



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2010

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
27	Friday, June 11, 2010	June 30, 2010
1	Wednesday, June 23, 2010	July 14, 2010
2	Friday, July 9, 2010	July 28, 2010

**PLEASE NOTE:**

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 8, 2010, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the May 19, 2010, Iowa Administrative Bulletin.

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Years of service incentive; exigency leave for covered servicemembers, 53.12, 63.4(1)

Notice **ARC 8781B** ..... 6/2/10

#### **CULTURAL AFFAIRS DEPARTMENT[221]**

Cultural trust sustainability challenge grants, 13.5 Notice **ARC 8811B** ..... 6/2/10

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

Trade mission, 72.2, 72.3 Notice **ARC 8833B** ..... 6/2/10

#### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"

Respondent—entitled to copy of complaint, 11.4(5) Filed Emergency **ARC 8823B** ..... 6/2/10

One-year teacher exchange license, 13.17(1) Notice **ARC 8822B** ..... 6/2/10

Elementary counselor endorsement, 13.28(26) Notice **ARC 8824B** ..... 6/2/10

Secondary counselor endorsement, 13.28(27) Notice **ARC 8825B** ..... 6/2/10

Supervisor of special education (instructional)—content requirements, 15.5(2) Notice **ARC 8828B** ..... 6/2/10

Director of special education (AEA)—professional service, 18.11(2) Notice **ARC 8830B** ..... 6/2/10

Professional service administrator requirements for special education support programs,

27.3(5) Notice **ARC 8829B** ..... 6/2/10

Director of special education (AEA)—professional service, 27.3(6) Notice **ARC 8831B** ..... 6/2/10

#### **EDUCATION DEPARTMENT[281]**

Iowa vocational rehabilitation services, amendments to ch 56 Filed **ARC 8806B** ..... 6/2/10

Student performance data in the evaluation of teachers, 83.4(1), 83.4(7)"a," 83.6(1) Filed **ARC 8808B** ..... 6/2/10

#### **ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

Permitted and prohibited campaign activities by certain organizations, amendments to ch 4

Notice **ARC 8827B**, also Filed Emergency **ARC 8826B** ..... 6/2/10

Filing of campaign disclosure statements and reports, 4.1(2), 4.8(1), 4.13, 4.55(2) Notice **ARC 8795B** ..... 6/2/10

Amended statement of organization, 4.6(1) Filed Without Notice **ARC 8787B** ..... 6/2/10

Earmarked campaign contributions, 4.33 Filed Without Notice **ARC 8788B** ..... 6/2/10

Dual executive branch compensation, 6.6 Notice **ARC 8793B** ..... 6/2/10

Sale of goods or services to state agencies by officials and employees—filing of report, 6.10

Notice **ARC 8794B** ..... 6/2/10

Executive branch lobbying—registration and reports, 8.6 to 8.8, 8.9(1)"c," 8.10 to 8.12,

8.13(1), 8.20(2) Filed Without Notice **ARC 8805B** ..... 6/2/10

Providing false information to the board during an investigation, 9.7 Notice **ARC 8803B** ..... 6/2/10

#### **HUMAN SERVICES DEPARTMENT[441]**

Medicaid applicants—referrals for support services, 75.2(5), 75.14, 75.55(2)"a" Filed **ARC 8785B** ..... 6/2/10

Documentation of citizenship and identity, 75.11(2) Filed Emergency After Notice **ARC 8786B** ..... 6/2/10

Medicaid—consumer choices option, 78.34(3), 78.37(16), 78.38(9), 78.41(15), 78.43(15),

78.46(6) Notice **ARC 8832B** ..... 6/2/10

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

Multifamily loan program for workforce housing loan assistance, 3.5(1), 3.8 to 3.12

Notice **ARC 8790B**, also Filed Emergency **ARC 8789B** ..... 6/2/10

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

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Bonding requirements for out-of-state contractors, 150.2, 150.4, 150.13 to 150.15

Notice **ARC 8818B**, also Filed Emergency **ARC 8812B** ..... 6/2/10

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

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Conservation education—recreation education courses, 12.20 to 12.37 Filed **ARC 8816B** ..... 6/2/10

Suspension, revocation or denial of issuance or renewal of license—college student aid debt,

15.52, 15.53(3), 15.54 Notice **ARC 8813B** ..... 6/2/10

Special events, amendments to ch 44 Filed **ARC 8815B** ..... 6/2/10

- State parks and recreation areas—camping, definition of “immediate family,” 61.2, 61.4(5)  
Filed **ARC 8821B**..... 6/2/10
- State parks and recreation areas, 61.5, 61.7, 61.11 Notice **ARC 8819B** ..... 6/2/10
- State forest camping, 62.2, 62.6 Filed **ARC 8820B**..... 6/2/10
- Fireworks displays at state parks and recreation areas, ch 65 Notice **ARC 8817B**..... 6/2/10
- Restrictions on alcohol use at state parks, state recreation areas, and public access areas on  
the Iowa great lakes during the Fourth of July holiday, ch 68 Notice **ARC 8814B** ..... 6/2/10

**NATURAL RESOURCES DEPARTMENT[561]**

- Groundwater hazard statement, 9.2(1) Notice **ARC 8776B** ..... 6/2/10
- Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 15  
Filed **ARC 8774B**..... 6/2/10

**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Licensure by examination and endorsement, 3.4(4), 3.5 Filed **ARC 8810B**..... 6/2/10
- Application for reinstatement of suspended or revoked license, 4.11 Filed **ARC 8809B** ..... 6/2/10

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

- Audit of continuing education, 4.11 Notice **ARC 8784B**..... 6/2/10
- Board of chiropractic, 41.2(1), 43.5, 43.10(3), 44.1, 44.3(2)“a,” 45.2(2)“g” Notice **ARC 8782B**..... 6/2/10
- Board of physician assistants—filing of electronic prescriptions, 327.6(1) Notice **ARC 8775B**..... 6/2/10

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- Venereal disease prophylactics, rescind ch 6 Filed Without Notice **ARC 8801B** ..... 6/2/10
- Master license—exception through September 30, 2010, 29.8 Filed Emergency **ARC 8783B** ..... 6/2/10
- Early childhood Iowa council, rescind ch 83 Filed Without Notice **ARC 8802B** ..... 6/2/10
- State substitute medical decision-making board, rescind ch 84 Filed Without Notice **ARC 8804B** ..... 6/2/10
- Volunteer health care provider program, ch 88 Filed **ARC 8791B**..... 6/2/10
- Substance abuse and problem gambling treatment programs, amend ch 155; rescind ch 162  
Filed Emergency After Notice **ARC 8792B** ..... 6/2/10
- Substance abuse treatment records—release of client/patient information, 157.7 Filed **ARC 8796B**..... 6/2/10
- Advisory bodies of the department, 191.3 to 191.5 Filed **ARC 8797B** ..... 6/2/10
- Child support noncompliance, ch 192 Filed **ARC 8798B**..... 6/2/10
- Impaired practitioner review committee, ch 193 Filed **ARC 8799B** ..... 6/2/10
- Student loan default/noncompliance with agreement for payment of obligation, ch 195  
Filed **ARC 8800B**..... 6/2/10

**REGENTS BOARD[681]**

- Application fees, 1.7 Notice **ARC 8807B** ..... 6/2/10

**SECRETARY OF STATE[721]**

- Election forms and instructions, amendments to ch 21  
Notice **ARC 8780B**, also Filed Emergency **ARC 8779B** ..... 6/2/10
- Election forms and instructions, 21.7(4), 21.320(2)“g”  
Notice **ARC 8778B**, also Filed Emergency **ARC 8777B** ..... 6/2/10

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Merlin Bartz  
2081 410th Street  
Grafton, Iowa 50440

Senator Thomas Courtney  
2200 Summer Street  
Burlington, Iowa 52601

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

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

Senator James Seymour  
901 White Street  
Woodbine, Iowa 51579

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

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

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

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

Representative Nathan Reichert  
1155 Iowa Avenue  
Muscatine, Iowa 52761

Representative Linda Upmeyer  
2175 Pine Avenue  
Garner, Iowa 50438

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



**CULTURAL AFFAIRS DEPARTMENT[221]**

Cultural trust sustainability challenge grants, 13.5 IAB 6/2/10 <b>ARC 8811B</b>	Tone Board Room, Third Floor Iowa Historical Bldg. 600 E. Locust St. Des Moines, Iowa	June 28, 2010 1 p.m.
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**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Trade mission, 72.2, 72.3 IAB 6/2/10 <b>ARC 8833B</b>	Iowa Tourism Room, First Floor 200 E. Grand Ave. Des Moines, Iowa	June 22, 2010 2 to 3 p.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

One-year teacher exchange license, 13.17(1) IAB 6/2/10 <b>ARC 8822B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Elementary counselor endorsement, 13.28(26) IAB 6/2/10 <b>ARC 8824B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Secondary counselor endorsement, 13.28(27) IAB 6/2/10 <b>ARC 8825B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Supervisor of special education (instructional)—content requirements, 15.5(2) IAB 6/2/10 <b>ARC 8828B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Director of special education (AEA)—professional service, 18.11(2) IAB 6/2/10 <b>ARC 8830B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Professional service administrator requirements for special education support programs, 27.3(5) IAB 6/2/10 <b>ARC 8829B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.
Director of special education (AEA)—professional service, 27.3(6) IAB 6/2/10 <b>ARC 8831B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 23, 2010 1 p.m.

**HUMAN SERVICES DEPARTMENT[441]**

Medicaid—consumer choices option, 78.34(3), 78.37(16), 78.38(9), 78.41(15), 78.43(15), 78.46(6) IAB 6/2/10 <b>ARC 8832B</b>	Iowa Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	June 30, 2010 10:30 a.m. to 12 noon
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**INSURANCE DIVISION[191]**

Suitability in annuity transactions, 15.68 to 15.75 IAB 5/19/10 <b>ARC 8768B</b>	Insurance Division Offices 330 Maple St. Des Moines, Iowa	June 8, 2010 10 a.m.
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**LABOR SERVICES DIVISION[875]**

Bonding requirements for out-of-state contractors, 150.2, 150.4, 150.13 to 150.15 IAB 6/2/10 <b>ARC 8818B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	June 23, 2010 8:30 a.m. (If requested)
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**NATURAL RESOURCE COMMISSION[571]**

State parks and recreation areas, 61.5, 61.7, 61.11 IAB 6/2/10 <b>ARC 8819B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 22, 2010 2 p.m.
Fireworks displays at state parks and recreation areas, ch 65 IAB 6/2/10 <b>ARC 8817B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 22, 2010 2 p.m.
Restrictions on alcohol use at state parks, recreation areas, and public access areas on Fourth of July holiday, ch 68 IAB 6/2/10 <b>ARC 8814B</b>	Gull Point State Park Lodge West Lake Okoboji 1500 Harpen St. Milford, Iowa	July 13, 2010 6:30 p.m.

**NATURAL RESOURCES DEPARTMENT[561]**

Groundwater hazard statement, 9.2(1) IAB 6/2/10 <b>ARC 8776B</b>	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 24, 2010 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Audit of continuing education, 4.11 IAB 6/2/10 <b>ARC 8784B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 22, 2010 9:30 to 10 a.m.
Board of chiropractic, 41.2(1), 43.5, 43.10(3), 44.1, 44.3(2)“a,” 45.2(2)“g” IAB 6/2/10 <b>ARC 8782B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 22, 2010 10 to 10:30 a.m.
Board of physician assistants— filing of electronic prescriptions, 327.6(1) IAB 6/2/10 <b>ARC 8775B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 22, 2010 9 to 9:30 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Backflow prevention assembly tester registration, 26.2, 26.4, 26.5, 26.8 IAB 5/19/10 <b>ARC 8761B</b>	Room 524 Lucas State Office Bldg. Des Moines, Iowa	June 8, 2010 1 to 3 p.m.
Dental screening, 51.1 to 51.16 IAB 5/19/10 <b>ARC 8763B</b> <b>(ICN Network)</b>	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 8, 2010 3 to 4 p.m.
	Room 7A, Buena Vista University 610 W. 4th St. Storm Lake, Iowa	June 8, 2010 3 to 4 p.m.
	Conference Room A Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	June 8, 2010 3 to 4 p.m.

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

Tech. Building, Red Oak High School  
2011 N. 8th St.  
Red Oak, Iowa

June 8, 2010  
3 to 4 p.m.

Public Library  
524 Parkade  
Cedar Falls, Iowa

June 8, 2010  
3 to 4 p.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Criminal history and fingerprint  
records, rescind ch 11; adopt  
ch 82  
IAB 5/19/10 **ARC 8769B**

First Floor Public Conference Room 125  
Public Safety Headquarters Bldg.  
215 E. 7th St.  
Des Moines, Iowa

June 8, 2010  
9:30 a.m.

Residential construction  
requirements, 301.8  
IAB 5/19/10 **ARC 8770B**

First Floor Public Conference Room 125  
Public Safety Headquarters Bldg.  
215 E. 7th St.  
Des Moines, Iowa

July 6, 2010  
10 a.m.

Peace officers' retirement, accident,  
and disability system, amend  
chs 400 to 402; rescind ch 404  
IAB 5/19/10 **ARC 8767B**

First Floor Public Conference Room 125  
Public Safety Headquarters Bldg.  
215 E. 7th St.  
Des Moines, Iowa

June 8, 2010  
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.

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        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]  
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    Higher Education Loan Authority[284]  
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**ARC 8781B****ADMINISTRATIVE SERVICES DEPARTMENT[11]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services proposes to amend Chapter 53, “Pay,” and Chapter 63, “Leave,” Iowa Administrative Code.

These amendments delete the years of service incentive program rule, as this program no longer exists.

These amendments also reflect changes required by the National Defense Authorization Act for FY 2010. These changes allow family members of servicemembers in the regular component of the Armed Forces to be eligible for exigency leave. Previously, exigency leave was only available for family members of members of the National Guard or Reserves. The proposed changes also limit exigency leave to family members of covered servicemembers deployed or deploying to a foreign country.

Any interested person may make written comments on the proposed amendments on or before June 22, 2010. Comments should be directed to Jennifer Sandusky, Human Resources Enterprise, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-5102 or by E-mail to [jennifer.sandusky@iowa.gov](mailto:jennifer.sandusky@iowa.gov).

These amendments are intended to implement Iowa Code section 8A.104(5), the Family and Medical Leave Act, and the National Defense Authorization Act for FY 2010.

The following amendments are proposed.

ITEM 1. Rescind rule **11—53.12(8A)**.

ITEM 2. Amend paragraphs **63.4(1)“e”** and **“f”** as follows:

*e.* A qualifying exigency, as defined in ~~the National Defense Authorization Act for FY 2008 (NDAA), federal FMLA regulations,~~ arising out of the fact that the employee’s spouse, son, daughter or parent is a covered ~~military member~~ servicemember on covered active duty, or has been notified of an impending call or order to covered active duty, ~~in support of a contingency operation~~ a foreign country.

*f.* To care for a covered servicemember with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the servicemember, pursuant to the ~~NDAA~~ FMLA regulations.

**ARC 8811B****CULTURAL AFFAIRS DEPARTMENT[221]****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 303.1A(6) and chapter 303A, the Iowa Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 13, “Iowa Cultural Trust,” Iowa Administrative Code.

## CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

The rules in Chapter 13 describe procedures for administration of Iowa Cultural Trust grant programs. These amendments add a subrule pertaining to the new Iowa Cultural Trust Sustainability Challenge Grant program.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 22, 2010. Such written materials should be directed to the Iowa Cultural Trust Office, Iowa Department of Cultural Affairs, 600 East Locust Street, Des Moines, Iowa 50319; fax (515)242-6498. Persons who wish to convey their views orally should contact the Iowa Cultural Trust Office at (515)281-4641 or at the Department of Cultural Affairs administrative offices on the third floor of the Iowa Historical Building.

Also, there will be a public hearing on June 28, 2010, at 1 p.m. in the Tone Board Room on the third floor of the Iowa Historical 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 amendments.

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

These amendments are intended to implement Iowa Code sections 303.1A(6) and 303A.7.

The following amendments are proposed.

ITEM 1. Renumber subrules **13.5(4)** to **13.5(10)** as **13.5(5)** to **13.5(11)**.

ITEM 2. Adopt the following **new** subrule 13.5(4):

**13.5(4) Cultural trust sustainability challenge grants.** Sustainability challenge grants support projects that will help Iowa nonprofit cultural organizations strengthen their long-term financial sustainability through endowment building.

*a. General sustainability grant policies.*

(1) Organizations with an operating budget up to \$150,000 may request up to \$20,000 in grant funds. Organizations with an operating budget over \$150,000 may request up to \$35,000 in grant funds.

(2) Organizations awarded sustainability challenge grants must raise a minimum of \$3 in new endowment funds raised specifically for the sustainability challenge grant campaign for every \$1 of grant funds awarded.

(3) An applicant must have, at the time of application, an established endowment fund for the support of organizational operating expenses. Sustainability challenge grant funds and all matching funds must be deposited into the endowment fund designated to support annual operating expenses of the grantee organization.

(4) An applicant must have at least one paid, part-time or full-time professional employee who is responsible for managing the business of the organization.

(5) An applicant must demonstrate that it is actively implementing a multiyear strategic plan that incorporates a fundraising plan with long-term sustainability as a clear, measurable goal.

(6) An applicant must certify and demonstrate that its operational practices are in alignment with the Iowa Principles and Practices for Charitable Nonprofit Excellence. Alignment may include but not be limited to any of the following:

1. The board of directors may pass a resolution adopting the Iowa Principles and Practices for Charitable Nonprofit Excellence as the standards for institutional operations.

2. An organizational representative may complete an Iowa Principles and Practices for Charitable Nonprofit Excellence training program which will result in a certificate of completion for a stated period.

3. An Iowa charitable nonprofit that is accredited by a national organization or licensed by a state agency will be presumed to have significantly complied with the Iowa Principles and Practices for Charitable Nonprofit Excellence.

(7) An applicant must have been incorporated in the community for a minimum of three years.

(8) Sustainability challenge grant funds will be paid to grantees after grantees demonstrate that they have achieved a 3:1 cash match but no later than two years and 90 days beyond the date of the award.

## CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

Under no circumstances shall the total amount paid to the recipient exceed the grant award specified in the grant award letter.

(9) No organization may receive more than one sustainability challenge grant in a five-year period.

(10) Additional requirements may be indicated in guidelines published on the Iowa department of cultural affairs Web site.

*b. Specific requirements related to matching funds.*

(1) All matching gifts must be made (i.e., given, pledged, and pledges fulfilled) during the sustainability challenge grant period.

(2) Gifts eligible for matching must be made explicitly in response to the sustainability challenge grant.

(3) Donors must be aware that their gifts will be used to support the organization's general operating expenses and to match the sustainability challenge grant.

(4) Eligible types of gifts may include, but are not limited to:

1. Cash.

2. Nonfederal and nonstate grants.

3. Special legislative appropriations from county or municipal governments and government organizations. This appropriation must represent a level of support above the normal appropriation for the recipient institution.

4. Net proceeds from special fundraising events or benefits held specifically to raise funds to match the sustainability challenge grant. Only the net proceeds are eligible; the intrinsic value of items donated for auction or sale is not eligible.

5. Membership contributions, "friends" or alumni giving, or similar campaigns. The value of any tangible items received by donors, such as magazines, newsletters, or gift "premiums" must be deducted from a membership contribution to assess the actual gift value. Membership forms or solicitation material should indicate that contributions will be used to match the sustainability challenge grant.

6. Marketable securities, valued as of the date of transfer from donor to grant recipient, if the securities are held in the endowment and are earning interest.

7. Real estate donated during the period of the sustainability challenge grant and converted into cash by means of sale before the end of the grant period. The value of the gift is equivalent to the net sale value.

8. Charitable gift annuity contracts that are signed during the period of the sustainability challenge grant. Annuities will be valued at the amount of the donor's charitable deduction.

9. Additional sources as approved by the cultural trust.

(5) Ineligible gifts include, but are not limited to:

1. Gifts deferred beyond the end of the grant period.

2. Bequests and other forms of planned giving that are not paid out or completed during the grant period except charitable gift annuities that are finalized within the grant period and meet the criteria outlined in 13.5(4) "b"(4).

3. Discounts on goods or services provided through contracts.

4. In-kind gifts or donated services.

5. Income from other endowed funds.

6. Gifts that derive from the grantee institution itself. For instance, the sale of land or assets already owned by an organization would not be eligible unless the land or asset was donated within the sustainability challenge grant period and in response to the sustainability challenge grant.

7. Additional sources as determined by the cultural trust board of trustees.

*c. Acknowledgment.*

(1) Organizations that receive a sustainability challenge grant must recognize the funds donated by the cultural trust and the matching funds raised to meet the grant requirements in either a separate listing or a named endowment fund for the lifetime of the organization.

(2) Organizations that receive a sustainability challenge grant must also acknowledge the cultural trust's support for the project in all related signage, program materials, promotion, publicity and advertising activities, and other printed and electronic forms of communication pertaining to the project.



CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

*d. Obligations beyond the life of the contract.* Organizations that receive a sustainability challenge grant must return the grant funds to the cultural trust if the recipient closes, loses its nonprofit 501(c)(3) status, or goes out of business. The recipient may not donate these funds to another organization, individual, or company.

ITEM 3. Amend renumbered paragraph **13.5(11)“c”** as follows:

*c.* All requests for appeals shall be made in writing and shall be hand-delivered, E-mailed, or bear a U.S. Postal Service postmark within 30 days of notification of the decision. The director shall consider and rule on the appeal and will notify the appellant in writing of the decision within 30 days from the receipt of the appeal. The decision of the director is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

## ARC 8833B

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

#### 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 15.104 and 15.106, the Iowa Department of Economic Development (Department) gives Notice of Intended Action to amend Chapter 72, “Iowa Export Trade Assistance Program,” Iowa Administrative Code.

The current rules define “trade mission” as an event led by the Iowa Department of Economic Development, U.S. Department of Commerce, or U.S. Department of Agriculture. Further, the rule requires an eligible applicant to have at least one full-time employee or sales representative attend the trade show or participate in the trade mission and provide proof of deposit.

The proposed amendments adjust the definition of “trade mission” to include a Department or a designated representative and delete “U.S. Department of Commerce, or the U.S. Department of Agriculture.” Further, the amendments adjust the eligibility requirements to allow an eligible applicant to submit an executed payment agreement for a trade show or payment of the trade mission participation fee and to require an eligible applicant to be in compliance with past ETAP contractual agreements.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on June 22, 2010. Interested persons may submit written comments to Lisa Mason, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3139; or E-mail [lisa.mason@iowa.gov](mailto:lisa.mason@iowa.gov).

A public hearing will be held Tuesday, June 22, 2010, from 2 to 3 p.m. in the Iowa Tourism Room, First Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

These amendments are intended to implement 1999 Iowa Acts, chapter 197, section 1, subsection 4. The following amendments are proposed.

ITEM 1. Amend rule **261—72.2(78GA,ch197)**, definition of “Trade mission,” as follows:

“*Trade mission*” means a mission event led by the Iowa department of economic development, U.S. Department of Commerce, or the U.S. Department of Agriculture or designated representative. Qualified trade missions must include each of the following:

- Advanced operational and logistical planning.
- Advanced scheduling of individualized appointments with prequalified prospects interested in participants’ product or service being offered.
- Background information on individual prospects prior to appointments.

Trade missions may also include:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

- In-depth briefings on market requirements and business practices for targeted country.
- Interpreter services.
- Development of a trade mission directory prior to the event containing individual company data regarding the Iowa company and the products being offered.
- Technical seminars delivered by the mission participants.

ITEM 2. Amend rule 261—72.3(78GA,ch197) as follows:

**261—72.3(78GA,ch197) Eligible applicants.** The export trade assistance program is available to Iowa firms either producing or adding value to products, or both, or providing services in the state of Iowa. To be eligible to receive trade assistance, applicants must meet all four of the following criteria:

1. and 2. No change.
3. Have at least one full-time employee or sales representative attend the trade show or participate in the trade mission, ~~and~~
4. Provide proof of deposit ~~or payment of the trade show~~ or executed payment agreement for a trade show, or payment of the trade mission participation fee-, and
5. Be considered by IDED as compliant with past ETAP contractual agreements.

**ARC 8822B**

## **EDUCATIONAL EXAMINERS BOARD[282]**

### **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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

There are two parts to this proposed amendment. The first changes the language for out-of-state licensure. Currently the rule states that an applicant must obtain a license from the state in which the applicant prepared. However, if an applicant has been teaching in a state other than the one where the applicant prepared, a barrier to licensure occurs because the applicant must renew a dormant license or obtain a license for the first time in the state where the applicant prepared. The second part amends the out-of-state licensure requirements so that 75 percent of the endorsement requirements must be completed.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.17(1) as follows:

**13.17(1) One-year teacher exchange license.**

*a.* For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) and (2) No change.

(3) The applicant holds and submits a copy of a valid regular certificate or license in the state in which the preparation was completed or in which the applicant is currently teaching, exclusive of a temporary, emergency or substitute license or certificate; and

(4) No change.

(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least ~~50~~ 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and

(6) and (7) No change.

*b.* No change.

**ARC 8824B**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

When the counseling rules were moved to the professional service license, all of the counseling rules were inadvertently rescinded. This amendment reestablishes the elementary counselor endorsement requirements so that an elementary teacher who completes a counseling program will be able to have the endorsement placed on the teacher’s license.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt the following **new** subrule 13.28(26):

**13.28(26) Elementary counselor.**

a. *Authorization.* The holder of this endorsement has not completed the professional education core (subrule 13.18(4)) but is authorized to serve as a school guidance counselor in kindergarten and grades one through eight.

b. *Program requirements.*

- (1) Master's degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Implement occupational and educational placement, follow-up and evaluation.
4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.
- (6) Assessment and evaluation.
  1. Demonstrate individual and group approaches to assessment and evaluation.
  2. Demonstrate an understanding of the proper administration and uses of standardized tests.
  3. Apply knowledge of test administration, scoring, and measurement concerns.
  4. Apply evaluation procedures for monitoring student achievement.
  5. Apply assessment information in program design and program modifications to address students' needs.
  6. Apply knowledge of legal and ethical issues related to assessment and student records.
- (7) Professional orientation.
  1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.
  2. Maintain a high level of professional knowledge and skills.
  3. Apply knowledge of professional and ethical standards to the practice of school counseling.
  4. Articulate the counselor role to school personnel, parents, community, and students.
- (8) School counseling skills.
  1. Design, implement, and evaluate a comprehensive, developmental school guidance program.
  2. Implement and evaluate specific strategies designed to meet program goals and objectives.
  3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.
  4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.
  5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.
  6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.
  7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.
  8. Assist in the process of identifying and addressing the needs of the exceptional student.
  9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.
  10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.
  11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.
- (9) Classroom management.
  1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.
  2. Consult with teachers and parents about effective classroom management and behavior management strategies.
- (10) Curriculum.
  1. Write classroom lessons including objectives, learning activities, and discussion questions.
  2. Utilize various methods of evaluating what students have learned in classroom lessons.
  3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.
  4. Design a classroom unit of developmentally appropriate learning experiences.
  5. Demonstrate knowledge in writing standards and benchmarks for curriculum.
- (11) Learning theory.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

**ARC 8825B****EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

When the counseling rules were moved to the professional service license, all of the counseling rules were inadvertently rescinded. This amendment reestablishes the secondary counselor endorsement requirements so that a secondary teacher who completes a counseling program will be able to have the endorsement placed on the teacher’s license.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Adopt the following **new** subrule 13.28(27):

**13.28(27) Secondary counselor.**

*a. Authorization.* The holder of this endorsement has not completed the professional education core (subrule 13.18(4)) but is authorized to serve as a school guidance counselor in grades five through twelve.

*b. Program requirements.*

- (1) Master's degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

*c. Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

- (1) Nature and needs of individuals at all developmental levels.
  1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.
  2. Apply knowledge of learning and personality development to assist students in developing their full potential.
- (2) Social and cultural foundations.
  1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.
  2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.
  3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.
- (3) Fostering of relationships.
  1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.
  2. Communicate effectively with parents, colleagues, students and administrators.
  3. Counsel students in the areas of personal, social, academic, and career development.
  4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.
  5. Implement developmentally appropriate counseling interventions with children and adolescents.
  6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.
  7. Refer students for specialized help when appropriate.
  8. Value the well-being of the students as paramount in the counseling relationship.
- (4) Group work.
  1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.
  2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.
- (5) Career development, education, and postsecondary planning.
  1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.
  2. Apply knowledge of career assessment and career choice programs.
  3. Implement occupational and educational placement, follow-up and evaluation.
  4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.
- (6) Assessment and evaluation.
  1. Demonstrate individual and group approaches to assessment and evaluation.
  2. Demonstrate an understanding of the proper administration and uses of standardized tests.
  3. Apply knowledge of test administration, scoring, and measurement concerns.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

4. Apply evaluation procedures for monitoring student achievement.
  5. Apply assessment information in program design and program modifications to address students' needs.
  6. Apply knowledge of legal and ethical issues related to assessment and student records.
- (7) Professional orientation.
1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.
  2. Maintain a high level of professional knowledge and skills.
  3. Apply knowledge of professional and ethical standards to the practice of school counseling.
  4. Articulate the counselor role to school personnel, parents, community, and students.
- (8) School counseling skills.
1. Design, implement, and evaluate a comprehensive, developmental school guidance program.
  2. Implement and evaluate specific strategies designed to meet program goals and objectives.
  3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.
  4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.
  5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.
  6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.
  7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.
  8. Assist in the process of identifying and addressing the needs of the exceptional student.
  9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.
  10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.
  11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.
- (9) Classroom management.
1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.
  2. Consult with teachers and parents about effective classroom management and behavior management strategies.
- (10) Curriculum.
1. Write classroom lessons including objectives, learning activities, and discussion questions.
  2. Utilize various methods of evaluating what students have learned in classroom lessons.
  3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.
  4. Design a classroom unit of developmentally appropriate learning experiences.
  5. Demonstrate knowledge in writing standards and benchmarks for curriculum.
- (11) Learning theory.
1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.
  2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.



## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance and consultation.

**ARC 8828B**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Special Education Support Personnel Authorizations,” Iowa Administrative Code.

The proposed amendment adds course work in school law/special education law to bring the requirements for supervisor of special education closer to the requirements for the PK-12 principal. This addition ensures similar preparation for individuals moving from support services to supervisor of special education and, eventually, to director of special education.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 15.5(2) as follows:

**15.5(2) Program requirements.**

*a.* and *b.* No change.

*c.* Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

(1) No change.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (2) Current issues in special education administration including school law/special education law.  
 (3) to (8) No change.

**ARC 8830B****EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments update language in the requirements for the director of special education and delete the word “teaching” from the support option in order to allow professional service experience.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

ITEM 1. Amend subrule 18.11(2) as follows:

**18.11(2) Program requirements.**

- a. No change.
- b. *Endorsement.* An applicant must hold or meet the requirements for one of the following:
- (1) PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
  - (2) Supervisor of special education—instructional (see rule 282—15.5(272));
  - (3) ~~Supervisor of special education—support~~ Professional service administrator (see ~~rule 282—15.8(272)~~ 282—subrule 27.3(5)); or
  - (4) A letter of authorization for special education supervisor issued prior to October 1, 1988.
- c. to e. No change.

ITEM 2. Amend subrule 18.11(3) as follows:

**18.11(3) Other.**

- a. No change.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*b. Option 2: Support.* An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of teaching experience as a:

- (1) School audiologist;
- (2) School psychologist;
- (3) School social worker; or
- (4) Speech-language pathologist.

**ARC 8829B****EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The proposed amendment adds course work in school law/special education law to bring the requirements for supervisor of special education closer to the requirements for the PK-12 principal. This addition ensures similar preparation for individuals moving from support services to supervisor of special education and, eventually, to director of special education. In addition, the title of supervisor of special education (support) is changed to professional service administrator.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 27.3(5) as follows:

**27.3(5) ~~Supervisor of special education (support)~~ Professional service administrator.**

*a. Authorization.* The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding a statement of professional recognition is not eligible for the ~~supervisor of special education (support)~~ professional service administrator endorsement.

*b. Program requirements.*

- (1) No change.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (2) Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:
1. No change.
  2. Current issues in special education administration including school law/special education law.
  3. to 8. No change.
  - c. No change.

**ARC 8831B****EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The proposed amendment updates language in the director of special education (AEA) requirements and deletes the word “teaching” from the support option in order to allow professional service experience.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, June 23, 2010, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147; or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 25, 2010. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 27.3(6) as follows:

**27.3(6) Director of special education of an area education agency.**

- a. No change.
- b. *Program requirements.*
  - (1) No change.
  - (2) Endorsement. An applicant must hold or meet the requirements for one of the following:
    1. PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
    2. Supervisor of special education—instructional (see rule 282—15.5(272));
    3. ~~Supervisor of special education—support~~ Professional service administrator (see ~~rule 282—15.8(272)~~ subrule 27.3(5)); or
    4. A letter of authorization for special education supervisor issued prior to October 1, 1988.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (3) to (5) No change.
- c. *Other.*
- (1) No change.
- (2) Option 2: Support. An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of ~~teaching~~ experience as a:
1. School audiologist;
  2. School psychologist;
  3. School social worker; or
  4. Speech-language pathologist.

**ARC 8827B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The purpose of the proposed amendments is to implement 2010 Iowa Acts, Senate File 2354, concerning permitted and prohibited campaign activities by certain organizations. 2010 Iowa Acts, Senate File 2354, section 6, requires the adoption of administrative rules to implement the legislation.

The proposed amendments do not contain a waiver provision. Some of the rules include waiver provisions. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendments on or before June 22, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

The proposed amendments were also Adopted and Filed Emergency and are published herein as **ARC 8826B**. The proposed amendments were required to be both Adopted and Filed Emergency and published under Notice of Intended Action by 2010 Iowa Acts, Senate File 2354, section 6, and are incorporated by reference herein.

These amendments are intended to implement Iowa Code sections 68A.402A and 68A.402B and 2009 Iowa Code Supplement sections 68A.404, 68A.405, and 68A.503 as amended by 2010 Iowa Acts, Senate File 2354; and 2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2195.

**ARC 8795B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendments reflect the statutory requirements that by January 1, 2012, almost all campaign disclosure statements and reports be filed electronically through the Board’s Web site and also resolve conflicts with current Board rules.

The proposed amendments do not contain a waiver provision as the methods of filing campaign statements and reports are set out by statute.

Any interested person may make written comments on the proposed amendments on or before June 22, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code section 68A.201 as amended by 2010 Iowa Acts, Senate File 2128, section 1; Iowa Code section 68A.401 as amended by 2010 Iowa Acts, Senate File 2128, section 3; and Iowa Code sections 68A.402 and 68A.402B.

The following amendments are proposed.

ITEM 1. Rescind subrule 4.1(2) and adopt the following **new** subrule in lieu thereof:

**4.1(2) Place of filing.** Statements of organization mandated by statute to be filed electronically with the board shall be filed through the board’s Web site at [www.iowagov/ethics](http://www.iowagov/ethics). A statement of organization not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.

ITEM 2. Rescind subrule 4.8(1) and adopt the following **new** subrule in lieu thereof:

**4.8(1) Place of filing.** Disclosure reports mandated by statute to be filed electronically with the board shall be filed through the board’s Web site at [www.iowagov/ethics](http://www.iowagov/ethics). A disclosure report not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.

ITEM 3. Amend subrule 4.13(2) as follows:

**4.13(2) Computer-generated reports.** Committees that are not mandated by statute to file disclosure reports electronically may generate a disclosure report in lieu of using a board-approved paper report or the board’s electronic filing system so long as the generated report contains the same information and is in the same basic format as a board-approved paper report. Committees generating their own reports must submit the reports for prior board approval before use. A committee failing to submit a generated report that contains the same information and is in the same basic format as a board-approved paper report shall be required by the board’s staff to file an amended report, and the committee may be subject to board sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B).

ITEM 4. Amend subrule 4.13(3) as follows:

**4.13(3) Typewritten or legible ink reports required.** Information ~~which is~~ provided on all forms, statements, and reports that are required to be filed under Iowa Code chapter 68A or the board’s rules in 351—Chapter 4 and that are not mandated by statute to be filed electronically shall be either typewritten or printed legibly in black ink. Approved computer-generated ~~reports~~ documents satisfy this requirement.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

If the board deems that a form, statement, or report is not legible or is otherwise not in compliance with rule 351—4.13(68A,68B), the person shall be required to file an amended form, statement, or report and the person may be subject to board sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B).

ITEM 5. Rescind subrule 4.55(2) and adopt the following **new** subrule in lieu thereof:

**4.55(2) Place of filing.** Statements of dissolution mandated by statute to be filed electronically with the board shall be filed through the board's Web site at [www.iowagov/ethics](http://www.iowagov/ethics). A statement of dissolution not mandated by statute to be filed electronically may be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment.

**ARC 8793B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

Iowa Code section 68B.2B prohibits a state official or employee from receiving compensation simultaneously from more than one executive branch agency unless the official or employee provides notice to the Board within 20 business days of accepting employment with the second state agency. Pursuant to Iowa Code section 68B.2B(2), the Board is directed to adopt rules to administer the statute. The proposed amendment implements the reporting form by which a state official or employee who is subject to the statute shall provide notice to the Board.

The proposed amendment does not contain a waiver provision. The requirement to provide notice is mandated by statute.

Any interested person may make written comments on the proposed amendment on or before June 22, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.2B.

The following amendment is proposed.

Adopt the following **new** rule 351—6.6(68B):

**351—6.6(68B) Dual executive branch compensation prohibited.** Pursuant to Iowa Code section 68B.2B, an executive branch official or employee shall not receive compensation simultaneously from more than one executive branch agency unless the official or employee provides notice to the board within 20 business days of accepting employment with another executive branch agency.

**6.6(1) Definitions.** For purposes of Iowa Code section 68B.2B and this rule, the following definitions apply:

“*Executive branch agency*” means “agency of state government” or “state agency” as defined in Iowa Code section 68B.2(2). However, the “legislative branch” is not considered an “agency of state government” or “state agency” for purposes of Iowa Code section 68B.2B or this rule.

“*Employment with a second executive branch agency*” includes services provided as an independent contractor with another executive branch agency.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

**6.6(2) Exceptions.** The prohibitions in Iowa Code section 68B.2B and this rule do not apply to the following:

- a. Employment with any governmental entity other than simultaneous employment with two or more executive branch agencies.
- b. Service in the Iowa national guard.
- c. An official or employee who is interchanged from one executive branch agency to another executive branch agency pursuant to Iowa Code chapter 28D unless the official or employee is simultaneously receiving compensation from both the “receiving agency” and the “sending agency.”
- d. Serving on the board, commission, or authority of two or more executive branch agencies.

**6.6(3) Reporting form.** An official or employee of the executive branch who accepts simultaneous employment with another executive branch agency shall file Form Dual-Comp within 20 business days of accepting employment with the second executive branch agency. The form shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment. The failure to timely file Form Dual-Comp may subject the executive branch official or employee to board sanctions under Iowa Code chapter 68B and rule 351—9.4(68B).

**ARC 8794B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 6, “Executive Branch Ethics,” Iowa Administrative Code.

Pursuant to Iowa Code section 68B.3, officials and employees are prohibited from selling goods or services to state agencies when the sale exceeds \$2,000 unless the sale was made after public notice and was competitively bid. 2010 Iowa Acts, Senate File 2067, sections 2 and 3, amends the statute to require an official or employee making such a sale to file a report with the Board disclosing the sale. The proposed amendments reflect this new statutory requirement.

The proposed amendments do not contain a waiver provision as the requirement to file a report disclosing this type of sale is mandated by statute.

Any interested person may make written comments on the proposed amendments on or before June 22, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3.

The following amendments are proposed.

ITEM 1. Amend rule 351—6.10(68B), introductory paragraph, as follows:

**351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income.** Pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding and the official or employee making the sale files Form Public Bid with the board



## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

within 20 days of making the sale. This prohibition includes sales to the state agency in which the official or employee serves or is employed.

ITEM 2. Adopt the following **new** subrule 6.10(3):

**6.10(3) Filing of report.** An official or employee making a sale to a state agency pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, shall file Form Public Bid within 20 days of making the sale. The form shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment. The failure to timely file Form Public Bid with the board within 20 days of making the sale may subject the official or employee to board sanctions under Iowa Code chapter 68B and rule 351—9.4(68B).

ITEM 3. Amend rule **351—6.10(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3.

**ARC 8803B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 9, “Complaint, Investigation, and Resolution Procedures,” Iowa Administrative Code.

2010 Iowa Acts, Senate File 2067, section 5, directs the Board to adopt rules relating to situations in which a person provides false information to the Board during a Board investigation. The proposed amendment reflects that statutory directive.

The proposed amendment does not contain a waiver provision as the prohibition on providing false information to the Board during a Board investigation is mandated by statute.

Any interested person may make written comments on the proposed amendment on or before June 22, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement 2009 Iowa Code Supplement section 68B.32A as amended by 2010 Iowa Acts, Senate File 2067, section 5.

The following amendment is proposed.

Adopt the following **new** rule 351—9.7(68B):

**351—9.7(68B) Providing false information to the board during an investigation.** A person providing false information to the board during a board investigation of a potential violation of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, or rules adopted by the board may be subject to the complaint or administrative resolution process as provided under Iowa Code chapter 68B and rule 351—9.4(68B). For purposes of this rule, “providing false information” means the intentional providing of a false material statement of fact, falsely denying knowledge of a material fact, or providing a material statement of fact with a reckless disregard for the truth of the statement.

This rule is intended to implement 2009 Iowa Code Supplement section 68B.32A as amended by 2010 Iowa Acts, Senate File 2067, section 5.

