person's assumption of duties.

e. The personnel policies and procedures shall ensure confidentiality of personnel records and shall specify staff authorized to have access to personnel information.

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f. The program shall notify the division in writing within ten days of being informed that a staff person has been sanctioned or disciplined by a certifying or licensing body. Such notice shall include the sanction or discipline order.

155.21(9) *Child abuse, dependent adult abuse and criminal history background checks.* The program's policies and procedures shall address child abuse, dependent adult abuse and criminal history background checks.

a. The program shall prohibit mistreatment, neglect, or abuse of children and dependent adults and shall specify reporting and enforcement procedures. Alleged violations shall be reported immediately to the program's executive director and appropriate department of human services personnel. Policies and procedures on reporting alleged violations shall be in compliance with subrule 155.21(10). A staff person found to be in violation of Iowa Code sections 232.67 through 232.70, as substantiated by a department of human services investigation, shall be subject to the program's policies concerning termination.

b. For each staff person working with juveniles as set forth in Iowa Code section 125.14A or with dependent adults as set forth in Iowa Code chapter 235B, the personnel record shall contain:

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

(2) A written, signed and dated statement furnished by a new staff applicant which discloses any substantiated report of child abuse, neglect or sexual abuse or dependent adult abuse.

(3) Documentation of a check prior to permanent acceptance of a person as staff, with the Iowa central registry for any substantiated reports of child abuse, neglect or sexual abuse pursuant to Iowa Code section 125.14A or substantiated reports of dependent adult abuse for all staff hired or accepted on or after July 1, 1994, pursuant to Iowa Code chapter 235B.

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

d. A staff person providing screening, OWI evaluation, assessment or treatment in accordance with this chapter shall complete two hours of training on identification and reporting of child abuse and dependent adult abuse within six months of initial employment and at least two hours of additional training every five years thereafter.

155.21(10) *Patient records.* The program's policies and procedures shall describe compilation, storage and dissemination of patient records and release or disclosure of information.

a. The policies and procedures shall ensure that:

(1) The program protects the patient record against loss, tampering or unauthorized disclosure of information;

(2) The content and format of patient records are uniform;

(3) All entries in the patient record are in chronological order, signed, dated and legible. When records are maintained electronically, a staff identification code number authorizing access shall be accepted in lieu of a signature;

(4) Each entry in the patient record is made in permanent ink, by typewriter, or by computer; and

(5) Entries in the patient record use language consistent with generally accepted standards of practice and do not include abstract terms, technical jargon or slang.

b. The program shall provide adequate physical facilities for the secure storage, processing and handling of patient records.

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c. Appropriate patient records shall be readily accessible to staff as specifically authorized by program policy.

d. The program shall appropriately maintain and dispose of patient records. Patient records shall be maintained for not less than seven years from the date they are officially closed.

e. Each file cabinet or storage area containing patient records shall be locked.

f. The program shall release or disclose information on individuals seeking program services or on patients in strict accordance with the Health Insurance Portability and Accountability Act (HIPAA) and state and federal confidentiality laws, rules and regulations.

(1) The confidentiality of substance use disorder patient records and information is protected by HIPAA and the regulations on confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2, which implement federal statutory provisions, 42 U.S.C. 290dd-3 applicable to alcohol abuse patient records, and 42 U.S.C. 290ee-3 applicable to drug abuse patient records.

(2) The confidentiality of problem gambling patient records and information is protected by HIPAA, Iowa Code chapter 228 and Iowa Code section 22.7(35).

g. A program that provides licensed program services via electronic means shall inform the patient of the limitations and risks associated with such services and shall document in the patient record that such notice has been provided.

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

155.21(11) Assessment and admission. The program’s policies and procedures shall address screening, assessment, referral and admission and documentation of such activities in the patient record.

a. The program shall conduct an assessment with each patient prior to admission unless the patient’s current risk factors indicate a need for immediate admission.

(1) If the program admits a patient based on a screening or initial assessment that indicates the patient requires immediate admission, that screening or initial assessment must be updated and expanded to a full assessment when the patient’s current risk factors are stabilized.

(2) The assessment shall be documented in the patient record and shall be organized in a manner that supports development of a treatment plan by the program or by any program to which the patient is referred.

b. The program shall implement a uniform assessment process that describes:

(1) The information to be gathered;

(2) Procedures for accepting a referral from another program, agency or organization;

(3) Procedures for referring a patient to another program, agency or organization.

c. A substance use disorder treatment program, problem gambling treatment program, or substance use disorder and problem gambling treatment program shall update the assessment on an ongoing basis, when clinically indicated, and within the periods of time specified for each level of care in the management-of-care review process.

d. The results of each assessment shall be clearly explained to the patient, and to the patient’s family when appropriate, and such explanation shall be documented in the patient record.

e. At the time of admission, a substance use disorder treatment program, problem gambling treatment program, or substance use disorder and problem gambling treatment program shall document that the patient has been informed of:

(1) The general nature and goals of the program;

(2) Rules governing patient conduct and infractions that can lead to disciplinary action or discharge from the program;

(3) The hours during which services are available;

(4) The costs to be borne by the patient;

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- (5) Patient rights and responsibilities;
- (6) Confidentiality laws, rules and regulations; and
- (7) Safety and emergency procedures.

155.21(12) Treatment plans. The policies and procedures for substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs shall describe the program's uniform process for developing individualized treatment plans based on ongoing assessment and documentation of such plans in the patient record.

a. Staff shall initiate development of the treatment plan as soon after the patient's admission as is clinically feasible and within the period of time between admission and the review date specified for that level of care in the management-of-care review process.

b. The treatment plan shall minimally contain:

- (1) A summary of assessment findings;
- (2) Patient short- and long-term goals;
- (3) The type and frequency of planned treatment activities;
- (4) The staff responsible for the patient's treatment; and
- (5) Culturally and environmentally specific considerations.

c. Staff shall develop each treatment plan in partnership with the patient, with patient participation documented in the patient record. The treatment plan shall be written in a manner clearly understandable to the patient. Staff shall give the patient a copy of each treatment plan. The patient and staff shall review and revise the treatment plan when clinically indicated and in accordance with the time frames specified in the management-of-care review process.

d. Treatment plan reviews shall be based on ongoing assessment and shall specify the indicated level of care and licensed program services and any revision of treatment plan goals. The date of the review and any revision of the treatment plan shall be documented in the patient record.

155.21(13) Progress notes. The policies and procedures for substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs shall describe the program's uniform process for reviewing a patient's current status and progress in meeting treatment plan goals and documenting such review in the patient record.

a. Progress notes shall include the date each service was provided or observation was made and the name and title of the staff person providing each service.

b. Staff shall enter a progress note following each individual counseling session.

c. Staff shall enter a summary progress note at least weekly for group counseling sessions.

d. Progress notes that involve subjective interpretations of a patient's status or progress should be supplemented with a description of the behavioral observations that were the basis for the interpretation.

155.21(14) Patient record contents. The program's policies and procedures shall require that a record be maintained for each patient and shall specify the contents of the patient record.

a. The patient record shall include:

- (1) Any screening;
- (2) Each assessment;
- (3) Results of any physical examination or laboratory test;
- (4) Admission information;
- (5) Any report from a referring source or outside resource;
- (6) Notes from any case conference, consultation, care coordination or case management;
- (7) Any correspondence related to the patient, including letters, electronic communications and telephone conversations;
- (8) Any treatment consent form;
- (9) Any release of information or authorization to disclose;
- (10) Notes on any service provided; and
- (11) Any incident report.

b. For substance use disorder treatment programs, problem gambling treatment programs, and substance use disorder and problem gambling treatment programs, the patient record shall also include:

- (1) Treatment plans;

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- (2) Management-of-care reviews;
- (3) Medication records, which shall allow for the monitoring of all medications administered and self-administered and detection of adverse drug reactions;
- (4) Progress notes;
- (5) Discharge summaries completed within 30 days of discharge, which shall be sufficiently detailed to identify the types of services the patient received, action taken to address specific problems identified, and plans for services and referrals postdischarge.

c. For problem gambling treatment programs and substance use disorder and problem gambling treatment programs, the patient record shall also include documentation of financial counseling services that assist problem gambling patients in preparing a budget and addressing financial debt options, including restitution and bankruptcy.

155.21(15) Drug screening. The program's policies and procedures shall address collection of drug-screening specimens and utilization of drug-screening results. Such policies may state that the program does not conduct drug screening.

a. A specimen obtained from a patient shall be collected under direct supervision and analyzed in accordance with program policies, or the program shall have a policy in place to reduce the patient's ability to alter the drug screening.

b. Any laboratory used by the program for drug screening and analysis shall comply with federal and state requirements.

c. A program conducting on-site drug screening shall comply with the Clinical Laboratory Improvement Act regulations.

d. The manner in which drug-screening results are utilized shall be documented in the patient record.

155.21(16) Medical and mental health services. The program's policies and procedures shall address patient medical and mental health conditions.

a. In addition to assessment of biomedical conditions and complications as described in the ASAM criteria, the program shall take a medical history and perform a physical examination and necessary laboratory tests as follows for patients admitted to the level of care specified:

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: within 24 hours of admission.

(2) Clinically managed high-intensity residential treatment and clinically managed medium-intensity residential treatment: within 7 days of admission.

