



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXIII
June 1, 2011

NUMBER 24
Pages 1603 to 1666

CONTENTS IN THIS ISSUE

Pages 1614 to 1665 include **ARC 9524B** to **ARC 9552B**

ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice 1614

AGENDA

Administrative rules review committee 1607

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Animal welfare—applicability to
commercial establishments with federal
permits, 67.8 **ARC 9525B** 1614

ALL AGENCIES

Agency identification numbers 1612
Citation of administrative rules 1605
Schedule for rule making 1606

CITY DEVELOPMENT BOARD[263]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”

Filed, Petitions for annexation—
documentation, 7.2(2)“j,” 8.3(9)
ARC 9546B 1646

HUMAN SERVICES DEPARTMENT[441]

Notice, Medicaid provider enrollment—
licensed mental health counselors,
certified alcohol and drug counselors,
77.26, 78.29 **ARC 9538B** 1615
Filed Emergency After Notice, Electronic
health record incentive program, 79.16
ARC 9531B 1639
Filed Without Notice, IowaCare
premiums—annual update, 92.7(1)“a”
ARC 9532B 1646

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Notice, Wildlife refuges, 52.1 **ARC 9524B** 1616
Notice, Nonresident deer hunting,
94.7(6), 94.9 **ARC 9542B** 1619
Notice, Jackrabbit season, 107.2 **ARC 9543B** ... 1620
Notice, Furbearers—hunting and
trapping, 108.4, 108.7 **ARC 9544B** 1621
Notice, Groundhog season, 109.1 **ARC 9545B** .. 1623
Filed, Concessions, 14.1 to 14.6 **ARC 9552B**.... 1647
Filed, Special events and fireworks
displays, ch 44 **ARC 9539B** 1651
Filed, Special event permits, 61.2,
61.7(16) **ARC 9541B**..... 1657
Filed, Fireworks displays—state parks
and recreation areas, rescind ch 65
ARC 9540B 1657

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice Terminated, Reference library,
6.3, 7.3, 15.4, 16.5 **ARC 9530B** 1623
Notice Terminated, Drugs in emergency
medical service programs, ch 11
ARC 9527B 1624
Notice, Drugs in emergency medical
service programs, ch 11 **ARC 9528B**..... 1624
Filed, Unethical conduct or practice;
confidential information; pharmacy
license, 8.11, 8.16(3), 8.35 **ARC 9526B**..... 1658

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Discipline for chiropractic
physicians, 45.2(11) **ARC 9551B**..... 1633

PROFESSIONAL LICENSURE DIVISION[645]

(Cont'd)

Notice, Physician assistants—renewal notices, 326.9(1) ARC 9549B	1633
Notice, Delegated prescribing by physician assistants, 327.6(1)“d” ARC 9550B	1634
Notice, Discipline for physician assistants, 329.2(11) ARC 9548B	1635
Filed, Marital and family therapists and mental health counselors, 31.1, 31.4 to 31.7, 31.10(1), 32.4, 33.2(12) ARC 9547B	1663

PUBLIC HEALTH DEPARTMENT[641]

Notice, Volunteer health care provider program—student volunteers, 88.2, 88.3(2), 88.4(4), 88.6(4), 88.9 ARC 9537B	1635
Filed Emergency, Volunteer health care provider program—student volunteers, 88.2, 88.3(2), 88.4(4), 88.6(4), 88.9 ARC 9536B	1640
Filed Emergency After Notice, Volunteer health care provider program, 88.2, 88.3, 88.5, 88.6 ARC 9535B	1642

Filed, State medical examiner—fee schedule, 126.3 ARC 9533B	1663
Filed, Substance abuse and gambling treatment program committee, amendments to ch 155 ARC 9534B	1664

PUBLIC HEARINGS

Summarized list	1610
-----------------------	------

USURY

Notice	1636
--------------	------

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Notice, Capital infrastructure investment automatic adjustment mechanism for rate-regulated natural gas utilities, 19.18 ARC 9529B	1636
---	------

PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2011

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. 22 '10	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11
Jan. 7	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	May 13	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	***May 25***	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	***June 22***	July 13	Aug. 17	Nov. 14
May 13	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
May 25	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
June 22	July 13	Aug. 2	Aug. 17	Aug. 19	Sep. 7	Oct. 12	Jan. 9 '12
July 8	July 27	Aug. 16	Aug. 31	***Aug. 31***	Sep. 21	Oct. 26	Jan. 23 '12
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '12
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '12
Aug. 19	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 5 '12
Aug. 31	Sep. 21	Oct. 11	Oct. 26	***Oct. 26***	Nov. 16	Dec. 21	Mar. 19 '12
Sep. 16	Oct. 5	Oct. 25	Nov. 9	***Nov. 9***	Nov. 30	Jan. 4 '12	Apr. 2 '12
Sep. 30	Oct. 19	Nov. 8	Nov. 23	***Nov. 23***	Dec. 14	Jan. 18 '12	Apr. 16 '12
Oct. 14	Nov. 2	Nov. 22	Dec. 7	***Dec. 7***	Dec. 28	Feb. 1 '12	Apr. 30 '12
Oct. 26	Nov. 16	Dec. 6	Dec. 21	***Dec. 21***	Jan. 11 '12	Feb. 15 '12	May 14 '12
Nov. 9	Nov. 30	Dec. 20	Jan. 4 '12	Jan. 6 '12	Jan. 25 '12	Feb. 29 '12	May 28 '12
Nov. 23	Dec. 14	Jan. 3 '12	Jan. 18 '12	Jan. 20 '12	Feb. 8 '12	Mar. 14 '12	June 11 '12
Dec. 7	Dec. 28	Jan. 17 '12	Feb. 1 '12	Feb. 3 '12	Feb. 22 '12	Mar. 28 '12	June 25 '12
Dec. 21	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 10, 2011	June 29, 2011
1	Wednesday, June 22, 2011	July 13, 2011
2	Friday, July 8, 2011	July 27, 2011

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 Tuesday, June 14, 2011, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Animal welfare—applicability to commercial establishments with federal permits, 67.8

Notice **ARC 9525B** 6/1/11

CITY DEVELOPMENT BOARD[263]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

Petitions for annexation—documentation, 7.2(2)"j," 8.3(9) Filed **ARC 9546B** 6/1/11

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Examinations for dentists and dental hygienists, 11.2(2), 11.5(2), 12.2(5), 12.3, 12.4 Filed **ARC 9510B** 5/18/11

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Neighborhood stabilization program, 27.2, 27.3(1), 27.4 to 27.7, 27.8(6)

Notice **ARC 9503B**, also Filed Emergency **ARC 9504B** 5/18/11

HUMAN SERVICES DEPARTMENT[441]

Medicaid provider enrollment—licensed mental health counselors, certified alcohol and drug

counselors, 77.26, 78.29 Notice **ARC 9538B** 6/1/11

Electronic health record incentive program, 79.16 Filed Emergency After Notice **ARC 9531B** 6/1/11

IowaCare premiums—annual update, 92.7(1)"a" Filed Without Notice **ARC 9532B** 6/1/11

Child care assistance, 170.1 to 170.4, 170.5(1), 170.9(6)"b" Notice **ARC 9518B** 5/18/11

INSPECTIONS AND APPEALS DEPARTMENT[481]

Contested case hearings—subpoenas, 10.14 Notice **ARC 9514B** 5/18/11

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

International boiler and pressure vessel codes, 90.2, 91.1(1)"c" Notice **ARC 9511B** 5/18/11

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Concessions, 14.1 to 14.6 Filed **ARC 9552B** 6/1/11

Special events and fireworks displays, ch 44 Filed **ARC 9539B** 6/1/11

Wildlife refuges, 52.1 Notice **ARC 9524B** 6/1/11

Special event permits, 61.2, 61.7(16) Filed **ARC 9541B** 6/1/11

Fireworks displays—state parks and recreation areas, rescind ch 65 Filed **ARC 9540B** 6/1/11

Waterfowl and coot hunting—annual adjustment to season dates, 91.1, 91.3, 91.6 Notice **ARC 9506B** 5/18/11

Nonresident deer hunting, 94.7(6), 94.9 Notice **ARC 9542B** 6/1/11

Wild turkey spring hunting, 98.2(4), 98.6(2), 98.13 Notice **ARC 9507B** 5/18/11

Jackrabbit season, 107.2 Notice **ARC 9543B** 6/1/11

Furbearers—hunting and trapping, 108.4, 108.7 Notice **ARC 9544B** 6/1/11

Groundhog season, 109.1 Notice **ARC 9545B** 6/1/11

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Pharmacy technicians—technical functions, 3.22 Filed **ARC 9502B** 5/18/11

Reference library, 6.3, 7.3, 15.4, 16.5 Notice of Termination **ARC 9530B** 6/1/11

Unethical conduct or practice; confidential information; pharmacy license, 8.11, 8.16(3),
8.35 Filed **ARC 9526B** 6/1/11

Drugs in emergency medical service programs, ch 11 Notice of Termination **ARC 9527B** 6/1/11

Drugs in emergency medical service programs, ch 11 Notice **ARC 9528B** 6/1/11

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Marital and family therapists and mental health counselors, 31.1, 31.4 to 31.7, 31.10(1),

32.4, 33.2(12) Filed **ARC 9547B** 6/1/11

Chiropractic physicians—renewal notices, 41.8(1) Filed **ARC 9513B** 5/18/11

Discipline for chiropractic physicians, 45.2(11) Notice **ARC 9551B** 6/1/11

Licensure for optometrists, 180.5, 180.11, 181.2, 181.3(2)"c," 182.1, 182.3(2)"b,"
182.4(1)"g," 183.2(11) Notice **ARC 9519B** 5/18/11

Podiatrists—renewal notices, 220.9(1) Filed **ARC 9509B** 5/18/11

Discipline for podiatrists, 224.2(12) <u>Filed</u> ARC 9508B	5/18/11
Physician assistants—renewal notices, 326.9(1) <u>Notice</u> ARC 9549B	6/1/11
Delegated prescribing by physician assistants, 327.6(1) ^d <u>Notice</u> ARC 9550B	6/1/11
Physician assistants—category I and II continuing education, 328.3(2) <u>Filed</u> ARC 9517B	5/18/11
Discipline for physician assistants, 329.2(11) <u>Notice</u> ARC 9548B	6/1/11

PUBLIC HEALTH DEPARTMENT[641]

Volunteer health care provider program—student volunteers, 88.2, 88.3(2), 88.4(4), 88.6(4), 88.9 <u>Notice</u> ARC 9537B , also <u>Filed Emergency</u> ARC 9536B	6/1/11
Volunteer health care provider program, 88.2, 88.3, 88.5, 88.6 <u>Filed Emergency After Notice</u> ARC 9535B	6/1/11
State medical examiner—fee schedule, 126.3 <u>Filed</u> ARC 9533B	6/1/11
Substance abuse and gambling treatment program committee, amendments to ch 155 <u>Filed</u> ARC 9534B	6/1/11

PUBLIC SAFETY DEPARTMENT[661]

Electrician and electrical contractor licensing program; electrical inspection program, 500.2, 502.2, ch 505, 551.2 <u>Notice</u> ARC 9515B	5/18/11
Statewide interoperable communications system board, ch 600 <u>Notice</u> ARC 9516B	5/18/11

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193] COMMERCE DEPARTMENT[181]“umbrella”	
Enforcement of a protective clause, 11.2 <u>Filed</u> ARC 9505B	5/18/11

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”	
Electric and gas technical standards—updates, 10.12(1), 10.17, 19.2(5), 19.5(2), 20.3(9), 20.5(2), 20.18(5), 25.1(3), 25.2(4) <u>Filed</u> ARC 9501B	5/18/11
Capital infrastructure investment automatic adjustment mechanism for rate-regulated natural gas utilities, 19.18 <u>Notice</u> ARC 9529B	6/1/11

VETERINARY MEDICINE BOARD[811]

Licensing sanctions—collection procedures, amendments to chs 5, 13 <u>Filed</u> ARC 9512B	5/18/11
--	---------

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

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

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

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

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

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

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

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

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Animal welfare—applicability to commercial establishments with federal permits, 67.8 IAB 6/1/11 ARC 9525B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 23, 2011 2 p.m.
---	--	-------------------------

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Neighborhood stabilization program, 27.2, 27.3(1), 27.4 to 27.7, 27.8(6) IAB 5/18/11 ARC 9503B (See also ARC 9504B)	IDED Tourism Room 200 E. Grand Ave. Des Moines, Iowa	June 7, 2011 2 to 3 p.m.
--	--	-----------------------------

LABOR SERVICES DIVISION[875]

International boiler and pressure vessel codes, 90.2, 91.1(1) IAB 5/18/11 ARC 9511B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	June 8, 2011 9 a.m. (If requested)
---	---	--

NATURAL RESOURCE COMMISSION[571]

Wildlife refuges, 52.1 IAB 6/1/11 ARC 9524B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Waterfowl and coot hunting—annual adjustment to season dates, 91.1, 91.3, 91.6 IAB 5/18/11 ARC 9506B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 7, 2011 1 p.m.
Nonresident deer hunting, 94.7(6), 94.9 IAB 6/1/11 ARC 9542B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Wild turkey spring hunting, 98.2(4), 98.6(2), 98.13 IAB 5/18/11 ARC 9507B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 7, 2011 1 p.m.
Jackrabbit season, 107.2 IAB 6/1/11 ARC 9543B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Furbearers—hunting and trapping, 108.4, 108.7 IAB 6/1/11 ARC 9544B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Groundhog season, 109.1 IAB 6/1/11 ARC 9545B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Discipline for chiropractic physicians, 45.2(11) IAB 6/1/11 ARC 9551B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8 to 8:30 a.m.
Licensure for optometrists, 180.5, 180.11, 181.2, 181.3(2), 182.1, 182.3(2), 182.4(1), 183.2(11) IAB 5/18/11 ARC 9519B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 7, 2011 8 to 8:30 a.m.
Physician assistants—renewal notices, 326.9(1) IAB 6/1/11 ARC 9549B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8:30 to 9 a.m.

PROFESSIONAL LICENSURE DIVISION[645] (cont'd)

Delegated prescribing by physician assistants, 327.6(1)“d” IAB 6/1/11 ARC 9550B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 9:30 to 10 a.m.
Discipline for physician assistants, 329.2(11) IAB 6/1/11 ARC 9548B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8:30 to 9 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Electrician and electrical contractor licensing program; electrical inspection program, 500.2, 502.2, ch 505, 551.2 IAB 5/18/11 ARC 9515B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 30, 2011 10 a.m.
Statewide interoperable communications system board, ch 600 IAB 5/18/11 ARC 9516B	City Council Chambers West Des Moines City Hall 4200 George Mills Civic Parkway West Des Moines, Iowa	June 29, 2011 10:30 a.m.

UTILITIES DIVISION[199]

Capital infrastructure investment automatic adjustment mechanism for rate-regulated natural gas utilities, 19.18 IAB 6/1/11 ARC 9529B	Utilities Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 8, 2011 9 a.m.
---	--	------------------------

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGING, DEPARTMENT ON[17]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 EARLY CHILDHOOD IOWA STATE BOARD[249]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]

Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR
COMMENCING JULY 1, 2011, AND ENDING JUNE 30, 2012

In accordance with Iowa Code section 618.11, Iowa Department of Administrative ITE Infrastructure Services/Printing Administrator hereby publishes the lineage rate* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2011, and ending on June 30, 2012, in the following amounts:

* Lineage rate: "...each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11.)