**ARC 8832B****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.7, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

The proposed amendments revise Medicaid home- and community-based services (HCBS) waiver rules regarding the consumer choices option (CCO). Under this option, the cost of certain services that a member needs is rolled into an individual budget that the member manages with the help of an independent support broker. The member may hire providers that are not enrolled with Iowa Medicaid. Bills are paid through a participating financial institution rather than through the Iowa Medicaid Enterprise. CCO is offered under the AIDS/HIV, brain injury, elderly, intellectual disabilities (formerly mental retardation), ill and handicapped, and physical disability waivers.

The proposed amendments change waiver rules to conform to federal guidance on the allowable uses of waiver funds. The amendments:

- Clarify that services, supports, and items purchased with a CCO individual budget must be directly related to a personal goal or assessed need of the member as identified in the member’s service plan.
- Specify that respite services, specialized medical equipment, assistive devices, and supported employment services to obtain a job are not subject to a utilization factor in determining the amount of an individual budget.
- Establish criteria for the purchase of individual-directed goods and services and add a list of items that cannot be purchased using the individual budget. The list is not intended to be exhaustive.
- Provide that amounts budgeted for home and vehicle modifications or for specialized medical equipment or assistive devices shall not be used for anything other than the specific item or service and shall not include the costs of the financial management services or the independent support broker.
- Identify criteria for the development and use of a savings plan within the individual budget. The amendments provide that, except for respite services, savings from monthly amounts allocated to other waiver services that are not used may not be added to the savings plan, but shall revert to the Department at the end of each month. Likewise, unexpended funds remaining in the savings plan at the end of the calendar year shall revert to the Department.
- Clarify that the individual budget must be approved before purchases are made.
- Remove the ability of a member to hire a person with a criminal or abuse history to provide CCO services.
- Clarify the reimbursement rates that can be negotiated between a member and the member’s employees.

The proposed amendments also change the word “consumer” to “member” where applicable in the rules amended.

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

Any interested person may make written comments on the proposed amendments on or before June 30, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

The Department will also hold a public hearing for the purpose of receiving comments on these proposed amendments on Wednesday, June 30, 2010, from 10:30 a.m. till 12 noon at the Iowa Medicaid

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

Enterprise Building, 100 Army Post Road, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

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

The following amendments are proposed.

ITEM 1. Amend subrule 78.34(13) as follows:

**78.34(13) Consumer choices option.** The consumer choices option provides a ~~consumer~~ member with a flexible monthly individual budget that is based on the ~~consumer's~~ member's service needs. With the individual budget, the ~~consumer~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

*a. Agreement.* As a condition of participating in the consumer choices option, a ~~consumer~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

*b. Individual budget amount.* A monthly individual budget amount shall be ~~set~~ established for each ~~consumer~~. ~~The consumer's department service worker or case manager shall determine the amount of each consumer's individual budget, based~~ member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The ~~consumer~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer~~ member in the HCBS ill and handicapped waiver are:

1. to 5. No change.

(2) The department shall determine an average unit cost for each service ~~selected under~~ listed in subparagraph (4) 78.34(13) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.34(13) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.34(13) "b"(3).

(~~5~~) (6) Anticipated costs for home and vehicle modification are not subject to the average cost in subparagraph (2) 78.34(13) "b"(2) or the utilization adjustment factor in subparagraph (3) 78.34(13) "b"(3). Anticipated costs for home and vehicle modification shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification may be ~~released~~ paid to the financial management services provider in a one-time payment.

(~~6~~) (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS ill and handicapped waiver services provider.

(4) Before hiring the ~~individual~~ independent support broker, the ~~consumer~~ member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

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

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

*d. Optional service components.* A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's member's~~ home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's member's~~ service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.  
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

*e. Development of the individual budget.* The ~~individual independent~~ support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's member's~~ individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph ~~"d."~~ 78.34(13) "d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

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

- 13. Nutritional supplements.
- 14. Personal entertainment items.
- 15. Repairs and maintenance of motor vehicles.
- 16. Room and board, including rent or mortgage payments.
- 17. School tuition.
- 18. Service animals.
- 19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.34(13)"d." The savings plan shall meet the requirements in paragraph 78.34(13)"f."

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

- 1. The specific goods, services, supports or supplies to be purchased through the savings plan.
- 2. The amount of the individual budget allocated each month to the savings plan.
- 3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

- 1. Be used to meet a member's identified need,
- 2. Be medically necessary, and
- 3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The consumer member shall have authority over the individual budget authorized by the department to perform the following tasks:

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

- (1) Contract with entities to provide services and supports as described in this subrule.
- (2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).
- (3) Schedule the provision of services.
- (4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~
- (5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.
  - ~~g. h.~~ *Delegation of budget authority.* The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.
    - (1) The representative must be at least 18 years old.
    - (2) The representative shall not be a current provider of service to the ~~consumer~~ member.
    - (3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.
    - (4) The representative shall not be paid for this service.
  - ~~h. i.~~ *Employer authority.* The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:
    - (1) to (8) No change.
  - ~~i. j.~~ *Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.
  - ~~j. k.~~ *Responsibilities of the independent support broker.* The independent support broker shall perform the following services as directed by the member or the member's representative:
    - (1) Assist the ~~consumer~~ member with developing the ~~consumer's~~ member's initial and subsequent individual budgets and with making any changes to the individual budget.
    - (2) Have monthly contact with the ~~consumer~~ member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.
    - (3) Complete the required employment packet with the financial management service.
    - (4) Assist with interviewing potential employees and entities providing services and supports if requested by the ~~consumer~~ member.
    - (5) Assist the ~~consumer~~ member with determining whether a potential employee meets the qualifications necessary to perform the job.
    - (6) Assist the ~~consumer~~ member with obtaining a signed consent from a potential employee to conduct background checks if requested by the ~~consumer~~ member.
    - (7) Assist the ~~consumer~~ member with negotiating with entities providing services and supports if requested by the ~~consumer~~ member.
    - (8) Assist the ~~consumer~~ member with contracts and payment methods for services and supports if requested by the ~~consumer~~ member.
    - (9) Assist the ~~consumer~~ member with developing an emergency backup plan. The emergency backup plan shall also address any health and safety concerns.
    - (10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.
    - (11) Document in writing on the independent support broker timecard every contact the broker has with the ~~consumer~~ member. Contact documentation shall include information on the extent to which the ~~consumer's~~ member's individual budget has addressed the ~~consumer's~~ member's needs and the satisfaction of the ~~consumer~~ member.

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

*k.1. Responsibilities of the financial management service.* The financial management service shall perform all of the following services:

- (1) to (3) No change.
- (4) Provide real-time individual budget account balances for the consumer member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).
- (5) Conduct criminal background checks on potential employees, ~~if requested.~~
- (6) Verify for the consumer member an employee's citizenship or alien status.
- (7) Assist the consumer member with fiscal and payroll-related responsibilities. ~~—Key employer-related tasks include including, but not limited to:~~
  1. to 10. No change.
- ~~(8) Purchase from the individual budget workers' compensation or other forms of insurance, as applicable or if requested by the consumer.~~
- (9) (8) Assist the consumer member in completing required federal, state, and local tax and insurance forms.
- (10) (9) Establish and manage documents and files for the consumer member and the consumer's member's employees.
- (11) (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each consumer member for a total of five years.
- (12) (11) Provide ~~monthly and quarterly status reports for~~ to the department, the independent support broker, and the consumer member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- ~~(13) (12) Establish an accessible customer service system and a method of communication for the consumer member and the individual independent support broker that includes alternative communication formats.~~
- (14) (13) Establish a customer services complaint reporting system.
- (15) (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (16) (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (17) (16) Provide to the department an annual independent audit of the financial management service.
- (18) (17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 2. Amend subrule 78.37(16) as follows:

**78.37(16) Consumer choices option.** The consumer choices option provides a consumer member with a flexible monthly individual budget that is based on the consumer's member's service needs. With the individual budget, the consumer member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

*a. Agreement.* As a condition of participating in the consumer choices option, a consumer member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the consumer member has been informed of the responsibilities and risks of electing the consumer choices option.

*b. Individual budget amount.* A monthly individual budget amount shall be set established for each consumer. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan.~~ The

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

~~consumer member~~ shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ in the HCBS elderly waiver are:

1. to 9. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(1)~~ 78.37(16)“b”(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's member's~~ service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.37(16)“b”(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.37(16)“b”(3).

~~(5)~~ (6) Anticipated costs for home and vehicle modification and assistive devices are not subject to the average cost in subparagraph ~~(2)~~ 78.37(16)“b”(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.37(16)“b”(3). Anticipated costs for home and vehicle modification and assistive devices shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications and assistive devices shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification and assistive devices may be released paid to the financial management services provider in a one-time payment.

~~(6)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer member~~ must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS elderly waiver services provider.

~~(1)~~ Before hiring the ~~individual independent~~ support broker, the ~~consumer member~~ shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2)~~ If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.

*d. Optional service components.* A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's member's~~ home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's member's~~ service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.



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

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

*e. Development of the individual budget.* ~~The individual~~ independent support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's~~ member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph "*d.*" ~~78.37(16)~~ "*d.*" Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification or assistive device. When authorized, the budget may include an amount allocated for a home or vehicle modification or assistive device. Before becoming part of the individual budget, all home and vehicle modifications and assistive devices shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or device.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services

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

as defined in paragraph 78.37(16)“d.” The savings plan shall meet the requirements in paragraph 78.37(16)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member’s identified service needs.

4. How the member’s assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member’s identified need,

2. Be medically necessary, and

3. Be approved by the member’s case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member’s needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

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~~h. i.~~ *Employer authority.* The ~~consumer member~~ shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer member~~ may perform the following functions:

(1) to (8) No change.

~~i. j.~~ *Employment agreement.* Any person employed by the ~~consumer member~~ to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer member~~ that outlines the employee's and ~~consumer's member's~~ responsibilities.

~~j. k.~~ *Responsibilities of the independent support broker.* The independent support broker shall perform the following services ~~specified in 78.34(13)"j."~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k. l.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services ~~specified in 78.34(13)"k."~~:

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

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

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.
6. Preparing and issuing employee payroll checks.
7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 3. Amend subrule 78.38(9) as follows:

**78.38(9) Consumer choices option.** The consumer choices option provides a ~~consumer member~~ member with a flexible monthly individual budget that is based on the ~~consumer's member's~~ member's service needs. With the individual budget, the ~~consumer member~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

a. *Agreement.* As a condition of participating in the consumer choices option, a ~~consumer member~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer member~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

b. *Individual budget amount.* A monthly individual budget amount shall be set established for each ~~consumer~~. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan.~~ The ~~consumer member~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ member in the HCBS AIDS/HIV waiver are:

1. to 4. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(+) 78.38(9) "b"(1)~~ based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's member's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

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(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.38(9) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.38(9) "b"(3).

~~(5)~~ (6) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer member~~ must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS AIDS/HIV waiver services provider.

(4) Before hiring the ~~individual independent~~ support broker, the ~~consumer member~~ shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

*d. Optional service components.* A ~~consumer member~~ who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's member's~~ home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's member's~~ service plan. ~~The item or service shall decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

*e. Development of the individual budget.* The ~~individual independent~~ support broker shall assist the ~~consumer member~~ in developing and implementing the ~~consumer's member's~~ individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph "~~d.~~" 78.38(9) "d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

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3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.38(9) "d." The savings plan shall meet the requirements in paragraph 78.38(9) "f."

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed

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

personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,
2. Be medically necessary, and
3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

*f. g. Budget authority.* The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

*g. h. Delegation of budget authority.* The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

*h. i. Employer authority.* The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

(1) to (8) No change.

*i. j. Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

*j. k. Responsibilities of the independent support broker.* The independent support broker shall perform the following services ~~specified in 78.34(13)“j.”~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

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

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

*k.l. Responsibilities of the financial management service.* The financial management service shall perform all of the following services specified in 78.34(13)“k.”:

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.

6. Preparing and issuing employee payroll checks.

7. Preparing and disbursing IRS Forms W-2 and W-3 annually.

8. Processing federal advance earned income tax credit for eligible employees.

9. Refunding over-collected FICA, when appropriate.

10. Refunding over-collected FUTA, when appropriate.

(8) Assist the member in completing required federal, state, and local tax and insurance forms.

(9) Establish and manage documents and files for the member and the member's employees.

(10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.

(11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.

(12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.

(13) Establish a customer services complaint reporting system.

(14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.

(15) Develop a business continuity plan in the case of emergencies and natural disasters.

(16) Provide to the department an annual independent audit of the financial management service.



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

(17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 4. Amend subrule 78.41(15) as follows:

**78.41(15) Consumer choices option.** The consumer choices option provides a ~~consumer~~ member with a flexible monthly individual budget that is based on the ~~consumer's~~ member's service needs. With the individual budget, the ~~consumer~~ member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.

*a. Agreement.* As a condition of participating in the consumer choices option, a ~~consumer~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the ~~consumer~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

*b. Individual budget amount.* A monthly individual budget amount shall be ~~set~~ established for each ~~consumer~~. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget,~~ member based on the assessed needs of the member and on the services and supports authorized in the ~~consumer's~~ member's service plan. The ~~consumer~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer~~ member in the HCBS ~~mental-retardation~~ intellectual disabilities waiver are:

1. to 8. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.41(15) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.41(15) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.41(15) "b"(3).

~~(5)~~ (6) Anticipated costs for home and vehicle modification and supported employment services to obtain a job are not subject to the average cost in subparagraph ~~(2)~~ 78.41(15) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.41(15) "b"(3). Anticipated costs for these services shall not include the costs of the financial management services or the independent support broker. Costs for home and vehicle modification and supported employment services to obtain a job may be ~~released~~ paid to the financial management services provider in a one-time payment. Before becoming part of the individual budget, all home and vehicle modifications and supported employment services to obtain a job shall be identified in the member's service plan and approved by the case manager or service worker.

~~(6)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid ~~HCBS mental-retardation waiver services~~ provider.

~~(4)~~ Before hiring the ~~individual~~ independent support broker, the ~~consumer~~ member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

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

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

*d. Optional service components.* A consumer member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the consumer's member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the consumer member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the consumer member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the consumer's member's service plan. The item or service shall decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community. meet the following requirements:

1. Promote opportunities for community living and inclusion.  
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

*e. Development of the individual budget.* The individual independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the consumer member as described in paragraph ~~"d."~~ 78.41(15)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

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

- 13. Nutritional supplements.
- 14. Personal entertainment items.
- 15. Repairs and maintenance of motor vehicles.
- 16. Room and board, including rent or mortgage payments.
- 17. School tuition.
- 18. Service animals.
- 19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification. When authorized, the budget may include an amount allocated for a home or vehicle modification. Before becoming part of the individual budget, all home and vehicle modifications shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.41(15)“d.” The savings plan shall meet the requirements in paragraph 78.41(15)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

- 1. The specific goods, services, supports or supplies to be purchased through the savings plan.
- 2. The amount of the individual budget allocated each month to the savings plan.
- 3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

- 1. Be used to meet a member's identified need,
- 2. Be medically necessary, and
- 3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The consumer member shall have authority over the individual budget authorized by the department to perform the following tasks:

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

- (1) Contract with entities to provide services and supports as described in this subrule.
- (2) Determine the amount to be paid for services ~~with the exception of the independent support broker and the financial management service.~~ Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).
- (3) Schedule the provision of services.
- (4) Authorize payment for ~~waiver goods and services~~ optional service components identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~
- (5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.
  - ~~g.~~ h. *Delegation of budget authority.* The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.
    - (1) The representative must be at least 18 years old.
    - (2) The representative shall not be a current provider of service to the ~~consumer~~ member.
    - (3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.
    - (4) The representative shall not be paid for this service.
  - ~~h.~~ i. *Employer authority.* The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:
    - (1) to (8) No change.
  - ~~i.~~ j. *Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.
  - ~~j.~~ k. *Responsibilities of the independent support broker.* The independent support broker shall perform the following services specified in 78.34(13) "j." as directed by the member or the member's representative:
    - (1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.
    - (2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.
    - (3) Complete the required employment packet with the financial management service.
    - (4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.
    - (5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.
    - (6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.
    - (7) Assist the member with negotiating with entities providing services and supports if requested by the member.
    - (8) Assist the member with contracts and payment methods for services and supports if requested by the member.
    - (9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.
    - (10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.
    - (11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

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

~~k.1.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services ~~specified in 78.34(13)“k.”:~~

- (1) Receive Medicaid funds in an electronic transfer.
- (2) Process and pay invoices for approved goods and services included in the individual budget.
- (3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.
- (4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).
- (5) Conduct criminal background checks on potential employees.
- (6) Verify for the member an employee’s citizenship or alien status.
- (7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:
  1. Verifying that hourly wages comply with federal and state labor rules.
  2. Collecting and processing timecards.
  3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.
  4. Computing and processing other withholdings, as applicable.
  5. Processing all judgments, garnishments, tax levies, or other withholding on an employee’s pay as may be required by federal, state, or local laws.
  6. Preparing and issuing employee payroll checks.
  7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
  8. Processing federal advance earned income tax credit for eligible employees.
  9. Refunding over-collected FICA, when appropriate.
  10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member’s employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state’s quality management strategy related to the financial management service.

ITEM 5. Amend subrule 78.43(15) as follows:

**78.43(15) Consumer choices option.** The consumer choices option provides a ~~consumer~~ member with a flexible monthly individual budget that is based on the ~~consumer’s~~ member’s service needs. With the individual budget, the ~~consumer~~ member shall have the authority to purchase goods and services to meet the member’s assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member’s assessed need or goal established in the member’s service plan. Components of this service are set forth below.

*a. Agreement.* As a condition of participating in the consumer choices option, a ~~consumer~~ member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk

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

Agreement, to document that the ~~consumer~~ member has been informed of the responsibilities and risks of electing the consumer choices option.

*b. Individual budget amount.* A monthly individual budget amount shall be ~~set~~ established for each ~~consumer~~. ~~The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, based~~ member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The ~~consumer~~ member shall be informed of the individual budget amount during the development of the service plan.

(1) Services that may be included in determining the individual budget amount for a ~~consumer~~ member in the HCBS brain injury waiver are:

1. to 9. No change.

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.43(15) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan before calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.43(15) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.43(15) "b"(3).

~~(5)~~ (6) Anticipated costs for home and vehicle modification, specialized medical equipment, and supported employment services to obtain a job are not subject to the average cost in subparagraph (2) 78.43(15) "b"(2) or the utilization adjustment factor in subparagraph (3) 78.43(15) "b"(3). Anticipated costs for these services shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications, specialized medical equipment, and supported employment services to obtain a job shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification these services may be released paid to the financial management services provider in a one-time payment.

~~(6)~~ (7) The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS brain injury waiver services provider.

(1) Before hiring the ~~individual independent~~ support broker, the ~~consumer~~ member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2) If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer assumes the risk for this action and shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.~~

*d. Optional service components.* A ~~consumer~~ member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's~~ member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer~~ member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer~~ member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

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

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the consumer's member's service plan. The item or service shall ~~decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community.~~ meet the following requirements:

1. Promote opportunities for community living and inclusion.
2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.
3. Be accommodated within the member's budget without compromising the member's health and safety.
4. Be provided to the member or directed exclusively toward the benefit of the member.
5. Be the least costly to meet the member's needs.
6. Not be available through another source.

*e. Development of the individual budget.* ~~The individual independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget.~~ The individual budget shall include:

- (1) The costs of the financial management service.
- (2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the ~~consumer member~~ as described in paragraph ~~"d."~~ 78.43(15)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.
2. Clothing not related to an assessed medical need.
3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.
4. Costs associated with shipping items to the member.
5. Experimental and non-FDA-approved medications, therapies, or treatments.
6. Goods or services covered by other Medicaid programs.
7. Home furnishings.
8. Home repairs or home maintenance.
9. Homeopathic treatments.
10. Insurance premiums or copayments.
11. Items purchased on installment payments.
12. Motorized vehicles.
13. Nutritional supplements.
14. Personal entertainment items.
15. Repairs and maintenance of motor vehicles.
16. Room and board, including rent or mortgage payments.
17. School tuition.
18. Service animals.
19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.
20. Sheltered workshop services.
21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.
22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

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

(4) The costs of any approved home or vehicle modification or specialized medical equipment. When authorized, the budget may include an amount allocated for a home or vehicle modification or specialized medical equipment. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or equipment.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.43(15)“d.” The savings plan shall meet the requirements in paragraph 78.43(15)“f.”

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,

2. Be medically necessary, and

3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The consumer member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services with the exception of the independent support broker and the financial management service. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for waiver goods and services optional service components identified in the individual budget. Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.



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

~~g.~~ *h. Delegation of budget authority.* The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

- (1) The representative must be at least 18 years old.
- (2) The representative shall not be a current provider of service to the ~~consumer~~ member.
- (3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.
- (4) The representative shall not be paid for this service.

~~h.~~ *i. Employer authority.* The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

- (1) to (8) No change.