(3) Clinically managed low-intensity residential treatment: within 21 days of admission.

(4) Crisis stabilization services and opioid treatment program services: within 24 hours of admission.

b. A program may accept a medical history or physical examination from a qualified source if the history or examination was completed no more than 90 days prior to the patient's current admission.

c. In addition to assessment of emotional, behavioral, and cognitive conditions and complications as described in the ASAM criteria, a program may accept a mental health history from a qualified source if the history was completed no more than three days prior to the patient's current admission.

155.21(17) Emergency services. The program's policies and procedures shall address the availability of emergency services for substance use disorders and medical and mental health conditions.

a. Emergency services shall be available 24 hours a day, seven days a week.

b. Emergency services may be provided by the program or by any other qualified individual, institution, facility, or other legal entity.

c. The program shall communicate the availability of emergency services by posting notice at facilities, having a recorded message on the program's telephone system, posting notice on the program's Web site and through program materials.

155.21(18) Medication control. The program's policies and procedures shall describe how medications are administered or self-administered in accordance with federal, state and local laws, rules and regulations. Such policies may state that the program does not conduct medication administration or self-administration.

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a. Staff authorized to administer medications shall be qualified, and a current list of such staff shall be maintained. The following health professionals are designated by rule 657—8.32(124,155A) as qualified individuals to whom a prescriber can delegate the administration of medications:

(1) Persons who have successfully completed a medication administration course reviewed by the board of pharmacy.

(2) Advanced emergency medical technicians and paramedics.

(3) Licensed physician assistants.

(4) Licensed pharmacists.

(5) Nurses, interns or other qualified individuals delegated the responsibility to administer medications by a prescriber licensed by the appropriate state board to administer medications to patients, in accordance with Iowa Code section 155A.4(2) "c."

b. Medication shall be administered only in accordance with the instructions of the attending prescriber. The type and amount of the medication, the time and date, and the staff person administering the medication shall be documented in the patient record.

c. Self-administration of medication shall be observed by a staff person who has been oriented to the program's policies and procedures on self-administration. Self-administration of medication shall be permitted only when the patient's medication is clearly labeled. The policies and procedures on self-administration shall include:

(1) Medications are ordered or prescribed by a prescriber.

(2) The prescriber agrees that the patient can self-administer the medication.

(3) The medication taken and how and when the medication is taken are documented in the patient record.

d. Prescription medication shall not be administered to or self-administered by a patient without a written order signed by a prescriber. All prescribed medications shall be clearly labeled indicating the patient's full name, the prescriber's name, the prescription number, and the name and strength of the medication, the dosage, the directions for use, and the date of issue; and the name, address and telephone number of the pharmacy or prescriber issuing the medication. Medications shall be packaged and labeled according to state and federal guidelines.

e. If a medication the patient brings to the program is not used, it shall be packaged, sealed and stored. The sealed package of medication shall be returned to the patient, family or designee at the time of discharge.

f. Accountability and control of medications.

(1) There shall be a specific routine for medication administration, indicating dose schedules and standardization of abbreviations.

(2) There shall be specific methods for control and accountability of medication products throughout the program.

(3) The staff person in charge of medications shall provide for monthly inspection of all storage units.

(4) Prescription medication containers having soiled, damaged, illegible, or makeshift labels shall be returned to the issuing pharmacist, pharmacy, or prescriber for relabeling or disposal.

(5) Unused prescription medication prescribed for a patient who leaves a program without the patient's medication shall be destroyed by a staff person with a staff witness, and a notation shall be made in the patient record. When a patient is discharged or leaves the program, medication currently being administered shall be sent, in the original container, with the patient or with a responsible agent, as approved by a prescriber.

g. Medication storage shall be maintained in accordance with the security requirements of federal, state and local laws.

(1) All medication shall be maintained in locked storage. Controlled substances shall be maintained in a locked box within the locked cabinet.

(2) Medications requiring refrigeration shall be kept in a refrigerator and separated from food and other items.

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(3) Disinfectants and medication for external use shall be stored separately from internal and injectable medications.

(4) The medication for each patient shall be stored in the original container.

(5) All poisonous or caustic medication shall be plainly labeled, stored separately from other medication in a specific well-illuminated cabinet, closet, or storeroom and made accessible only to authorized staff.

h. Prescription medication provided to a patient shall be dispensed only from a licensed pharmacy in the state of Iowa in accordance with the pharmacy laws in the Iowa Code, or from a licensed pharmacy in another state according to the laws of that state, or by a licensed prescriber.

i. Prescription medication prescribed for one patient shall not be administered to or allowed to be in the possession of another patient.

j. Any unusual patient reaction to a medication shall be documented in the patient record and reported to the prescriber immediately.

k. Dilution or reconstitution and labeling of medication shall be done only by a licensed pharmacist.

155.21(19) *Management of care and discharge planning.* The program's policies and procedures shall use the ASAM criteria for assessment, admission, continued service and discharge decisions and shall describe management-of-care processes.

a. The program shall conduct care coordination to meet each patient's needs and promote effective outcomes.

b. The program shall conduct management-of-care activities at least minimally within the time frames specified for each level of care.

(1) Medically managed intensive inpatient treatment and medically monitored intensive inpatient treatment: daily.

(2) Clinically managed high-intensity residential treatment, clinically managed medium-intensity residential treatment, partial/day treatment, and intensive outpatient treatment: within seven days of the patient's admission.

(3) Clinically managed low-intensity residential treatment and outpatient treatment: within 30 days of the patient's admission.

c. The program shall coordinate patient care with other programs for any licensed program service for which the program is not licensed and with qualified individuals and organizations for any related services the program does not provide, such as crisis stabilization, medical services, mental health services, and social services.

d. At the time of the patient's admission, the program shall initiate discharge planning that includes a determination of the patient's continued need for licensed program services and development of a plan to address ongoing patient needs postdischarge.

155.21(20) *Quality improvement.* The program's policies and procedures shall describe a written quality improvement plan that encompasses all licensed program services and related program operations.

a. The program shall designate a staff person responsible for the quality improvement plan.

b. The quality improvement plan shall describe and document monitoring, problem-solving and evaluation activities designed to systematically identify and resolve problems and make continued improvements.

(1) The quality improvement plan shall include specific goals, objectives, and methods.

(2) The quality improvement plan shall include objective criteria to measure its effectiveness.

c. The program shall document whether the quality of patient care and program operations are improved and identified problems are resolved.

d. The program shall communicate quality improvement plan activities and findings to all staff.

e. Quality improvement plan findings are used to detect trends, patterns of performance, and potential problems that affect patient care and program operations.

f. The program shall evaluate the effectiveness of the quality improvement plan at least annually and revise the plan as necessary.

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155.21(21) Facility safety and cleanliness. The program's policies and procedures shall ensure that program physical facilities are clean, well-ventilated, heated, free from vermin, and appropriately furnished and are designed, constructed, equipped, and maintained in a manner that provides for the physical safety of patients, concerned persons, visitors and staff.

- a. If required by local jurisdiction, the program shall maintain a certification of occupancy.
- b. During all phases of construction or alterations of buildings, the level of life safety shall not be diminished in any occupied area. The construction shall be in compliance with all applicable federal, state, and local codes. New construction shall comply with Iowa Code chapter 104A and all applicable federal and local codes and provide for safe and convenient use by disabled individuals.
- c. The program shall have specific policies and procedures for each of the following:
 - (1) Identification, development, implementation, maintenance and review of safety policies and procedures.
 - (2) Promotion and maintenance of an ongoing, facilitywide hazard surveillance program to detect and report all safety hazards.
 - (3) Safe and proper disposal of biohazardous waste.
 - (4) Stairways, halls, and aisles. Stairways, halls, and aisles shall be of substantial, nonslippery material, maintained in a good state of repair, adequately lighted and kept free from obstructions at all times. All stairways shall have handrails.
 - (5) Radiators, registers, and steam and hot water pipes, each of which shall have protective covering or insulation. Electrical outlets and switches shall have wall plates.
 - (6) For programs serving juveniles, fuse boxes that shall be under lock and key or six feet above the floor.
 - (7) Safe and proper handling and storage of hazardous materials.
 - (8) Prohibition against weapon possession; safe and proper removal of weapons.
 - (9) Swimming pools. Swimming pools shall conform to state and local health and safety rules and regulations. Adult supervision shall be provided at all times when juveniles are using the pool.
 - (10) Ponds, lakes, or any bodies of water located on or near the program and accessible to patients, concerned persons, visitors and staff.
 - (11) The written plan to be followed in the event of fire or tornado. The plan shall be conspicuously displayed at the facility.

155.21(22) Therapeutic environment. The program's policies and procedures shall provide for the establishment of an environment that preserves human dignity. Program facilities shall have adequate space for the program to provide licensed program services.

- a. The program's policies and procedures shall include a description of how all licensed program services are accessible to people with disabilities or how the program provides accommodations for people with disabilities. All programs shall comply with the Americans with Disabilities Act.
- b. The waiting or reception areas shall be of adequate size and be located so as to ensure patient confidentiality.
- c. Staff shall be available in waiting or reception areas to address the needs of the patients, potential patients, concerned persons, and visitors.
- d. The program's policies and procedures shall include:
 - (1) Possession and use of chemical substances in the facility.
 - (2) Prohibition of smoking.
 - (3) Prohibition of the sale or other provision of any tobacco product.
 - (4) Informing patients of their legal and human rights at the time of admission.
 - (5) Patient communication, opinions, or grievances, with a mechanism for redress.
 - (6) Prohibition of sexual harassment.
 - (7) Patient right to privacy.