One insertion = 44.5 cents
Each subsequent insertion = 30.2 cents

The rate becomes effective on July 1, 2011. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 2.7% from March 2010 to March 2011. The March index was the most recent index available as of May 11, 2011, the date on which this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may be directed to:

Lorrie Tritch, ITE Chief Information Officer
Iowa Department of Administrative Services
1305 E. Walnut
Des Moines, Iowa 50319
Telephone: (515)281-7702
E-mail: Lorrie.Tritch@iowa.gov

ARC 9525B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 162.16, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 67, “Animal Welfare,” Iowa Administrative Code.

The amendment updates provisions related to the Department’s ability to regulate federal animal facilities.

Any interested person may make written suggestions or comments on or before June 23, 2011. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land

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

Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

A public hearing will be held on June 23, 2011, at 2 p.m. in the second floor conference room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa.

This amendment was also Adopted and Filed Emergency on March 18, 2011, and was published in the April 6, 2011, Iowa Administrative Bulletin as **ARC 9456B**. Because the Adopted and Filed Emergency amendments to rule 21—67.8(162) have already been incorporated into the rule and published in the Iowa Administrative Code, it was necessary to rescind rule 21—67.8(162) and adopt a new rule whose content is identical to that of the Adopted and Filed Emergency rule.

No waiver provision is included in the proposed amendment; however, the Department waiver rule would apply.

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

This amendment is intended to implement Iowa Code sections 162.10A, 162.10B and 162.10C.

The following amendment is proposed.

Rescind rule 21—67.8(162) and adopt the following **new** rule in lieu thereof:

21—67.8(162) Applicability to commercial establishments with federal permits. In addition to obtaining the permit from the department, any person who operates a commercial establishment under a current and valid federal permit shall provide care ensuring adequate feed, water, and housing facilities and appropriate sanitary control, grooming practices and veterinary care. The department has the authority to inspect the premises and the required records.

This rule is intended to implement Iowa Code sections 162.10A, 162.10B and 162.10C.

ARC 9538B**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 and 2011 Iowa Acts, Senate File 233, section 1(3), the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

The proposed amendments allow licensed mental health counselors and certified alcohol and drug counselors to enroll as Medicaid providers of behavioral health services.

These amendments do not provide for waivers in specified situations because these provisions are set by statute and they benefit the providers affected by providing another payment source for the providers’ services.

Any interested person may make written comments on the proposed amendments on or before June 21, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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.15A as amended by 2011 Iowa Acts, Senate File 233.

The following amendments are proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule 441—77.26(249A) as follows:

441—77.26(249A) Behavioral health services. The following persons are eligible to participate in the Medicaid program as providers of behavioral health services.

77.26(1) to 77.26(3) No change.

77.26(4) *Licensed mental health counselors (LMC).* Any person licensed by the board of behavioral science as a mental health counselor pursuant to Iowa Code chapter 154D and 645—Chapter 31 is eligible to participate. A mental health counselor in another state is eligible to participate when duly licensed to practice in that state.

77.26(5) *Certified alcohol and drug counselors.* Any person certified by the nongovernmental Iowa board of substance abuse certification as an alcohol and drug counselor is eligible to participate.

This rule is intended to implement Iowa Code chapter 249A as amended by ~~2008~~ 2011 Iowa Acts, Senate File ~~2425~~, ~~section 123~~ 233.

ITEM 2. Amend rule 441—78.29(249A), introductory paragraph, as follows:

441—78.29(249A) Behavioral health services. Payment shall be made for medically necessary behavioral health services provided by a participating marital and family therapist, independent social worker, ~~or master social worker,~~ mental health counselor, or certified alcohol and drug counselor within the practitioner's scope of practice pursuant to state law and subject to the limitations and exclusions set forth in this rule.

ARC 9524B

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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

These rules give the regulations for establishing wildlife refuges or sanctuaries for the purpose of preserving the biological balance pursuant to the provisions of Iowa Code section 481A.39 and to effect sound wildlife management.

These amendments are proposed to reclassify some existing refuges for the purposes of improving public use and safety and reducing the time required to post refuges each fall. No new refuges are being established.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 21, 2011. Written comments may be directed to Bureau Chief, Wildlife Bureau, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by E-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 21, 2011, at 1 p.m. in the auditorium on the second floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

NATURAL RESOURCE COMMISSION[571](cont'd)

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

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

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.9 and 481A.39.

The following amendments are proposed.

ITEM 1. Amend subrule 52.1(2) as follows:

52.1(2) Wildlife refuges.

a. ~~Restrictions.~~ The following areas under the jurisdiction of the department of natural resources are established as ~~game~~ wildlife refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, ~~between the dates of September 1 and January 31 of each year,~~ during the dates posted, both dates inclusive, except that department personnel, ~~and law enforcement officials,~~ and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose, Lucas, Wayne
Sedan Bottoms	Appanoose
Wildlife Exhibit Area	Boone
Sweet Marsh	Bremer
Big Marsh	Butler
South Twin Lake	Calhoun
Ventura Marsh	Cerro Gordo
Round Lake	Clay
Allen Green Refuge	Des Moines
Henderson	Dickinson
Jemmerson Slough Complex	Dickinson
Spring Run	Dickinson
Ingham Lake	Emmet
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie
Crystal Hills	Hancock
Eagle Flats	Hancock
Eagle Lake	Hancock
Green Island Area	Jackson
Hawkeye Wildlife Area	Johnson
Muskrat Slough	Jones
Colyn Area	Lucas
Red Rock Area	Marion, Polk, Warren
Gladys Black Eagle Refuge	Marion
Badger Lake	Monona
Tieville/Decatur Bend	Monona
Five Island Lake	Palo Alto

NATURAL RESOURCE COMMISSION[571](cont'd)

Big Creek-Saylorville Complex	Polk
Chichaqua Area	Polk
Polk City Refuge	Polk
Smith Area	Pottawattamie
McCausland	Scott
Princeton Area	Scott
Prairie Rose Lake	Shelby
Otter Creek Marsh	Tama
Green Valley Lake	Union
Three Mile Lake	Union
Lake Sugema	Van Buren
Rice Lake Area	Winnebago
Snyder Lake	Woodbury
Elk Creek Marsh	Worth
Lake Cornelia	Wright

b.— It shall be unlawful to trespass in any manner on the following areas, where posted, anytime year around, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter when specifically authorized by the department of natural resources:

<u>Area</u>	<u>County</u>
Middle River Wildlife Area (formerly Banner Pits)	Warren
Black Hawk Bottoms Wildlife Area	Des Moines

c.— It shall be unlawful to trespass in any manner on the following areas or portion of the areas during the time of the year they are posted as refuges. Department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters under the supervision of department staff may enter to retrieve dead or wounded game animals when specifically authorized by the department.

<u>Area</u>	<u>County</u>
Gladys Black Eagle Refuge	Marion

ITEM 2. Adopt the following **new** subrules 52.1(3) and 52.1(4):

52.1(3) Waterfowl refuges. The following areas under the jurisdiction of the department of natural resources are established as waterfowl refuges where posted. It shall be unlawful to hunt ducks and geese on the following areas, where posted, at any time during the year. It shall be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose, Lucas, Wayne
Sedan Bottoms	Appanoose
Sweet Marsh	Bremer
Big Marsh	Butler
Ventura Marsh	Cerro Gordo
Round Lake	Clay
Jemmerson Slough Complex	Dickinson
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene

NATURAL RESOURCE COMMISSION[571](cont'd)

Bays Branch	Guthrie
Crystal Hills	Hancock
Eagle Flats	Hancock
Eagle Lake	Hancock
Green Island Area	Jackson
Muskrat Slough	Jones
Red Rock Area	Marion, Polk, Warren
Badger Lake	Monona
Chichaqua Area	Polk
McCausland	Scott
Princeton Area	Scott
Otter Creek Marsh	Tama
Three Mile Lake	Union
Lake Sugema	Van Buren
Rice Lake Area	Winnebago
Snyder Bend Lake	Woodbury
Elk Creek Marsh	Worth

52.1(4) Restricted areas. It shall be unlawful to trespass in any manner on areas posted as restricted areas, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties.

ARC 9542B

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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, “Nonresident Deer Hunting,” Iowa Administrative Code.

Chapter 94 gives the regulations for nonresident deer hunting and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

The proposed amendments:

1. Modify the blaze orange requirement for blinds during the shotgun season so that the visible orange is a minimum size, not a specific shape.
2. Clarify that antlerless deer are tagged on a leg and antlered deer are tagged on the main beam of the antler. This change will help keep the tag from pulling off accidentally during transport.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 21, 2011. Written comments may be directed to Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by E-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 21, 2011, at 1 p.m. in the auditorium on the second floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in

NATURAL RESOURCE COMMISSION[571](cont'd)

writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.8 and 483A.24.

The following amendments are proposed.

ITEM 1. Amend subrule 94.7(6) as follows:

94.7(6) *Hunting from blinds.* No person shall use a blind for hunting deer during the regular gun deer seasons as defined in 94.2(2), unless such blind exhibits a solid blaze orange marking, which is a minimum of 144 square inches in size and is visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. Such blaze orange shall be affixed directly on or directly on top of the blind. For the purposes of this subrule, the term “blind” is defined as a place of concealment constructed, either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.

ITEM 2. Amend rule 571—94.9(483A) as follows:

571—94.9(483A) *Transportation tag.* A transportation tag bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to ~~the carcass~~ one leg of each antlerless deer or on the main beam between two points, if present, on one of the antlers of an antlered deer, in such a manner that the tag cannot be removed without mutilating or destroying the tag. The tag shall be attached to the carcass of the deer within 15 minutes of the time the deer carcass is killed located after being taken, or before the carcass of the deer is moved in any manner is moved to be transported by any means from the place where the deer was taken, whichever first occurs first. This tag shall be proof of possession and shall remain affixed to the carcass until such time as the animal is processed for consumption. The head, and antlers if any, shall remain attached to all deer while being transported by any means whatsoever from the place where taken to the processor or commercial preservation facility, or until the deer has been processed for consumption.

ARC 9543B

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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 107, “Rabbit and Squirrel Hunting,” Iowa Administrative Code.

These rules stipulate the regulations for hunting rabbits and squirrels and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

The proposed amendment closes the jackrabbit season statewide. Jackrabbits have not been counted on the August roadside survey during two of the last three years, and counts on the spring spotlight

NATURAL RESOURCE COMMISSION[571](cont'd)

survey have also declined. The decline of the jackrabbit population is related to the decline of suitable habitat. Weather patterns since 2007 also may have contributed to the jackrabbit decline. White-tailed jackrabbits are considered extirpated in Missouri, and Nebraska closed its season from Grand Island to the Iowa border in 2006. Minnesota still has a season, although jackrabbit numbers there are also in long-term decline.

Studies in Iowa indicate that the few small jackrabbit populations that remain are not connected by suitable habitat. Thus, although hunting is not the cause for the statewide decline, additional mortality due to hunting may cause isolated populations to disappear.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 21, 2011. Written comments may be directed to Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by E-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 21, 2011, at 1 p.m. in the auditorium on the second floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

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

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

The following amendment is proposed.

Amend rule 571—107.2(481A) as follows:

571—107.2(481A) Jackrabbit season. ~~Open season for hunting jackrabbits shall be from the last Saturday in October through December 1 of each year. Bag limit shall be 1 per day; possession limit 2. Legal hunting hours shall be from sunrise to sunset. Entire state open. Continuous closed season.~~

ARC 9544B

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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 108, “Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons,” Iowa Administrative Code.

Chapter 108 sets the season dates, bag limits, possession limits and areas open to hunting or trapping furbearers. The proposed amendments:

1. Change the closing date for beavers from April 1 to April 15, increase the quota for bobcats from 250 to 350 and increase the quota for river otters from 500 to 650. Both populations appear capable of sustaining the increased harvest.

2. Increase the seasonal bag limit for river otters from 2 to 3. This change will reduce the number of otters trapped and turned over to the DNR.

NATURAL RESOURCE COMMISSION[571](cont'd)

3. Change the grace period for taking a bobcat or river otter from 48 hours to a period that ends at midnight of the day after the quota fills and the closed season is announced.

4. Increase the amount of time allowed to get a CITES tag for a bobcat or river otter from 48 hours to seven days. The taking of bobcat or river otter must still be reported within 24 hours of capture so that an accurate count can be maintained. The trapper is also required to bring the skin and the carcass when the trapper picks up the CITES tag so that biological samples may be obtained from the carcass. An exception is made if the bobcat or river otter is going to be taken to a taxidermist to be mounted.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 21, 2011. Written comments may be directed to Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by E-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 21, 2011, at 1 p.m. in the auditorium on the second floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, and 481A.90.

The following amendments are proposed.

ITEM 1. Amend rule 571—108.4(481A) as follows:

571—108.4(481A) Beaver. Open season for the taking of beaver shall be from 8 a.m. on the first Saturday in November through April ~~+~~ 15 of succeeding year. No bag or possession limit.

ITEM 2. Amend subrule 108.7(3) as follows:

108.7(3) Quotas and seasonal bag limit.

a. Seasonal bag limit. The seasonal bag limit is ~~2~~ 3 river otters and 1 bobcat per person.

b. Quotas. The quota for the number of river otters that may be taken is ~~500~~ 650 statewide. The quota for the number of bobcats that may be taken is ~~250~~ 350 in the open area. The season shall end for river otters when the number of river otters trapped, as determined by the harvest reporting system, reaches ~~500~~ the quota. The season shall end for bobcats when the number of bobcats taken, as determined by the harvest reporting system, reaches ~~250~~ the quota. Trappers shall be allowed a ~~48-hour~~ 48-hour grace period that ends on midnight of the day after the quota is reached to clear their traps of river otters or bobcats. River otters or bobcats found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters or bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper shall not be penalized.

ITEM 3. Amend paragraph **108.7(5)“a”** as follows:

a. Anyone, including a landowner or tenant not required to have a fur harvester license, who takes a river otter or bobcat must report the harvest to a DNR conservation officer or designated DNR employee within 24 hours. The fur harvester must arrange to receive a CITES tag from the officer or designated DNR employee within ~~48 hours~~ seven days of the time the harvest is reported ~~or before the river otter or bobcat is skinned, whichever occurs first.~~ The river otter or bobcat shall be skinned and the carcass turned over to the DNR conservation officer or designated DNR employee at the time the CITES tag is issued. If the specimen is to be kept whole for taxidermy purposes, a cut shall be made by the trapper between the gum line and eye so the CITES tag can be attached to the skin. It shall be the responsibility

NATURAL RESOURCE COMMISSION[571](cont'd)

of the taxidermist to have the carcass turned over to a DNR conservation officer or designated DNR employee once that animal has been skinned for taxidermy purposes.

ARC 9545B**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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 109, “Groundhog Season,” Iowa Administrative Code.

These rules stipulate the regulations for taking groundhogs. The proposed amendment provides for a continuous open season for groundhogs to allow people to manage nuisance animals at any time.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 21, 2011. Written comments may be directed to Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by E-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 21, 2011, at 1 p.m. in the auditorium on the second floor of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

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

This amendment is intended to implement Iowa Code chapter 481A.

The following amendment is proposed.

Amend rule 571—109.1(481A) as follows:

571—109.1(481A) Groundhog. ~~Open season for groundhog (woodehuck) shall be from June 15 through October 31 of each year.~~ Continuous open season. Entire state open. No daily bag or possession limit.

This rule is intended to implement Iowa Code chapter 481A.