~~i.~~ *j. Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

~~j.~~ *k. Responsibilities of the independent support broker.* The independent support broker shall perform the following services specified in 78.34(13) "~~j.~~" as directed by the member or the member's representative:

- (1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.
- (2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.
- (3) Complete the required employment packet with the financial management service.
- (4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.
- (5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.
- (6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.
- (7) Assist the member with negotiating with entities providing services and supports if requested by the member.
- (8) Assist the member with contracts and payment methods for services and supports if requested by the member.
- (9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.
- (10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.
- (11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k.~~ *l. Responsibilities of the financial management service.* The financial management service shall perform all of the following services specified in 78.34(13) "~~k.~~":

- (1) Receive Medicaid funds in an electronic transfer.
- (2) Process and pay invoices for approved goods and services included in the individual budget.
- (3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.
- (4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).
- (5) Conduct criminal background checks on potential employees.
- (6) Verify for the member an employee's citizenship or alien status.
- (7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

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

1. Verifying that hourly wages comply with federal and state labor rules.
2. Collecting and processing timecards.
3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.
4. Computing and processing other withholdings, as applicable.
5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.
6. Preparing and issuing employee payroll checks.
7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.

ITEM 6. Amend subrule 78.46(6) as follows:

**78.46(6) *Consumer choices option.*** ~~The consumer choices option provides a consumer member with a flexible monthly individual budget that is based on the consumer's member's service needs. With the individual budget, the consumer member shall have the authority to purchase goods and services to meet the member's assessed needs and may choose to employ providers of services and supports. The services, supports, and items that are purchased with an individual budget must be directly related to a member's assessed need or goal established in the member's service plan. Components of this service are set forth below.~~

*a. Agreement.* ~~As a condition of participating in the consumer choices option, a consumer member shall sign Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement, to document that the consumer member has been informed of the responsibilities and risks of electing the consumer choices option.~~

*b. Individual budget amount.* ~~A monthly individual budget amount shall be set established for each consumer. The consumer's department service worker or Medicaid targeted case manager shall determine the amount of each consumer's individual budget, member based on the assessed needs of the member and on the services and supports authorized in the consumer's member's service plan. The consumer member shall be informed of the individual budget amount during the development of the service plan.~~

(1) Services that may be included in determining the individual budget amount for a ~~consumer member~~ in the HCBS physical disability waiver are:

1. to 4. No change.

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

(2) The department shall determine an average unit cost for each service listed in subparagraph ~~(4)~~ 78.46(6) "b"(1) based on actual unit costs from the previous fiscal year plus a cost-of-living adjustment.

(3) In aggregate, costs for individual budget services shall not exceed the current costs of waiver program services. In order to maintain cost neutrality, the department shall apply a utilization adjustment factor to the amount of service authorized in the ~~consumer's~~ member's service plan ~~when before~~ calculating the value of that service to be included in the individual budget amount.

(4) No change.

(5) Individual budgets for respite services shall be computed based on the average cost for services identified in subparagraph 78.46(6) "b"(2). Respite services are not subject to the utilization adjustment factor in subparagraph 78.46(6) "b"(3).

~~(5) (6)~~ Anticipated costs for home and vehicle modification and specialized medical equipment are not subject to the average cost in subparagraph ~~(2)~~ 78.46(6) "b"(2) or the utilization adjustment factor in subparagraph ~~(3)~~ 78.46(6) "b"(3). Anticipated costs for home and vehicle modification and specialized medical equipment shall not include the costs of the financial management services or the independent support broker. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. Costs for home and vehicle modification and specialized medical equipment may be released paid to the financial management services provider in a one-time payment.

~~(6) (7)~~ The individual budget amount may be changed only at the first of the month and shall remain fixed for the entire month.

*c. Required service components.* To participate in the consumer choices option, a ~~consumer member~~ member must hire an independent support broker and must work with a financial management service that is enrolled as a Medicaid HCBS ~~physical disability waiver services~~ provider.

~~(4)~~ Before hiring the individual independent support broker, the consumer member shall receive the results of the background check conducted pursuant to 441—subrule 77.30(14).

~~(2)~~ If the consumer chooses to hire a person who has a criminal record or founded abuse report, the consumer shall acknowledge this information on Form 470-4289, HCBS Consumer Choices Informed Consent and Risk Agreement.

*d. Optional service components.* A ~~consumer member~~ member who elects the consumer choices option may purchase the following goods, services and supports, which shall be provided in the ~~consumer's~~ member's home or at an integrated community setting:

(1) Self-directed personal care services. Self-directed personal care services are services or goods that provide a range of assistance in activities of daily living and incidental activities of daily living that help the ~~consumer member~~ member remain in the home and community. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(2) Self-directed community supports and employment. Self-directed community supports and employment are services that support the ~~consumer member~~ member in developing and maintaining independence and community integration. These services must be identified in the member's service plan developed by the member's case manager or service worker.

(3) Individual-directed goods and services. Individual-directed goods and services are services, equipment, or supplies not otherwise provided through the Medicaid program that address a an assessed need or goal identified in the ~~consumer's~~ member's service plan. The item or service shall decrease the consumer's need for other Medicaid services, promote the consumer's inclusion in the community, or increase the consumer's safety in the community. meet the following requirements:

1. Promote opportunities for community living and inclusion.

2. Increase independence or substitute for human assistance, to the extent the expenditures would otherwise be made for that human assistance.

3. Be accommodated within the member's budget without compromising the member's health and safety.

4. Be provided to the member or directed exclusively toward the benefit of the member.

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

5. Be the least costly to meet the member's needs.

6. Not be available through another source.

*e. Development of the individual budget.* The individual independent support broker shall assist the consumer member in developing and implementing the consumer's member's individual budget. The individual budget shall include:

(1) The costs of the financial management service.

(2) The costs of the independent support broker. The independent support broker may be compensated for up to 6 hours of service for assisting with the implementation of the initial individual budget. ~~After the initial implementation, the~~ The independent support broker shall not be paid for more than 20 30 hours of service for an individual member during a 12-month period without prior approval by the department.

(3) The costs of any ~~services and supports~~ optional service component chosen by the consumer member as described in paragraph ~~"d."~~ 78.46(6)"d." Costs of the following items and services shall not be covered by the individual budget:

1. Child care services.

2. Clothing not related to an assessed medical need.

3. Conference, meeting or similar venue expenses other than the costs of approved services the member needs while attending the conference, meeting or similar venue.

4. Costs associated with shipping items to the member.

5. Experimental and non-FDA-approved medications, therapies, or treatments.

6. Goods or services covered by other Medicaid programs.

7. Home furnishings.

8. Home repairs or home maintenance.

9. Homeopathic treatments.

10. Insurance premiums or copayments.

11. Items purchased on installment payments.

12. Motorized vehicles.

13. Nutritional supplements.

14. Personal entertainment items.

15. Repairs and maintenance of motor vehicles.

16. Room and board, including rent or mortgage payments.

17. School tuition.

18. Service animals.

19. Services covered by third parties or services that are the responsibility of a non-Medicaid program.

20. Sheltered workshop services.

21. Social or recreational purchases not related to an assessed need or goal identified in the member's service plan.

22. Vacation expenses, other than the costs of approved services the member needs while on vacation.

(4) The costs of any approved home or vehicle modification or specialized medical equipment. When authorized, the budget may include an amount allocated for a home or vehicle modification or specialized medical equipment. Before becoming part of the individual budget, all home and vehicle modifications and specialized medical equipment shall be identified in the member's service plan and approved by the case manager or service worker. The authorized amount shall not be used for anything other than the specific modification or equipment.

(5) Any amount set aside in a savings plan to reserve funds for the future purchase of self-directed personal care, individual-directed goods and services, or self-directed community supports and services as defined in paragraph 78.46(6)"d." The savings plan shall meet the requirements in paragraph 78.46(6)"f."

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

f. Savings plan. A member savings plan must be in writing and be approved by the department before the start of the savings plan. Amounts allocated to the savings plan must result from efficiencies in meeting identified needs of the member.

(1) The savings plan shall identify:

1. The specific goods, services, supports or supplies to be purchased through the savings plan.

2. The amount of the individual budget allocated each month to the savings plan.

3. The amount of the individual budget allocated each month to meet the member's identified service needs.

4. How the member's assessed needs will continue to be met through the individual budget when funds are placed in savings.

(2) With the exception of funds allocated for respite care, the savings plan shall not include funds budgeted for direct services that were not received. The budgeted amount associated with unused direct services other than respite care shall revert to the Medicaid program at the end of each month. Funds from unused respite services may be allocated to the savings plan but shall not be used for anything other than future respite care.

(3) Funds accumulated under a savings plan shall be used only to purchase items that increase independence or substitute for human assistance to the extent that expenditures would otherwise be made for human assistance, including additional goods, supports, services or supplies. The self-directed personal care, individual-directed goods and services, or self-directed community supports and services purchased with funds from a savings plan must:

1. Be used to meet a member's identified need,

2. Be medically necessary, and

3. Be approved by the member's case manager or service worker.

(4) All funds allocated to a savings plan that are not expended by December 31 of each year shall revert to the Medicaid program.

(5) The annual reassessment of a member's needs must take into account the purchases of goods and services that substitute for human assistance. Adjustments shall be made to the services used to determine the individual budget based on the reassessment.

f. g. Budget authority. The ~~consumer~~ member shall have authority over the individual budget authorized by the department to perform the following tasks:

(1) Contract with entities to provide services and supports as described in this subrule.

(2) Determine the amount to be paid for services with the exception of the independent support broker and the financial management service. Reimbursement rates shall be consistent with rates paid by others in the community for the same or substantially similar services. Reimbursement rates for the independent support broker and the financial management service are subject to the limits in 441—subrule 79.1(2).

(3) Schedule the provision of services.

(4) Authorize payment for ~~waiver goods and services optional service components~~ identified in the individual budget. ~~Consumers shall not use the individual budget to purchase room and board, sheltered workshop services, child care, or personal entertainment items.~~

(5) Reallocate funds among services included in the budget. Every purchase of a good or service must be identified and approved in the individual budget before the purchase is made.

g. h. Delegation of budget authority. The ~~consumer~~ member may delegate responsibility for the individual budget to a representative in addition to the independent support broker.

(1) The representative must be at least 18 years old.

(2) The representative shall not be a current provider of service to the ~~consumer~~ member.

(3) The ~~consumer~~ member shall sign a consent form that designates who the ~~consumer~~ member has chosen as a representative and what responsibilities the representative shall have.

(4) The representative shall not be paid for this service.

h. i. Employer authority. The ~~consumer~~ member shall have the authority to be the common-law employer of employees providing services and support under the consumer choices option. A

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

common-law employer has the right to direct and control the performance of the services. The ~~consumer~~ member may perform the following functions:

(1) to (8) No change.

~~i. j.~~ *Employment agreement.* Any person employed by the ~~consumer~~ member to provide services under the consumer choices option shall sign an employment agreement with the ~~consumer~~ member that outlines the employee's and ~~consumer's~~ member's responsibilities.

~~j. k.~~ *Responsibilities of the independent support broker.* The independent support broker shall perform the following services ~~specified in 78.34(13)"j."~~ as directed by the member or the member's representative:

(1) Assist the member with developing the member's initial and subsequent individual budgets and with making any changes to the individual budget.

(2) Have monthly contact with the member for the first four months of implementation of the initial individual budget and have quarterly contact thereafter.

(3) Complete the required employment packet with the financial management service.

(4) Assist with interviewing potential employees and entities providing services and supports if requested by the member.

(5) Assist the member with determining whether a potential employee meets the qualifications necessary to perform the job.

(6) Assist the member with obtaining a signed consent from a potential employee to conduct background checks if requested by the member.

(7) Assist the member with negotiating with entities providing services and supports if requested by the member.

(8) Assist the member with contracts and payment methods for services and supports if requested by the member.

(9) Assist the member with developing an emergency backup plan. The emergency backup plan shall address any health and safety concerns.

(10) Review expenditure reports from the financial management service to ensure that services and supports in the individual budget are being provided.

(11) Document in writing on the independent support broker timecard every contact the broker has with the member. Contact documentation shall include information on the extent to which the member's individual budget has addressed the member's needs and the satisfaction of the member.

~~k. l.~~ *Responsibilities of the financial management service.* The financial management service shall perform all of the following services ~~specified in 78.34(13)"k."~~ :

(1) Receive Medicaid funds in an electronic transfer.

(2) Process and pay invoices for approved goods and services included in the individual budget.

(3) Enter the individual budget into the Web-based tracking system chosen by the department and enter expenditures as they are paid.

(4) Provide real-time individual budget account balances for the member, the independent support broker, and the department, available at a minimum during normal business hours (9 a.m. to 5 p.m., Monday through Friday).

(5) Conduct criminal background checks on potential employees.

(6) Verify for the member an employee's citizenship or alien status.

(7) Assist the member with fiscal and payroll-related responsibilities including, but not limited to:

1. Verifying that hourly wages comply with federal and state labor rules.

2. Collecting and processing timecards.

3. Withholding, filing, and paying federal, state and local income taxes, Medicare and Social Security (FICA) taxes, and federal (FUTA) and state (SUTA) unemployment and disability insurance taxes, as applicable.

4. Computing and processing other withholdings, as applicable.

5. Processing all judgments, garnishments, tax levies, or other withholding on an employee's pay as may be required by federal, state, or local laws.

6. Preparing and issuing employee payroll checks.

HUMAN SERVICES DEPARTMENT[441](cont'd)

7. Preparing and disbursing IRS Forms W-2 and W-3 annually.
8. Processing federal advance earned income tax credit for eligible employees.
9. Refunding over-collected FICA, when appropriate.
10. Refunding over-collected FUTA, when appropriate.
- (8) Assist the member in completing required federal, state, and local tax and insurance forms.
- (9) Establish and manage documents and files for the member and the member's employees.
- (10) Monitor timecards, receipts, and invoices to ensure that they are consistent with the individual budget. Keep records of all timecards and invoices for each member for a total of five years.
- (11) Provide to the department, the independent support broker, and the member monthly and quarterly status reports that include a summary of expenditures paid and amount of budget unused.
- (12) Establish an accessible customer service system and a method of communication for the member and the independent support broker that includes alternative communication formats.
- (13) Establish a customer services complaint reporting system.
- (14) Develop a policy and procedures manual that is current with state and federal regulations and update as necessary.
- (15) Develop a business continuity plan in the case of emergencies and natural disasters.
- (16) Provide to the department an annual independent audit of the financial management service.
- (17) Assist in implementing the state's quality management strategy related to the financial management service.

**ARC 8790B**

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

### **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 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby proposes to amend Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The purpose of the proposed amendments is to facilitate the construction and rehabilitation of workforce and affordable multifamily housing by establishing a mechanism for loaning funds to cities and counties to reloan for housing development purposes.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority's general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on June 22, 2010. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

The amendments were also Adopted and Filed Emergency and are published herein as **ARC 8789B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 16.1(1)“ad”(18), 16.3, 16.5(1), and 16.5C.

**ARC 8818B****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 91C.6, the Labor Commissioner hereby proposes to amend Chapter 150, “Construction Contractor Registration,” Iowa Administrative Code.

These amendments update rules to reflect legislation in 2010 Iowa Acts, House File 2522, sections 26 to 28, that will change the bonding requirements for out-of-state construction contractors on July 1, 2010. These amendments rescind provisions that contradict House File 2522 and adopt new provisions that are consistent with House File 2522.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on June 22, 2010, a public hearing will be held on June 23, 2010, at 8:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than June 23, 2010, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8812B**. The content of that submission is incorporated by reference.

The principal reasons for adoption of these amendments are to implement legislative intent and enhance collection of debts owed to the state of Iowa. No variance procedures are included in these rules because variance provisions are set forth in 875—Chapter 1.

These amendments are intended to implement Iowa Code chapter 91C as amended by 2010 Iowa Acts, House File 2522, sections 26 to 28.

**ARC 8813B****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 section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, “General License Regulations,” Iowa Administrative Code.

In conformance with Iowa Code section 261.126, the proposed amendments extend the mechanism through which the Department may suspend, revoke or deny issuance or renewal of licenses of persons who owe the state money through the Iowa College Student Aid Commission.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 24, 2010. Such written materials should be directed to Tamara Mullen, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034;



## NATURAL RESOURCE COMMISSION[571](cont'd)

fax (515)281-7147; or E-mail [Tamara.Mullen@dnr.iowa.gov](mailto:Tamara.Mullen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Tamara Mullen at (515)281-8934 or visit the third floor office of the Wallace State Office Building.

These amendments are intended to implement Iowa Code section 261.126.

The following amendments are proposed.

ITEM 1. Amend rule **571—15.52(272D)**, definition of “Unit,” as follows:

“Unit” means the centralized collection unit of the department of revenue or the college student aid commission.

ITEM 2. Amend subrule 15.53(3), introductory paragraph, as follows:

**15.53(3) Notice of intent.** The department shall provide a notice of intent to a person of its intent to suspend, revoke or deny issuance or renewal of a license in accordance with Iowa Code chapter 272D or section 261.126 of the Iowa Code, whichever is appropriate. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall include all of the following:

ITEM 3. Amend rule 571—15.54(272D) as follows:

**571—15.54(272D) No administrative appeal of the department’s action.** Pursuant to Iowa Code ~~section~~ sections 261.126 and 272D.8, a person does not have a right to a hearing before the department to contest the department’s action under this rule but may request a court hearing pursuant to rule 571—15.55(272D).

ITEM 4. Amend **571—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 272D, 321G, 456A, 462A, 481A, 481B, 482, 483A, 484A, and 484B and Iowa Code section 261.126.

**ARC 8819B**

## 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 section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, “State Parks and Recreation Areas,” Iowa Administrative Code.

The proposed amendments:

1. Remove the Pine Lake multifamily cabin from the cabin rental fee list because the cabin will not be constructed; establish a new cabin rental fee for a new cabin being constructed at Union Grove State Park; and remove the extra cot fee as the Department does not provide cots anymore.

2. Remove the reference to the Pine Lake multifamily cabin regarding minimum stay requirements as the cabin will not be constructed.

3. Rescind the subrule regarding special events and adopt a new subrule regarding special event permits, which establishes procedures to obtain a permit, permit requirements and a nonrefundable administrative fee of \$25 to process a special event application.

4. Update the after-hours fishing area at Green Valley State Park.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 22, 2010. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building,

## NATURAL RESOURCE COMMISSION[571](cont'd)

Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to [Sherry.Arntzen@dnr.iowa.gov](mailto:Sherry.Arntzen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on June 22, 2010, at 2 p.m. in the Fourth Floor East Conference Room in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 461A.3, 461A.4, 461A.35, 461A.47, and 461A.57.

The following amendments are proposed.

ITEM 1. Amend the entry for Pine Lake State Park in paragraph **61.5(1)“a”** as follows:

	Per Night*	Per Week
Pine Lake State Park, Hardin County		
<del>Multifamily cabin</del>	200	1200
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450

ITEM 2. Adopt the following **new** entry for Union Grove State Park in paragraph **61.5(1)“a”**:

	Per Night*	Per Week
Union Grove State Park, Tama County	75	450

ITEM 3. Strike the following entry in paragraph **61.5(1)“a”**:

	Per Night*	Per Week
<del>Extra cots, where available</del>	1	

ITEM 4. Amend subparagraph **61.5(3)“b”(3)** as follows:

(3) The multifamily ~~cabins~~ cabin at ~~Pine Lake and Springbrook State Parks~~ Pine Lake State Park may be reserved for a minimum of two nights throughout the entire rental season with the following exceptions:

1. to 4. No change.

ITEM 5. Rescind subrule 61.7(16) and adopt the following **new** subrule in lieu thereof:

**61.7(16) Special event permits.** A permit issued by the department shall be required for any person or group that wishes to conduct a special event in any state park or recreation area.

*a. Permit conditions.* The department may impose special conditions not specifically covered herein for any special event if deemed necessary to protect the resource or ensure public safety. Special conditions will be included in the permit that the applicant or sponsoring organization receives if the application for the event is approved.

*b. Application procedures.* The following procedures shall be used when applying for a special event permit:

(1) The application shall be made on an electronic form which is accessed through the department's online centralized special event application system.

(2) The application shall be received electronically by the department via the online centralized special events application system.

(3) Applications shall be accepted beginning January 1 in a given year for requested event dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for the event.

## NATURAL RESOURCE COMMISSION[571](cont'd)

(4) The number of special events at any one state park or recreation area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing events.

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

(6) Permits are not transferable.

*c. Nonrefundable fees.* A nonrefundable administrative fee of \$25 shall be charged for processing each special event application. The administrative fee shall be waived for special event applications submitted by friends groups as defined in 571—14.1(461A).

*d. Insurance.* Applicants for special events shall provide proof of liability insurance naming the applicant and the department as an additional insured. Insurance information shall be available at the time the application is submitted. The insurance requirement shall be waived for friends groups as defined in 571—14.1(461A).

*e. Concessions.* If the state park or recreation area has a concessionaire on site, sales of food and other items shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide services during the event, the event sponsor may then bring in other concession operations as approved by the department.

*f. Friends groups.* Friends groups as defined in 571—14.1(461A) shall be exempt from the requirements in paragraphs 61.7(16)“c” and “d.”