641—155.22(125,135) Inpatient and residential program facilities. Specific standards apply for programs providing clinically managed low-intensity residential treatment, clinically managed medium-intensity residential treatment, clinically managed high-intensity residential treatment,

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medically monitored intensive inpatient treatment, and medically managed intensive inpatient treatment. The program's policies and procedures shall address each standard.

155.22(1) *Health and fire safety inspections.* Inpatient and residential programs shall comply with applicable department of inspections and appeals rules; state fire marshal's rules and fire ordinances; and applicable local health, fire, occupancy, and safety regulations. The program shall maintain documentation of such compliance.

a. Inpatient and residential programs shall comply with standards for food service sanitation in accordance with rules promulgated by the department of inspections and appeals pursuant to 481—Chapter 32 and Iowa Code chapter 137B.

b. The use of door locks or closed sections shall be documented in written policies and procedures approved by the fire marshal and governing body.

155.22(2) *Emergency preparedness.* Inpatient and residential programs shall have a written emergency preparedness plan for continuation of licensed program services during an emergency or disaster.

641—155.23(125,135) Specific standards for inpatient and residential programs. The program's policies and procedures shall address each standard.

155.23(1) *Hours of operation.* Inpatient and residential programs shall operate seven days per week, 24 hours per day.

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

155.23(3) *Consultation with counsel.* Patients shall have opportunity for and access to consultation with legal counsel at any reasonable time.

155.23(4) *Visitation with family and friends.*

a. Each patient shall have opportunities for continuing contact with family and friends. If such contact is clinically contraindicated, it may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

b. The program shall establish visiting hours, which shall be conspicuously displayed at the facility and in such a manner to be visible to those entering the facility.

155.23(5) *Telephone use.*

a. Each patient shall have opportunities to conduct private telephone conversations. If such conversations are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

b. The program shall establish telephone hours. Emergency telephone conversations may be received at the time of the call or made when necessary.

155.23(6) *Written communication.*

a. Each patient shall have opportunities to conduct private written communications. If such communications are clinically contraindicated, they may be restricted. Any restriction shall be approved by the treatment supervisor and the executive director. Justification for the restriction shall be documented in the patient record. Any restriction shall be reviewed within three calendar days by the treatment supervisor, who may continue or end the restriction. Continuation of a restriction shall be documented in the patient record and shall be reviewed by the treatment supervisor every three calendar days.

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b. The program shall establish access to written communications. The program shall not intercept, read, or censor the U.S. mail.

155.23(7) Facility. Inpatient and residential program facilities shall be appropriate for 24-hour occupancy.

a. Patient bedrooms shall include:

- (1) A sturdily constructed bed;
- (2) A clean mattress protected with a clean mattress pad;
- (3) A designated space for personal possessions and for hanging clothing in proximity to the sleeping area; and
- (4) Curtains or window blinds on any windows.

b. Sleeping areas.

- (1) Sleeping areas shall include doors for privacy.
- (2) Sleeping areas shall include partitioning or placement of furniture to provide privacy for all patients.

(3) The number of patients in a room shall be appropriate to the goals of the facility and to the ages, developmental levels, and clinical needs of the patients.

(4) Patients will be allowed to keep and display personal belongings and add personal touches to the decoration of their rooms in accordance with program policy.

(5) Staff shall respect the patient's right to privacy by knocking on the door of the patient's room before entering.

c. Clean linen, towels and washcloths shall be available minimally on a weekly basis and more often as needed.

d. Bathrooms.

(1) Bathrooms shall provide the facilities necessary for patients' personal hygiene and personal privacy, including:

1. A safe supply of hot and cold running potable water;
2. Clean towels, electric hand dryers or paper towel dispensers, toilet paper and soap;
3. Natural or mechanical ventilation capable of removing odors;
4. Tubs or showers that have slip-proof surfaces;
5. Partitions with doors which provide privacy if a bathroom has multiple toilet stools; and
6. Toilets, wash basins, and other plumbing or sanitary facilities that shall at all times be maintained in good operating condition.

(2) The ratio of bathroom facilities to inpatient and residential patients shall be one tub or shower head per 12 patients, one wash basin per 12 patients and one toilet per 8 patients.

(3) If the facility is coeducational, the program shall designate and so identify separate bathrooms for male and female patients.

e. The written plan to be followed in the event of fire or tornado shall be conspicuously displayed on each floor or in each area that patients, concerned persons, staff or visitors occupy at the facility and shall be explained to all inpatient and residential patients as a part of their orientation to the program. Fire drills shall be conducted at least monthly, and tornado drills shall be conducted monthly from April through October.

f. Written reports of annual inspections by state or local fire safety officials or private fire protection companies approved by the department shall be maintained with records of corrective action taken by the program based on recommendations articulated in such reports.

g. Every facility shall have an adequate water supply from an approved source. A municipal water system shall meet this requirement. Private water sources shall be tested annually.

h. The facility shall allow for the following:

- (1) Areas in which a patient may be alone when appropriate; and
- (2) Areas for private conversations with others.

i. Articles of grooming and personal hygiene that are appropriate to the patient's age, developmental level, and clinical state shall be readily available in a space reserved near the patient's sleeping area. If access to such articles is clinically contraindicated as approved by the treatment

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supervisor, a patient's personal articles may be kept under lock and key by staff. Staff shall explain to the patient the conditions under which the articles may be used. Justification for this restriction shall be documented in the patient record.

j. If patients maintain their own living quarters or perform day-to-day housekeeping activities, these responsibilities shall be clearly defined in writing and be a part of the patient orientation program. Staff assistance and equipment shall be provided as needed.

k. Patients shall be allowed to wear their own clothing in accordance with program rules. If clothing is provided by programs, it shall be suited to the climate and appropriate. A laundry room shall be accessible so patients may wash their clothing.

l. The program shall ensure that the use and location of noise-producing equipment and appliances, such as television sets, radios, computers, and CD players, do not interfere with clinical and therapeutic activities.

m. The program shall provide recreation and outdoor activities unless clinically contraindicated.

155.23(8) Religion-culture. Program policies and procedures shall include a written description of any religious orientation, religious practice, or religious restrictions. For juvenile patients, this description shall be provided to the patient, parent(s) or guardian, and placing agency at the time of admission in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on the confidentiality of alcohol and drug abuse patient records. For adult patients, this information shall be available during orientation. The patient shall have the opportunity to participate in religious activities and services in accordance with the patient's faith or that of a patient's parent(s) or guardian if the patient is a minor. The program shall, when necessary and reasonable, arrange transportation to religious activities.

641—155.24(125,135) Specific standards for inpatient and residential programs licensed to provide services to juveniles. Inpatient and residential programs that provide services to juveniles under the age of 18 shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.24(1) Personal possessions. A program shall allow a patient to bring personal belongings. The program may limit or supervise the use of these items. The program shall ensure that each patient has adequate, clean, well-fitting, attractive, and seasonable clothing as required for health, comfort, and physical well-being. The clothes should be appropriate to the patient's individual needs, age, and sex.

155.24(2) Family involvement. The program shall encourage family involvement.

155.24(3) Money. Money earned or received as a gift or as an allowance by a patient shall be that patient's personal property. The program shall maintain a separate accounting system for patient money and shall address the patient's use of funds.

155.24(4) Discipline. The program's methods for control and discipline of juveniles shall be available to all staff and to the juvenile's family. Staff shall be in control of and responsible for discipline at all times. Discipline shall not include withholding basic necessities such as food, clothing, or sleep.

a. The program shall prohibit staff or patients from utilizing corporal punishment as a method of disciplining or correcting patients. This policy shall be communicated in writing to all staff.

b. The program's written policies on behavior expectations shall be made available to the patient and the patient's parent(s) or guardian, including:

(1) The general expectations of behavior, including the program's rules and practices.

(2) The range of reasonable consequences that may be used to deal with inappropriate behavior.

155.24(5) Number of staff. The program shall have staff coverage seven days per week, 24 hours per day. The number and qualifications of the staff will vary depending on the needs of the patients.

a. The program shall have a 24-hour supervisory consultation on-call system. During prime programming time, there shall be at least a one-to-eight staff-to-patient ratio.

b. Comprehensive residential facilities, as defined in 441—Chapter 115, shall have at least a one-to-five staff-to-patient ratio during prime programming time. A staff person shall be in each living unit at all times when juveniles are in residence, and there shall be a minimum of three nighttime checks between the hours of 12 midnight and 6 a.m. These checks shall be logged. The program's policies and procedures shall address nighttime checks.

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c. The program shall define its prime programming time.

155.24(6) *Illness, accident, death, or absence from the inpatient or residential program.* The program shall notify the patient's parent(s), guardian, and responsible agency of any serious illness, incident involving serious bodily injury, absence, or removal of the juvenile from the facility, in compliance with HIPAA and DHHS, 42 CFR Part 2, regulations on the confidentiality of alcohol and drug abuse patient records. In the event of the death of a patient, the program shall immediately notify the prescriber, the patient's parent(s) or guardian, the placing agency, and the appropriate state authority.