ARC 9530B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8924B**, proposing to amend Chapter 6, “General Pharmacy Practice,” Chapter 7, “Hospital Pharmacy Practice,” Chapter 15, “Correctional Pharmacy Practice,” and Chapter 16, “Nuclear Pharmacy Practice,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

The Notice proposed to eliminate the requirements that pharmacies maintain the Iowa Pharmacy Law and Information Manual and to authorize pharmacies to utilize other sources, including electronic or Internet-based sources, for pharmacy laws, rules, and regulations.

The Board is terminating the rule making commenced in **ARC 8924B** based on objections received from the Iowa Pharmacy Association and the assurances of the Iowa Pharmacy Association that it would make the manual available to pharmacies in an electronic format.

ARC 9527B

PHARMACY BOARD[657]

Notice of Termination

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8923B**.

The Notice proposed to rescind Chapter 11, "Drugs in Emergency Medical Service Programs," Iowa Administrative Code, and to adopt a new Chapter 11 with the same title.

An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9116B**, to schedule a public hearing on the proposed amendment. The hearing was held on November 4, 2010, at the Board's office in Des Moines.

The Board is terminating the rule making commenced in **ARC 8923B** and continued in **ARC 9116B** based on comments and questions received from interested parties. The Board has filed a new Notice of Intended Action, published herein as **ARC 9528B**, incorporating numerous amendments and clarifications made to the originally proposed amendment as a result of the comments received.

ARC 9528B

PHARMACY BOARD[657]

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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to rescind Chapter 11, "Drugs in Emergency Medical Service Programs," Iowa Administrative Code, and to adopt a new Chapter 11 with the same title.

The rules were approved at the March 8, 2011, regular meeting of the Board of Pharmacy.

The proposed rules define terms used throughout the chapter and establish responsibilities for parties involved in the provision of drugs to emergency medical service (EMS) programs. The rules require a written agreement between the EMS program and the party or parties responsible for providing drugs to the EMS program and include procedures for termination of those services. The rules address requirements for storage and security of drugs maintained at the EMS program site and require the development of, implementation of, and adherence to policies and procedures for the operation and management of the EMS program. Record-keeping requirements are established, methods for utilization and replenishment of drug stocks are defined, and special handling and record keeping relating to controlled substances are identified.

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

Any interested person may present written comments, data, views, and arguments on the proposed rules not later than 4:30 p.m. on June 21, 2011. Such written materials may be sent to Terry Witkowski,

PHARMACY BOARD[657](cont'd)

Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

These rules are intended to implement Iowa Code chapter 147 and Iowa Code sections 124.301 and 155A.13.

The following amendment is proposed.

Rescind 657—Chapter 11 and adopt the following **new** chapter in lieu thereof:

CHAPTER 11
DRUGS IN EMERGENCY MEDICAL SERVICE PROGRAMS

657—11.1(124,147A,155A) Definitions. For the purpose of this chapter, the following definitions shall apply:

“*Adulterated*” means any drug or device that consists in whole or in part of any filthy, putrid, or decomposed substance.

“*Ambulance service*” means any privately or publicly owned service program that utilizes ambulances, including air transport vehicles, in order to provide patient transportation and emergency medical services.

“*Authorized prescriber*” means any provider who has prescriptive authority in the state of Iowa.

“*Board*” means the board of pharmacy.

“*Bureau*” means the Iowa department of public health, bureau of emergency medical services (EMS).

“*Controlled substance*” means any drug that is identified in Schedules I through V of Iowa Code chapter 124, the Iowa uniform controlled substances Act.

“*CSA registration*” means a registration issued by the board pursuant to Iowa Code chapter 124, the Iowa uniform controlled substances Act.

“*DEA*” means the U.S. Department of Justice, Drug Enforcement Administration.

“*DEA registration*” means a registration issued by the DEA pursuant to 21 CFR Part 1301.

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

“*Drug*” means a substance as defined in Iowa Code section 155A.3(13).

“*Emergency medical care provider*” means an emergency medical care provider as defined in 641—131.1(147A).

“*Emergency medical services*” or “*EMS*” means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

“*Emergency medical technician*” or “*EMT*” means any emergency medical technician or EMT as defined in 641—131.1(147A).

“*Medical direction*” means direction, advice, or orders provided, in accordance with written parameters and protocols, to emergency medical care personnel by a medical director, supervising physician, or physician designee.

“*Medical director*” means any physician licensed under Iowa Code chapter 148 who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

“*Medical director-based*” means that ownership of the drugs maintained in and used by the service program remains with the medical director.

“*Patient care report*” or “*PCR*” means a computerized or written report that documents the assessment and management of the patient by the emergency care provider in the out-of-hospital setting.

“*Pharmacy-based*” means that ownership of the drugs maintained in and used by the service program remains with the pharmacy.

“*Physician*” means any individual licensed under Iowa Code chapter 148.

“*Physician assistant*” or “*PA*” means any individual licensed under Iowa Code chapter 148C.

PHARMACY BOARD[657](cont'd)

“*Physician designee*” means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistant examiners. The physician designee acts as an intermediary for a supervising physician, in accordance with written policies and protocols, in directing the care provided by emergency medical care providers.

“*Primary program site*” means the physical location from which the service program is operated and at which stock supplies of prescription drugs may be maintained and distributed to a program vehicle and a program substation.

“*Program substation*” means the physical location from which a service program is operated as a branch or extension of a primary program site, at which an emergency kit or supply of prescription drugs is maintained, and at which a stock supply of prescription drugs is not maintained.

“*Protocols*” means written direction and orders, consistent with the department’s standard of care, that are to be followed by an emergency medical care provider in emergency and nonemergency situations. Protocols shall be approved by the service program’s medical director and shall address the care of both adult and pediatric patients.

“*Responsible individual*” or “*RI*,” as this term relates to prescription drugs in a medical director-based service, means the medical director for the service. In a pharmacy-based service, “responsible individual” means the pharmacist in charge of the pharmacy.

“*Service*” or “*service program*” means any medical care ambulance service or nontransport service that has received authorization from the department.

“*Service director*” means the individual who is responsible for the operation and administration of a service program.

“*Supervising physician*” means any physician licensed under Iowa Code chapter 148 who supervises and is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

657—11.2(124,147A,155A) Responsibility. Pursuant to rules of the bureau, each service program shall appoint a service director at the primary program site.

11.2(1) Pharmacy-based. In a pharmacy-based service program, the pharmacist in charge shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations. The pharmacist in charge shall not serve as the service director.

11.2(2) Medical director-based. In a medical director-based service program, the medical director shall be responsible for ensuring that the management of all prescription drugs complies with federal and state laws and regulations.

11.2(3) Combination pharmacy-based and medical director-based. If both pharmacy-based and medical director-based programs are in effect, the pharmacist in charge of the pharmacy and the medical director shall be responsible for management of the drugs owned by the pharmacy and by the medical director, respectively.

657—11.3(124,147A,155A) Written agreement. A signed written formal agreement for the service program shall be maintained at the primary program site and be available for inspection and copying by the board or its representative.

11.3(1) Pharmacy-based programs. An Iowa-licensed pharmacy may enter into an agreement with a service program located in the state. The agreement with the service program shall establish that the service is operating as an extension of the base pharmacy with respect to prescription drugs. The agreement shall be signed by the pharmacist in charge, the medical director of the service program, and the service director at the primary program site. A copy of this agreement shall be maintained at both the pharmacy and the primary program site while the agreement is in effect.

11.3(2) Medical director-based programs. A service program shall maintain a formal written agreement with a medical director that is signed by the medical director and the service director. The agreement shall be maintained at the primary program site while the agreement is in effect. The medical

PHARMACY BOARD[657](cont'd)

director of the service program shall maintain a CSA registration and a DEA registration at the primary program site as required by rule 657—11.6(124,147A,155A).

657—11.4(124,147A,155A) Termination of services. EMS services may be terminated at the discretion of either the EMS program or the party or parties responsible for providing drugs to the EMS program. Written notification of such termination shall be provided to the other party at least 30 days prior to termination of services. Transfer of ownership of controlled substances shall be in compliance with rule 657—10.11(124).

11.4(1) Pharmacy-based programs. Immediately upon discontinuation of services, all controlled substances shall be jointly inventoried by the pharmacist in charge and the service director or their designees. A record of this inventory shall be maintained at the pharmacy for two years from the date of the inventory. All drugs and devices that are the property of the pharmacy shall be immediately returned to the pharmacy.

11.4(2) Medical director-based programs. Immediately upon discontinuation of services, all controlled substances shall be jointly inventoried by the medical director and the service director or their respective designees. A record of this inventory shall be maintained by the medical director for two years and be available for inspection and copying by the board or its representative. All drugs and devices that are the property of the medical director shall be immediately returned to the medical director.

657—11.5 Reserved.

657—11.6(124,147A,155A) Registration required. If the program is a medical director-based service program, the medical director shall obtain and maintain current CSA registration and DEA registration at the primary program site prior to commencement of responsibilities as medical director. CSA and DEA registrations shall be obtained for each primary program site and shall be available for inspection and copying by the board or its representative and any other authorized agencies. Separate registrations for program substations shall not be required.

11.6(1) Change of address of registered primary program site. An individual practitioner may apply to change the address of the registered primary program site by submitting a request as provided in 657—subrule 10.11(2). The board and the DEA shall be notified in writing prior to a change of address of a registered primary program site.

11.6(2) Change of medical director of a medical director-based program. The board shall be notified in writing prior to the change of medical director. The new medical director shall obtain a CSA registration and a DEA registration for the primary program site prior to commencement of responsibilities as medical director. Separate registrations for program substations shall not be required.

657—11.7 Reserved.

657—11.8(124,147A,155A) Identification.

11.8(1) A log of employees who have access to prescription drugs and to records regarding procurement, storage, and administration of prescription drugs at the service program shall be maintained for two years and be available for inspection and copying by the board or its representative. This log shall include the employees' printed names and signatures, printed and signed initials or other unique identification used in service program records, and the employees' levels of certification.

11.8(2) Policies and procedures shall be developed, implemented, and adhered to that identify at least the following:

- a. Who has access to drugs.
- b. Who has authority to administer drugs.
- c. Who has authority to order, receive, and distribute prescription drugs and devices.

657—11.9 Reserved.

PHARMACY BOARD[657](cont'd)

657—11.10(124,147A,155A) Ownership of prescription drugs. All prescription drugs obtained for use in a service program shall be owned either by a pharmacy or by the medical director of the service program.

11.10(1) Pharmacy-based. If the drugs are owned by the pharmacy, the service program shall be considered a pharmacy-based service program and shall comply with these rules as they pertain to a pharmacy-based service program.

11.10(2) Medical director-based. If the drugs are owned by the medical director, the service program shall be considered a medical director-based service program and shall comply with these rules as they pertain to a medical director-based service program.

11.10(3) Combination pharmacy-based and medical director-based. If the service program has entered into both pharmacy-based and medical director-based service program agreements, both the pharmacy and the medical director shall retain separate ownership of the prescription drugs supplied and shall comply with these rules as applicable.

657—11.11(124,147A,155A) Policies and procedures.

11.11(1) Each service program shall, jointly with the service director and the responsible individual, develop, implement, and adhere to written policies and procedures for the operation and management of the service program with respect to prescription drugs and devices. These policies and procedures shall be available for inspection and copying by the board or its representative. The policies and procedures shall be periodically reviewed by the responsible individual, the medical director, and the service director. Documentation of the review shall be maintained.

11.11(2) The policies and procedures shall address, at a minimum, the following:

- a. Storage of drugs at the primary program site and any program substations including appropriate temperature and humidity controls and security.
- b. Protocols for administration of drugs.
- c. Administration of drugs outside the parameters of written protocols.
- d. Record retention and format including:
 - (1) Ownership of drugs.
 - (2) Ordering of drugs and devices.
 - (3) Receipt of drugs and devices.
 - (4) Distribution or administration of drugs and devices.
 - (5) Inspections of the primary program site, program substations, and drug supplies.
 - (6) Inventories of controlled substances.
 - (7) Wastage resulting from the administration of a partial dose or supply of a drug.
 - (8) Drug or device returns.
- e. Process for the return of drugs.
- f. Out-of-date and adulterated drugs.
- g. Drug and device recalls.

657—11.12 Reserved.

657—11.13(124,147A,155A) Storage. Prescription drugs at primary program sites and program substations shall be stored in designated secure areas that are clean and free of debris, where temperature and humidity are appropriately controlled, and in a manner to protect identity and integrity.

11.13(1) Temperature. All drugs shall be stored at the proper temperature. Drugs that are subjected to extreme temperatures shall not be administered to patients and shall be immediately removed from usable stock. Extreme temperatures shall be defined as excessive heat greater than 40 degrees Celsius (104 degrees Fahrenheit) and, if the product requires protection from freezing temperatures, excessive cold less than -10 degrees Celsius (13 degrees Fahrenheit). Disposal of unusable drugs shall be in compliance with rule 657—11.32(124,147A,155A).

11.13(2) Security. The security of prescription drugs is the responsibility of the responsible individual. Policies and procedures for the security of prescription drugs shall provide for the effective

PHARMACY BOARD[657](cont'd)

control against theft of, diversion of, or unauthorized access to prescription drugs, records for such drugs, and patient records. These policies and procedures shall indicate who has access to prescription drugs.

657—11.14(124,147A,155A) Protocols. Every service program shall utilize department protocols as the standard of care. The service program medical director may make changes to the department protocols provided the changes are within the EMS provider's scope of practice and within acceptable medical practice. Prescription drugs shall be administered pursuant only to a written protocol or oral order by an authorized prescriber. Records of current protocols shall be provided to and maintained by the responsible individual and the service director.

657—11.15(124,147A,155A) Administration of drugs beyond the limits of the written protocol. Drugs, excluding Schedule II controlled substances in a pharmacy-based service, as provided in rule 657—11.16(124,147A,155A), may be administered beyond the limits of the written protocols provided that medical direction from an authorized prescriber has been obtained prior to administration. The authorization shall be recorded in the patient care report documenting the identity of the authorizing prescriber. If an agent of the authorized prescriber relayed the order, the identity of the prescriber's agent, including the agent's first and last names and title, shall also be recorded.

657—11.16(124,147A,155A) Administration of Schedule II controlled substances—pharmacy-based service. In a pharmacy-based service, Schedule II controlled substances may be administered to patients under the care of a service program provided that a signed order is delivered by the authorized prescriber to the pharmacy within seven days of the date administration was authorized.

657—11.17 and 11.18 Reserved.

657—11.19(124,147A,155A) Patient care reports. Patient care reports shall be maintained at the primary program site or the program substation as required by the bureau and rule 657—11.34(124,147A,155A).

657—11.20(124,147A,155A) Prescription drugs in EMS programs. Prescription drugs maintained by a service program shall be owned by an Iowa-licensed pharmacy or the service program's medical director.

11.20(1) Pharmacy-based. The pharmacist in charge, medical director, and the service director shall jointly develop a list of drugs to be maintained for administration by the service program. The pharmacy shall maintain an accurate list of all prescription drugs including controlled substances that the pharmacy maintains at the primary program site and at any program substation.

a. Replenishment. The responsible individual, the service director, or designee may request that replenishment supplies of drugs be maintained at the primary program site provided that the pharmacy has been supplied with administration records justifying the order. The pharmacist shall approve every drug taken from the pharmacy's dispensing stock prior to the transfer of the drug to the primary program site. Documentation of this verification shall be maintained within the pharmacy records.

b. Inspections. The pharmacist in charge shall ensure the completion of a monthly inspection of all prescription drugs maintained by the pharmacy at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. All drugs removed from administration stock shall be returned to the pharmacy. Records of inspection shall be maintained for two years at the pharmacy. The pharmacist in charge may delegate the conduct of the monthly inspection to another pharmacist, a certified pharmacy technician, or the service director.