*g. Exclusive use.* Issuance of a special event permit does not imply that the permittee has exclusive use of an area unless a facility has been reserved pursuant to 571—61.3(461A) and 571—61.6(461A).

*h. Other permits.* A person or group holding an event subject to a special event permit issued under this subrule and subject to a permit issued under Iowa Code section 321G.16, 462A.16, or 481A.22 shall be required to obtain only one permit which includes requirements and conditions set forth in this subrule, 571—Chapter 44, 571—Chapter 88 and Iowa Code section 481A.22.

ITEM 6. Rescind subrule 61.11(6) and adopt the following **new** subrule in lieu thereof:

**61.11(6) Green Valley State Park, Union County.** The shoreline adjacent to Green Valley Road commencing at the intersection of Green Valley Road and 130th Street and continuing south along the shoreline to the parking lot on the east side of the dam, and then west along the dam embankment to the shoreline adjacent to the parking lot on the west side of the spillway.

**ARC 8817B**

**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 section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 65, “Fireworks Displays—State Parks and Recreation Areas,” Iowa Administrative Code, and to adopt a new Chapter 65 with the same title.

The proposed amendment rescinds Chapter 65 and replaces it with a new version of the chapter. The chapter is restructured for organizational purposes to incorporate components of the new online centralized special event application process. The chapter also establishes a nonrefundable administrative fee to process the applications.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 22, 2010. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to

## NATURAL RESOURCE COMMISSION[571](cont'd)

[Sherry.Arntzen@dnr.iowa.gov](mailto:Sherry.Arntzen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on June 22, 2010, at 2 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any 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 to advise of specific needs.

This amendment is intended to implement Iowa Code sections 461A.42, 461A.47 and 461A.57.

The following amendment is proposed.

Rescind 571—Chapter 65 and adopt the following **new** chapter in lieu thereof:

CHAPTER 65  
FIREWORKS DISPLAYS—  
STATE PARKS AND RECREATION AREAS

**571—65.1(461A) Entities eligible for permits.** Permits 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 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—65.2(461A) Permit conditions.** The department of natural resources, hereinafter referred to as “the department,” may impose special conditions not specifically covered herein for any fireworks display special event as deemed necessary to protect the resource or ensure public safety. Special conditions will be included in the authorization letter that the applicant or sponsoring organization receives if the application for the event is approved.

**571—65.3(461A) Application procedures.** The following procedures shall be used when applying for a fireworks display special event permit:

**65.3(1)** The application shall be made on an electronic form accessed through the department’s online centralized special event application system.

**65.3(2)** The application shall be received electronically by the department via the online centralized special events application system.

**65.3(3)** Applications shall be accepted beginning January 1 in a given year for requested event dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for the event.

**65.3(4)** The number of special events at any one state park or recreation area during a given day may be restricted if deemed necessary to avoid congestion with the public or competing events.

**65.3(5)** The applicant shall certify in the application that the fireworks display will be conducted by a competent operator. The location of the display shall be determined by the department representative in charge of the area.

**65.3(6)** Submission of an application does not guarantee issuance of a permit by the department.

**571—65.4(461A) Fireworks display procedures.**

**65.4(1)** The sponsoring entity must 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.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**65.4(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 or persons.

**65.4(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.

**65.4(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.

**65.4(5)** The sponsoring entity is totally responsible for cleanup of the fireworks display site at the conclusion of the display.

**571—65.5(461A) Fees.** A nonrefundable administrative fee of \$25 shall be charged for processing each fireworks display special event application.

**571—65.6(461A) Insurance.** The sponsoring entity for a fireworks display special event 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. The insurance shall insure to the use and benefit of the department or any person who suffers damage either to person or property by reason of the display of fireworks covered by the permit.

**571—65.7(461A) Concessions.** If the state park or recreation area has a concessionaire on site, sales of food and other items shall be governed pursuant to 571—Chapter 14. If a 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 461A.42, 461A.47 and 461A.57.

**ARC 8814B****NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 461A.3, 461A.35, 461A.43, and 461A.57, the Natural Resource Commission hereby gives Notice of Intended Action to adopt new Chapter 68, “Restrictions on Alcohol Use at State Parks, State Recreation Areas, and Public Access Areas on the Iowa Great Lakes During the Fourth of July Holiday,” Iowa Administrative Code.

The proposed new chapter bans alcohol as that term is defined in this chapter at all state parks, state recreation areas, and public access beaches on the Iowa Great Lakes during every Fourth of July holiday period. The specific time frame for the ban depends upon the weekday on which the holiday falls. Beer and wine, as defined in this chapter, may still be consumed at the campgrounds, picnicking areas located outside the beach area, rental shelters and lodges during the period of the ban.

It is well-documented that excessive alcohol consumption at public access beaches is destroying the resource and presenting legitimate safety risks to the public and Department personnel. Documented incidences at beaches due to excessive alcohol consumption include assaults, unconsciousness, public intoxication, drunk driving, destruction of public property, littering, public urination, indecent exposure, minors in possession, noise, trespassing, and overcrowding. Over the Fourth of July holiday,

## NATURAL RESOURCE COMMISSION[571](cont'd)

conservation officers are typically outnumbered several hundred to one and are therefore unable to manage the crowds or protect the resource from harm. These same problems have already been addressed at the local level with an alcohol ban on all city beaches. Unfortunately, the city ban has exacerbated the problem at the state beaches because they are now the sole public waterfront area permitting alcohol.

Public comments shall be accepted through July 13, 2010. Written comments should be directed to Kevin Szcodronski, Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319; or E-mail [kevin.szcodronski@dnr.iowa.gov](mailto:kevin.szcodronski@dnr.iowa.gov). Persons who wish to convey their views orally before the public hearing may contact Kevin Szcodronski at (515)281-8674 or visit his office on the Fourth Floor of the Wallace State Office Building.

A public hearing will be held at Gull Point State Park Lodge, West Lake Okoboji, 1500 Harpen Street, Milford, Iowa, on July 13, 2010, beginning at 6:30 p.m. At the public hearing, persons may present their views either orally or in writing. Persons presenting comments at the hearing shall be asked to state their names and addresses for the record and to confine their remarks to the subject of the proposed chapter. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 461A.3, 461A.35, 461A.47, and 461A.57.

The following amendment is proposed.

Adopt the following **new** 571—Chapter 68:

CHAPTER 68  
RESTRICTIONS ON ALCOHOL USE AT STATE PARKS, STATE RECREATION AREAS,  
AND PUBLIC ACCESS AREAS ON THE IOWA GREAT LAKES  
DURING THE FOURTH OF JULY HOLIDAY

**571—68.1(455A,461A) Purpose.** The purpose of these rules is to ban alcoholic liquor, beer, and wine as each is defined in this chapter at state parks, state recreation areas, and public access beaches on the Iowa Great Lakes over the Fourth of July holiday to protect the resource from improper use, destruction, and littering and to ensure public and department personnel safety. This ban shall apply during the Fourth of July holiday as follows:

**68.1(1)** When the Fourth of July holiday is on a Tuesday, Wednesday, or Thursday, the ban shall be from the Friday before July 4 until the Sunday after.

**68.1(2)** When the Fourth of July holiday is on a Friday, Saturday, Sunday, or Monday, the ban shall be from the Thursday before July 4 through Monday.

**571—68.2(455A,461A) Definitions.**

*“Alcohol”* means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.

*“Alcoholic liquor”* means the varieties of liquor which contain more than 5 percent of alcohol by weight, beverages which contain more than 5 percent of alcohol by weight but which are not wine as defined in this rule, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the wine-making process containing more than 17 percent alcohol by weight or 21.25 percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes.

*“Beach”* or *“beach area”* means that portion of state parks, state recreation areas, and public access areas designated for swimming activity including the sand, a 200-foot buffer of land surrounding the sand or a designated area which is fenced in, and the water contiguous to the beach as marked by swim buoys or swim lines.

*“Beer”* means any liquor capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products

## NATURAL RESOURCE COMMISSION[571](cont'd)

of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than 5 percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.

*“Department personnel”* means employees of the department of natural resources.

*“Wine”* means any beverage containing more than 5 percent alcohol by weight but not more than 17 percent of alcohol by weight or 21.25 percent of alcohol by volume obtained by the fermentation of the natural sugar contained in fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grains, cereals, molasses, or cactus.

**571—68.3(455A,461A) Applicability.**

**68.3(1) Scope of ban.** Alcoholic liquor, beer, and wine, as defined in this chapter, are banned on every Fourth of July holiday as identified in subrules 68.1(1) and 68.1(2) at the following state parks, state recreation areas, and public access beaches:

- a. Crandall Public Access Beach, Big Spirit Lake
- b. Orleans Public Access Beach, Big Spirit Lake
- c. Gull Point State Park, West Lake Okoboji
- d. Emerson Bay Recreation Area, West Lake Okoboji
- e. Pikes Point State Park, West Lake Okoboji
- f. Triboji Public Access Beach, West Lake Okoboji

**68.3(2) Other restrictions.** Beer and wine, as defined in this chapter, are not banned at the picnicking areas outside of the beach area, campgrounds, rental shelters, and lodges at the locations listed in subrule 68.3(1). Alcoholic liquor is prohibited in all locations listed in subrule 68.3(1). Keg beer is permitted at the picnicking areas outside of the beach area, campgrounds, rental shelters and lodges at the locations listed in subrule 68.3(1) only as authorized pursuant to 571—Chapter 63.

**571—68.4(455A,461A) Penalty.** Any person violating this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code sections 461A.3, 461A.35, 461A.47, and 461A.57.

**ARC 8776B**

## NATURAL RESOURCES DEPARTMENT[561]

### 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 558.69 as amended by 2010 Iowa Acts, House File 2437, the Department of Natural Resources hereby gives Notice of Intended Action to amend Chapter 9, “Groundwater Hazard Documentation,” Iowa Administrative Code.

The proposed amendment adopts by reference a revised Form 542-0960, “Groundwater Hazard Statement,” to incorporate changes to the private sewage disposal requirements contained in Iowa Code section 455B.172(11) and the groundwater hazard statement requirements contained in Iowa Code section 558.69. These changes were enacted by the Iowa Legislature in 2010 Iowa Acts, House File 2437.

A public hearing will be held on Thursday, June 24, 2010, at 1 p.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. Any interested person may make written suggestions or comments on the proposed amendment by submitting those comments on or before 4 p.m. on June 24, 2009. Written comments should be directed to Jon C. Tack, Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand Avenue,

NATURAL RESOURCES DEPARTMENT[561](cont'd)

Des Moines, Iowa 50319-0034; fax (515)281-8895; E-mail: [jon.tack@dnr.iowa.gov](mailto:jon.tack@dnr.iowa.gov). A copy of the proposed Groundwater Hazard Statement may be obtained by contacting Jon Tack.

This amendment is intended to implement Iowa Code section 558.69 as amended by 2010 Iowa Acts, House File 2437, section 6.

The following amendment is proposed.

Amend subrule 9.2(1) as follows:

**9.2(1)** The transferor or the transferor's agent or attorney shall sign department Form 542-0960, "Groundwater Hazard Statement," which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form, and that the information is correct. The department hereby adopts by reference Form 542-0960, "Groundwater Hazard Statement," as amended through ~~June 26, 2009~~ [insert the effective date of this amendment]. For all real estate transactions dated July 1, 2009, or later, a county recorder shall accept only the ~~amended and revised currently adopted form, as adopted by reference on April 1, 2009. Beginning September 1, 2009, a county recorder shall accept only the amended and revised form as amended through June 26, 2009, as adopted by reference. From July 1, 2009, through August 31, 2009, either of the above-referenced forms may be used.~~ The department authorizes the reproduction of Form 542-0960 by any person through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.

## ARC 8784B

### 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 147.53, the Professional Licensure Division hereby gives Notice of Intended Action to amend Chapter 4, "Board Administrative Processes," Iowa Administrative Code.

The proposed amendment revises the audit rule in Chapter 4. The current audit rule process is cumbersome and confusing to licensees. The proposed changes streamline the current audit process while providing reasonable time frames for completion of continuing education.

Any interested person may make written comments on the proposed amendment no later than June 22, 2010, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; or by E-mail to [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 22, 2010, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. It is requested that, if possible, oral presentations also be shared in writing; however, this is not required. 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.

This amendment is intended to implement Iowa Code chapter 272C.

The following amendment is proposed.

Rescind rule 645—4.11(272C) and adopt the following new rule in lieu thereof:

**645—4.11(272C) Audit of continuing education.** The board may select licensees for audit following license renewal.

**4.11(1)** Licensees shall provide information to the board for auditing purposes as follows:



## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

*a.* The licensee shall provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor and licensee's name.

*b.* Information identified in paragraph 4.11(1) "a" must be submitted within 30 days after the date on the letter of notification of the audit. Extension of time may be granted on an individual basis.

**4.11(2)** For auditing purposes, all licensees must retain the information identified in paragraph 4.11(1) "a" for two years after the biennium has ended.

**4.11(3)** If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The license shall be re-audited following the next renewal period when make-up credit has been accepted.

**4.11(4)** Failure to notify the board of a current mailing address will not absolve the licensee from meeting the audit requirement.

**ARC 8782B****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 41, "Licensure of Chiropractic Physicians," Chapter 43, "Practice of Chiropractic Physicians," Chapter 44, "Continuing Education for Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

These amendments propose changes to remove a provision requiring that picture identification be submitted for licensure, clarify language regarding the final examination for acupuncture, make the conditions for independent study consistent with the other 19 professional boards in the Division of Professional Licensure by requiring a posttest, and remove the continuing education provision that requires OSHA training for licensure and licensure renewal. In addition, subrule 43.10(3) and paragraph 45.2(2) "g" are revised to make them consistent.

Any interested person may make written comments on the proposed amendments no later than June 22, 2010, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; or by E-mail to [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on June 22, 2010, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, 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 amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 151 and 272C.

The following amendments are proposed.

ITEM 1. Rescind paragraph **41.2(1) "g."**

ITEM 2. Reletter paragraph **41.2(1) "h"** as **41.2(1) "g."**

ITEM 3. Rescind rule 645—43.5(151) and adopt the following **new** rule in lieu thereof:

**645—43.5(151) Acupuncture.** A chiropractic physician who engages in the practice of acupuncture shall maintain documentation that shows the chiropractic physician has successfully completed a course in acupuncture consisting of at least 100 hours of traditional, in-person classroom instruction with the

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

instructor on site. The licensee shall maintain a transcript or certification of completion showing the licensee's name, school or course sponsor's name, date of course completion or graduation, grade or other evidence of successful completion, and number of course hours. The licensee shall provide the transcript or certification of completion to the board upon request.

ITEM 4. Amend subrule 43.10(3) as follows:

**43.10(3)** Retention of records. A chiropractic physician shall maintain a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

ITEM 5. Amend rule ~~645—44.1(151)~~, definition of "Independent study," as follows:

"*Independent study*" means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest ~~or~~ and certificate of completion.

ITEM 6. Amend subparagraph **44.3(2)"a"(4)** as follows:

(4) Classes on child abuse, and dependent adult abuse, ~~and OSHA training~~ that meet the criteria in subrule 44.3(1).

ITEM 7. Amend paragraph **45.2(2)"g"** as follows:

~~g. Failure to maintain for a minimum of six years from one of the following dates, as applicable, clinical and fiscal records in support of services rendered. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies~~ a patient's record(s) for a minimum of six years after the date of last examination or treatment. Records for minors shall be maintained for one year after the patient reaches the age of majority (18) or six years after the date of last examination or treatment, whichever is longer. Proper safeguards shall be maintained to ensure the safety of records from destructive elements. This provision includes both clinical and fiscal records.

~~(1) For an adult patient, the last office visit.~~

~~(2) Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) five years, whichever is longer.~~

**ARC 8775B**

**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.

This amendment proposes changes to allow electronic prescriptions to include the name of both the physician assistant and the supervising physician as required by the Iowa Code. Currently, some electronic systems have limited space in a field or define a field in a way that does not allow both names, which results in the inability of providers to file electronic prescriptions that comply with the law. These changes were requested by hospitals and providers who want to or are required to file electronic prescriptions that comply with the Iowa Code.

Any interested person may make written comments on the proposed amendment no later than June 22, 2010, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; or by E-mail to [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on June 22, 2010, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, 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.

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

The following amendment is proposed.

Amend subrule 327.6(1) as follows:

**327.6(1)** Each written ~~prescription~~ outpatient prescription drug order issued by a physician assistant shall contain the following:

*a. to c.* No change.

*d.* A supervising physician's name, ~~the physician assistant's name and the practice address 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.~~

*e.* The physician assistant's name and the practice address.

~~*f.*~~ *f.* The signature of the physician assistant followed by the initials "PA."

~~*g.*~~ *g.* The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

All other prescriptions shall comply with paragraph "d."

**ARC 8807B**

## REGENTS BOARD[681]

### 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 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

The proposed amendment revises rule 681—1.7(262) to increase the application fees for graduate domestic students at the University of Northern Iowa from \$30 to \$50; for graduate international students at the University of Northern Iowa from \$50 to \$70; and for students in Veterinary Medicine at Iowa State University from \$60 to \$75.

Any interested person may make written comments on this amendment on or before June 22, 2010, addressed to Andrea Anania, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or E-mail at [anania@iastate.edu](mailto:anania@iastate.edu).

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681 IAC 19.18(17A).

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is proposed.

Amend rule 681—1.7(262) as follows:

**681—1.7(262) Application fees.** Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

## REGENTS BOARD[681](cont'd)

## University of Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$60
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85
PharmD student	\$100
Re-entry fee	\$20

## Iowa State University

Undergraduate domestic student	\$30
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$70
Veterinary Medicine	<del>\$60</del> <u>\$75</u>

## University of Northern Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$50
Graduate domestic student	<del>\$30</del> <u>\$50</u>
Graduate international student	<del>\$50</del> <u>\$70</u>

This rule is intended to implement Iowa Code section 262.9(3).

**ARC 8780B**

**SECRETARY OF STATE[721]**

**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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These proposed amendments are necessary due to policy changes made to Iowa’s election laws by 2010 Iowa Acts, Senate File 2196, effective July 1, 2010. In addition, these amendments make several small technical updates to the rules, including correction of Iowa Code citations.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 22, 2010. Written suggestions or comments should be directed to Linda Langenberg, Deputy Secretary of State, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

SECRETARY OF STATE[721](cont'd)

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-5866 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by June 22, 2010.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8779B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 49 and 53 as amended by 2010 Iowa Acts, Senate File 2196, and chapter 99F.

**ARC 8778B**

## **SECRETARY OF STATE[721]**

### **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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary due to a technical change made to Iowa's election laws by 2010 Iowa Acts, Senate File 2194, section 31, effective March 10, 2010. In addition, these amendments add a new procedure for precinct election officials to follow when processing an election day registrant in precincts where an electronic program is not used to verify whether an election day registrant is a potential match to an individual listed on the statewide list of felons.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 22, 2010. Written suggestions or comments should be directed to Linda Langenberg, Deputy Secretary of State, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-5866 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by June 22, 2010.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8777B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code chapters 48A and 53 as amended by 2010 Iowa Acts, Senate File 2194.

## ARC 8823B

## EDUCATIONAL EXAMINERS BOARD[282]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

This amendment to subrule 11.4(5) changes when a copy of the complaint will be given to a respondent. This amendment is needed to comply with changes made in 2010 Iowa Acts, Senate File 2376.

In compliance with Iowa Code section 17A.4(3), the Board finds that notice and public participation are unnecessary because the Board is carrying out the requirements of legislation that became effective upon enactment on April 22, 2010.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on May 14, 2010, as the legislation took effect April 22, 2010, and it benefits the public to have the rules be consistent with statute.

The Board of Educational Examiners adopted this amendment on May 7, 2010.

This amendment is intended to implement Iowa Code chapter 272.

This amendment became effective on May 14, 2010.

The following amendment is adopted.

Amend subrule 11.4(5) as follows:

**11.4(5)** ~~*Form and content of the complaint notice to the respondent. Respondent entitled to copy of the complaint.*~~ Immediately upon the board's determination that jurisdictional requirements have been met, the respondent shall be provided a copy of the complaint or amended complaint and any supporting documents attached to the complaint at the time of filing.

~~*a. The complaint notice to the respondent shall be in writing.*~~

~~*b. The complaint notice to the respondent shall contain the following information:*~~

~~(1) The full name, address, and telephone number, if known, of the respondent.~~

~~(2) A concise statement of the facts which clearly and specifically apprises the respondent of the details of the alleged violation of the criteria of professional practices or the criteria of competent performance.~~

~~(3) An explanation of the facts underlying the complaint.~~

~~(4) A citation to the specific rule or law which the complainant alleges has been violated.~~

[Filed Emergency 5/14/10, effective 5/14/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

## ARC 8826B

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The purpose of these amendments is to implement 2010 Iowa Acts, Senate File 2354, concerning permitted and prohibited campaign activities by certain organizations. 2010 Iowa Acts, Senate File 2354, section 6, requires the adoption of administrative rules and provides that such rules may be adopted on an emergency basis pursuant to Iowa Code section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b."