155.24(7) *Educational services.* The program's educational program shall meet the requirements of the department of education and shall be available for each patient in accordance with abilities and needs.

641—155.25(125,135) Specific standards for substance use assessment and OWI evaluation-only programs. Programs that provide substance use assessment and OWI evaluation-only services shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.25(1) A program conducting OWI evaluations on persons convicted of operating a motor vehicle while intoxicated (OWI) pursuant to Iowa Code section 321J.2 and on persons whose driver's license or nonresident operating privileges are revoked under Iowa Code chapter 321J shall do so in accordance with 641—Chapter 157.

155.25(2) The program shall make its fees public and shall inform potential patients of the fee at the time the assessment or evaluation is scheduled.

641—155.26 to 155.33 Reserved.

641—155.34(125,135) Specific standards for enhanced treatment services. Substance use disorder and problem gambling treatment programs licensed to provide enhanced treatment services shall also comply with the following standards. The program's policies and procedures shall address each standard.

155.34(1) *Personnel.* The program shall meet the requirements in subrule 155.21(8). In addition:

a. The program's policies and procedures shall include job descriptions for positions that provide prevention services for substance use disorders and problem gambling, treatment for substance use disorders and problem gambling, services for medical conditions, and services for mental health conditions.

b. The program shall have staff on site who are qualified to provide prevention and early intervention services for substance use disorders and problem gambling, treatment for substance use disorders and problem gambling, services for medical conditions, and services for mental health conditions.

155.34(2) Reserved.

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

155.35(1) *Definitions.*

"Accredited opioid treatment program" means an opioid treatment program that is the subject of a current, valid accreditation from an accreditation body approved by the Substance Abuse and Mental Health Services Administration (SAMHSA).

"Certification" means the process by which SAMHSA determines that an opioid treatment program is qualified to provide opioid treatment under the federal opioid treatment standards.

"Certification application" means the application filed by an opioid treatment program for purposes of obtaining certification from SAMHSA.

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“Certified opioid treatment program” means an opioid treatment program that is the subject of a current, valid certification.

“Comprehensive maintenance treatment” means maintenance treatment provided in conjunction with a comprehensive range of appropriate medical and rehabilitative services.

“Detoxification treatment” means the dispensing of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects incident to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state within such a period.

“Interim maintenance treatment” means detoxification treatment for a period of more than 30 days but not in excess of 180 days.

“Maintenance treatment” means the dispensing of an opioid agonist treatment medication at stable dosage levels for a period in excess of 21 days in the treatment of an individual for opioid addiction.

“Medical and rehabilitative services” means services such as medical evaluations, counseling, and rehabilitative and other social programs (e.g., vocational and educational guidance, employment placement) that are intended to help patients in opioid treatment programs become or remain productive members of society.

“Medical director” means a physician who is licensed to practice medicine in accordance with Iowa Code chapter 148, 150, or 150A and who assumes responsibility for administering all medical services performed by the program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director’s direct supervision.

“Medication unit” means a facility established as part of, but geographically separate from, an opioid treatment program from which licensed private practitioners or community pharmacists dispense or administer opioid agonist treatment medications or collect samples for drug testing or analysis.

“Opiate addiction” means a cluster of cognitive, behavioral, and physiological symptoms in which the individual continues use of opiates despite significant opiate-induced problems. Opiate dependence is characterized by an individual’s repeated self-administration of opiates that usually results in opiate tolerance, withdrawal symptoms, and compulsive drug-taking. Dependency may occur with or without the physiological symptoms of tolerance and withdrawal.

“Opioid agonist treatment medication” means any opioid agonist drug that is approved by the Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opiate addiction.

“Opioid drug” means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

“Opioid treatment” means the dispensing of an opioid agonist treatment medication, along with providing a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opiate addiction. This term encompasses detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment, comprehensive maintenance treatment, and interim maintenance treatment.

“Opioid treatment program” or *“OTP”* means a program or practitioner engaged in opioid treatment or interim maintenance treatment.

“Patient” means any individual who undergoes treatment in an opioid treatment program.

“Program sponsor” means the person responsible for the operation of the opioid treatment program and who assumes responsibility for all its employees, including any practitioners, agents, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

“Short-term detoxification treatment” means detoxification treatment for a period not in excess of 30 days.

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

“*Treatment plan*” means a plan which outlines for each patient attainable short-term treatment goals that are mutually acceptable to the patient and the opioid treatment program and which specifies the services to be provided and the frequency and schedule for their provision.

155.35(2) Required approvals. All opioid treatment programs shall be licensed or approved by the committee and shall maintain all other approvals required by the Drug Enforcement Administration, Substance Abuse and Mental Health Services Administration and the Iowa board of pharmacy in order to provide services.

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

Prior to admission of an applicant to an opioid treatment program, the program shall submit to the registry the applicant’s name, birth date, and date of intended admission, and any other information required for the clearance procedure. No person shall be admitted to a program who is found by the registry to be participating in another such program. All opioid treatment programs shall report all admissions, discharges, and transfers to the registry immediately. All information reported to the registry from the programs and all information reported to the programs from the registry shall be treated as confidential in accordance with HIPAA and DHHS regulations on the confidentiality of alcohol and drug abuse patient records, 42 CFR Part 2.

a. Definitions. For purposes of this subrule:

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

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

b. Restrictions on disclosure. A program may disclose patient identifying information to a central registry for the purpose of preventing the multiple enrollment of a patient only if:

- (1) The disclosure is made when:
 1. The patient is admitted for treatment; or
 2. The treatment is interrupted, resumed or terminated.
- (2) The disclosure is limited to:
 1. Patient identifying information; and
 2. Relevant dates of admission.

The program shall inform the patient of the required disclosure prior to admission.

c. Use of information limited to prevention of multiple enrollments. Any information disclosed to the central registry to prevent multiple enrollments shall not be redisclosed by the registry nor shall such information be used for any other purpose than the prevention of multiple enrollments unless so authorized by court order in accordance with HIPAA and 42 CFR Part 2.

d. Permitted disclosure by the central registry to prevent a multiple enrollment. If a program petitions the central registry and an identified patient is enrolled in another program, the registry may disclose:

- (1) The name, address, and telephone number of the program in which the patient is currently enrolled to the inquiring program; and
- (2) The name, address, and telephone number of the inquiring program to the program in which the patient is currently enrolled. The programs may communicate as necessary to verify that no error has been made and to prevent or eliminate any multiple enrollment.

155.35(4) Admission requirements.

a. Prior to or at the time of a patient’s admission to an opioid treatment program, the program shall conduct a comprehensive assessment so as to determine appropriateness for admission.

b. The program shall verify, to the extent possible, the patient’s name, address, and date of birth.

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c. The program physician shall determine and document in the patient's record that the patient is physiologically dependent on narcotic substances and has been physiologically dependent for at least one year prior to the patient's admission. A one-year history of addiction means that the patient was physiologically dependent on a narcotic at a time one year before the patient's admission to a program and was addicted for most of the year preceding admission.

(1) When physiological addiction cannot be clearly documented, the program physician or an appropriately trained staff member designated and supervised by the physician shall record in the patient's record the criteria used to determine the patient's current physiologic dependence and history of addiction. In the latter circumstance, the program physician shall review, date, and countersign the supervised staff member's evaluation to demonstrate the physician's agreement with the evaluation. The program physician shall make the final determination concerning a patient's physiologic dependence and history of addiction. The program physician shall also sign, date, and record a statement that the physician has reviewed all the documented evidence to support a one-year history of addiction and current physiologic dependence by the patient and that in the physician's reasonable clinical judgment the patient fulfills the requirements for admission to maintenance treatment. Before the program administers any medication to the patient, the program physician shall complete and record the statement documenting the patient's addiction and current physiologic dependence.

(2) When a patient has voluntarily left an opioid treatment program in good standing and seeks readmission within two years of discharge, the program shall document the following information about the patient:

1. Prior opioid treatment of six months or more; and
2. That in the physician's medical judgment, treatment of the patient is warranted. Such documentation shall be entered in the patient's record by the program physician.

d. The program shall collect a drug screening sample for analysis. Where dependence is substantially verified through other indicators, a negative drug screen will not necessarily preclude admission to the program.

e. Prior to a patient's admission, the program shall confirm with the central registry that the patient is not currently enrolled in another opioid treatment program.

f. If a potential patient has previously been enrolled in another program, the admitting program shall request from the previous program a copy of the patient's assessment data, treatment plan, and discharge summary including the type of or reason for discharge. All programs subject to these rules shall promptly respond to such a request upon receipt of a valid release of information.

g. A person under the age of 18 is required to have had two documented attempts at short-term detoxification or drug-free treatment to be eligible for maintenance treatment. A one-week waiting period is required after such a detoxification attempt, however, before an attempt is repeated. The program physician shall document in the patient's record that the patient continues to be, or is again, physiologically dependent on narcotic drugs.

h. Program staff shall ensure that a patient is voluntarily participating in the program, and the patient shall sign a Consent to Treatment Form.

i. Pregnant patients may be admitted to opioid treatment in accordance with the following provisions:

(1) Evidence of current physiological dependency is not needed if the program physician certifies the pregnancy and, in the physician's reasonable judgment, finds treatment to be justified. Documentation of all findings and justifications for admission shall be documented in the patient's record by the program physician prior to the administration of the initial dose of medication.