11.20(2) Medical director-based. The medical director and the service director shall jointly develop a list of drugs to be maintained for administration by the service program. The medical director shall maintain an accurate list of all prescription drugs including controlled substances that the medical director maintains at the primary program site and at any program substation. EMS personnel shall have authority to handle prescription drugs and devices pursuant to their scope of practice as defined by the bureau.

PHARMACY BOARD[657](cont'd)

a. Replenishment. All drugs procured for administration in a medical director-based service program shall be obtained from an Iowa-licensed wholesaler, a pharmacy, or an authorized prescriber.

b. Inspections. The medical director shall ensure the completion of a monthly inspection of all prescription drugs maintained by the medical director at the primary program site and any program substation. Inspection shall include the removal of outdated or adulterated drugs. Records of inspection shall be maintained for two years at the primary program site or the program substation. The medical director may designate EMS personnel to conduct required inspections.

657—11.21 Reserved.

657—11.22(124,147A,155A) Return of drugs. Drugs that have been removed from administration stock shall be returned to the responsible individual. In a pharmacy-based service, drugs returned from the service program to the base pharmacy may be used by the pharmacy for subsequent dispensing or administration provided the drugs are not outdated or adulterated. Records of the return of prescription drugs shall be maintained by the responsible individual.

657—11.23(124,147A,155A) Out-of-date drugs or devices. Any drug or device bearing an expiration date shall not be administered beyond the expiration date of the drug or device. Outdated drugs or devices shall be removed from administration stock and quarantined until such drugs or devices are properly disposed of or, if the service program is a pharmacy-based service, returned to the base pharmacy. Outdated drugs are the property of the responsible individual and shall be disposed of appropriately. Outdated controlled substances shall be disposed of pursuant to rule 657—11.32(124,147A,155A).

657—11.24(124,147A,155A) Product recall. All service programs shall have a system for removal from administration stock all prescription drugs or devices subject to a product recall. The system shall include action appropriate to the direction or requirements of the recall.

657—11.25 Reserved.

657—11.26(124,147A,155A) Controlled substances records.

11.26(1) Records maintained. Every inventory or other record required to be maintained under this chapter, 657—Chapter 10, or Iowa Code chapter 124 shall be maintained at the primary program site or the program substation and by the pharmacy if the service program is pharmacy-based. All required records shall be available for inspection and copying by the board or its representative for at least two years from the date of such record. Controlled substances records shall be maintained in a readily retrievable manner.

11.26(2) Receipt and disbursement records. Any pharmacy or other authorized registrant that provides controlled substances for a medical director-based service program shall maintain records of receipt and disbursement that include the following:

- a.* The name of the substance;
- b.* The strength and dosage form of the substance;
- c.* The number of units or commercial containers acquired from other registrants, including the date of receipt and the name, address, and DEA registration number of the registrant from whom the substances were acquired;
- d.* The number of units or commercial containers distributed to other registrants, including the date of distribution and the name, address, and DEA registration number of the registrant to whom the substances were distributed; and
- e.* The number of units or commercial containers disposed of in any other manner, including the date and manner of disposal and the name, address, and DEA registration number of the registrant to whom the substances were distributed for disposal, if appropriate.

657—11.27(124,147A,155A) Ordering Schedule II controlled substances—medical director-based. Except as otherwise provided by 657—subrule 10.34(7) and under federal law, a DEA Form

PHARMACY BOARD[657](cont'd)

222, preprinted with the address of the primary program site, is required to be maintained at the primary program site for the acquisition of each supply of a Schedule II controlled substance. The order form shall be executed only by the medical director named on the order form or by an authorized signer designated pursuant to a properly executed power of attorney. A DEA Form 222 shall be dated and signed as of the date the order is submitted for filling. A medical director or authorized signer shall not pre-sign a DEA Form 222 for subsequent completion. All Schedule II order forms shall be maintained at the primary program site and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

657—11.28 Reserved.

657—11.29(124,147A,155A) Schedule II controlled substances perpetual inventory. Each service program located in Iowa that administers Schedule II controlled substances shall maintain a perpetual inventory for all Schedule II controlled substances pursuant to the requirements of this rule. All records relating to the perpetual inventory shall be maintained at the primary program site and shall be available for inspection and copying by the board or its representative for a period of two years from the date of the record.

11.29(1) Record. The perpetual inventory record may be maintained in a manual or an electronic record format. Any electronic record shall provide for hard-copy printout of all transactions recorded in the perpetual inventory record for any specified period of time and shall state the current inventory quantities of each drug at the time the record is printed. An electronic record entry, once recorded, shall not be changed; any adjustments or corrections shall require entry of a separate record as provided in subrule 11.29(3).

11.29(2) Information included. The perpetual inventory record shall identify all receipts and disbursements of Schedule II controlled substances by drug name or by National Drug Code (NDC), including each patient administration, wastage, return to the responsible individual, and disposal of a drug. The record of receipt shall also identify the source of the drug, the strength and dosage form, the quantity, the date, and the name or unique identification of the individual verifying receipt of the drug. The disbursement record shall identify where or to whom the drug is disbursed or administered, the strength and dosage form, the quantity, the date, and the name or unique identification of the individual responsible for the disbursement.

11.29(3) Adjustments or corrections to the record. Any adjustments or corrections made to the perpetual inventory shall include the identity of the person making the adjustment or correction and the reason for the adjustment or correction.

11.29(4) Reconciliation. The pharmacist in charge or designee in a pharmacy-based program, or the medical director or designee in a medical director-based program, shall be responsible for reconciling the physical inventory of all Schedule II controlled substances with the perpetual inventory balance on a periodic basis but no less frequently than monthly. Any discrepancy shall be reported to the medical director and to the pharmacist in charge if the service program is a pharmacy-based program.

657—11.30(124,147A,155A) Controlled substances annual inventory. An accurate inventory shall be taken annually of all controlled substances maintained at the primary program site and program substations. Controlled substances in a pharmacy-based program shall be included in the pharmacy's annual controlled substances inventory. Records of the inventory shall be maintained pursuant to rule 657—11.34(124,147A,155A).

657—11.31 Reserved.

657—11.32(124,147A,155A) Destruction or disposal of controlled substances. Disposal or destruction of controlled substances shall be pursuant to the requirements of this rule and rule 657—11.29(124,147A,155A). Records shall be maintained at the primary program site and, if the program is a pharmacy-based service, records shall be maintained at the pharmacy.

PHARMACY BOARD[657](cont'd)

11.32(1) *Outdated, adulterated, or unwanted supply.* EMS personnel shall not destroy any controlled substances except as provided in subrule 11.32(2). Any drug that requires disposal or destruction shall be removed from administration stock and quarantined until the drug can be returned to the responsible individual. The responsible individual shall dispose of or destroy controlled substances according to the following procedures:

- a. The responsible individual shall utilize the services of a DEA-registered and Iowa-licensed disposal firm (reverse distributor), or
- b. The responsible individual shall utilize such other means determined and approved by the board.

11.32(2) *Administration wastage.* Except as otherwise specifically provided by federal or state law or rules of the board, the unused portion of a controlled substance resulting from administration to a patient may be destroyed or otherwise disposed of by the administering EMS personnel, the medical director, or a pharmacist. Any wastage of a controlled substance shall be conducted in the presence of a responsible adult witness who is a member of the EMS team, a member of the professional or technician pharmacy staff, or a licensed health professional. A written or electronic record of controlled substance wastage shall be made and maintained at the primary program site and, if the program is a pharmacy-based service, at the pharmacy, for a minimum of two years following the destruction or other disposal. The record shall include the signatures or other unique identification of the witness and of the individual destroying or otherwise disposing of the wastage of the controlled substance and shall identify the following:

- a. The controlled substance wasted;
- b. The date of destruction or other disposition;
- c. The quantity or estimated quantity of the wasted controlled substance;
- d. The source of the controlled substance, including identification of the patient to whom the substance was administered; and
- e. The legibly printed names of the person wasting the unused portions of the controlled substance and of the qualified witness.

657—11.33(124,147A,155A) Report of loss or theft of controlled substance. Upon suspicion of any loss or theft of a controlled substance, the service director shall immediately notify the responsible individual. The responsible individual shall notify the DEA pursuant to rule 657—10.16(124) and federal regulations. The responsible individual shall report in writing, on forms provided by the board or as directed by the board, any theft or significant loss of any controlled substance. The report shall be submitted to the board office within two weeks of the discovery of the theft or loss. A copy of the report shall be maintained at the primary program site and, if the program is a pharmacy-based service, at the pharmacy.

657—11.34(124,147A,155A) Records. If a service program includes a primary program site and one or more program substations, the records of the service program shall identify the primary program site and each program substation. Records regarding program substation activities, including drug supply and administration records, may be maintained at the primary program site but shall clearly identify the program substation to which the records apply. All records regarding prescription drugs and devices in a service program shall be maintained for two years and be available for inspection and copying by the board or its representative.

These rules are intended to implement Iowa Code chapter 147A and Iowa Code sections 124.301 and 155A.13.

ARC 9551B**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Chiropractic hereby gives Notice of Intended Action to amend Chapter 45, “Discipline for Chiropractic Physicians,” Iowa Administrative Code.

The proposed amendment clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendment no later than June 23, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on June 23, 2011, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 151 and 272C.

The following amendment is proposed.

Amend subrule 45.2(11) as follows:

45.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9549B**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 326, “Licensure of Physician Assistants,” Iowa Administrative Code.

The proposed amendment removes the requirement for the Board to send a renewal notice to the licensee. This change is being made to make licensure requirements consistent with Code of Iowa changes.

Any interested person may make written comments on the proposed amendment no later than June 23, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on June 23, 2011, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is proposed.

Amend subrule 326.9(1) as follows:

326.9(1) The biennial license renewal period for a license to practice as a physician assistant shall begin on October 1 and end on September 30 two years later. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive ~~the~~ notice from the board does not relieve the licensee of the responsibility for renewing the license.

ARC 9550B**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 327, “Practice of Physician Assistants,” Iowa Administrative Code.

The proposed amendment further defines ways to allow electronic billing to meet the requirement that the name of the supervising physician associated with the prescribing physician assistant be provided on each prescription. Currently many billing systems do not have fields to allow multiple names to be submitted, and the law allows for other options to be utilized.

Any interested person may make written comments on the proposed amendment no later than June 23, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on June 23, 2011, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is proposed.

Amend paragraph **327.6(1)“d”** as follows:

d. A When delegated prescribing occurs, the supervising physician’s name, which shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. A supervising physician may in advance provide to an individual who dispenses or administers the prescription a list of the names of supervised physician assistants who have been delegated prescriptive authority instead of including the supervisor’s name on each electronic prescription.

ARC 9548B**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 329, “Discipline for Physician Assistants,” Iowa Administrative Code.

The proposed amendment clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendment no later than June 23, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on June 23, 2011, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is proposed.

Amend subrule 329.2(11) as follows:

329.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9537B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health proposes to amend Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

These proposed amendments relate to the addition of health care profession students at the protected clinics. These amendments will allow for additional volunteers in protected clinics by permitting students to volunteer at the protected clinics.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before June 28, 2011. Such written comments should be directed to Dawn Mouw, Bureau of Local Public Health Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to dawn.mouw@idph.iowa.gov.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9536B**. The content of that submission is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found. These amendments are intended to implement Iowa Code section 135.24.

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:

June 1, 2010 — June 30, 2010	5.75%
July 1, 2010 — July 31, 2010	5.50%
August 1, 2010 — August 31, 2010	5.25%
September 1, 2010 — September 30, 2010	5.00%
October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%
March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%

ARC 9529B**UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4, 476.2, and 476.6(8), the Utilities Board (Board) gives notice that on May 5, 2011, the Board issued an order in Docket No. RMU-2011-0002, In re: Capital Infrastructure Investment Automatic Adjustment Mechanism for Rate Regulated Natural Gas Utilities [199 IAC 19.18], "Order Commencing Rule Making."

If adopted, the proposed rule would establish two alternative procedures for automatic adjustment mechanisms through which rate-regulated natural gas utilities could recover costs for certain eligible capital infrastructure investments. To recover costs for an eligible investment under one of the procedures, the utility would be required to file for Board approval a proposed automatic adjustment mechanism that meets the three criteria established by the rule. Under the other automatic adjustment mechanism, a utility could file a proposed tariff, with the information required by the proposed rule, that would establish a rate for recovery of costs for an eligible investment that is required by governmental mandate or action or is required for safety. The Board has authority pursuant to Iowa Code section 476.6(8) to approve automatic adjustment mechanisms for rate-regulated utilities, provided that a schedule showing the automatic adjustment is first filed with the Board.

UTILITIES DIVISION[199](cont'd)

The order commencing rule making issued by the Board can be found on the Board's Web site, www.iub.iowa.gov.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before June 23, 2011. The statement should be filed electronically through the Board's Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Rm 69, Des Moines, Iowa 50319-0069.

An opportunity to present oral comments on the proposed amendment will be held at 9 a.m. on July 8, 2011, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

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

This amendment is intended to implement Iowa Code sections 17A.4, 476.2, and 476.6(8).

The following amendment is proposed.

Adopt the following **new** rule 199—19.18(476):

199—19.18(476) Capital infrastructure investment automatic adjustment mechanism.

19.18(1) Eligible capital infrastructure investment. A rate-regulated natural gas utility may file for board approval a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

a. Meet the following criteria:

- (1) The costs are beyond the direct control of management;
- (2) The costs are subject to sudden, important change in level; and
- (3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; or

b. Be costs for a capital infrastructure investment which:

- (1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;
- (2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and
- (3) Replaces or modifies existing infrastructure required by state or local government action, is required for safety, or is required to meet state or federal natural gas pipeline safety regulations that become effective after January 1, 2011.

19.18(2) Determination of recovery factor. The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the average cost of debt from the utility's last general rate review proceeding. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility's last general rate review proceeding.

19.18(3) Recovery procedures.

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1)"a" through an automatic adjustment mechanism, the utility is required to obtain prior board approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

- (1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;
- (2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;

UTILITIES DIVISION[199](cont'd)

- (3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;
 - (4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;
 - (5) A description of proposed recovery procedures, if different from the procedures described in paragraphs 19.18(3) "c" and "d";
 - (6) The length of time that the automatic adjustment mechanism will be in place.
- b.* Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1) "b" may be made by the utility by filing annually on or before April 1 of each year a proposed tariff with an effective date of May 1 or later. The utility shall file information in support of the proposed automatic adjustment rates that includes:
- (1) The government entity mandate or action that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project.
 - (2) The location, description, and costs associated with the project.
 - (3) The cost of debt and applicable depreciation rates from the utility's last general rate review proceeding.
 - (4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.
 - (5) The utility shall provide supporting documentation, including but not limited to work orders and journal entries, to the board staff or the office of consumer advocate upon request.
- c.* The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period from May 1 through April 30 of the next year, unless otherwise ordered by the board. The capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year's sales volumes with the necessary degree day adjustments.
- d.* The utility shall file an annual reconciliation on June 1 of each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period May 1 through April 30. Any over-recoveries or under-recoveries from the reconciliation shall be recovered over the 10-month period from July 1 through April 30.