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements during the 2010 election cycle.

The Board finds that adoption of these amendments confers a benefit on the public in that the amendments provide guidance on significant campaign disclosure regulations during the 2010 election cycle. 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.

The Board adopted these amendments on April 29, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 8827B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 68A.402A and 68A.402B and 2009 Iowa Code Supplement sections 68A.404, 68A.405, and 68A.503 as amended by 2010 Iowa Acts, Senate File 2354; and 2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2195.

These amendments became effective on May 17, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraph **4.1(1)“d”**:

*d. Independent expenditure committee.* A person that is required to file campaign disclosure reports pursuant to 2009 Iowa Code Supplement section 68A.404(3)“a” as amended by 2010 Iowa Acts, Senate File 2354, section 3, due to the filing of an independent expenditure statement (Form Ind-Exp-O) shall be referred to as an “independent expenditure committee.” An independent expenditure committee, or a sole individual making an independent expenditure by filing Form Ind-Exp-I, is not required to file a statement of organization.

ITEM 2. Amend subrule 4.7(1) as follows:

**4.7(1) Disclosure reporting required.** Every committee that has filed a statement of organization under Iowa Code section 68A.201 and rule 351—4.1(68A,68B), or has exceeded the financial activity threshold set out in Iowa Code section 68A.102(5) or (18) prior to the cutoff date for reporting campaign transactions, or has made an independent expenditure shall file a campaign disclosure report pursuant to Iowa Code section 68A.402. Form Ind-Exp-O shall serve as a campaign disclosure report for an independent expenditure committee. Form Ind-Exp-I shall serve as a campaign disclosure report for a sole individual making an independent expenditure.

ITEM 3. Adopt the following **new** subrule 4.9(15):

**4.9(15) Independent expenditure reporting.** An independent expenditure committee that is required to file campaign disclosure reports pursuant to 2009 Iowa Code Supplement section 68A.404(3) as amended by 2010 Iowa Acts, Senate File 2354, section 3, shall file an initial report at the same time as the committee files its original independent expenditure statement. The committee shall then continue to file reports according to the same schedule as the office or election to which the independent expenditure was directed until the committee files a notice of dissolution pursuant to Iowa Code section 68A.402B(3) as amended by 2010 Iowa Acts, Senate File 2354, section 2. Form Ind-Exp-O shall serve as a campaign disclosure report for an independent expenditure committee. Form Ind-Exp-I shall serve as a campaign disclosure report for a sole individual making an independent expenditure.

ITEM 4. Adopt the following **new** subrule 4.13(6):

**4.13(6) Independent expenditure disclosures.** An independent expenditure committee that is required to file campaign reports pursuant to 2009 Iowa Code Supplement section 68A.404(3) as amended by 2010 Iowa Acts, Senate File 2354, section 3, shall disclose campaign transaction information as required by Iowa Code section 68A.402A. However, the committee is required to disclose only those monetary receipts as provided in 2009 Iowa Code Supplement section 68A.404(3)“a”(2) as amended by 2010 Iowa Acts, Senate File 2354, section 3. Form Ind-Exp-O shall serve as a campaign disclosure report for an independent expenditure committee. Form Ind-Exp-I shall serve as a campaign disclosure report for a sole individual making an independent expenditure.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 5. Amend subrule 4.17(2) as follows:

**4.17(2) *Date of contribution—date received.*** ~~The schedule shall include the complete date (month/day/year) on which the in-kind contribution was physically received by a person on behalf of provided to the committee. The actual or fair market value of the in-kind contribution shall be reported regardless of whether or not the person providing the in-kind contribution has been billed for the costs.~~

ITEM 6. Amend subrule 4.21(2) as follows:

**4.21(2)** ~~A committee that participates in an election at the county, city, school, or other political subdivision level, or an independent expenditure committee, and that is required by Iowa Code Supplement section 68A.402 to file a disclosure report on or before January 19 of each year is not required to attach or submit a copy of the committee's bank statement unless requested to do so by the board. If such a committee is requested to file the bank statement, the committee shall comply with the requirements of rule 351—4.21(68A) provide the board with a copy of the bank statement within ten days of the request. A sole individual making an independent expenditure and filing Form Ind-Exp-I is not required to submit a bank statement under rule 351—4.21(68A) unless requested to do so by the board.~~

ITEM 7. Amend rule 351—4.27(68A) as follows:

**351—4.27(68A) Filing of independent expenditure statement.** Pursuant to 2009 Iowa Code Supplement section 68A.404 as amended by 2009 Iowa Acts, Senate File 49, section 5 2010 Iowa Acts, Senate File 2354, section 3, any person except a candidate, a registered committee filing a statement of organization, a federal committee, or an out-of-state committee that makes one or more independent expenditures in excess of \$100 ~~\$750~~ in the aggregate shall file ~~an independent expenditure statement~~ Form Ind-Exp-O. A sole individual making one or more independent expenditures in excess of \$750 in the aggregate shall file Form Ind-Exp-I. A committee that has registered by filing a statement of organization shall disclose an independent expenditure on the appropriate campaign disclosure report.

**4.27(1) *Independent expenditure defined.*** ~~“Independent expenditure” means an expenditure for a communication that expressly advocates the nomination, election, or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue when the expenditure is made without the prior approval of or coordination with a candidate, candidate's committee, or a ballot issue committee. “Independent expenditure” also means “independent expenditure” as defined in subrule 4.53(3) as defined in 2009 Iowa Code Supplement section 68A.404(1) as amended by 2010 Iowa Acts, Senate File 2354, section 3.~~

**4.27(2) *Independent expenditure statement reporting.*** ~~When applicable under 2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3, and rule 351—4.27(68A), Form Ind-Exp-O shall be filed by a person and Form Ind-Exp-I shall be filed by a sole individual. Both forms shall be in a format that will enable a person or sole individual making an independent expenditure to comply with all of the reporting requirements in 2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3. The following information shall be disclosed on the independent expenditure statement:~~

- ~~a.—The name, mailing address, and telephone number of the person that files the statement, including the name, mailing address, and telephone number of a contact person, if applicable.~~
- ~~b.—A description of the position that is advocated by the person that files the statement such as whether the communication was for a particular candidate or was against a particular candidate.~~
- ~~c.—The name and address of the committee that benefits from the expenditure.~~
- ~~d.—The dates on which the expenditure or expenditures took place.~~
- ~~e.—A description of the nature of the action taken that resulted in the expenditure or expenditures such as a newspaper advertisement, direct mailing, or brochure.~~
- ~~f.—The actual cost or fair market value of the expenditure or expenditures.~~

**4.27(3) *Place of filing.*** ~~An independent expenditure statement Form Ind-Exp-O and Form Ind-Exp-I shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, or~~



## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

by fax at (515)281-4073. The board shall immediately make the independent expenditure statement available for public viewing via the board's Web site at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) electronically via the board's Web site at [www.iowa.gov/ethics](http://www.iowa.gov/ethics).

~~4.27(4) Time of filing. An independent expenditure statement Form Ind-Exp-O or Form Ind-Exp-I shall be filed within 48 hours of the person's or sole individual's making of an independent expenditure exceeding \$100 or independent expenditures exceeding \$100 in the aggregate \$750 in the aggregate or within 48 hours of disseminating the communication to its intended audience, whichever is earlier. An independent expenditure is deemed made at the time that the cost is incurred regardless of whether or not the costs for the independent expenditure have been billed.~~

~~4.27(5) Failure to file. A person that fails to timely file an independent expenditure statement The failure to timely file either Form Ind-Exp-O or Form Ind-Exp-I shall be subject to the imposition of civil penalties pursuant to 351—subrule 4.59(7).~~

~~4.27(6) Attribution statement applicable. Any person that makes an independent expenditure in any amount shall comply with the appropriate "paid for by" attribution statement pursuant to 2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7, and rule 351—4.38(68A,68B).~~

~~4.27(7) Other filings not required. A person that properly files an independent expenditure statement shall not be required to file a statement of organization registering a committee or file public disclosure reports.~~

~~4.27(8) Campaign committees. A committee that makes an independent expenditure shall disclose the transaction on the committee's appropriate disclosure report and shall not file an independent expenditure statement.~~

This rule is intended to implement 2009 Iowa Code Supplement section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117 2010 Iowa Acts, Senate File 2354, section 3.

ITEM 8. Amend rule 351—4.28(68A) as follows:

**351—4.28(68A) Prohibition on contributions and independent expenditures by foreign nationals.** As provided in Federal Election Commission regulation 11 CFR 110.20, a foreign national shall not, directly or indirectly, make a monetary or in-kind contribution or expenditure of money or other thing of value, or specifically promise to make a contribution, in connection with a state or local campaign or election in Iowa. A foreign national shall not, directly or indirectly, make a contribution to a candidate or to a campaign committee organized under Iowa Code Supplement chapter 68A. Pursuant to 2009 Iowa Code Supplement section 68A.404(2) "c" as amended by 2010 Iowa Acts, Senate File 2354, section 3, ~~Foreign~~ foreign nationals are also prohibited from making independent expenditures in relation to any state or local campaign or election in Iowa.

~~4.28(1) Foreign national defined. "Foreign national" means a person who is not a citizen of the United States and who is not lawfully admitted for permanent residence. "Foreign national" also includes a "foreign principal," such as a government of a foreign country or a foreign political party, partnership, association, corporation, organization, or other combination of persons that has its primary place of business in or is organized under the laws of a foreign country. "Foreign national" shall not include any person who is a citizen of the United States or who is a national of the United States as defined in 2009 Iowa Code Supplement section 68A.404(2) "c" as amended by 2010 Iowa Acts, Senate File 2354, section 3.~~

~~4.28(2) Acceptance of campaign contributions and independent expenditures donations from foreign nationals. No person shall knowingly accept or receive any a campaign contribution from a foreign national with regard to such person's election-related activities. No person shall knowingly accept a monetary donation from a foreign national for purposes of making an independent expenditure.~~

~~4.28(3) Participation by foreign nationals in decisions involving election-related activity. A foreign national shall not, directly or indirectly, participate in the decision-making process of any person, including a corporation, labor organization, political committee, or political organization, with regard to such person's election-related activities. Decisions including election-related activities include~~

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

decisions involving the making of contributions, donations, or expenditures in connection with elections for state or local office, ballot issues, or decisions involving the administration of a ~~political~~ committee.

This rule is intended to implement 2009 Iowa Code Supplement chapter 68A section 68A.404(2) "c" as amended by 2010 Iowa Acts, Senate File 2354, section 3.

ITEM 9. Amend rule 351—4.38(68A), introductory paragraph, as follows:

**351—4.38(68A) Political attribution statement—contents.** Published material that expressly advocates ~~the election or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue~~ for or against a clearly identified candidate or ballot issue shall contain a statement identifying the person paying for the published material. This statement is referred to as the "attribution statement." The term "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, Internet Web site, television, video, or motion picture advertising, campaign sign larger than 32 square feet, or any other form of printed ~~general public~~ political advertising.

ITEM 10. Amend subrule 4.38(1) as follows:

**4.38(1) Registered committee.** If the person paying for the published material is a committee that has filed a statement of organization, the words "paid for by" and the name of the committee shall appear on the material. An "independent expenditure committee" is not a "registered committee."

ITEM 11. Adopt the following new subrule 4.38(6):

**4.38(6) Corporations.** If the person paying for the published material is a corporation, the words "paid for by", the name and address of the corporation, and the name and title of the corporation's chief executive officer shall appear on the material.

ITEM 12. Adopt the following new subrule 4.38(7):

**4.38(7) Independent expenditures.** A person, including a sole individual, making an independent expenditure shall provide the attribution statement according to the appropriate category under this rule. The attribution statement shall also include a statement that the published material was not authorized by any candidate, candidate's committee, or ballot issue committee.

ITEM 13. Amend rule ~~351—4.38(68A)~~, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 68A.405 as amended by 2004 Iowa Acts, House File 2319, section 4 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7.

ITEM 14. Amend rule 351—4.39(68A) as follows:

**351—4.39(68A) Specific items exempted from or subject to attribution statement requirement; multiple pages.** 2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7, and rule 351—4.38(68A) requires require the placement of a "paid for by" attribution statement on political advertising and political published material that expressly advocates for or against a clearly identified candidate or ballot issue, with certain exceptions.

**4.39(1) Items exempted from requirement.** The requirement to place a "paid for by" attribution statement does not apply to the following:

a. Editorials or news articles of a ~~newspaper or magazine~~ media organization that are not political advertisements.

b. Small items upon which the inclusion of the attribution statement would be impracticable, such as ~~yard~~ campaign signs 32 square feet or smaller that have been placed or posted on real property, bumper stickers, pins, buttons, pens, pencils, emery boards, matchbooks and, except as set out in subrule 4.39(2), items that are smaller than 2 inches by 4 inches. For purposes of this rule, 32 square feet is the total dimension of the campaign sign regardless of whether or not both sides of the sign are used for campaign advertising.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

~~c. T-shirts, caps, and other articles of clothing that expressly advocate for or against a candidate or ballot issue.~~

~~d. Means of communication such as television and radio that are subject to federal regulations regarding an attribution requirement~~ Radio advertisements, live telephone calls, or auto-generated telephone messages.

~~e. Political advertising or political~~ Published material placed by an individual who acts independently and spends \$100 or less of the individual's own ~~money~~ resources to expressly advocate the passage or defeat of a ballot issue.

~~For purposes of this subrule, "yard sign" means a political sign with a total dimension of 32 square feet or less, regardless of whether both sides of the sign are used, that has been placed or posted on real property.~~

**4.39(2) Items subject to requirement.** The requirement to place a "paid for by" attribution statement applies to the following:

~~a. Advertising~~ Published material such as ~~yard~~ campaign signs larger than 32 square feet that have been placed or posted on real property, billboards, posters, portable sign carriers, and signs affixed or painted to the side or top of a building or vehicle. A campaign sign placed on a building or vehicle shall contain the appropriate attribution statement regardless of the size of the sign.

~~b. Advertisements~~ Published material in a newspaper, magazine, shopper, or other periodical regardless of the size of the ~~advertisement~~ material.

~~c. Direct mailings, flyers, brochures, postcards, or any other form of printed general public advertising~~ published material that is larger than 2 inches by 4 inches and not otherwise set out in 351—4.39(68A).

~~d. Campaign Web sites.~~ A blog that is not owned or controlled by a candidate or committee is not required to include an attribution statement disclosing who paid for the costs of the blog. A political advertisement on a blog is required to include the appropriate attribution statement disclosing who paid for the advertisement.

~~e. Television, video, and motion picture advertising.~~ The attribution statement shall be displayed on the advertisement in a clearly readable manner for at least four seconds.

**4.39(3) Multiple pages.** If the ~~political advertising or political~~ published material consists of more than one page, the "paid for by" attribution statement need only appear on one page of the ~~advertising or~~ material. For a campaign Web site, the attribution statement need only appear on the home page of the site. A scratch pad need only include the attribution statement on the pad and not on each individual page of the pad.

This rule is intended to implement 2009 Iowa Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7.

ITEM 15. Amend rule 351—4.44(68A,68B) as follows:

~~351—4.44(68A,68B) Use of corporate property prohibited~~ **Prohibited corporate activity.** It is unlawful for a candidate's committee or other political committee to use any property of a corporate entity, and it is unlawful for a corporate entity to knowingly permit the use of its property by a candidate's committee or other political committee. "Corporate entity" as used in these rules means any profit or nonprofit corporation, and includes, but is not limited to, farm corporations, professional corporations (P.C.s), banks, savings and loan institutions, credit unions and insurance companies. For the purpose of these rules, the prohibited use of the property of a corporate entity shall include, but not be limited to, the following: As provided in 2009 Iowa Code Supplement section 68A.503 as amended by 2010 Iowa Acts, Senate File 2354, section 5, a financial institution, insurance company, or corporation is prohibited from using its resources to make monetary or in-kind campaign contributions to a candidate, candidate's committee, political committee that expressly advocates for or against a candidate, or a political party committee. For purposes of this chapter, "corporate entity" shall include financial institutions, insurance companies, and corporations.

**4.44(1)** The prohibition on corporate political activity does not apply to any of the following:

~~a. An LLC, LLP, or any other organization that does not file articles of incorporation.~~

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

b. Monetary or in-kind campaign contributions to a ballot issue committee.

c. Independent expenditure communications.

d. A campaign committee using a corporate entity computer to generate and file a campaign disclosure statement or report.

4.44(2) For purposes of this rule, prohibited corporate activity shall include, but not be limited to, the following:

4.44(1) a. The physical placement of campaign materials on corporate property except as permitted under Iowa Code sections 68A.406 and 68A.503.

4.44(2) b. The use of motor vehicles, telephone equipment, long-distance lines, computers, typewriters, office space, duplicating equipment and supplies, stationery, envelopes, labels, postage, postage meters or communication systems of corporate entities.

4.44(3) c. The use of corporate entity facilities, premises, recreational facilities and housing that are not ordinarily available to the general public.

4.44(4) d. The furnishing of beverages and other refreshments that cost in excess of \$50 and that are not ordinarily available to the general public.

4.44(5) e. The contributing of money of the corporate entity.

4.44(6) f. Any other transaction conducted between a ~~corporation~~ corporate entity and a candidate, candidate's committee, or political committee that expressly advocates for or against candidates, or a political party committee. Such transaction is presumed to be a corporate contribution unless the candidate's committee or political committee establishes to the contrary it is sufficiently demonstrated to the board that the transaction should not be considered a prohibited contribution under 2009 Iowa Code Supplement section 68A.503 as amended by 2010 Iowa Acts, Senate File 2354, section 5.

This rule is intended to implement 2009 Iowa Code Supplement section 68A.503 as amended by 2010 Iowa Acts, Senate File 2354, section 5.

ITEM 16. Rescind and reserve rule **351—4.46(68A)**.

ITEM 17. Amend rule 351—4.48(68A) as follows:

**351—4.48(68A) Sham newspapers not entitled to press exception subject to campaign laws.** Iowa Code chapter 68A provides that when a media organization discusses candidates and public affairs, the media organization does not trigger the campaign laws. 2009 Iowa Code Supplement section 68A.503(2)“d” 68A.503(5)“b” as amended by 2010 Iowa Acts, Senate File 2354, section 5, directs the board to adopt a rule ~~prohibiting~~ requiring the owner, publisher, or editor of a sham newspaper ~~from who is~~ using the sham newspaper to promote in any way the candidacy of ~~the~~ any person for public office to comply with the requirements of Iowa Code chapter 68A.

4.48(1) Factors. In determining whether or not a publication is entitled to the press exception or is a sham newspaper that triggers the campaign laws, the board will consider the following factors:

~~1.~~ a. Whether the publication is published and made available on a regular schedule or interval;

~~2.~~ b. The proximity to the election in which the candidates and public affairs are discussed;

~~3.~~ c. Whether the publication contains news items and articles of opinion of a general character separate from discussions concerning candidates and public affairs;

~~4.~~ d. How widely the publication is circulated or is otherwise made available to the public in comparison to a targeted audience for potential campaign purposes;

~~5.~~ e. Whether the publication discusses all candidates for a particular election or otherwise gives all candidates equal space; and

~~6.~~ f. Whether the publication expressly advocates for the candidacy of ~~the owner, publisher, or editor of the publication or for the defeat of a campaign opponent of the owner, publisher, or editor of the publication~~ any person.

4.48(2) Definitions. For purposes of this rule, the following definitions apply:

“Express advocacy” means “express advocacy” as defined in Iowa Code section 68A.102(14) and rule 351—4.53(68A).

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

“Media organization” means “media organization” as defined in rule 351—4.51(68A).

“Sham newspaper” means “sham newspaper” as defined in 2009 Iowa Code Supplement section 68A.503(5)“b” as amended by 2010 Iowa Acts, Senate File 2354, section 5.

This rule is intended to implement 2009 Iowa Code Supplement section 68A.503(2)“d.” 68A.503(5)“b” as amended by 2010 Iowa Acts, Senate File 2354, section 5.

ITEM 18. Rescind and reserve rule **351—4.50(68A)**.

ITEM 19. Amend subrule 4.53(3) as follows:

**4.53(3) Independent expenditure.** ~~“Independent expenditure” means an expenditure by a person for goods or services, including express advocacy communication, on behalf of a candidate or a ballot issue which is not made with the knowledge and approval of a candidate or a ballot issue committee. “Independent expenditure” does not include incidental expenses (expenses of \$25 or less per incident absorbed by the volunteer which result from or arise out of the volunteer work) incurred by an individual in performing volunteer work~~ “independent expenditure” as defined in 2009 Iowa Code Supplement section 68A.404(1) as amended by 2010 Iowa Acts, Senate File 2354, section 3.