(2) Pregnant patients shall be offered comprehensive prenatal care. If the program cannot provide prenatal services, the program shall assist the patient in obtaining such services and shall coordinate ongoing care with the collateral provider.

(3) The program physician shall document that the patient has been informed of the possible risks to the unborn child from the use of medication and the risks of continued use of illicit substances.

(4) Should a program have a waiting list for admission to the program, pregnant patients shall be given priority.

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155.35(5) Placement, admission and assessment. The program shall have written criteria for considering an individual for placement and admission. In addition, the program shall maintain current procedures to ensure that patients are admitted to maintenance treatment by qualified staff who have determined by using accepted medical criteria, such as those outlined in the Diagnostic and Statistical Manual for Mental Disorders, that the person is currently addicted to an opioid drug.

a. The program physician or a designee who is a qualified medical professional shall complete a medical evaluation and a current psychological/mental status evaluation of the patient prior to the administration of the initial dose of medication. If the history and current psychological/mental status evaluation is completed by an individual other than the program physician, the program shall document in the patient's case record that this information was reviewed by the program physician prior to administration of the initial dose of medication.

b. The medical evaluation of the patient shall include, but not be limited to:

- (1) A complete medical history;
- (2) An assessment of the patient's current psychological and mental status;
- (3) A physical examination, including examination for:
 1. Pulmonary, liver, or cardiac abnormalities;
 2. Infectious disease; and
 3. Dermatologic sequela of addiction;
- (4) Laboratory tests, including:
 1. Serological test for syphilis; and
 2. Urine screening for drugs;
- (5) An intradermal PPD (tuberculosis skin test) and review of tetanus immunization status; and
- (6) When indicated, an EKG, chest X-ray, pap smear, pregnancy test, sickle cell screening, complete blood count and white cell differential, multiphasic chemistry profile, routine and microscopic urinalysis, or other tests indicated by the patient's condition.

155.35(6) Treatment plans. Based upon the initial assessment, an individualized written treatment plan shall be developed and recorded in the patient's case record.

a. A treatment plan shall be developed and shall delineate the patient's immediate needs and the actions required to meet these needs.

b. The treatment plan shall be developed as soon after the patient's admission as is clinically feasible, but no later than 30 days following the patient's admission to an outpatient opioid maintenance treatment program.

c. Treatment plans shall be developed in partnership with the patient. Comprehensive treatment plans shall be reviewed by the primary counselor and the patient as often as necessary, but no less than every 90 days during the first year and semiannually each subsequent year for opioid treatment modalities. Treatment plans shall be reviewed by the program physician on an annual basis.

155.35(7) Rehabilitative services. The program shall have policies and procedures on the minimum attendance for rehabilitative services relative to the patient's progress and length of involvement in treatment. The minimum frequency of rehabilitative services shall occur at the same frequency as that of on-site dosing for patients receiving more than two take-home dosages a week in the first year. The minimum frequency for rehabilitative services for patients receiving two or fewer take-home dosages shall be weekly. The program shall provide rehabilitative services that are appropriate for the patient based on needs identified during the assessment process. A patient who does not comply with the program's rehabilitative service requirements shall be placed on a period of probation as defined by the program or shall be required to immediately increase the frequency of clinic attendance for medication and rehabilitative services. If, during a period of probation, the patient continues to be in noncompliance with rehabilitation services, the program shall continue to increase the attendance requirement until daily attendance is obtained or until the patient complies with rehabilitative services. This requirement shall not preclude the program's ability to determine that discharge of a patient is warranted for therapeutic reasons or program needs.

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155.35(8) Medication administration.

a. The program physician shall determine the patient's initial and subsequent dose of medication and on-site dosing schedule and shall assume responsibility for the amount of the narcotic drug administered or dispensed and shall record, date, and sign in each patient's case record each change in the dosage schedule. The physician shall directly communicate orders to the pharmacy or registered or licensed personnel supervising medication administration. The program physician may communicate such orders verbally; however, orders shall be reduced to writing and countersigned within 72 hours by the program physician.

b. The initial dose of medication shall not exceed 30 milligrams, and the total dose for the first day shall not exceed 40 milligrams, unless the program physician documents in the patient's case record that 40 milligrams did not suppress opiate abstinence symptoms. A patient transferring into the program or on a guest-dosing status may receive an initial dosage of no more than the last daily dosage authorized by the former or primary program.

(1) Medication shall be administered by a professional authorized by law.

(2) No medication shall be administered until the patient has completed admission procedures unless the patient enters the program on a weekend and the central registry cannot be contacted. If, in the clinical judgment of the program physician, a patient is experiencing an emergency situation, the admission procedures may be completed on the following workday.

c. Administration.

(1) Take-home medication shall be labeled in accordance with state and federal law and have childproof caps.

(2) A medication administration log shall be kept in the dosing area and in the patient's case record. The amount of medication administered and the signature of the staff member authorized to administer the medication shall also be included in the patient's case record. No dose shall be administered until the patient has been positively identified and the dosage amount has been compared with the currently ordered and documented dosage level.

(3) Ingestion shall be observed and verified by the staff person authorized to administer the medication.

(4) The program physician shall record, date, and sign in each patient's case record each change in the dosage schedule. Daily dosages of medications in excess of 100 milligrams shall be dispensed only with the approval of the program physician and shall be documented and justified in the patient's case record.

155.35(9) Take-home or unsupervised medication use.

a. Take-home medication may be given to patients who demonstrate a need for a more flexible schedule in order to enhance and continue rehabilitative progress. For patients receiving take-home medication, the program shall document the following requirements:

(1) Absence of recent abuse of drugs (narcotic or nonnarcotic), including alcohol;

(2) Regular attendance at the clinic;

(3) Attendance at a licensed or approved treatment program for rehabilitative services (e.g., programs are considered approved when licensed or approved in accordance with Iowa Code chapter 125);

(4) Absence of recent criminal activity;

(5) Stable home environment and social relationships;

(6) Active employment or participation in school or similar responsible activities related to employment, education or vocation; and

(7) Assurance that medication can be safely transported and stored by the patient for the patient's own use.

b. Prior to granting take-home privileges, the program physician shall document in the patient's case record that all the above criteria have been considered and that, in the physician's professional judgment, the risk of diversion or abuse is outweighed by the rehabilitative benefits to be derived.

c. If the patient meets the above criteria, the patient may receive take-home medication according to the following guidelines:

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- (1) During the first 90 days of treatment, the take-home supply is limited to a single dose each week;
- (2) During the second 90 days of treatment, the take-home supply is limited to two doses per week;
- (3) During the third 90 days of treatment, the take-home supply is limited to three doses per week;
- (4) In the remaining months of the first year, a patient may be given a maximum six-day supply of take-home medication;
- (5) After one year of continuous treatment, a patient may be given a maximum two-week supply of take-home medication;
- (6) After two years of continuous treatment, a patient may be given a maximum one-month supply of take-home medication; and
- (7) Take-home medication shall not be dispensed to patients in interim maintenance treatment or detoxification.

d. If a patient is unable to conform to the applicable mandatory schedule, a revised schedule may be permitted provided that the program receives an exception to these rules from the division and SAMHSA, when applicable. A copy of the written exception shall be placed in the patient's case record. The division will consider exceptions only in unusual circumstances. When a program is applying for less frequent pickups for patients, approval will be based on considerations in addition to distance if another program exists within 25 miles of the patient's residence.

e. Should a patient receiving take-home medication provide a drug screen that is confirmed either positive for substances or negative for the prescribed medication, the program shall ensure that, when test results are used, presumptive laboratory results are distinguished from results that are definitive.

(1) The program physician shall place the patient on three months' probation, as defined by the program, or increase the patient's frequency of clinic dosing after considering the patient's overall progress and length of involvement in the program.

(2) Should the patient provide a drug screen that is positive for substances or negative for medication during a period of probation, the program physician shall increase the patient's frequency of clinic attendance for dosage pickup for at least three months. If after the three-month period the patient meets the eligibility criteria, the patient may return to the previous take-home schedule.

f. Take-home or unsupervised dosages of medication in excess of 100 milligrams may be dispensed by the program physician when the need for those dosages is carefully reviewed and considered and justified in the patient's case record based on the physician's clinical judgment.

155.35(10) Drug testing. Each program shall establish policies and procedures for the collection of drug-screening specimens and utilization of results.

a. The program shall ensure that an initial drug-screening test or analysis is completed for each prospective patient and that at least eight additional random tests or analyses are performed on each patient during the patient's first year in maintenance treatment and that at least quarterly random tests or analyses are performed on each patient in maintenance treatment for each subsequent year. When a sample is collected from each patient for such a test or analysis, it shall be done in a manner that minimizes opportunity for falsification. Each test or analysis shall be analyzed for opiates, methadone, amphetamines, cocaine, and barbiturates. In addition, if any other drug or drugs have been determined by a program to be abused in that program's locality, or as otherwise indicated, each test or analysis must be analyzed for any of those drugs as well. Any laboratory that performs the testing required under this rule shall be in compliance with all applicable federal proficiency testing and licensing standards and all applicable state standards.

b. The program shall ensure that test results are not used as the sole criterion to force a patient out of treatment but are used as a guide to change treatment approaches. The program shall also ensure that when test results are used, presumptive laboratory results are distinguished from results that are definitive.