ARC 9531B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments address issues arising in the implementation of the Electronic Health Record (EHR) Incentive Program effective January 1, 2011. This federal program was authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) to provide incentive payments for the adoption, upgrade, and meaningful use of certified electronic health record technology. These amendments:

- Change the reporting period used for calculating the aggregate electronic health record hospital incentive amount to the hospital's fiscal year, instead of the state fiscal year. Although many hospitals have the same fiscal year as the state, hospitals are not required to do so. With the proposed change, all hospitals will be able to use their cost report data without having to recalculate the data to conform to the state fiscal year, and the burden of verifying these calculations will be greatly reduced.
- Specify use of the hospital's fiscal year as the period for calculating the Medicaid share of the aggregate amount for the same reasons.
- Clarify that a provider must satisfy all the criteria in subrule 79.16(2) to be eligible for the EHR Incentive Program.
- Add a definition of "pediatrician" to clarify which physicians may qualify for the incentive with 20 percent Medicaid patient volume instead of 30 percent.

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 23, 2011, as **ARC 9431B**. The Department received no written comments on the Notice of Intended Action. In response to a comment from the Medical Assistance Advisory Council, the Department has made a change to the amendments published under Notice of Intended Action to reflect that pediatric certification may also be issued by the American Osteopathic Board of Pediatrics. The proposed language in numbered paragraph 79.16(2)"c"(1)"1" has been revised and now reads as follows: "For purposes of this subrule, a 'pediatrician' is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification."

The Council on Human Services adopted these amendments on May 11, 2011.

The Department finds that these amendments confer a benefit on Medicaid providers that are applying for EHR incentives by streamlining procedures and clarifying standards. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

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

These amendments became effective on May 12, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 79.16(1) as follows:

79.16(1) State elections. In addition to the statutory provisions in ARRA Section 4201 ~~of the ARRA~~, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

a. and b. No change.

c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010, the "12-month period selected by the state" shall mean the state hospital fiscal year.

HUMAN SERVICES DEPARTMENT[441](cont'd)

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to July 28, 2010, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend subrule 79.16(2) as follows:

79.16(2) Eligible providers. To be deemed an “eligible provider” for the electronic health record incentive program, a provider must satisfy the ~~following criteria~~ applicable criterion in each paragraph of this subrule:

a. and *b.* No change.

c. For the year for which the provider is applying for an incentive payment:

(1) An acute care hospital must have 10 percent Medicaid patient volume.

(2) An eligible professional must have at least 30 percent of the professional’s patient volume covered by Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.

2. No change.

[Filed Emergency After Notice 5/11/11, effective 5/12/11]

[Published 6/1/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9536B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby amends Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

These amendments relate to the addition of health care profession students at the protected clinics. These amendments will allow for additional volunteers in protected clinics by permitting students to volunteer at the protected clinics.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because there are students who will begin a summer session soon and wish to participate at the protected clinics.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on May 11, 2011, as the amendments confer a benefit on the students who wish to participate and on the public because additional volunteers will be provided at the protected clinics.

The State Board of Health adopted these amendments on May 11, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9537B** to allow public comment. This emergency filing permits students to volunteer at protected clinics during their summer session of classes.

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

These amendments are intended to implement Iowa Code section 135.24.

These amendments became effective on May 11, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of “Health care provider” in rule **641—88.2(135)**:

“*Health care provider*” means an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor

PUBLIC HEALTH DEPARTMENT[641](cont'd)

licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

ITEM 2. Amend rule ~~641—88.2(135)~~, definitions of “Health care services” and “Protection agreement,” as follows:

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

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

ITEM 3. Amend paragraphs ~~88.3(2)“b”~~ and ~~“c”~~ as follows:

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

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

(1) and (2) No change.

ITEM 4. Adopt the following new paragraph ~~88.3(2)“f”~~:

f. A protected clinic may allow health care profession students to volunteer at the protected clinic provided that the following conditions are satisfied:

(1) The college, university, or other health care profession educational institution provides professional liability insurance which covers the students; and

(2) The protected clinic or the health care profession institution provides general liability and professional liability insurance which covers the students; and

(3) The students provide only those services or activities as are authorized by the education agreement, and such services and activities are provided under the on-site supervision of a health care provider.

ITEM 5. Amend paragraph ~~88.4(4)“a”~~ as follows:

a. Provide that the individual volunteer health care provider or health care provider within a sponsor entity or protected clinic shall perform only those health care services identified and approved by the VHCPP;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 6. Amend subrule 88.6(4) as follows:

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

ITEM 7. Amend rule 641—88.9(135) as follows:

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

1. to 4. No change.
5. Reasonable grounds to believe that the individual volunteer health care provider or health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.
6. and 7. No change.

[Filed Emergency 5/11/11, effective 5/11/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9535B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby amends Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code.

These amendments provide clarification on surgery to be performed in a volunteer health care provider clinic, where surgery can be performed, who can perform the surgery, and the required follow-up for the surgery. The amendments also alphabetically organize the health care provider professions eligible to receive Volunteer Health Care Provider Program (VHCPP) protection. Definitions have been added to provide further clarification regarding the VHCPP.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9245B**. Comments were received at a public hearing that was held on Tuesday, December 21, 2010. One commenter, in reference to Item 5, requested that the language pertaining to certified registered nurse anesthetists (CRNAs) be consistent with the privileging of the facility where the operation is performed and that, in Item 8 (now Item 7), the language pertaining to physicians be consistent with the privileging of the facility where the surgery is performed. No change was made in response to this comment as the Department determined that it is the facility's responsibility to check for the credentialing required for the physician and CRNA. A suggestion to add major surgery to the language pertaining to podiatrists was also made. No change was made in response to this suggestion as the Department determined that this expansion of the VHCPP is for the specialty care physicians.

The following changes have been made since the publication of the Notice of Intended Action. Definitions of "major surgical procedure" and "outpatient surgical facility" were added in Item 1, and references to an outpatient surgical facility were added in Items 2 and 4 and updated in Items 5 and 7. The word "only" was added to the new sentence in subparagraph 88.5(1)"d"(18) in Item 7.

The Department has met with the Iowa Dental Board and has determined that additional discussion is needed before proceeding with the amendments pertaining to the Volunteer Health Care Provider Program and dentists. Therefore, the definitions of "major dental surgery" and "minor dental surgery" in Item 1 of the Notice and the proposed amendments to subparagraph 88.5(1)"d"(7) in Item 7 of the Notice that would have modified the services dentists may provide were not adopted. The language pertaining to dentists and the VHCPP that is currently in Chapter 88 will remain.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The State Board of Health adopted these amendments on May 11, 2011.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the normal effective date of these amendments should be waived and these amendments should be made effective upon filing as they confer a benefit on the public by enabling specialty health care providers to provide free services through the VHCPP.

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

These amendments are intended to implement Iowa Code section 135.24.

These amendments became effective on May 11, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions in rule **641—88.2(135)**:

“*Major surgical procedure*” means a surgical procedure not ordinarily performed in a private provider’s office, free clinic, or specialty health care provider office and includes the surgery performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility.

“*Minor surgical procedure*” means a surgical procedure ordinarily performed in a private provider’s office, free clinic, or specialty health care provider office.

“*Outpatient surgical facility*” means a facility defined in Iowa Code section 135.61(21).

ITEM 2. Amend rule **641—88.2(135)**, definitions of “Sponsor entity” and “Sponsor entity agreement,” as follows:

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

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

ITEM 3. Amend paragraphs **88.3(2)“d”** and “**e**” as follows:

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

e. ~~The~~ If the protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the protected clinic shall submit provide proof of IRC Section 501(c)(3) status to the VHCPP.

ITEM 4. Amend subrule 88.3(3) as follows:

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

ITEM 5. Amend subparagraph **88.5(1)“d”(1)** as follows:

(1) Advanced registered nurse practitioners for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Certified registered nurse anesthetists may provide anesthesia services for major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility;

2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician performing the surgery provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

PUBLIC HEALTH DEPARTMENT[641](cont'd)

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

ITEM 6. Amend subparagraph **88.5(1)“d”(3)** as follows:

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

ITEM 7. Amend subparagraphs **88.5(1)“d”(15)** to **(20)** as follows:

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

~~(15)~~ (16) Pharmacists for: drug dispensing; patient counseling; health screenings and education; and immunizations.

~~(16)~~ (17) Physical therapists for: interpretation of performance, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program; treatment planning; and patient instruction/education.

~~(17)~~ (18) Physicians and physician assistants for: well-child examinations; annual adult examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; immunizations; and minor surgical procedures. Physicians may perform major surgical procedures only if the following conditions are satisfied:

1. The surgery is performed in a hospital as defined in Iowa Code section 135B.1(3) or an outpatient surgical facility;

2. The hospital or outpatient surgical facility at which the surgery is performed has executed a sponsor entity agreement;

3. The physician provides or assures the provision of adequate presurgical and postsurgical care, including any follow-up necessary to address postoperative complications; and

4. The physician performing the surgery is an individual specialty health care provider or part of a group of specialty health care providers which has registered with the department as a specialty health care provider office.

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

~~(18)~~ (20) Psychologists for: counseling and the use of psychological remedial measures with persons with adjustment or emotional problems.

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

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

ITEM 8. Amend subrule 88.6(1) as follows:

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 9. Amend subrule 88.6(6) as follows:

88.6(6) The individual volunteer health care provider, protected clinic, or sponsor entity clinic is eligible and registered as provided in rule 641—88.3(135) or the care is provided by ~~an individual volunteer~~ a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A and has been approved by the VHCPP.

[Filed Emergency After Notice 5/11/11, effective 5/11/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9546B

CITY DEVELOPMENT BOARD[263]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 368.10, the City Development Board hereby amends Chapter 7, "Voluntary Annexation," and Chapter 8, "Petitions for Involuntary City Development Action," Iowa Administrative Code.

The rules in Chapters 7 and 8 outline documentation requirements for annexation applications.

The amendments require additional documentation before an application is approved by the City Development Board; specifically, a statement describing whether a city has applied any smart planning principles to a territory is required.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 23, 2011, as **ARC 9438B**. A public hearing was held on April 12, 2011, to receive comments on the amendments. No comments were received. These amendments are identical to those published under Notice.

The City Development Board adopted these amendments on May 11, 2011.

These amendments will become effective on July 6, 2011.

These amendments are intended to implement Iowa Code chapter 368.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraph **7.2(2)“j”**:

j. A statement indicating whether the city has applied smart planning principles to the territory and, if applicable, a description of how the city has applied, or intends to apply, smart planning principles.

ITEM 2. Amend subrule 8.3(9) as follows:

8.3(9) Residential and commercial development regulation and projections. The petition shall include a description of current and proposed zoning regulations that apply to the annexation territory. Projected development and land use patterns shall be described under the assumption of continuation of existing land use regulations and under the assumption of land use regulations that would be applied after the annexation, if approved. Residential, commercial, and industrial development projections shall be provided based on population projections for the city and territory.

In the case of annexation, the amount of vacant developable land within the existing corporate limits and within the territory, as well as an estimate of the amount of developable land needed to accommodate future growth, shall be provided. Petitions for annexation shall include a statement indicating whether the city has applied smart planning principles to the territory and, if applicable, a description of how the city has applied, or intends to apply, smart planning principles.

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9532B

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 92, "IowaCare," Iowa Administrative Code.

The amendment updates the sliding scale used to determine premiums for medical assistance benefits under the IowaCare program. This scale is updated annually to reflect the most recent federal poverty level guidelines for the household size and to continue the limit on all premiums to less than 5 percent of the household income. If there is one IowaCare member in the household, the premium amount is calculated at 3.5 percent of the lowest income level in each 10 percent increment of the federal poverty level for a household of one. The federal poverty level for a household of two is used if there are two

HUMAN SERVICES DEPARTMENT[441](cont'd)

or more IowaCare members in the household. Households with income at or below 150 percent of the federal poverty level are not assessed a premium.

The Council on Human Services adopted this amendment on May 11, 2011.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because this amendment merely publishes the results of the application of an adopted methodology which is based on figures that are not under the Department's control.

The IowaCare program allows members to request a hardship exemption monthly in lieu of sending in the billed amount, in effect waiving the premium.

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

This amendment is intended to implement Iowa Code section 249J.8.

This amendment will become effective on July 6, 2011.

The following amendment is adopted.

Amend paragraph 92.7(1)"a" as follows:

a. The monthly premium is based on the household's countable monthly income as a percentage of the federal poverty level for a household of that size. If there is more than one IowaCare member in a household, a single premium is established for coverage of all of the members in the household. Effective for applications and recertifications received on or after ~~October 1, 2010~~ June 1, 2011, premiums are as follows:

When there is one IowaCare member in the household and the household's income is at or below:	The member's premium amount is:
150% of federal poverty level	\$0
160% of federal poverty level	\$47 <u>\$50</u>
170% of federal poverty level	\$50 <u>\$54</u>
180% of federal poverty level	\$53 <u>\$57</u>
190% of federal poverty level	\$56 <u>\$60</u>
200% of federal poverty level	\$60 <u>\$63</u>
When there are two or more IowaCare members in the household and the household's income is at or below:	The household's premium amount is:
150% of federal poverty level	\$0
160% of federal poverty level	\$63 <u>\$68</u>
170% of federal poverty level	\$68 <u>\$72</u>
180% of federal poverty level	\$72 <u>\$77</u>
190% of federal poverty level	\$76 <u>\$81</u>
200% of federal poverty level	\$80 <u>\$85</u>

[Filed Without Notice 5/11/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9552B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6), 461A.3, and 461A.4, the Natural Resource Commission hereby amends Chapter 14, "Concessions," Iowa Administrative Code.

The amendments:

NATURAL RESOURCE COMMISSION[571](cont'd)

1. Update the definition of “concession operation” by removing the reference to firewood sales. Also, the definition of “friends group or organization” is updated to include those groups whose purpose may be to promote and enhance the Iowa state park system.
2. Rescind the rule regarding advertising and adopt a new rule that establishes the new process to advertise for new concession operations and the process to renew concession contracts.
3. Rescind the rule regarding the bid process and adopt a new rule that establishes the new process for bidding new concession operations, placement of vending machines, selling of firewood only, and concession operations run by friends groups.
4. Rescind the rule regarding selection of the concessionaire and adopt a new rule that establishes the criteria to be used to evaluate concession proposals.
5. Establish a new provision that allows the Department to have other vendors provide certain concession services if the services are not under contract with the current concessionaire and the current concessionaire declines to provide the service.
6. Clarify when a temporary letter of authorization is necessary if Commission approval is required by statute.
7. Update language to replace “park ranger” with “park staff” since there are other classifications of permanent park staff that may be involved with concession operations.

Notice of Intended Action was published in the February 9, 2011, Iowa Administrative Bulletin as **ARC 9363B**. No public comments were received.

Since publication of the Notice of Intended Action, paragraph 14.2(1)“a” requiring the Department to advertise in newspapers designated by the county to be used for official publications has been revised. The language has been changed to require the Department to advertise in at least one newspaper designated by the county to be used for official publications. The change is in response to comments made by one of the Natural Resource Commissioners regarding the cost of advertising in multiple newspapers designated by a county for official publications. The change does not prohibit the Department from advertising in additional newspapers in that county if the Department determines it would be a benefit to the Department and potential bidders. In addition, an obsolete Iowa Code reference has been corrected in Item 2, a phrase has been expanded for clarity in subparagraph 14.2(1)“d”(4), and the word “Such” has been changed to “Vending” in paragraph 14.3(2)“b.”

These amendments are intended to implement Iowa Code sections 461A.3 and 461A.4.