ITEM 20. Amend subrule 4.53(4) as follows:

**4.53(4) Coordinated expenditure.**

a. “Made “Coordinated expenditure” means an expenditure made with the knowledge and approval of a candidate or ballot issue committee”, candidate’s committee, political party committee, or political committee. “Coordinated expenditure” also means that there has been arrangement, coordination, or direction by the candidate, candidate’s committee, political party committee, or political committee, or an agent or officer of the candidate’s committee or a ballot issue committee prior to the procurement or purchase of the good or service, or the publication, distribution, display, or broadcast of an express advocacy communication. This may also be referred to as a “coordinated expenditure.”

b. An expenditure will be presumed to be coordinated when it is:

~~a-~~ (1) Based on information provided to the expending person by the candidate, the candidate’s committee, or the ballot issue committee with a view toward having an expenditure made; or

~~b-~~ (2) Made by or through any person who is or has been authorized to raise or expend funds; who is or has been an officer of the candidate’s committee or the ballot issue committee; or who is or has been receiving any form of compensation or reimbursement from the candidate, the candidate’s committee, or the ballot issue committee.

c. Pursuant to 2009 Iowa Code Supplement section 68A.404(7) as amended by 2010 Iowa Acts, Senate File 2354, section 3, a person making an independent expenditure shall not engage or retain an advertising firm or consultant that has also been engaged or retained within the prior six months by the candidate, candidate’s committee, or ballot issue PAC that is benefited by the independent expenditure. “Engage or retain” shall not include the purchase of goods or products from an advertising firm or consultant when the advertising firm or consultant does not provide guidance, assistance, or advice to the person making the purchase concerning the good or product.

ITEM 21. Amend rule **351—4.53(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement 2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3.

ITEM 22. Amend subrule 4.55(5) as follows:

**4.55(5) Final bank statement.** A copy of the committee’s final bank statement showing the committee’s closing transactions and a zero balance shall be attached to or submitted with the committee’s final report. A committee participating in an election at the county, city, school, or other political subdivision level, an independent expenditure committee, or a sole individual making an independent expenditure is not required to file a final bank statement unless requested to do so by the board. A committee seeking a waiver from the requirements of this subrule may do so in accordance with 351—Chapter 15.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 23. Amend rule **351—4.55(68A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68A.402B as amended by 2010 Iowa Acts, Senate File 2354, section 2.

ITEM 24. Amend subrule 4.59(1) as follows:

**4.59(1) Administrative resolution.** In administrative resolution of violations for late-filed disclosure reports, the board shall assess and collect monetary penalties for all late-filed disclosure reports. The board shall notify any person assessed a penalty of the amount of the assessment and the person's ability to request a waiver under rule 351—4.60(68B). A committee person using the board's electronic filing system shall not be assessed a civil penalty if the board's electronic filing system is not properly functioning and causes the committee person to be unable to timely file the report.

ITEM 25. Amend subrule 4.59(7) as follows:

**4.59(7) Independent expenditure assessment.** ~~A person that~~ An individual who is delinquent in timely filing an independent expenditure statement Form Ind-Exp-I shall be assessed a \$25 civil penalty. for filing the statement one or more days delinquent, except that if If there is a repeat delinquency by the person individual in timely filing an independent expenditure statement Form Ind-Exp-I within a 12-month period, the penalty shall be \$50. A person that is designated by the board as an independent expenditure committee that fails to timely file Form Ind-Exp-O shall be assessed a \$50 civil penalty. If there is a repeat delinquency by the person in timely filing Form Ind-Exp-O within a 12-month period, the penalty shall be \$100.

ITEM 26. Adopt the following **new** subrule 4.59(9):

**4.59(9) Additional sanctions.** The issuance of a civil penalty under this rule does not prohibit the board from imposing sanctions pursuant to the process set out in Iowa Code chapter 68B and rule 351—9.4(68B) if the board determines that there was evidence of an intentional failure to timely file the report.

ITEM 27. Amend rule **351—4.59(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement~~ section 68B.32A(8).

[Filed Emergency 5/14/10, effective 5/17/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8786B**

**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 75, "Conditions of Eligibility," and Chapter 76, "Application and Investigation," Iowa Administrative Code.

These amendments allow persons claiming to be United States citizens to:

- Have their citizenship and identity verified through a data match with the Social Security Administration for the purposes of qualifying for Medicaid instead of through production of documentation such as a birth certificate and a government-issued photo identification; and
- Receive Medicaid benefits for a period of 90 days while the Department is awaiting confirmation of their citizenship and identity.

Documentation of citizenship and identity has been required for Medicaid eligibility since implementation of the Deficit Reduction Act of 2005, Public Law 109-171. This requirement has posed a barrier to many United States citizens who for various reasons are unable to produce copies of satisfactory documentation. As of October 2009, almost 14,000 Iowans had Medicaid benefits denied or canceled for failure to verify citizenship but subsequently gained or regained Medicaid eligibility

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when satisfactory documentation was finally obtained. More than 22,000 Iowans whose Medicaid benefits were denied or canceled for this reason remained ineligible.

In order to address this issue, the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, authorizes states to verify individuals' citizenship through an automated data match with the Social Security Administration. Other provisions of this legislation require states to approve Medicaid eligibility for a "reasonable period" for persons who meet all other requirements while proof of their citizenship and identity is pending.

The Social Security Administration estimates that 90 percent of requests for citizenship verification will be substantiated through the data match. These amendments provide that persons whose citizenship is not substantiated through this process will have 90 days to resolve the inconsistency in the records that prevents the match or to provide other satisfactory proof of citizenship and identity.

These amendments do not provide for waivers in specified situations because the amendments benefit the persons affected. Requests for the waiver of any rule may be submitted 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 February 24, 2010, as **ARC 8552B**. The Department received no comments on the Notice of Intended Action. The Department has made the following changes to the amendments as published under Notice of Intended Action:

- Revised the last sentence of subparagraph 75.11(2)"c"(2) to read as follows: "Medicaid shall not be approved for an applicant or continued for a member who has already received benefits during any portion of a reasonable period until satisfactory documentation is provided."
- Adopted new paragraphs 75.19(1)"d" and "e" to clarify that eligibility only in a retroactive period or during a reasonable period for verifying citizenship does not qualify a child for continuous eligibility.
- Added an amendment to rule 441—76.3(249A) to clarify that an application for retroactive benefits will not be approved until documentation of citizenship is received even if completion of this requirement takes longer than the normal 30-day time frame for processing applications.

The Council on Human Services adopted these amendments on May 11, 2010.

The Department finds that these amendments confer a benefit on Medicaid members by streamlining the process of verifying citizenship and allowing eligibility while the process is completed. 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.3 and Public Law 111-3.

These amendments became effective on June 1, 2010.

The following amendments are adopted.

ITEM 1. Amend paragraph **75.11(2)"c"** as follows:

c. Except as provided in paragraph "f," applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph "b" shall present satisfactory documentation of citizenship or nationality as defined in paragraph "~~d~~" or "~~e~~." "d," "e," or "i." A reference to a form in paragraph "d" or "e" includes any successor form. An applicant or member shall have a reasonable period to obtain and provide ~~proof~~ required documentation of citizenship or nationality.

(1) For the purposes of this requirement, the "reasonable period" begins on the date a written request ~~to obtain and provide proof for documentation or a notice pursuant to subparagraph 75.11(2)"i"(2)~~ is issued to an applicant or member, whichever is later, and continues ~~to the date when the proof is provided or the date when the department establishes that the applicant or member is no longer making a good faith effort to obtain the proof, whichever is earlier~~ for 90 days.

(2) Medicaid ~~eligibility shall be approved for new applicants and continue for members during the reasonable period not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of Medicaid shall not be approved for applicants until acceptable documentary evidence is provided.~~ or HAWK-I benefits pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days under either program for each individual. Medicaid shall not

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be approved for an applicant or continued for a member who has already received benefits during any portion of a reasonable period until satisfactory documentation is provided.

(3) A reference to a form in paragraph “d” or “e” includes any successor form. Retroactive eligibility pursuant to 441—subrule 76.5(1) is available only after documentation of citizenship or nationality has been provided pursuant to paragraph “d,” “e,” or “i.” The retroactive months are outside the “reasonable period” during which Medicaid coverage may be provided without required documentation of citizenship or nationality.

ITEM 2. Adopt the following **new** paragraph **75.11(2)“i”**:

*i.* In lieu of a document listed in paragraph “d” or “e,” satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

(1) Provision of an individual’s name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual’s citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual’s citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration’s records, or to provide other documentation of citizenship or nationality pursuant to paragraph “d” or “e.”

ITEM 3. Adopt the following **new** paragraphs **75.19(1)“d”** and **“e”**:

*d.* Children who are eligible only in a retroactive month.

*e.* Children whose citizenship is not verified within the “reasonable period” described at paragraph 75.11(2)“c.”

ITEM 4. Adopt the following **new** subrule 76.3(7):

**76.3(7)** The application for retroactive Medicaid benefits is pending due to completion of the requirement in 441—subrule 75.11(2).

[Filed Emergency After Notice 5/11/10, effective 6/1/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8789B**

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

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The purpose of these amendments is to facilitate the construction and rehabilitation of workforce and affordable multifamily housing by establishing a mechanism for loaning funds to cities and counties to reloan for housing development purposes.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that housing is urgently needed in some parts of the state, and the normal notice and public participation process would likely delay implementation of these amendments beyond much of the 2010 building season.

The Authority finds that these amendments confer a benefit on the persons affected, namely individuals and communities in need of workforce and affordable housing, in that the amendments provide a form of financial assistance and ease and speed the administration of assistance benefiting



IOWA FINANCE AUTHORITY[265](cont'd)

those persons and should be implemented as soon as feasible in order to alleviate housing shortages in the affected areas. 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.

The Authority adopted these amendments on May 12, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 8790B** to allow for public comment.

These amendments became effective May 12, 2010.

These amendments are intended to implement Iowa Code sections 16.1(1)“ad”(18), 16.3, 16.5(1), and 16.5C.

The following amendments are adopted.

ITEM 1. Amend subrule 3.5(1) as follows:

**3.5(1)** Projects eligible for assistance must meet the following criteria, in addition to any specific requirements applicable to a particular category of loan as set forth in rule 265—3.6(16), 265—3.7(16), or 265—3.8(16), or 265—3.9(16), as applicable:

a. to f. No change.

g. ~~Loans~~ Except as permitted in the case of loans made pursuant to rule 265—3.8(16), loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

h. to o. No change.

ITEM 2. Renumber rules **265—3.8(16)** to **265—3.11(16)** as **265—3.9(16)** to **265—3.12(16)**.

ITEM 3. Adopt the following new rule 265—3.8(16):

**265—3.8(16) Multifamily loan program for workforce housing loan assistance.** Projects eligible for loans under this category must satisfy the following conditions, in addition to (or instead of, if there is a conflict) the requirements of rule 265—3.5(16):

**3.8(1)** A loan made under this category (the “primary loan”) shall be made to an Iowa city or county for the purpose of being reloaned by the borrower in order to provide financial assistance to an identified project to rehabilitate or create new rental workforce or affordable multifamily housing within the borrower’s jurisdiction (the “secondary loan”). The authority may restrict the use of funds to a designated portion of the borrower’s jurisdiction.

**3.8(2)** At least 50 percent of the housing units rehabilitated or created with the proceeds of the secondary loan shall be restricted to families whose annual income at the time of leasing is at or below 120 percent of the area median income, unless the authority agrees otherwise.

**3.8(3)** The primary loan may be unsecured, but it shall constitute a general obligation of the borrower.

**3.8(4)** Preference under this category shall be given to cities and counties that can document an increased need for housing as the result of new job creation within their jurisdiction.

**3.8(5)** The borrower shall use funds received in repayment of the secondary loan first to make the scheduled principal and interest payments on the primary loan. Any secondary loan payments remaining after all then-due scheduled payments on the primary loan have been repaid may be reloaned by the borrower on the same basis as if such secondary loan payment amounts were proceeds of the primary loan.

[Filed Emergency 5/12/10, effective 5/12/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8812B****LABOR SERVICES DIVISION[875]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 91C.6, the Labor Commissioner hereby amends Chapter 150, “Construction Contractor Registration,” Iowa Administrative Code.

These amendments update rules to reflect legislation in 2010 Iowa Acts, House File 2522, sections 26 to 28, that will change the bonding requirements for out-of-state construction contractors on July 1, 2010. These amendments rescind provisions that contradict House File 2522 and adopt new provisions that are consistent with House File 2522.

Pursuant to Iowa Code section 17A.4(3), the Labor Commissioner finds that notice and public participation would be impracticable because 2010 Iowa Acts, House File 2522, is effective July 1, 2010, and these amendments are necessary to make the administrative rules coincide with and become effective on the same date as the statutory provisions.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Labor Commissioner finds that the normal effective date of the amendments should be waived and the amendments should be made effective on July 1, 2010. These amendments confer a benefit on the public by ensuring the rules coincide with the statutory requirements. The amendments also confer a benefit by allowing certain out-of-state contractors to substitute a \$25,000 bond for a \$50,000 bond.

These amendments are also published herein under Notice of Intended Action as **ARC 8818B** to allow for public comment.

The principal reasons for adoption of these amendments are to implement legislative intent and to enhance the collection of debts owed to the state of Iowa. No variance procedures are included in these rules because variance provisions are set forth in 875—Chapter 1.

These amendments are intended to implement Iowa Code chapter 91C as amended by 2010 Iowa Acts, House File 2522, sections 26 to 28.

These amendments will become effective July 1, 2010.

The following amendments are adopted.

ITEM 1. Rescind the definition of “Contract price” in rule **875—150.2(91C)**.

ITEM 2. Amend rule 875—150.4(91C), introductory paragraph, as follows:

**875—150.4(91C) Application.** Each contractor shall file an application with the division for a registration number on forms provided by the division. The application shall contain the applicable information and documents specified in this rule.

ITEM 3. Adopt the following new subrule 150.4(11):

**150.4(11) Out-of-state contractor bond.** An out-of-state contractor shall:

*a.* File a surety bond in the amount of \$25,000 for a one-year period that is prepared using the bond form provided by the division, or

*b.* Provide a statement that the contractor is prequalified to bid on projects for the department of transportation pursuant to Iowa Code section 314.1.

ITEM 4. Rescind and reserve rules **875—150.13(91C)** to **875—150.15(91C)**.

ITEM 5. Amend **875—Chapter 150**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 91C as amended by ~~2006 Iowa Acts, chapter 1176~~ 2010 Iowa Acts, House File 2522.

[Filed Emergency 5/13/10, effective 7/1/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8783B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 29, “Plumbing and Mechanical Systems Professionals—Application, Licensure, and Examination,” Iowa Administrative Code.

The rules in Chapter 29 define the type of licenses and the requirements for licensure. Guidelines are provided for applicants to follow when they apply for the initial license, apply for renewal, or apply for examination. The rules also outline procedures to follow when licensure is denied. This amendment reflects the changes mandated by 2010 Iowa Acts, House File 2531, section 100. This section of the bill took effect upon enactment on April 29, 2010. Through September 30, 2010, a person who has not previously held a license issued under Iowa Code section 105.18 will be allowed to sit for a state master license examination in the applicable discipline if that person submits evidence of 48 months of work experience equivalent to that of a licensed master as deemed by the Board.

In compliance with Iowa Code section 17A.4(3), the Board finds that notice and public participation are impracticable due to the immediate need for rule making to administer the limited exception approved by the Legislature.

The Board also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing, as it confers a benefit to regulated parties by providing an opportunity for those who can document 48 months of master level work experience to sit for a master examination.

The Plumbing and Mechanical Systems Board adopted this amendment on May 6, 2010.

This amendment became effective on May 10, 2010.

This amendment is intended to implement 2010 Iowa Acts, House File 2531, section 100.

The following amendment is adopted.

Adopt the following **new** rule 641—29.8(83GA, HF2531):

**641—29.8(83GA, HF2531) Master license—exception through September 30, 2010.**

**29.8(1)** Notwithstanding paragraph 29.6(3) “k,” through September 30, 2010, the board may grant permission to sit for a master examination in one or more applicable discipline to an applicant who has not previously been licensed as a master or journey person in the applicable discipline and who possesses at least 48 months of work experience equivalent to that of a licensed master in the applicable discipline between September 30, 2004, and September 30, 2010. For purposes of this subrule, an applicant shall demonstrate the requisite work experience by providing a notarized employer verification statement on a form provided by the board, notarized client verification statements on a form provided by the board, or tax documents such as a Schedule C, Form 1099, Form W-2, or other tax forms establishing such requisite work experience. Upon board verification of work experience, the board shall return any submitted tax documents to the applicant via certified mail.

**29.8(2)** Notwithstanding subrule 29.2(3), through November 15, 2010, an applicant for a master license may be eligible to receive a master license if:

*a.* The applicant files an application and pays all applicable fees in accordance with rule 641—29.5(105); and

*b.* The applicant passes the state master licensing examination for the applicable discipline.

This rule is intended to implement 2010 Iowa Acts, House File 2531, section 100.

[Filed Emergency 5/10/10, effective 5/10/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8792B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 125.7 and 2009 Iowa Code Supplement section 135.150(1)“b,” the Department of Public Health hereby amends Chapter 155, “Licensure Standards for Substance Abuse Treatment Programs,” and rescinds Chapter 162, “Licensure Standards for Problem Gambling Treatment Programs,” Iowa Administrative Code.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8628B**, and a public hearing was held on Tuesday, April 13, 2010. No one appeared at the public hearing. Three written comments were received from substance abuse and problem gambling treatment program staff. The comments were generally favorable about the changes and also requested that the Department clarify and update some language.

Several nonsubstantive changes have been made to the amendments published under Notice of Intended Action.

In Item 3, the phrase “to determine appropriate level of care” was added to the definition of “admission criteria,” and the phrase “continued-use or continued-problem” was restored in the defined term “relapse, continued-use or continued-problem potential.” In Item 4, the last sentence in the new definition for “transitional housing” was replaced with new wording. The definitions now read as follows:

“*Admission criteria*” means specific ASAM-PPC-2R criteria to be considered in determining appropriate client/patient placement and resultant referral to a level of care (substance abuse treatment only). Criteria vary in intensity and are organized into categories to be used by treatment programs for assessment, to determine appropriate level of care, and for treatment planning.”

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

“*Transitional housing*” means housing that may be offered to individuals who are problem gamblers and who have no other housing alternatives or whose housing alternatives are not conducive to problem gambling recovery. Problem gamblers receiving transitional housing must also be receiving problem gambling treatment services.”

In Item 5, the statement that was noticed as new numbered paragraph “11” of rule 641—155.2(125,135) has been moved to the introductory paragraph of the rule. The introductory paragraph now reads as follows:

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

In Item 12, a second sentence was added to paragraph 155.10(1)“b” in lieu of proposed subparagraphs (1) to (3). Paragraph 155.10(1)“b” now reads as follows:

“b. On-site inspection report results based on the licensure weighting report indicate a score below minimum required for a recommendation of a 270-day license. A program applying for a 270-day license

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shall have a minimum score of 70 percent in each of the following standards: clinical, administrative and programming.”

In Item 23, a new sentence was added to subrule 155.18(5), and the subrule now reads as follows:

“**155.18(5) Continuation of deemed status.** The program shall submit a copy of all CARF, Joint Commission, COA, or AOA behavioral health accreditation survey reports to the division. Applications for continuation of deemed status shall be submitted pursuant to 155.5(3).”

In Item 36, the proposed new language in paragraph 155.21(12)“c” was not adopted.

In Item 40, the catchwords of subrule 155.21(15) were changed from “urinalysis” to “drug screening,” and new language was added to the end of paragraph 155.21(15)“a.” Paragraph 155.21(15)“a” now reads as follows:

“a. Urine specimens obtained from client/patients shall be collected under direct supervision and analyzed as indicated by the program, or the program shall have a policy in place to reduce the client/patient’s ability to skew the test.”

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of the amendments should be waived and these amendments should be made effective July 1, 2010, as directed by the legislation that prompted these amendments.

These amendments were adopted by the State Board of Health on May 12, 2010.

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

These amendments will become effective on July 1, 2010.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 155; rescind Ch 162] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8628B**, IAB 3/24/10.

[Filed Emergency After Notice 5/13/10, effective 7/1/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8779B**

## **SECRETARY OF STATE[721]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary due to policy changes made to Iowa’s election laws by 2010 Iowa Acts, Senate File 2196, effective July 1, 2010. In addition, these amendments make several small technical updates to the rules, including correction of Iowa Code citations.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these amendments are required due to changes in the law effective July 1, 2010.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments made effective July 1, 2010. The normal effective date should be waived because the changes made to the Iowa Code sections amended by 2010 Iowa Acts, Senate File 2196, and implemented by the rules amended herein are effective July 1, 2010. These amendments confer a benefit upon the voting public by conforming the rules in Chapter 21 to 2010 Iowa Acts, Senate File 2196.

These amendments are also published herein under Notice of Intended Action as **ARC 8780B** to allow for public comment.

These amendments are intended to implement Iowa Code chapters 49 and 53 as amended by 2010 Iowa Acts, Senate File 2196, and chapter 99F.

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These amendments will become effective July 1, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **721—21.6(43,50)**.