155.35(11) Diversion prevention plan.

a. The program shall develop a diversion identification and prevention plan that:

(1) Outlines the methods by which the program shall detect possible diversion of take-home medication; and

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(2) Describes the actions to be taken when diversion is identified or suspected.

b. The program shall establish and implement proactive procedures to reduce the likelihood or possibility of diversion.

155.35(12) Interim maintenance treatment.

a. An approved program may offer interim maintenance treatment when, due to capacity, the program cannot place the patient in a program offering comprehensive services within 14 days of the patient's application for admission.

b. An approved program may provide interim maintenance treatment only if the program also provides comprehensive maintenance treatment to which interim maintenance treatment patients may be transferred.

c. Interim maintenance treatment program approval.

(1) Before a public or nonprofit private narcotic treatment program may provide interim maintenance treatment:

1. The program must receive approval of both the U.S. Food and Drug Administration and the division of behavioral health; and

2. The program director must certify that the program seeking such authorization is unable to place patients in a public or private nonprofit program within a reasonable geographic area within 14 days of the patient's application for admission and that interim maintenance treatment will not reduce the capacity of the program's comprehensive maintenance treatment.

(2) Patients admitted to interim maintenance treatment shall be transferred to comprehensive maintenance treatment within 120 days of admission.

d. Minimum standards for interim maintenance treatment. The program may admit a patient who is eligible for comprehensive maintenance treatment to interim maintenance treatment if the patient cannot be placed in a public or private nonprofit comprehensive program within a reasonable geographic area and within 14 days of application for services. An initial drug screen and at least two other drug screens shall be taken from the patient during the maximum admission period of 120 days. A program shall establish and follow reasonable criteria for determining the transfer of patients to comprehensive maintenance treatment. These transfer criteria shall be in writing and available for inspection and shall include at a minimum a preference for the transfer of pregnant patients. Interim maintenance shall be conducted in accordance with all applicable federal regulations and state rules. The program shall notify the division when a patient begins interim treatment, when a patient leaves interim treatment, and when a patient transfers to comprehensive maintenance treatment. Such notifications shall be documented by the program in the patient's case record. All requirements for comprehensive maintenance treatment apply to interim maintenance treatment, with the following exceptions:

(1) The medication is required to be administered daily under observation;

(2) Take-home medication is not allowed;

(3) Initial and comprehensive treatment plans are not required;

(4) A primary counselor is not required to be assigned to the patient; and

(5) Interim maintenance treatment cannot be provided for longer than 120 days in any 12-month period.

155.35(13) Accreditation. All opioid treatment programs shall obtain and retain accreditation by a recognized national accreditation organization. The national accreditation bodies currently recognized as meeting committee criteria are:

a. The Joint Commission.

b. The Council on Accreditation of Rehabilitation Facilities (CARF).

c. The Council on Accreditation of Children and Family Services (COA).

d. The American Osteopathic Association (AOA).

TUBERCULOSIS (TB) SCREENING: HEALTH CARE WORKERS AND RESIDENTS

641—155.36(125,135) Purpose. The purpose of these rules is to outline procedures for conducting tuberculosis (TB) screening for health care workers and residents at substance use disorder and problem

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gambling treatment program facilities. Facilities will need to conduct a risk assessment to determine the risk classification of the facility and to identify appropriate screening criteria. The screening criteria are consistent with those of the U.S. Centers for Disease Control and Prevention (CDC), TB Elimination Division, as outlined in the MMWR December 30, 2005/Vol. 54/No. RR-17, "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005."

641—155.37(125,135) Definitions. For the purpose of these rules, the following definitions shall apply:

"*Bacille Calmette-Guerin (BCG) vaccination*" means a vaccine for TB. BCG is used in many countries with a high prevalence of TB to prevent childhood tuberculosis meningitis and military disease. BCG is not generally recommended for use in the United States because of the low risk of infection with *Mycobacterium tuberculosis*, the variable effectiveness of the vaccine against adult pulmonary TB, and the vaccine's potential interference with tuberculin skin test reactivity.

"*Baseline TB screening*" means the screening of staff and residents for latent tuberculosis infection (LTBI) and TB disease at the beginning of employment or upon admission to a facility. Baseline TB screening includes a symptom screen for all staff and residents and tuberculin skin tests (TSTs) or interferon-gamma release assay (IGRA) for *Mycobacterium tuberculosis* for those staff and residents with previous negative test results for *M. tuberculosis* infection.

"*Baseline TST*" or "*baseline IGRA*" means the TST or IGRA, respectively, that is administered at the beginning of employment to newly hired staff or upon admission to residents of facilities.

"*Boosting*" means a phenomenon in which a person has a negative TST (i.e., false-negative) result years after infection with *M. tuberculosis* and then a positive subsequent TST result. The positive TST result is caused by a boosted immune response of previous sensitivity rather than by a new infection (false-positive TST conversion). Two-step testing reduces the likelihood of mistaking a boosted reaction for a new infection.

"*Extrapulmonary TB*" means TB disease in any part of the body other than the lungs (e.g., kidney, spine, or lymph nodes).

"*Interferon-gamma release assay*" or "*IGRA*" means a whole-blood test that can aid in diagnosing *Mycobacterium tuberculosis* infection.

"*Laryngeal TB*" means a form of TB disease that involves the larynx and may be highly infectious.

"*Latent TB infection*" or "*LTBI*" means infection with *M. tuberculosis* without symptoms or signs of disease having manifested.

"*Mantoux method*" means a skin test performed by intradermally injecting 0.1 mL of purified protein derivative (PPD) tuberculin solution into the volar or dorsal surface of the forearm.

"*Pulmonary TB*" means TB disease that occurs in the lung parenchyma, usually producing a cough that lasts three weeks or longer. Pulmonary TB is usually infectious.

"*Purified protein derivative (PPD) tuberculin*" means a material used in diagnostic tests for detecting infection with *M. tuberculosis*.

"*Risk classification*" means the category on which the infection control team, or designated other, determines the setting's TB risk classification is based, as a result of the TB risk assessment.

"*Serial screening*" refers to TB screening performed at regular intervals following baseline TB screening. Serial TB screening, also called annual or ongoing TB testing, consists of two components: (1) assessing for current symptoms of active TB disease, and (2) testing for the presence of infection with *M. tuberculosis* by administering either a TST or single IGRA.

"*Symptom screen*" means a procedure used during a clinical evaluation in which patients are asked if they have experienced any departure from normal in function, appearance, or sensation related to TB disease (e.g., cough).

"*TB patient*" means a person who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. "TB patient" does not include persons with LTBI (treated or untreated), extrapulmonary TB disease, pulmonary, or laryngeal TB who have met criteria for noninfectiousness.

"*TB risk assessment*" means an initial and ongoing evaluation of the risk for transmission of *M. tuberculosis* in a particular health care setting.

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“*TB screening*” means an administrative control measure in which evaluation for LTBI and TB disease is performed through baseline and serial screening of staff and residents of facilities.

“*TB screening plan*” means a plan that facilities develop and implement that comprises four major components: (1) baseline testing for *M. tuberculosis* infection, (2) serial testing for *M. tuberculosis* infection, (3) serial screening for signs or symptoms of TB disease, and (4) TB training and education.

“*Treatment for LTBI*” means treatment that prevents the progression of *M. tuberculosis* infection into TB disease.

“*Tuberculin skin test*” or “*TST*” means a diagnostic aid for finding *M. tuberculosis* infection. The Mantoux method is the recommended method to be used for the TST.

“*Tuberculosis*” or “*TB*” means the namesake member organism of *M. tuberculosis* complex and the most common causative infectious agent of TB disease in humans. In certain instances, the species name refers to the entire *M. tuberculosis* complex, which includes *M. bovis* and *M. african*, *M. microti*, *M. canetti*, *M. caprae*, and *M. pinnipedii*.

“*Tuberculosis disease*” or “*TB disease*” means a condition caused by infection with a member of the *M. tuberculosis* complex that has progressed to causing clinical (manifesting symptoms or signs) or subclinical (early stage of disease in which signs or symptoms are not present, but other indications of disease activity are present) illness.

“*Two-step tuberculin skin test*” or “*two-step TST*” means the procedure used for the baseline skin testing of persons who will receive serial TSTs to reduce the likelihood of mistaking a boosted reaction for a new infection.

641—155.38(125,135) Tuberculosis screening of staff and residents.

155.38(1) *TB risk assessment.* Annually, each facility shall conduct a TB risk assessment to evaluate the risk for transmission of *M. tuberculosis*, regardless of whether a person with suspected or confirmed TB disease is expected to be encountered in the facility. The TB risk assessment shall be utilized to determine the types of administrative, environmental, and respiratory protection controls needed and serves as an ongoing evaluation tool of the quality of TB infection control and for the identification of needed improvements in infection control measures. The risk assessment shall include:

- a. The community rate of TB,
- b. The number of persons with infectious TB encountered in the facility, and
- c. The speed with which persons with infectious TB are suspected, isolated, and evaluated to determine if persons with infectious TB exposed staff or others in the facility. TB cases include persons who had undiagnosed infectious pulmonary or laryngeal TB while in the facility during the preceding year. This does not include persons with LTBI (treated or untreated), persons with extrapulmonary TB disease, or persons with pulmonary or laryngeal TB who have met criteria for noninfectiousness.