These amendments will become effective July 6, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **571—14.1(461A)**, definition of “Concession operation,” as follows:

“*Concession operation*” means operating a business within a concession area in a state park or recreation area including, but not limited to, boat rental, snack food sales, beach operation, and sale of fishing bait and tackle, ~~firewood sales, etc.~~

ITEM 2. Amend rule **571—14.1(461A)**, definition of “Friends group or organization,” as follows:

“*Friends group or organization*” means an organization incorporated under Iowa Code chapter ~~504A~~ 504 as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park, ~~or recreation area, or the Iowa state park system, or any combination of the three.~~

ITEM 3. Rescind rule 571—14.2(461A) and adopt the following new rule in lieu thereof:

571—14.2(461A) Advertising or notice procedure.

14.2(1) New concession.

a. Advertising. When the department desires to obtain a new concession operation to offer multiple concession services in an area, the department shall advertise the request for proposals on the targeted small business Web site at <http://www.iowalifechanging.com/business/tsb/tsbsearchlogin.asp> and the department’s requests for proposals Web site at <http://www.iowadnr.gov/rfp.html>. The department shall advertise a notice for the request for proposals in one newspaper of statewide circulation and in at least one newspaper designated by the county to be used for official publications in the county in which the state park or recreation area is located.

NATURAL RESOURCE COMMISSION[571](cont'd)

b. The notice shall state the following:

- (1) The names and location of the area(s) in which concession operations are available.
- (2) The general types of services the department would expect a concessionaire to furnish.
- (3) Information regarding how to obtain the request for proposals information.
- (4) The deadline for submission of proposals to the department.

c. The department shall allow a minimum of 15 days between the date of publication of advertisements and the deadline for submission of proposals.

d. The request for proposals shall include the following information:

(1) A scope of work that contains detailed information regarding the types of services expected to be offered by the concessionaire and the history of the gross receipts reported for the previous five operating years by the prior concessionaire (if applicable); bid terms acceptable to the department; the name, address, and telephone number of the person to contact regarding the request for proposals; and the date and time by which the proposals must be received by the department.

(2) A map of the park in which the concession operation is proposed.

(3) A sample of the contract the successful bidder will be expected to sign.

(4) Samples of report forms that the concessionaire must submit to the department while the concession is in operation.

14.2(2) *Renewal of existing concession operation.*

a. The department may, at its option, mutually agree with the concessionaire to renew a contract during or at the end of its term. A concessionaire may request renewal during the term of a contract after a minimum three years of concession operation and a minimum of six months prior to expiration of the existing contract. The provisions of the renewal contract shall be negotiated between the department and the concessionaire. Should either party choose not to renew the contract, appropriate notice shall be sent to the other party four months prior to the expiration date of the existing contract, and the department may advertise for bids in accordance with this chapter.

b. The department shall publish a notice of intent to renew a concession contract that has been negotiated in accordance with paragraph 14.2(2)“a.” The notice shall be published in the same manner as provided in paragraph 14.2(1)“a” and shall solicit public comments regarding the renewal.

c. The department director shall, upon review of comments received, determine whether to solicit bids or proceed with the renewal of the existing contract and shall notify the concessionaire of the decision in writing. If the director denies the renewal request, the existing concessionaire may request a contested case proceeding pursuant to Iowa Code chapter 17A.

ITEM 4. Rescind rule 571—14.3(461A) and adopt the following new rule in lieu thereof:

571—14.3(461A) Bidding process.

14.3(1) *Proposals.* Persons interested in operating a concession in a state park or recreation area shall submit a proposal in the format requested in the request for proposals. It is the bidder’s responsibility to inspect the area proposed for concession operation and be fully aware of the condition and physical layout of the area. The proposal shall also include an explanation of any proposed operation not mentioned in the request for proposals. Concession facilities shall be bid on an “as is” basis unless the department agrees in writing to undertake certain improvements.

a. The department reserves the right to reject any or all bids.

b. If no bids are received for a concession operation, the department may:

- (1) Readvertise for bids; or
- (2) Contact interested persons and attempt to negotiate a contract; or
- (3) Determine that there will be no concession operation in that particular area that year.

14.3(2) *Vending machines.*

a. Placement of vending machines in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.

b. Vending machines may be placed in state parks and recreation areas only by the publisher or distributor of the newspaper to be sold, the distributor of the soft drink to be sold in the machines, or by private vending machine companies.

NATURAL RESOURCE COMMISSION[571](cont'd)

c. Companies placing vending machines in state parks and recreation areas must submit a proposal to the department that states the location, number, and type of vending machines to be placed; the price(s) that will be charged to the public; and the proposed fee or commission to be paid to the state.

d. Any fees or commissions to be paid by the vendor to the state shall be paid directly to the department's central office in Des Moines, Iowa.

e. The department will not install new electrical lines, concrete pads, or any other items needed to enable installation of vending machines.

14.3(3) Firewood sales.

a. Firewood sales contracts shall not be subject to the advertising and bidding process established by this chapter.

b. Persons interested in selling firewood in a state park or recreation area that has no other concessionaire, or if the concessionaire has declined the opportunity to sell firewood, shall submit a request to the department that identifies the area(s) where the firewood would be sold, the price to be charged to the public, and the proposed fee or commission to be paid to the state.

c. All firewood sold or distributed in state parks and recreation areas shall be accompanied with a firewood label that meets labeling requirements identified in 21—46.16(177A).

d. All firewood that originates from a quarantined area and that is sold or distributed in state parks and recreation areas must be certified by the United States Department of Agriculture to show that the firewood has been processed or treated according to applicable federal regulations.

14.3(4) Friends group or organization.

a. Concession contracts with a friends group or organization, as defined in 571—14.1(461A), in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.

b. A friends group or organization shall submit a proposal to operate a concession operation at a particular state park or recreation area. The proposal shall state the services to be provided, the proposed hours of operation, and proposed staffing.

c. All net proceeds from the sale of merchandise and other concession services shall be spent on state park or recreation area improvement projects.

ITEM 5. Rescind rule 571—14.4(461A) and adopt the following **new** rule in lieu thereof:

571—14.4(461A) Selection of a concessionaire. The department shall select the concessionaire it determines to be best suited for a concession operation in a state park or recreation area upon evaluation of the following information:

1. The services proposed in the concession operation, including whether foods and drinks recommended by the most current version of the Iowa department of public health's "Comprehensive Nutrition and Physical Activity Plan" are being offered.

2. The concessionaire's managerial experience and other concession-related experience.

3. The concessionaire's financial stability, based upon a review of the concessionaire's existing profitability, equity, available cash, and other applicable financial data.

4. The annual lease payment bid.

5. The length of contract proposed (five-year maximum).

6. A check of all business and personal references given in the proposal.

7. The use of environmentally friendly practices and materials including, but not limited to, participation in recycling programs, use of items that contain recycled-content materials, use of energy-efficient appliances and equipment, and light pollution reduction.

8. The results of a criminal background check, driver's license record check, and child abuse registry check.

ITEM 6. Amend subrule 14.5(3) as follows:

14.5(3) Exclusive rights. The contract gives the concessionaire exclusive rights to conduct the concession operation ~~on~~ in a particular state park or recreation area. The concessionaire must have department approval prior to allowing other vendors to do business in the area under the terms of the

NATURAL RESOURCE COMMISSION[571](cont'd)

contract. This provision does not prohibit the department from allowing noncompetitive type vendors in an area during a department sponsored special event such as the forest craft festival. This provision does not prohibit the department from allowing other vendors in an area if the department identifies a service that is not under contract with the concessionaire and the concessionaire declines to provide that service.

ITEM 7. Amend subrule 14.5(4) as follows:

14.5(4) Temporary authorization. If necessary, the department director shall have authority to issue a temporary letter of authorization to enable the successful bidder to operate a concession pending approval of the contract by the commission if commission approval is required by statute. The letter of authorization will incorporate all stipulations and conditions of the contract. The term of the letter of authorization shall not exceed 90 calendar days from the date of issuance.

ITEM 8. Amend rule 571—14.6(461A) as follows:

571—14.6(461A) Dispute resolution. Should a dispute arise between the concessionaire and the department as to the interpretation of contract stipulations or whether the concessionaire is performing satisfactorily, the initial step of for resolving the dispute will be an informal meeting and discussion between the park ~~ranger~~ staff and the district parks supervisor or other department personnel in charge of the area and the concessionaire. If the matter cannot be resolved, the concessionaire or area department personnel in charge of the area may request a meeting with parks bureau staff in the central office of the department. The bureau chief shall, if possible, resolve the dispute to the satisfaction of all parties. If the dispute cannot be resolved, the contract shall be terminated and the department may advertise for bids in accordance with this chapter. The requirements of Iowa Code section 17A.18(3) shall apply to any contract termination under the provisions of this ~~paragraph~~ rule. The provisions of this ~~paragraph~~ rule shall not be a bar to or prerequisite of the provisions of rule 571—14.7(461A).

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9539B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6)“a,” the Natural Resource Commission hereby rescinds Chapter 44, “Boating, Special Events,” and adopts new Chapter 44, “Special Events and Fireworks Displays,” Iowa Administrative Code.

New 571—Chapter 44 is a comprehensive chapter establishing the Department’s special event rules and permit requirements. The chapter outlines special event permit requirements for all-terrain vehicles, snowmobiles, and boats, as well as outlines the special event rules for parks and recreation areas, state forests, fishing tournaments, dog trials, and fireworks displays. The new chapter also addresses the Department’s centralized special events application system and establishes fees to operate and maintain the system.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9419B**. Public comment was accepted through March 30, 2011, and a public hearing was held in the Wallace State Office Building that same day. No one attended the hearing. However, 15 written comments were received, and the Department’s response to the comments is as follows:

Four comments expressed general support for the new special events process in general and the new special events online system in particular. These comments expressed the feeling that the new system is easy to use and makes it clear what events are occurring around the state and expressed support for the payment of a small fee to help maintain the system.

NATURAL RESOURCE COMMISSION[571](cont'd)

Five comments sought clarification of the definition of “special events” because of the concern that small, routine user groups would be required to obtain a permit. The Department agreed that the definition could be improved to better reflect the Department’s intent, and this change has been made in rule 571—44.2(321G,321I,461A,462A,481A). The new definition makes it more clear that only the following have to obtain a permit and pay a fee: (1) an organized race, tournament, exhibition, demonstration, or other planned event in which an admission fee is charged, prizes are awarded, or competition occurs between participants; or (2) a planned event that, due to its nature, potential or actual size, or length, would likely adversely impact the use of the area by the public.

One comment expressed opposition to the payment of any fee whatsoever. The special event permit fee is intended to cover the administrative costs of processing permits and to maintain the new online system; therefore, no change has been made from the Notice.

Finally, three other comments addressed the fee issue, but rather than substantively discussing whether the fee was appropriate or too high or too low, the comments encouraged the implementation of a general park user fee, as opposed to a permit-specific fee. A general park user fee was not a substantive issue under the Notice and, therefore, is not addressed by the Department at this time.

These rules are intended to implement Iowa Code sections 321G.16, 321I.17, 461A.3, 461A.4, 461A.42, 461A.47, 461A.57, 462A.16, 481A.22, and 481A.38.

These rules shall become effective July 6, 2011.

The following amendment is adopted.

Rescind 571—Chapter 44 and adopt the following **new** chapter in lieu thereof:

CHAPTER 44
SPECIAL EVENTS AND FIREWORKS DISPLAYS

571—44.1(321G,321I,461A,462A,481A) Scope. The purpose of this chapter is to provide rules on the issuance of permits for special events and fireworks displays held on public land, waters, and ice of the state.

571—44.2(321G,321I,461A,462A,481A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Accredited postsecondary institution or program” means an institution or program listed in the U.S. Department of Education’s database of accredited postsecondary institutions and programs.

“Administrative processing fee” means the fee collected for the processing of each special event application that is submitted.

“All-terrain vehicle” or *“ATV”* means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

“Centralized special events application system” means the Web-based system used by applicants to submit applications for special events as permitted under this chapter. Approved applications shall be placed on a calendar of events Web page, accessible from the department’s homepage, to inform the general public of scheduled events on public, or when applicable, private, land, water, and ice.

“Department” means the Iowa department of natural resources.

“Field and retriever meet or trial” means an event held on either private or public land where the skill of dogs in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal is demonstrated. For purposes of this chapter, “field and retriever meet or trial” is included in the definition of “special event” unless otherwise specified.

“Fishing tournament” means any organized fishing event, except for department-sponsored fishing events held for educational purposes, involving any of the following: (1) six or more boats or 12 or more participants, except for waters of the Mississippi River, where the number of boats shall be 20 or more and the number of participants shall be 40 or more; (2) an entry fee is charged; and (3) prizes or other

NATURAL RESOURCE COMMISSION[571](cont'd)

inducements are awarded. For purposes of this chapter, “fishing tournament” is included in the definition of “special event” unless otherwise specified.

“*Friends group*” means an organization incorporated under Iowa Code chapter 504 or prior statutory authority as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park, recreation area, or the Iowa state park system, or any combination of the three.

“*Off-road motorcycle*” or “*ORM*” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Iowa Code chapter 321, but which contains design features that enable operation over natural terrain.

“*Off-road utility vehicle*” or “*OHV*” means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently titled under Iowa Code chapter 321 shall not be registered or operated as an off-road utility vehicle.

“*Permit*” means a document issued by the department that enumerates all stipulations, requirements, and contingencies that the applicant must accept and adhere to throughout the duration of the approved special event.

“*Public land*” means land under the jurisdiction of the natural resource commission.

“*Public water*” means water and ice under the jurisdiction of the natural resource commission.

“*Sailing school*” means an organization that provides basic and advanced sailing instruction by U.S. Sailing-certified instructors and is affiliated with a yacht club, an accredited postsecondary institution or program, a private or public primary or secondary school, a scouting organization, or a religious institution.

“*Snowmobile*” means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread and which is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle, as defined in Iowa Code section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

“*Special event*” means either of the following occurring on public land, water, or ice:

1. An organized race, tournament, exhibition, demonstration, or other planned event in which an admission fee is charged, prizes are awarded, or competition occurs between participants;
2. A planned event that, due to its nature, potential or actual size, or length, would likely adversely impact the use of the area by the public.

“*Vessel*” means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice.

DIVISION I
SPECIAL EVENTS

571—44.3(321G,321I,461,462A,481A) Permit required. A permit is required in order to conduct a special event on any public land, water, or ice. A permit is also required for a field and retriever meet or trial held on private land.

571—44.4(321G,321I,461A,462A,481A) Permit conditions. The department may impose permit conditions not specifically covered herein as deemed necessary to protect the resource or to ensure public safety. Such conditions shall be included in the permit issued by the department.

44.4(1) Use of concessionaire. If the state park or recreation area where a special event is being held has a concessionaire, the sale of food or drinks shall be governed pursuant to 571—Chapter 14. If

NATURAL RESOURCE COMMISSION[571](cont'd)

a concessionaire chooses not to provide services during the special event, the event sponsor may bring in other concession operations as approved by the department.

44.4(2) *Special permit conditions for fishing tournaments.* In addition to permit conditions deemed necessary by rule 571—44.4(321G,321I,461A,462A,481A), the department may include some or all of the following permit conditions for fishing tournaments:

- a. Release of live fish.
- b. Fish measured to length and released from boat.
- c. Multiple weigh-ins when water temperatures exceed 70°F.
- d. Aerated live wells.
- e. Designated release areas.
- f. Designated release persons.