155.38(2) *Facility risk classification.* The infection control team or designated staff in a facility is responsible for determining the type of risk classification of the facility. The facility risk classification is used to determine the frequency of TB screening. The facility risk classification may change due to an increase or decrease in the number of TB cases during the preceding year.

- a. *Types of risk classifications.*
 - (1) “Low risk” means that a facility is one in which persons with active TB disease are not expected to be encountered and in which exposure to TB is unlikely.
 - (2) “Medium risk” means that a facility is one in which health care workers will or might be exposed to persons with active TB disease or to clinical specimens that might contain *M. tuberculosis*.
 - (3) “Potential ongoing transmission” means that a facility is one in which there is evidence of person-to-person transmission of *M. tuberculosis*. This classification is a temporary classification. If it is determined that this classification applies to a facility, the facility shall consult with the department’s TB control program.

b. *Classification criteria—low risk.*

- (1) Inpatient settings with 200 or more beds: If a facility has fewer than six TB patients for the preceding year, the facility shall be classified as low risk.

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(2) Inpatient settings with fewer than 200 beds: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has fewer than three TB patients for the preceding year, the facility shall be classified as low risk.

c. Classification criteria—medium risk.

(1) Inpatient settings with 200 or more beds: If a facility has six or more TB patients for the preceding year, the facility shall be classified as medium risk.

(2) Inpatient settings with fewer than 200 beds: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

(3) Outpatient, outreach, and home-based health care settings: If a facility has three or more TB patients for the preceding year, the facility shall be classified as medium risk.

d. Classification criteria—potential ongoing transmission. If evidence of ongoing *M. tuberculosis* transmission exists at a facility, the facility shall be classified as potential ongoing transmission, regardless of the facility's previous classification.

155.38(3) *Baseline TB screening procedures for facilities.*

a. All facility staff members shall receive baseline TB screening upon hire. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

b. A staff member may begin working with patients after a negative TB symptom screen (i.e., no symptoms of active TB disease) and a negative TST (i.e., first step) or a negative IGRA. The second TST may be performed after the staff member starts working with patients.

c. A staff member with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician. Treatment for LTBI should be considered in accordance with CDC guidelines.

d. A staff member with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, does not need another chest radiograph at the time of hire.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for staff with a documented history of TB disease, documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., interferon-gamma (IFN-g)). All other staff should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the staff member has a documented TST result from any time during the previous 12 months. If a newly employed staff member has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

g. Previous BCG vaccination is not a contraindication to having an IGRA, a TST or two-step skin testing administered. Health care workers with previous BCG vaccination should receive baseline and serial testing in the same manner as those without BCG vaccination. Evaluation of TST reactions in persons vaccinated with BCG should be interpreted using the same criteria for those not BCG-vaccinated. A health care worker's history of BCG vaccination should be disregarded when administering and interpreting TST results. Previous BCG vaccination does not cause a false-positive IGRA test result.

155.38(4) *Serial TB screening procedures for facilities.*

a. Facilities classified as low risk. After baseline testing of staff for infection with *M. tuberculosis*, additional TB screening of staff is not necessary unless an exposure to *M. tuberculosis* occurs.

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b. Facilities classified as medium risk.

(1) After undergoing baseline testing for infection with *M. tuberculosis*, staff should receive TB screening annually (i.e., symptom screen for all staff members and testing for infection with *M. tuberculosis* for staff members with baseline negative test results).

(2) Staff members with a baseline positive or new positive test result for *M. tuberculosis* infection or documentation of previous treatment for LTBI or TB disease shall receive one chest radiograph result to exclude TB disease. Instead of participating in serial testing, staff should receive a symptom screen annually. This screen should be accomplished by educating the staff about symptoms of TB disease and instructing the staff members to report any such symptoms immediately to the occupational health unit. Treatment for LTBI should be considered in accordance with CDC guidelines.

c. Facilities classified as potential ongoing transmission. Testing for infection with *M. tuberculosis* may need to be performed every eight to ten weeks until lapses in infection control have been corrected and no additional evidence of ongoing transmission is apparent. The potential ongoing transmission classification should be used only as a temporary classification. This classification warrants immediate investigation and corrective steps. After a determination that ongoing transmission has ceased, the setting shall be reclassified as medium risk for a minimum of one year.

155.38(5) Screening of staff who transfer to other facilities.

a. Staff transferring from a low-risk facility to another low-risk facility. After a baseline result for infection with *M. tuberculosis* is established and documented, serial testing for *M. tuberculosis* infection is not necessary for staff transferring from a low-risk facility to another low-risk facility.

b. Staff transferring from a low-risk facility to a medium-risk facility. After a baseline result for infection with *M. tuberculosis* is established and documented, annual TB screening, including a symptom screen and TST or IGRA for persons with previously negative test results, should be performed for staff transferring from a low-risk facility to a medium-risk facility.

155.38(6) Baseline TB screening procedures for residents of residential, inpatient, and halfway house facilities.

a. TB screening is a formal procedure to evaluate residents for LTBI and TB disease. Baseline TB screening consists of two components: (1) assessing for current symptoms of active TB disease and (2) using a two-step TST or a single IGRA to test for infection with *M. tuberculosis*.

b. All residents shall be assessed for current symptoms of active TB disease upon admission. Within 72 hours of a resident's admission, baseline TB testing for infection shall be initiated unless baseline TB testing occurred within three months prior to the resident's admission.

c. Residents with a new positive test result for *M. tuberculosis* infection (i.e., TST or IGRA) shall receive one chest radiograph result to exclude TB disease. Repeat radiographs are not needed unless symptoms or signs of TB disease develop or unless recommended by a clinician.

d. Residents with documentation of past positive test results (i.e., TST or IGRA) and documentation of the results of a chest radiograph indicating no active disease, dated after the date of the positive TST or IGRA test result, do not need another chest radiograph at the time of admission.

e. TB, TST or IGRA tests for *M. tuberculosis* infection do not need to be performed for residents with a documented history of TB disease, a documented previously positive test result for *M. tuberculosis* infection, or documented completion of treatment for LTBI or TB disease. Documentation of a previously positive test result for *M. tuberculosis* infection can be substituted for a baseline test result if the documentation includes a recorded TST result in millimeters or IGRA result, including the concentration of cytokine measured (e.g., IFN-g). All other residents should undergo baseline testing for *M. tuberculosis* infection to ensure that the test result on record in the setting has been performed and measured using the recommended diagnostic procedures.

f. A second TST is not needed if the resident has a documented TST result from any time during the previous 12 months. If a new resident has had a documented negative TST result within the previous 12 months, a single TST can be administered in the new setting. This additional TST represents the second stage of two-step testing. The second test decreases the possibility that boosting on later testing will lead to incorrect suspicion of transmission of *M. tuberculosis* in the setting.

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g. After baseline TB screening is accomplished, serial TB screening of the residents is not recommended.

155.38(7) *Serial TB screening procedures for residents of residential, inpatient, and halfway house facilities.*

a. If a resident is discharged and readmitted to a facility and less than 12 months have passed since the last TB screening, residents should receive a symptom screen upon readmittance. This screen should be accomplished by educating the resident about symptoms of TB disease and instructing the resident to report any such symptoms immediately to the infection control team or designated other staff. If symptoms or signs of TB disease are documented, then a medical evaluation to include a chest X-ray to rule out TB disease is required.

b. If a resident is discharged and readmitted to a facility and more than 12 months have passed since the last TB screening, baseline TB screening should be repeated as outlined in subrule 155.38(6). These rules are intended to implement Iowa Code sections 125.13, 125.21 and 135.150.

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REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 421.14, and 422.68, the Department of Revenue hereby amends Chapter 42, "Adjustments to Computed Tax and Tax Credits," and Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Iowa Administrative Code.

These amendments are necessary to reflect the enactment of 2014 Iowa Acts, Senate File 2339, which made changes to the Redevelopment Tax Credits Program for brownfield and grayfield sites; to reorganize some existing rules to provide clarity; and to add requirements to the information that must be provided to the Department when a tax credit is transferred. The additional information required for transfers will allow the Department to provide the legislative Tax Expenditure Committee with additional data that will aid in the Committee's evaluation of the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1857C** on February 4, 2015. No public comments were received. One change has been made to the amendments published under Notice of Intended Action. References to 2014 Iowa Acts, Senate File 2339, which has been codified, have been removed from Iowa Code references in this rule making.

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

The Department of Revenue adopted these amendments on March 13, 2015.

After analysis and review of this rule making, the Department finds that the changes to the Redevelopment Tax Credit program are likely to have a positive impact on jobs by helping more developers finance the redevelopment of underutilized existing infrastructure and helping nonprofits finance redevelopment projects.

These amendments are intended to implement Iowa Code sections 15.119, 15.293A, 422.11V, and 422.33.

These amendments will become effective May 6, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 701—42.41(15,422) as follows:

701—42.41(15,422) Redevelopment tax credit. The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the

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redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

42.41(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For more information, see Iowa Administrative Code 261—Chapter 65.

42.41(2) Computation and claiming Amount of the credit.

a. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is \$1 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credit allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 42.41(2) "a."

c. Percentage computation. The amount of the tax credit shall equal one of the following:

(1) to (4) No change.

42.41(3) Claiming the credit.

b. a. Certificate issuance. Upon completion of the project, the Iowa department of economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 42.41(3) 42.41(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

e. b. Pro rata share. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

d. ~~The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 whereby a \$12,000 redevelopment~~

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tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

e. c. Carryforward. To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any Except as provided in paragraph 42.41(3) "d," any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4) "b" are met.

~~42.41(3)~~ **42.41(4)** *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4) "b."

a. Submission of transferred tax credit certificate to the department—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. ~~If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.~~

c. Claiming the transferred tax credit. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

42.41(5) *Basis reduction of the redevelopment property.* The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a

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grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

This rule is intended to implement Iowa Code sections 15.293A, and 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 2. Amend rule 701—52.39(15,422) as follows:

701—52.39(15,422) Redevelopment tax credit. The economic development authority is authorized by the general assembly and the governor to oversee the implementation and administration of the redevelopment tax credit program. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council and the economic development authority may claim a redevelopment tax credit once the taxpayer has been issued a tax credit certificate for the project by the economic development authority. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit the economic development authority's administration of this program, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

52.39(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For more information, see Iowa Administrative Code 261—Chapter 65.

52.39(2) Computation and claiming Amount of the credit.

a. Maximum credit total. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed is \$1 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the economic development authority board but not in excess of the amount established pursuant to Iowa Code section 15.119.

b. Maximum credit per project. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 52.39(2) "a."

c. Percentage computation. The amount of the tax credit shall equal one of the following:
(1) to (4) No change.

52.39(3) Claiming the credit.

b. a. Certificate issuance. Upon completion of the project, the Iowa department of economic development authority will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule ~~52.39(3)~~ 52.39(4). To claim the tax credit, the taxpayer must include the tax credit certificate with the tax return for the tax period set forth on the certificate.

REVENUE DEPARTMENT[701](cont'd)

e. b. Pro rata share. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

d. ~~The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).~~

e. c. Carryforward. ~~To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any~~ Except as provided in paragraph 52.39(3) "d," any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

d. Refundability. A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the conditions of economic development authority 261—paragraph 65.11(4) "b" are met.

~~52.39(3)~~ **52.39(4)** *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity. However, a certificate indicating that the credit is refundable is only transferrable to the extent permitted by economic development authority 261—paragraph 65.11(4) "b."

a. Submission of transferred tax credit certificate to the department—information required. Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred, the amount of all consideration provided in exchange for the tax credit, and the names of recipients of any consideration provided in exchange for the tax credit. If a payment of money was any part of the consideration provided in exchange for the tax credit, the transferee shall list the amount of the payment of money in its statement to the department of revenue. If any part of the consideration provided in exchange for the tax credit included nonmonetary consideration, including but not limited to any promise, representation, performance, discharge of debt or nonmonetary rights or property, the transferee shall describe the nature of nonmonetary consideration and disclose any value the transferor and transferee assigned to the nonmonetary consideration. The transferee must indicate on its statement to the department of revenue if no consideration was provided in exchange for the tax credit. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.

b. Issuance of replacement certificate by the department. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. ~~If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information describing how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries.~~

c. Claiming the transferred tax credit. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate. The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual

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income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

52.39(5) Basis reduction of the redevelopment property. The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

This rule is intended to implement Iowa Code sections 15.293A, and 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.

[Filed 3/13/15, effective 5/6/15]

[Published 4/1/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/1/15.

ARC 1923C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 306C.3, 307.10, and 307.12, the Iowa Department of Transportation, on March 10, 2015, adopted amendments to Chapter 116, "Junkyard Control," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the January 21, 2015, Iowa Administrative Bulletin as **ARC 1832C**.

These amendments implement 2014 Iowa Acts, chapter 1123, sections 2 to 5, which became effective on July 1, 2014, and affects Iowa Code sections 306C.1, 306C.2 and 306C.3. Iowa Code chapter 306C was revised in accordance with federal regulations contained in the recent highway reauthorization bill "Moving Ahead for Progress in the 21st Century" (MAP-21). Prior to the 2014 Iowa Code revisions, state control over the visibility of junkyards applied to the interstate system only. 2014 Iowa Acts, chapter 1123, extended this control to all routes designated as the national highway system. Within Iowa Code chapter 306C, the national highway system now includes the interstates, most of the major state highways, and a few principal arterial and connector routes which are under municipal or county jurisdiction.

Control measures include screening requirements for junkyards established after May 6, 2015. Junkyards which were already in existence will be classified as nonconforming (grandfathered). Nonconforming sites which expand may be subject to screening requirements. Industrial areas and areas which are not visible to the highway due to natural features are exempt from control.

Continued receipt of the annual federal-aid highway apportionment is contingent upon compliance with federal junkyard control requirements. Failure to maintain effective control results in a reduction of Iowa's apportionment by approximately \$32 million. This reduction continues on an annual basis until effective control can be demonstrated.

Two changes from the Notice of Intended Action were made. The implementation sentences within Items 3 and 4 were revised to eliminate references to 2014 Iowa Acts, chapter 1123, as the legislation was codified in the 2015 Iowa Code.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

These amendments are intended to implement Iowa Code sections 306C.1, 306C.2 and 306C.3.

These amendments will become effective May 6, 2015.

The following amendments are adopted.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule **761—116.1(306C)**, definition of “Adjacent area,” as follows:

“*Adjacent area*” means an area which is contiguous to and within 1,000 feet of the nearest edge of the right-of-way of ~~an interstate highway~~ any highway on the national highway system.

ITEM 2. Adopt the following **new** definition of “Nonconforming junkyard” in rule **761—116.1(306C)**:

“*Nonconforming junkyard*” means a junkyard which continues to be legally maintained, but which does not meet any of the exceptions in subrule 116.2(2), and which was lawfully established:

1. Prior to July 1, 1972, and is located within the adjacent area of an interstate highway.
2. Prior to May 6, 2015, and is located within the adjacent area of a noninterstate highway on the national highway system.
3. Prior to the effective date of a zoning change which caused nonconformity with these rules.
4. Prior to the departure or closure of an industrial activity which caused nonconformity with these rules.
5. Prior to the establishment of a highway as part of the national highway system.

ITEM 3. Amend rule 761—116.2(306C) as follows:

761—116.2(306C) Junkyards prohibited—exceptions.

116.2(1) Prohibitions.

a. After July 1, 1972, a person shall not establish, operate, or maintain a junkyard any portion of which is within the adjacent area ~~and is visible from the main traveled way~~ of any interstate highway, ~~except:~~

b. After May 6, 2015, a person shall not establish, operate, or maintain a junkyard any portion of which is within the adjacent area of a highway on the national highway system.

116.2(2) Exceptions. Junkyards that are prohibited in subrule 116.2(1) shall be allowed if they meet one or more of the following criteria:

~~1. a.~~ A ~~The~~ junkyard ~~which~~ is screened by natural objects, plantings, fences, or other appropriate means.

~~2. b.~~ A ~~The~~ junkyard ~~which~~ is located within an industrial zone.

~~3. c.~~ A ~~The~~ junkyard ~~which~~ is located within an unzoned industrial area.

~~4. d.~~ A ~~The~~ junkyard ~~which~~ is not visible from the main traveled portion of the highway.

This rule is intended to implement Iowa Code section 306C.2.

ITEM 4. Amend rule 761—116.3(306C) as follows:

761—116.3(306C) Screening or removal.

116.3(1) ~~Lawfully established junkyards that subsequently become nonconforming.~~ *Nonconforming junkyards.* Any junkyard, ~~except those junkyards which meet the requirements of rule 116.2(306C), that was lawfully in existence on July 1, 1972, and any junkyard that was lawfully established but subsequently becomes nonconforming due to changed conditions, such as a change in zoning or being located upon land adjacent to any highway or land made an interstate highway after July 1, 1972, shall be screened, if feasible, or removed by the department.~~ Nonconforming junkyards which do not meet any of the exceptions in subrule 116.2(2) shall be screened by the department, if feasible, or removed by the department. However, this requirement is conditioned on the availability of participating federal funds for this purpose and a determination by the department that such funds are adequate for this purpose. Prior to the date of the installation of screening or of removal, a nonconforming junkyard may continue in existence unscreened, provided the portion visible to the main traveled way is not increased in height, width, or length. This subrule shall not abrogate any other more restrictive state or local law or regulation which governs the screening, licensing, operation or existence of the junkyard.

116.3(2) ~~Junkyards established after July 1, 1972.~~ *Owner requirements.* Any junkyard established ~~and any portion of any junkyard expanded after July 1, 1972, and any junkyard abandoned or discontinued, except those junkyards or any portion of any junkyard which meets the requirements of rule 116.2(306C), shall be screened or removed by the owner at no expense to the department.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~Required screening shall be maintained by the owner at the owner's expense so long as the junkyard remains subject to these rules. The following junkyards shall be screened or removed by the owner at no expense to the department:~~

a. Junkyards established after July 1, 1972, and located within the adjacent area of an interstate highway, but which do not meet any of the exceptions in subrule 116.2(2).

b. Junkyards established after May 6, 2015, and located within the adjacent area of a noninterstate highway on the national highway system, but which do not meet any of the exceptions in subrule 116.2(2).

c. Nonconforming junkyards of which portions visible to the main traveled way have increased in height, width, or length since the date the junkyard became nonconforming.

This rule is intended to implement Iowa Code section 306C.3.

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