571—44.5(321G,321I,461A,462A,481A) Application procedures. The following procedures shall be used to apply for a special event permit:

44.5(1) Applications shall be made and submitted through the department's centralized special events application system.

44.5(2) Applications—when submitted.

a. *Events for current year.* Applications may be submitted anytime during the calendar year in which the special event is to begin but no later than 30 days prior to the special event.

b. *Events for the next year.* Applications for a special event that will start in the next calendar year shall not be submitted until September 1 of the current year.

44.5(3) The number of special events to be held at any area on the same day may be restricted if deemed necessary to avoid congestion within the area or to protect the resource.

44.5(4) One application form may be submitted for all events of the same type being held at the same location within a nine-day period and will be processed as a single application.

44.5(5) Submission of an application does not guarantee issuance of a permit.

44.5(6) Permits are nontransferable.

571—44.6(321G,321I,462A) Alternate dates for snowmobile, boating, all-terrain vehicle, off-highway vehicle, and off-road motorcycle special events. An applicant may submit and the department may approve both a primary date and an alternate date for snowmobile, boating, ATV, ORM, and OHV special events. However, if both a primary date and an alternate date are approved, the primary date shall be used unless circumstances beyond the control of the applicant prevent its use. If the alternate date must be used for the event, the applicant shall contact the program coordinator at least one week in advance of the date on which the event shall take place to obtain final approval to use the alternate date. The program coordinator shall document this approval in writing. Upon approval of an alternate date, the applicant shall notify the local conservation officer, and the program coordinator shall update the calendar of events.

571—44.7(321G,321I,461A,462A,481A) Insurance coverage. The applicant shall secure liability insurance for the special event and shall name the department as an additional insured. Insurance information shall be available at the time the application is submitted. The applicant shall have a copy of the insurance policy available at the event location to present to department personnel if requested. These requirements shall not apply to events sponsored by a friends group. The department reserves the right to waive these requirements on a case-by-case basis.

571—44.8(321G,321I,461A,462A,481A) Fees and exceptions. The administrative fee for processing each special event application is \$25. In the case of field and retriever meets and trials, the fee for processing each special event application is \$2. The fees are nonrefundable.

The department shall waive the administrative fee for processing special event applications for sailing schools; accredited postsecondary institutions and programs; private and public primary and secondary schools; all department-approved watercraft education courses, ATV education courses, and

NATURAL RESOURCE COMMISSION[571](cont'd)

snowmobile education courses; fishing clinics; friends groups; and department-sponsored youth fishing days.

571—44.9(321G,461A) Structures placed on ice during a special event. The following requirements apply to the placement, construction, or erection of structures on ice during a special event:

44.9(1) Vendor information provided on application. The applicant shall identify the names and addresses of any vendors who will be on site during the special event.

44.9(2) Owner information. The full name, street address, and city of the structure's owner shall be displayed legibly on all sides of the structure, in block letters at least four inches in height, and in a color contrasting to the background.

44.9(3) Accessibility. Structures shall not be locked when in use.

44.9(4) Reflectors. Reflectors shall be attached to all sides of the structure in such a manner to enable them to reflect light at all times from sunrise to sunset.

571—44.10(462A) Boating special events—registration exemptions.

44.10(1) A vessel entered in a boating special event shall not be required to be registered pursuant to Iowa Code sections 462A.4 and 462A.5 but shall be labeled with an identifying number or letter that is at least four inches high and is in a color contrasting to the vessel. The identifying number or letter shall be located in a prominent spot on the exterior of the vessel, other than on the bow.

44.10(2) The sponsor of the boating special event shall maintain a list containing:

a. The names and addresses of all persons participating in the event.

b. A description of each vessel in the event. The description of each vessel shall include the identifying number or letter of the vessel as required by 44.10(1).

571—44.11(462A) Mississippi River or Missouri River. Upon notification and proof that a United States Coast Guard (U.S.C.G.) permit has been secured, the department shall not require a special event application for fireworks displays or boating special events on the Mississippi River or the Missouri River. The regional U.S.C.G. office issuing permits for Mississippi River and Missouri River events is located in St. Louis, Missouri. This rule does not apply to fishing tournaments.

571—44.12(321G,321I,461A,462A,481A) Other requirements and permits. The applicant for a permit is responsible for ensuring full compliance with the requirements of Iowa Code chapters 321G, 321I, 461A, 462A, and 481A, and any other Iowa Code chapters and rules promulgated under those chapters that may be applicable to special events. The applicant shall also acquire and comply with all applicable state and local permits issued by other state and local agencies necessary to hold the special event.

571—44.13(321G,321I,461A,462A,481A) Authority to cancel or stop a special event. If a peace officer or any department employee determines that a permit is being violated or that safety concerns warrant canceling or stopping the special event, the peace officer or department employee has the authority to cancel or stop the special event.

571—44.14(321G,321I,461A,462A,481A) Nonexclusive use of area. Issuance of a permit does not grant the applicant exclusive use of the public land, water, or ice that is the subject of the permit unless the permit explicitly provides otherwise.

DIVISION II
FIREWORKS DISPLAYS

571—44.15(461A) Entities eligible for permits. Permits for fireworks displays shall be issued only to qualified entities, such as political subdivisions of the state of Iowa, and to community or civic organizations, such as chambers of commerce, junior chambers of commerce (Jaycees), rotary clubs, and Elks Lodges and similar fraternal benefit associations or societies. Permits shall not be issued to

NATURAL RESOURCE COMMISSION[571](cont'd)

individuals. Permits are not transferable to another entity and do not relieve the sponsoring entity from obtaining any other permits required by the state or its political subdivisions.

571—44.16(461A) Permit conditions. The department may impose permit conditions not specifically required in these rules for any fireworks display special event as deemed necessary to protect the resource or ensure public safety. Conditions shall be included in the permit that the applicant or sponsoring organization receives if the event is approved.

571—44.17(461A) Application procedures. The following procedures shall be used to apply for a permit:

44.17(1) Applications shall be made and submitted through the department's centralized special events application system.

44.17(2) Applications—when submitted.

a. Events for current year. Applications may be submitted anytime during the calendar year in which the fireworks display is to begin but no later than 30 days prior to the display.

b. Events for the next year. Applications for a fireworks display that will start in the next calendar year shall not be submitted until September 1 of the current year.

44.17(3) The number of fireworks displays or other special events at any one public land, water or ice location during a given day may be restricted if deemed necessary to avoid congestion with the public or competing events and to protect the resource.

44.17(4) The applicant shall certify in the application that the fireworks display shall be conducted by a competent operator. The location of the display shall be determined by the department representative in charge of the area.

44.17(5) Submission of an application does not guarantee issuance of a permit by the department.

571—44.18(461A) Fireworks display procedures.

44.18(1) The sponsoring entity shall take adequate safety precautions to ensure that persons not actively involved in conducting the display remain a safe distance from the firing area and any areas containing set pieces.

44.18(2) The department representative in charge of the area in which the display is conducted or any state peace officer may halt any display when the character, location, weather, or firing of the display makes it hazardous to property or dangerous to any person.

44.18(3) Any fireworks that remain unfired after the display is concluded shall be immediately disposed of by the operator or the sponsoring entity in a manner that is safe for the particular type of fireworks.

44.18(4) The sponsoring entity shall make arrangements for firefighting equipment and emergency medical services to be on the scene at all times during the firing of the display.

44.18(5) The sponsoring entity is totally responsible for cleanup of the fireworks display site at the conclusion of the display.

571—44.19(461A) Fees. A nonrefundable administrative fee of \$25 shall be charged for processing each fireworks display application.

571—44.20(461A) Insurance. The sponsoring entity for a fireworks display shall provide proof of liability insurance naming the applicant and the department as an additional insured in the sum of not less than \$1 million. The department may, at its discretion, require a greater amount. Insurance information shall be available at the time the application is submitted.

571—44.21(461A) Concessions. If the state park or recreation area has a concessionaire on site, sales of food and other items during the display shall be governed pursuant to 571—Chapter 14. If a

NATURAL RESOURCE COMMISSION[571](cont'd)

concessionaire chooses not to provide services during the event, the sponsoring entity may then bring in other concession operations as approved by the department.

These rules are intended to implement Iowa Code sections 321G.16, 321I.17, 461A.3, 461A.4, 461A.42, 461A.47, 461A.57, 462A.16, 481A.22, and 481A.38.

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9541B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

The amendments rescind the definition of "special event" and the subrule regarding special event permits. The definition of "special event" and the subrule are updated and merged with other Department rules governing special events set forth in 571—Chapter 44, "Special Events and Fireworks Displays." (See **ARC 9539B** published herein.)

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9421B**.

A public hearing was held on March 30, 2011, at the Wallace State Office Building in Des Moines, Iowa. No oral comments were received at the hearing. Public comments received via E-mail regarding the new special event rules are summarized in the Adopted and Filed rule making for 571—Chapter 44, "Special Events and Fireworks Displays."

One minor change has been made to the Notice. The definition of "special event" was not rescinded in the Notice of Intended Action. The new definition for a special event is included in 571—Chapter 44, "Special Events and Fireworks Displays." Therefore, the definition of "special event" is rescinded in this Adopted and Filed rule making.

These amendments are intended to implement Iowa Code sections 461A.3, 461A.35 and 461A.57.

These amendments will become effective July 6, 2011.

The following amendments are adopted.

ITEM 1. Rescind the definition of "Special event" in rule **571—61.2(461A)**.

ITEM 2. Rescind and reserve subrule **61.7(16)**.

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9540B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby rescinds Chapter 65, "Fireworks Displays—State Parks and Recreation Areas," Iowa Administrative Code.

The amendment rescinds and reserves Chapter 65. These rules are updated and merged with other Department rules governing special events set forth in 571—Chapter 44, "Special Events and Fireworks Displays." (See **ARC 9539B** published herein.)

NATURAL RESOURCE COMMISSION[571](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9422B**. A public hearing was held on March 30, 2011, in Des Moines, Iowa. No oral comments were received at the public hearing. Public comments received via E-mail regarding the new rules for special events are summarized in the Adopted and Filed rule making for 571—Chapter 44, “Special Events and Fireworks Displays.” This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 461A.42 and 461A.57.

This amendment will become effective July 6, 2011.

The following amendment is adopted.

Rescind and reserve **571—Chapter 65**.

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9526B**PHARMACY BOARD[657]****Adopted and Filed**

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

The amendments add pharmacy technicians, pharmacy support persons, and pharmacist-interns to those regulated individuals subject to activities identified as unethical conduct and prohibit any purchasing pharmacy or pharmacist from engaging in any activity or agreeing to any provision in a transaction for the sale or transfer of prescription records that would prevent or prohibit prior patient notification of a pending transfer of the patient’s records. New paragraph 8.16(3)“e” provides that a closing pharmacy may transfer prescription and patient records to a pharmacy that agrees to act as the custodian of the transferred records and that is held to the same confidentiality standards as the originating pharmacy. Amendments to subrule 8.35(6) add catchwords to identify the paragraphs and clarify the applicable rule provisions in the event of a change of owner of a pharmacy.

The amendments to subrule 8.35(7) relate to the responsibilities of the pharmacies when a pharmacy closes. Those responsibilities include: notifications by the closing pharmacy to the Board and the federal Drug Enforcement Administration (DEA) at least 14 days prior to the pharmacy closing and the content of those notifications; notification to the pharmacist in charge of the closing pharmacy at least 21 days prior to the pharmacy closing and including the pharmacist in charge in the notification and closing processes; notification to patients of the closing pharmacy at least 14 days prior to the date of closing, including in such notification information regarding a patient’s right to transfer the patient’s records to a pharmacy of the patient’s choosing, and addressing direct communication to patients and the posting of signs or other public notices; notification to the pharmacist in charge of the receiving pharmacy at least 14 days prior to the pharmacy closing and restricting the receiving pharmacy from contacting patients prior to the transfer of patient records and the closure of the closing pharmacy; and requiring cancellation or revocation of all authorizations to utilize the DEA’s online controlled substances ordering system (CSOS) on behalf of the closing pharmacy. The amendments also require that the closing pharmacy ensure the transfer of all patient records to a pharmacy that is held to the same standards of confidentiality as the closing pharmacy and that agrees to act as custodian for the closing pharmacy’s records for the retention periods required under federal and state laws, rules, and regulations.

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

Notice of Intended Action was published in the December 29, 2010, Iowa Administrative Bulletin as **ARC 9295B**. The Board received numerous written comments regarding the proposed amendments. A majority of the comments, both in support and opposition, related to the extended periods of the

PHARMACY BOARD[657](cont'd)

various advance notices required by the amendments. A few commenters objected to the requirement that the pharmacists in charge of both the closing and purchasing pharmacy be notified in advance of the transaction, and one commenter objected to Board review of the terms of the sales contract prior to the effective date of the sale.

The adopted amendments differ from those published under Notice.

In paragraph 8.35(7)“a,” the required prior notification to the pharmacist in charge of the closing pharmacy has been changed from 60 days prior to the closing to 21 days prior to the closing and the following sentence has been added: “The owner of the closing pharmacy may direct the pharmacist in charge to maintain information regarding the pending closure of the pharmacy confidential until public notifications are required 14 days prior to the pharmacy closing.”

The notifications to the Board and the DEA required in paragraph 8.35(7)“b” and the notification to patients required in paragraph 8.35(7)“d” have been changed from four weeks to 14 days prior to the pharmacy closing.

Paragraph 8.35(7)“c” has been changed to eliminate the requirement that a copy of the sale or purchase agreement be submitted to the Board with the prior notification and provides that such copy shall be submitted to the Board upon request of the Board.

The term “facilitate” in the first sentence of subparagraph 8.35(7)“d”(1) has been changed to “authorize.” Subparagraph 8.35(7)“d”(1) has also been amended by adding the following sentence: “Written notification shall also remind patients participating in a program or agreement that restricts the patient’s pharmacy services to the closing pharmacy that the patient must contact the program or the party to the agreement to arrange for a change of pharmacy to the purchasing pharmacy or another pharmacy of the patient’s choosing.”

Finally, the name of the DEA’s online ordering system has been corrected in paragraph 8.35(7)“g,” and a cross reference has been corrected in paragraph 8.35(7)“h.”

The amendments were approved during the April 26, 2011, meeting of the Board of Pharmacy.

These amendments will become effective on July 6, 2011.

These amendments are intended to implement Iowa Code sections 147.55 and 155A.13.

The following amendments are adopted.

ITEM 1. Amend rule 657—8.11(147,155A) as follows:

657—8.11(147,155A) Unethical conduct or practice. The provisions of this rule apply to licensed pharmacies, licensed pharmacists, registered pharmacy technicians, registered pharmacy support persons, and registered pharmacist-interns.

8.11(1) Misrepresentative deeds. A pharmacist, technician, support person, or pharmacist-intern shall not make any statement intended to deceive, misrepresent or mislead anyone, or be a party to or an accessory to any fraudulent or deceitful practice or transaction in pharmacy or in the operation or conduct of a pharmacy.

8.11(2) Undue influence.

a. No change.

b. ~~The prohibition in paragraph “a” shall not apply until April 23, 2006, to a pharmacist who is working at a prescriber-owned pharmacy location licensed as of April 23, 1981.~~

e. b. A prescriber may employ a pharmacist to provide nondispensing, drug information, or other cognitive services.

8.11(3) No change.

8.11(4) Nonconformance with law. A pharmacist, technician, support person, or pharmacist-intern shall not knowingly serve in a pharmacy which is not operated in conformance with law, or which engages in any practice which if engaged in by a pharmacist would be unethical conduct.

8.11(5) Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms. A pharmacist or pharmacy shall not enter into any agreement which negates a patient’s freedom of choice of pharmacy services. A purchasing pharmacist or pharmacy shall not engage in any activity or include in any agreement with a selling pharmacist or pharmacy any provision that would prevent or prohibit the prior notifications required in subrule 8.35(7). A pharmacist or pharmacy shall

PHARMACY BOARD[657](cont'd)

not participate in prohibited agreements with any person in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy. "Person" includes an individual, corporation, partnership, association, firm, or other entity. "Prohibited agreements" includes an agreement or arrangement that provides premiums, "kickbacks," fee-splitting, or special charges as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" includes, but is not limited to, the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of a facility or practitioner at no charge or billed below reasonable market rate. A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification, except that a hospital may make available to hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use during practice at or in the hospital generic prescription blanks or forms bearing the name, address, or telephone number of the hospital pharmacy.

8.11(6) to 8.11(8) No change.

ITEM 2. Amend subrule 8.16(3) as follows:

8.16(3) Exceptions. Nothing in this rule shall prohibit pharmacists from releasing confidential patient information as follows:

- a. Transferring a prescription to another pharmacy upon the request of the patient or the patient's authorized representative.
- b. Providing a copy of a nonrefillable prescription to the person for whom the prescription was issued which is clearly marked as a copy and not to be filled.
- c. Providing drug therapy information to physicians or other authorized prescribers for their patients.
- d. Disclosing information necessary for the processing of claims for payment of health care operations or services.
- e. Transferring, subject to the provisions of subrule 8.35(7), prescription and patient records of a pharmacy that discontinues operation as a pharmacy to another licensed pharmacy that is held to the same standards of confidentiality and that agrees to act as custodian of the transferred records.

ITEM 3. Amend subrule 8.35(6) as follows:

8.35(6) Pharmacy license changes. When a pharmacy changes its name, location, ownership, or pharmacist in charge, a new pharmacy license application with a license fee as provided in subrule 8.35(4) shall be submitted to the board office. Upon receipt of the fee and properly completed application, the board will issue a new pharmacy license certificate. The old license certificate shall be returned to the board office within ten days of the change of name, location, ownership, or pharmacist in charge.

- a. Location. A change of pharmacy location in Iowa shall require an on-site inspection of the new location as provided in subrule 8.35(5) if the new location was not a licensed pharmacy immediately prior to the relocation.
- b. Ownership. A change of ownership of a currently licensed Iowa pharmacy, or a change of pharmacy location to another existing Iowa pharmacy location, shall not require on-site inspection pursuant to subrule 8.35(5). A new pharmacy license is required as provided ~~above~~ in this subrule. A change of ownership effectively consists of a closing pharmacy, which is subject to the requirements for a closing pharmacy, and of a new pharmacy, which is subject to the requirements of a new pharmacy, with the possible exception of the on-site inspection as provided by this paragraph. In those cases in which the pharmacy is owned by a corporation, the sale or transfer of all stock of the corporation does not constitute a change of ownership provided the corporation that owns the pharmacy continues to exist and continues to own the pharmacy following the stock sale or transfer.
- c. Pharmacist in charge. A change of pharmacist in charge shall require completion and submission of the application and fee for new pharmacy license.

(1) If a permanent pharmacist in charge has not been identified by the time of the vacancy, a temporary pharmacist in charge shall be identified. Written notification identifying the temporary

PHARMACY BOARD[657](cont'd)

pharmacist in charge, signed by the pharmacy owner or corporate officer and the temporary pharmacist in charge, shall be submitted to the board within 10 days following the vacancy.

(2) Within 90 days following the vacancy, a permanent pharmacist in charge shall be identified, and an application for pharmacy license, including the license fee as provided in subrule 8.35(4), shall be submitted to the board office.

ITEM 4. Amend subrule 8.35(7) as follows:

8.35(7) *Pharmacy closing* Closing pharmacy. ~~At least two weeks prior to the closing of a pharmacy, a written notice shall be sent to the board and to the Drug Enforcement Administration (DEA) notifying those agencies of the intent to discontinue business or sell the pharmacy including the anticipated date of sale or closing. A closing pharmacy shall ensure that all patient and prescription records are transferred to another pharmacy that is held to the same standards of confidentiality as the closing pharmacy and that agrees to act as custodian of the records for the appropriate retention period for each record type as required by federal or state laws, rules, or regulations. A pharmacy shall not execute a sale or closing of a pharmacy unless there exists an adequate period of time prior to the pharmacy closing for delivery of the notifications to the pharmacist in charge, the board, the Drug Enforcement Administration (DEA), and pharmacy patients as required by this subrule. However, the provisions of this subrule regarding prior notifications to the board, the DEA, and patients shall not apply in the case of a board-approved emergency or unforeseeable closure, including but not limited to emergency board action, foreclosure, fire, or natural disaster.~~

a. Pharmacist in charge notification. ~~At the first indication of a pending sale or at the commencement of negotiations regarding the sale or purchase of a pharmacy but not less than 21 days prior to the effective date of the sale of a pharmacy, the pharmacist in charge of the closing pharmacy, if that individual is not an owner of the closing pharmacy, shall be notified of the proposed sale. The owner of the closing pharmacy may direct the pharmacist in charge to maintain information regarding the pending closure of the pharmacy confidential until public notifications are required 14 days prior to the pharmacy closing. The pharmacist in charge of the closing pharmacy shall provide input and direction to the pharmacy owner regarding the responsibilities of the closing pharmacy, including the notifications, deadlines, and time lines established by this subrule. The pharmacist in charge of the closing pharmacy shall prepare patient notifications pursuant to paragraph 8.35(7) "d."~~ At least 14 days prior to the effective date of the sale of a pharmacy, the pharmacist in charge of the purchasing or receiving pharmacy, if that individual is not an owner of the pharmacy, shall be notified of the pending transaction.

~~*a. b. Board and DEA notifications.* Prior notification~~ At least 14 days prior to the closing of a pharmacy, including a closing by sale of a pharmacy, a written notice shall be sent to the board and to the Drug Enforcement Administration (DEA) notifying those agencies of the intent to discontinue business or to sell the pharmacy and including the anticipated date of closing. These prior notifications shall include the name, address, DEA registration number, Iowa pharmacy license number, and Iowa controlled substances Act (CSA) registration number of the closing pharmacy and of the pharmacy to which prescription drugs will be transferred. ~~Notification~~ Notifications shall also include the name, address, DEA registration number, Iowa pharmacy license number, and CSA registration number of the location at which prescription files, patient profiles, and controlled substance receipt and disbursement records will be maintained.

~~*b. c. Terms of sale or purchase.* Pharmacy patients with active prescriptions on file with a pharmacy that intends to close permanently shall be notified by that pharmacy, via direct mail or public notice at least two weeks prior to the closure of the pharmacy, that each patient has the right to transfer the patient's active prescriptions to a pharmacy of the patient's choosing. This paragraph shall not apply in the case of an emergency or unforeseeable closure including, but not limited to, emergency board action, foreclosure, fire, or natural disaster.~~ If the closing is due to the sale of the pharmacy, a copy of the sale or purchase agreement, not including information regarding the monetary terms of the transaction, shall be submitted to the board upon the request of the board. The agreement shall include

PHARMACY BOARD[657](cont'd)

a written assurance from the closing pharmacy to the purchasing pharmacy that the closing pharmacy has given or will be giving notice to its patients as required by this subrule.

d. Patient notification. At least 14 days prior to closing, a closing pharmacy shall make a reasonable effort to notify all patients who had a prescription filled by the closing pharmacy within the last 18 months that the pharmacy intends to close, including the anticipated closing date.

(1) Written notification shall identify the pharmacy that will be receiving the patient's prescriptions and records, shall include information on the rights of the patient to transfer current prescriptions and patient records to a pharmacy of the patient's choosing including information on how such transfer may be accomplished, and shall include a form that may be completed by the patient and submitted to the closing pharmacy to authorize transfer of the patient's prescriptions and records to a pharmacy of the patient's choosing. Written notification shall also remind patients participating in a program or agreement that restricts the patient's pharmacy services to the closing pharmacy that the patient must contact the program or the party to the agreement to arrange for a change of pharmacy to the purchasing pharmacy or another pharmacy of the patient's choosing.

(2) Written notification shall be delivered to each patient at the patient's last address on file with the closing pharmacy by direct mail or personal delivery and also by public notice. Public notice refers to the display, in a location and manner clearly visible to patients, of signs in pharmacy pickup locations including drive-through prescription pickup lanes, on pharmacy or retail store entry and exit doors, or at pharmacy prescription counters. In addition, notice may be posted on the pharmacy's Web site, displayed on a marquee or electronic sign, communicated via automated message on the pharmacy's telephone system, or published in one or more local newspapers or area shopper publications.

e. Patient communication by receiving pharmacy. A pharmacy receiving the patient records of another pharmacy shall not contact the patients of the closing pharmacy until after the transfer of those patient records from the closing pharmacy to the receiving pharmacy and after the closure of the closing pharmacy. The receiving pharmacy shall post or publish notice to patients of their right to transfer current prescriptions and patient records to a pharmacy of the patient's choosing, including information on how such transfer can be accomplished. A notice posted at the receiving or purchasing pharmacy shall be maintained for a minimum 90 days following the transfer of patient records from the closing pharmacy.

e.f. Prescription drug inventory. A complete inventory of all prescription drugs being transferred shall be taken as of the close of business. The inventory shall serve as the ending inventory for the closing pharmacy as well as a record of additional or starting inventory for the pharmacy to which the drugs are transferred. A copy of the inventory shall be included in the records of each licensee.

(1) to (5) No change.

d. g. Surrender of certificates and forms. The pharmacy license certificate and CSA registration certificate of the closing ~~or selling~~ pharmacy shall be returned to the board office within ten days of closing ~~or sale~~. The DEA registration certificate and all unused DEA Forms 222 shall be returned to the DEA within ten days of closing. All authorizations to utilize the DEA's online controlled substances ordering system (CSOS) and all digital certificates issued for the purpose of ordering controlled substances for the closing pharmacy shall be canceled or revoked within ten days of closing.

e. h. Signs at closed pharmacy location. A location that no longer houses a licensed pharmacy shall not display any sign, placard, or other notification, visible to the public, which identifies the location as a pharmacy. A sign or other public notification that cannot feasibly be removed shall be covered so as to conceal the identification as a pharmacy. Nothing in this paragraph shall prohibit the display of a public notice to patients, as required in paragraph 8.35(7) "d," for a reasonable period not to exceed six months following the pharmacy closing.

[Filed 5/5/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9547B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science hereby amends Chapter 31, "Licensure of Marital and Family Therapists and Mental Health Counselors," Chapter 32, "Continuing Education for Marital and Family Therapists and Mental Health Counselors," and Chapter 33, "Discipline for Marital and Family Therapists and Mental Health Counselors," Iowa Administrative Code.

These amendments add the definition of "mental health setting," define educational requirements for licensure for marital and family therapists and mental health counselors, remove from the continuing education chapter language that has been added to the common chapter for all disciplines in the Professional Licensure Division, and amend language in the discipline chapter to be consistent with the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9416B**. A public hearing was held on March 29, 2011, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Public comments were received on the proposed amendments. The Board met with concerned parties and a resolution was reached.

Since publication of the Notice, the following change has been made as a result of comments received.

In Item 1, the words "behavioral health" were added to the definition of "mental health setting." The definition now reads as follows:

"Mental health setting" means a behavioral health setting where an applicant is providing mental health services including the diagnosis, treatment, and assessment of emotional and mental health disorders and issues."

These amendments were adopted by the Iowa Board of Behavioral Science on May 6, 2011.

These amendments will become effective July 6, 2011.

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [31.1, 31.4 to 31.7, 31.10(1), 32.4, 33.2(12)] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9416B**, IAB 3/9/11.

[Filed 5/13/11, effective 7/6/11]

[Published 6/1/11]

[For replacement pages for IAC, see IAC Supplement 6/1/11.]

ARC 9533B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 691.6, the Department of Public Health hereby amends Chapter 126, "State Medical Examiner," Iowa Administrative Code.

This amendment increases some of the fees that apply to autopsies conducted by the State Medical Examiner. The autopsy fee is increased from \$1200 to \$1400. The hourly rate for the state, deputy or associate medical examiner time for all court cases is increased from \$350 to \$450. A cremation permit fee of \$75 shall be assessed for each permit investigated and authorized by the Office of the State Medical Examiner.

Notice of Intended Action was published in the March 23, 2011, Iowa Administrative Bulletin as **ARC 9435B**. No comments were received. This amendment has been revised since publication under Notice. The name of the Office of the State Medical Examiner has been updated by striking the word "division" in rule 641—126.3(691).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The State Board of Health adopted this amendment on May 11, 2011. This amendment will become effective on July 6, 2011. This amendment is intended to implement Iowa Code section 691.6. The following amendment is adopted.

Amend rule 641—126.3(691) as follows:

641—126.3(691) Fees for autopsies and related services and reimbursement for related expenses. Autopsies performed by the state medical examiner ~~division~~ are provided on a fee-for-service basis. Costs of autopsies and related services and expenses are the responsibility of the county of appointment. The county of residence of the deceased shall reimburse the county of appointment.

126.3(1) Fee schedule. The following fees shall apply to autopsies conducted by the state medical examiner ~~division~~:

Autopsy	\$1200 <u>\$1400</u>
Copies of reports	\$20

EXCEPTIONS: A copy of the autopsy report is ~~included in the autopsy fee~~ automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

State, deputy, or associate medical examiner(s) time for all court cases	\$350 <u>\$450</u> per hour with a one-hour minimum
---	---

This fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

A cremation permit fee of \$75 will be assessed for each permit investigated and authorized by the state medical examiner's office.

126.3(2) and 126.3(3) No change.

[Filed 5/11/11, effective 7/6/11]

[Published 6/1/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/1/11.

ARC 9534B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 125.7 and 135.150(1), the Department of Public Health hereby amends Chapter 155, "Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs," Iowa Administrative Code.

Iowa Code section 136.3(13) allows the State Board of Health to appoint a Substance Abuse and Gambling Treatment Program Committee to approve or deny applications for licensure received from substance abuse programs and gambling treatment programs and to perform other functions delegated to the Committee.

These amendments define the Substance Abuse and Gambling Treatment Program Committee and specify the duties of the Committee. The amendments also change "board" to "committee" throughout the chapter in rules where the Board's duties are assumed by the Committee.

Notice of Intended Action was published in the March 23, 2011, Iowa Administrative Bulletin as **ARC 9436B**. No one attended the public hearing, which was held on April 19, 2011, in the Lucas State Office Building. One written comment was received regarding the makeup of the Committee.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

In response to that comment, the following sentences were added to the definition of "Committee" in Item 2: "The committee shall consist of three board members who are recommended by the board chairperson and approved by the board, including two members who have direct experience with substance abuse treatment or prevention and one member who represents the general public. The committee chairperson shall be one of the members who has substance abuse treatment or prevention experience as recommended by the board chairperson and approved by the board." The remaining Items are identical to those published under Notice.

The State Board of Health adopted these amendments on May 11, 2011.

These amendments will become effective on July 6, 2011.

These amendments are intended to implement Iowa Code sections 135.150 and 136.3(13) and Iowa Code chapter 125.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 155] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9436B**, IAB 3/23/11.

[Filed 5/11/11, effective 7/6/11]

[Published 6/1/11]

[For replacement pages for IAC, see IAC Supplement 6/1/11.]