ITEM 2. Adopt the following new rule 721—21.305(53):

**721—21.305(53) Confirming commissioner's receipt of an absentee ballot on election day.** If a voter's name is on the absentee list prepared pursuant to Iowa Code sections 49.72 and 53.19 as amended by 2010 Iowa Acts, Senate File 2196, and the voter appears at the polling place to vote on election day, the precinct election officials may contact the commissioner's office to confirm whether the commissioner has received the voter's absentee ballot. If the precinct election officials are able to confirm either that the commissioner has not received the voter's absentee ballot or that the voter's absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the precinct election officials shall permit the voter to cast a regular ballot at the polling place.

After confirming that a voter's absentee ballot has not been received or that a voter's absentee ballot has been received but cannot be counted due to a defective or incomplete affidavit, the commissioner shall mark the voter's absentee ballot as "Void" in the statewide voter registration system. The commissioner shall enter "Voted at polls" in the comment box that appears when the ballot is marked as "Void."

If a voter's absentee ballot is returned to the commissioner's office after being marked as "Void" pursuant to this rule, the absentee ballot shall be rejected by the absentee and special voters precinct board pursuant to Iowa Code section 53.25 because the voter cast a ballot in person at the polling place.

This rule is intended to implement Iowa Code sections 49.72, 49.81 and 53.19 as amended by 2010 Iowa Acts, Senate File 2196.

ITEM 3. Amend subrule 21.351(3) as follows:

**21.351(3) Secure area.** The commissioner shall deliver the ballots to a secure area where returned absentee ballots will be reviewed for ~~deficiencies~~ completeness and defects.

ITEM 4. Amend subrule 21.352(2) as follows:

**21.352(2) Affidavit envelopes reviewed.** The affidavit envelopes of all absentee ballots returned to the commissioner's office shall be reviewed, including those of ballots returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. If a reviewer finds ~~deficiencies in~~ that any absentee affidavits returned from any health care facility are incomplete or defective, the commissioner shall send the bipartisan delivery team back to ~~make any necessary corrections~~ assist voters as needed with completing affidavits or to deliver any replacement ballots.

ITEM 5. Amend subrule 21.354(3) as follows:

**21.354(3) No defects or deficiencies incomplete information.** If the reviewer finds that the requested information on the affidavit is complete and that there are no defects or deficiencies that would cause the absentee and special voters precinct board to reject the ballot, the reviewer shall put the affidavit envelope into a group of envelopes to be retained in the secure storage area with others that require no further attention until they are delivered to the absentee and special voters precinct board.

ITEM 6. Amend subrule 21.354(4) as follows:

**21.354(4) Defective and deficient incomplete affidavits.** The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or affidavit envelope:

a. The commissioner shall contact the voter immediately if the affidavit envelope is defective. An affidavit envelope is defective if:

- (1) The absentee ballot is not enclosed in the affidavit envelope.
- (2) The affidavit envelope is not sealed.
- (3) The affidavit envelope has been opened and resealed.
- (4) The voter submits a change of address in a new precinct after returning a voted absentee ballot.

b. The commissioner shall contact the voter within 24 hours if the affidavit is ~~deficient~~ incomplete.

~~A deficient~~ An incomplete affidavit lacks:

- (1) The signature of the voter.

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(2) For primary elections only, political party affiliation.

c. If an affidavit envelope has flaws that are included in both paragraphs “a” and “b,” the commissioner shall follow the process in paragraph “a.”

ITEM 7. Amend subrule 21.354(5) as follows:

**21.354(5)** *Defective and ~~deficient~~ incomplete affidavits stored separately.* The commissioner shall store the defective and ~~deficient~~ incomplete affidavit envelopes separately from other returned absentee ballot affidavit envelopes.

a. ~~Deficient~~ Incomplete affidavit envelopes requiring voter correction must be available for retrieval when the voter comes to make corrections.

b. Defective affidavit envelopes must be attached to the ~~original application, replacement application and replacement ballot~~ (if any) for review by the absentee and special voters precinct board.

ITEM 8. Amend rule 721—21.355(53) as follows:

**721—21.355(53) Notice to voter.** When the commissioner finds a ~~deficiency in an~~ incomplete absentee ballot affidavit or finds a defective affidavit envelope, the commissioner shall notify the voter in writing and, if possible, by telephone and by E-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

**21.355(1) Notice to voter—~~deficient~~ incomplete ballot affidavit.** Within 24 hours after receipt of an absentee ballot with a ~~deficient~~ incomplete affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

a. ~~Reason for deficiency~~ Explanation of missing required information (lack of signature or, for primary elections only, political party affiliation).

b. The voter’s options for correcting the affidavit as follows:

(1) Completing the affidavit at the commissioner’s office by 5 p.m. the day before the election;

(2) ~~Treating the affidavit as defective and completing the process of applying for~~ Requesting a replacement ballot pursuant to Iowa Code section 53.18; or

(3) ~~Casting a provisional ballot~~ Voting at the polls on election day.

c. Address of commissioner’s office, business hours and contact information.

**21.355(2) Notice to voter—defective ballot affidavit.** Immediately after determining that an absentee ballot affidavit envelope is defective, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

a. Reason for defect.

b. The voter’s options for correcting the defect as follows:

(1) ~~Applying for~~ Requesting a replacement ballot; or

(2) ~~Casting a provisional ballot~~ Voting at the polls on election day.

c. Process for ~~applying for~~ requesting a replacement ballot.

d. Address of commissioner’s office, business hours and contact information.

**21.355(3) Telephone contact.** If the voter has provided a telephone number, either on the absentee ballot application or on the voter’s registration record, the commissioner shall also attempt to contact the voter by telephone. The commissioner shall keep a written record of the telephone conversation. The written record shall include the following information:

a. Name of the person making the call.

b. Date and time of the call.

c. ~~If a person answered the telephone, the name of that person~~ Whether the person making the call spoke to the voter.

**21.355(4) E-mail contact.** If the voter has provided an E-mail address, either on the absentee ballot application or on the voter’s registration record, the commissioner shall also attempt to contact the voter by E-mail. The E-mail message shall be the same message that was mailed to the voter. A copy of the E-mail message shall be attached to the checklist.

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ITEM 9. Amend **721—Chapter 21**, implementation sentence, as follows:

Rules 721—21.351(53) through 721—21.355(53) are intended to implement 2009 Iowa Code Supplement sections section 53.18 and ~~53.25~~ as amended by 2009 2010 Iowa Acts, House File 475 Senate File 2196, and section 53.25.

ITEM 10. Amend subrule 21.359(2) as follows:

**21.359(2)** When the absentee and special voters precinct board convenes to begin processing absentee ballots, the board shall first review voters' affidavits to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected for the reasons set forth in 2009 Iowa Code Supplement section ~~53.34~~ 53.25. Affidavit envelopes containing ballots that are rejected shall be stored in the manner prescribed by Iowa Code section 53.26. The applications submitted for rejected ballots shall be stored in a secure location for the time period required by Iowa Code section ~~50.12~~ 50.19.

ITEM 11. Amend subrule 21.820(5) as follows:

**21.820(5)** Canvass Abstract of votes. ~~The canvass of votes for a special election regarding excursion boat gambling shall be held on the Monday following the election.~~ A copy of the abstract of votes of the election shall be sent to the state racing and gaming commission.

[Filed Emergency 5/7/10, effective 7/1/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8777B**

## SECRETARY OF STATE[721]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary due to a technical change made to Iowa's election laws by 2010 Iowa Acts, Senate File 2194, section 31, effective March 10, 2010. In addition, these amendments add a new procedure for precinct election officials to follow when processing an election day registrant in precincts where an electronic program is not used to verify whether an election day registrant is a potential match to an individual listed on the statewide list of felons.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these amendments are needed before the June 8, 2010, primary election or are required due to changes in the law effective March 10, 2010.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of this amendments, 35 days after publication, should be waived and these amendments made effective upon filing. The normal effective date should be waived because the changes are either necessary before the June 8, 2010, primary election or are required by 2010 Iowa Acts, Senate File 2194. These amendments confer a benefit upon the voting public by ensuring election day registrants are notified of the required voter registration qualifications and by conforming the rules in Chapter 21 to 2010 Iowa Acts, Senate File 2194.

These amendments are also published herein under Notice of Intended Action as **ARC 8778B** to allow for public comment.

These amendments are intended to implement Iowa Code chapters 48A and 53 as amended by 2010 Iowa Acts, Senate File 2194.

These amendments became effective May 7, 2010.

The following amendments are adopted.



SECRETARY OF STATE[721](cont'd)

ITEM 1. Adopt the following **new** subrule 21.7(4):

**21.7(4)** In precincts where an electronic program is not used to check the name of an election day registrant against the statewide list of felons who have had their right to vote revoked, precinct election officials shall provide each election day registrant with a "Notice to Election Day Registrants" prepared by the state commissioner before allowing the voter to register and vote on election day. The "Notice to Election Day Registrants" prepared by the state commissioner will be posted on the state commissioner's Web site.

ITEM 2. Amend paragraph **21.320(2)"g,"** introductory paragraph, as follows:

*g. Requests for absentee ballots for a period of two general elections through the end of the calendar year.* 2009 Iowa Code Supplement section 53.40 as amended by 2009 2010 Iowa Acts, House File 475 Senate File 2194, permits UOCAVA voters to request the commissioner to send absentee ballots for all elections as permitted by state law. In response to an absentee ballot request in which the UOCAVA voter specifies that the voter wants to receive requests ballots for all elections, the commissioner shall send the applicant a ballot for each election held after the application request is received and through the next two general elections through the end of the calendar year in which the request is received. If the voter applicant does not specify that the voter wants to receive request ballots for all elections or does not specify which elections the request is for, the commissioner shall send the applicant a ballot only for federal elections through the next two general elections end of the calendar year in which the request is received.

[Filed Emergency 5/7/10, effective 5/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8806B****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 56, "Iowa Vocational Rehabilitation Services," Iowa Administrative Code.

Many of the amendments are nonsubstantive clean-up items that primarily reflect actual practice and that will not alter the services provided to clients of the Division of Vocational Rehabilitation Services. The amendments of consequence do the following:

- Item 1 adds a definition of "menu of services" (and Items 6 and 8 through 10 reflect the addition of this term) because this term is used by the Division in client materials; adding the term to the rules makes the menu of services more generally accessible to the public and to clients.

- Items 3 and 4 clarify eligibility for Division services of recipients of social security disability payments or Supplemental Security Income payments, not because of any new laws or regulations, but because current language is not clear.

- Items 5, 7 and 8 change postsecondary education assistance in order to assist the greatest practical number of eligible clients. The amount of assistance to an eligible client in the first or second year of college will be based on the tuition charged by the least expensive Iowa community college, even if the client is enrolled in a four-year postsecondary institution. The amendments also add paragraphs about various graduate schools, non-credit courses, and distance learning. A copy of the proposed changes was sent to the financial aid administrator of every postsecondary institution in Iowa. Two pre-Notice comments were received. One financial aid administrator merely asked for a timeline of when the rates will be published. The other financial aid administrator (from a community college) noted that these changes may encourage more students to take their first two years of postsecondary work at a community college, but also noted that the reality of serving more students with fewer dollars to each student served may mean that some students discontinue their postsecondary education. The commenter added that students who qualify for other financial aid will retain the potential to have full coverage of the students' postsecondary costs.

- Item 13 adds a factor to those considered by the Division when purchasing items for a client and provides for repossession of the item by the Division.

- Item 14 makes the process of appealing a denial of services easier for a client or would-be client of the Division.

- Items 15 through 20 pertain to the Iowa self-employment program, reducing from three to two the number of document requirements scored by business development specialists and adding provisions consistent with federal law regarding types of business ventures that may not be funded by the program.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the April 7, 2010, Iowa Administrative Bulletin as **ARC 8641B**. Public comments were allowed until 4:30 p.m. on April 27, 2010. No one requested a public hearing; no written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 259.

These amendments shall become effective July 7, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 56] is being omitted. These amendments are identical to those published under Notice as **ARC 8641B**, IAB 4/7/10.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8808B****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 83, "Teacher and Administrator Quality Programs," Iowa Administrative Code.

The American Recovery and Reinvestment Act of 2009 is an economic stimulus package enacted by Congress in February 2009. A portion of these funds were allocated for education ("Race to the Top"). Iowa's application for these funds will be more competitive with the following amendments to Chapter 83. Apart from any impact regarding Race to the Top, the amendments strengthen Iowa's commitment to using student performance data to evaluate educators.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the February 10, 2010, Iowa Administrative Bulletin as **ARC 8509B**. A public hearing was held on March 2, 2010, and public comments were allowed until 4:30 p.m. on March 2, 2010. No written or oral comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 284.

These amendments shall become effective July 7, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 83.4(1) as follows:

**83.4(1)** Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.

*a.* The teacher:

(1) Provides multiple forms of evidence of student learning and growth to students, families, and staff.

(2) to (7) No change.

*b.* No change.

ITEM 2. Adopt the following **new** subparagraph **83.4(7)"a"(5)**:

(5) Provides an analysis of student learning and growth based on teacher-created tests and authentic measures as well as any standardized and districtwide tests.

ITEM 3. Amend subrule 83.6(1) as follows:

**83.6(1)** *Individual teacher professional development plan.* Each school district and area education agency shall support the development and implementation of the individual teacher professional development plan for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan must be based on the relevant Iowa teaching standards that support the student achievement goals of the teacher's classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan, and the needs of the teacher. The goals shall go beyond those required under the attendance center professional development plan described in subrule 83.6(2), paragraph "c." The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to the extent possible. The individual plan shall be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting shall be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8787B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment removes the requirement that the Board provide to the appropriate county commissioner of elections a copy of an amended statement of organization filed by a county, city, school, or other political subdivision committee as the requirement has been removed from the statute. The amendment also reflects the statutory requirement that a committee filing an amended statement of organization shall file the amended statement in the same format as is required for the filing of other types of statements and reports.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of the amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68A.201 as amended by 2010 Iowa Acts, Senate File 2128, section 1, and 2009 Iowa Code Supplement section 68A.401 as amended by 2010 Iowa Acts, Senate File 2128, section 3.

This amendment will become effective on July 7, 2010.

The following amendment is adopted.

Amend subrule 4.6(1) as follows:

**4.6(1) Amendment within 30 days.** If there is a change in any of the information disclosed on a statement of organization, the committee shall file with the board an amended statement within 30 days of the change. ~~An amended statement of organization shall be filed with the board and the board shall make available to the appropriate county commissioner of elections an amended statement filed by a county, city, school, or other political subdivision committee.~~ An amended statement shall be filed with the board in a format as required by 2009 Iowa Code Supplement section 68A.401 as amended by 2010 Iowa Acts, Senate File 2128, section 3, and board rule 351—4.1(68A,68B).

[Filed Without Notice 5/12/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8788B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment permits a political party committee (state party and the county central committees of a state party) to receive and then donate to another campaign committee earmarked campaign contributions. This amendment reflects current Board policy and practice.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of the amendment are impracticable, as it is desirable to have the Board's rules reflect Board policy and practice.

This amendment is intended to implement 2009 Iowa Code Supplement section 68A.402.

This amendment will become effective on July 7, 2010.

The following amendment is adopted.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Amend rule 351—4.33(68A,68B) as follows:

**351—4.33(68A,68B) Reporting of earmarked contributions.** A political committee or a political party committee is permitted to receive ~~contributions from its contributors which are a contribution~~ that is earmarked to be donated to ~~a specific candidate's committee~~ or another political committee. A political committee or political party committee receiving and ~~transmitting~~ transferring an earmarked ~~contributions~~ contribution is required to list on its disclosure report the name of the contributor and the name of the candidate or committee for which the contribution was earmarked. The political committee or political party committee ~~is further required to inform the treasurer of~~ shall notify the recipient committee in writing of the name of the individual contributor, ~~as well as~~ and the name of the committee ~~which has collected that originally received~~ the contribution. The committee ultimately receiving the earmarked contribution is ~~required to~~ shall disclose on its disclosure report both the name of the individual contributor and the ~~sponsoring name of the committee that originally received and then transferred the earmarked contribution.~~ A ballot issue committee is not permitted to transfer earmarked contributions except to another ballot issue committee.

This rule is intended to implement 2009 Iowa Code Supplement section 68A.402.

[Filed Without Notice 5/12/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

## ARC 8805B

### ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

#### Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The amendments reflect the statutory amendments in 2010 Iowa Acts, House File 2109, to the lobbying laws in Iowa Code chapter 68B impacting lobbyist registrations and reports, lobbyist client reports, session function registrations and session function reporting.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68B.22 as amended by 2010 Iowa Acts, House File 2109, section 1; Iowa Code section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 1; Iowa Code section 68B.32A(9); Iowa Code section 68B.36 as amended by 2010 Iowa Acts, House File 2109, section 8; 2010 Iowa Acts, House File 2109, section 10; and Iowa Code section 68B.38 as amended by 2010 Iowa Acts, Senate File 2109, section 9.

These amendments will become effective on July 7, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **351—8.6(68B)**.

ITEM 2. Rescind subrule **8.7(4)**.

ITEM 3. Amend subrule 8.7(5) as follows:

**8.7(5) 8.7(4) Amendment to registration.** Any change or addition to the information in an executive branch lobbyist's registration statement shall be filed with the board within ten days after the change or addition is made known to the lobbyist. The lobbyist may file changes or additions by submitting electronically filing an amended registration statement ~~or by letter.~~ ~~If the lobbyist submits the changes or additions by letter, the letter shall contain sufficient information to notify the public and the board of the change or addition.~~

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 4. Rescind subrule **8.7(6)**.

ITEM 5. Amend subrule 8.7(7) as follows:

~~**8.7(7)**~~ **8.7(5)** *Failure to timely file registration.* An individual who fails to file an executive branch lobbyist registration statement before engaging in executive branch lobbying is activities in violation of Iowa Code section 68B.36 ~~and is subject to the possible imposition of board sanctions~~ may be subject to sanctions by the board as permitted under Iowa Code chapter 68B or rule 351—9.4(68B).

ITEM 6. Amend rule **351—8.7(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68B.36 as amended by 2010 Iowa Acts, House File 2109, section 8.

ITEM 7. Rescind and reserve rule **351—8.8(68B)**.

ITEM 8. Amend paragraph **8.9(1)“c”** as follows:

c. The amount of all salaries, fees, retainers, and reimbursements paid ~~or anticipated to be paid~~ by the client to each lobbyist for engaging in ~~executive branch~~ lobbying activities for the period commencing on July 1 of the previous year through June 30 of the current year. A report shall be filed even if the client did not pay any compensation to the client's lobbyist. If no compensation was paid, the client shall disclose on the report \$0.00 as compensation paid. In the case of a salaried position when ~~executive branch~~ lobbying is part of the individual's duties, the reportable salary shall be based on a pro-rata basis of time spent engaging in ~~executive branch~~ lobbying activities.

ITEM 9. Adopt the following new rule 351—8.10(68B):

**351—8.10(68B) Session function registrations and reports.** Pursuant to Iowa Code section 68B.22(4) “s” as amended by 2010 Iowa Acts, House File 2109, section 1, a sponsor of a qualified function is required to file with the general assembly and the board a registration notice prior to the function and a report within 28 days of the function. The board will deem filings with the general assembly as acceptable filings with the board. The board will establish links on its Web site to the general assembly's Web site where the registration notices and reports are posted. The failure of a sponsor to timely file either a registration notice or a report may subject the sponsor to sanctions by the board as permitted under Iowa Code chapter 68B and rule 351—9.4(68B) separate from any sanctions imposed by the general assembly.

This rule is intended to implement Iowa Code section 68B.22(4) “s” as amended by 2010 Iowa Acts, House File 2109, section 1, and Iowa Code section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4.

ITEM 10. Rescind subrule **8.11(1)**.

ITEM 11. Amend subrule 8.11(2) as follows:

~~**8.11(2)**~~ **8.11(1)** *Late client report.* An executive branch lobbyist client who fails to file an executive branch lobbyist client report on or before the required due date shall be subject to an automatic civil penalty according to the following schedule:

Days Delinquent	Amount
1 to 14	\$25
15 to 30	\$50
31 and over	\$100

ITEM 12. Amend subrule 8.11(3) as follows:

~~**8.11(3)**~~ **8.11(2)** *Additional penalty.* If an ~~executive branch lobbyist or an executive branch lobbyist~~ client fails to file a required report ~~within 45 days of the report due date~~, or fails to file a ~~complete an~~ accurate report, a contested case proceeding may be held to determine whether a violation has occurred. If, after a contested case proceeding, it is determined that a violation occurred, the board may impose

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

any of the actions under Iowa Code section 68B.32D. Any action so imposed would be in addition to the automatically assessed penalty in this rule.

ITEM 13. Amend rule **351—8.11(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code section 68B.32A(9).

ITEM 14. Amend rule 351—8.12(68B) as follows:

**351—8.12(68B) Request for waiver of penalty.** An ~~executive branch lobbyist or an~~ executive branch lobbyist client that believes there are mitigating circumstances that prevented the timely filing of a report may make a written request to the board for waiver of the penalty. The board must receive the request for waiver within 30 days of the ~~lobbyist's or executive branch lobbyist client's~~ being notified of the civil penalty assessment by filing a Petition for Waiver of Civil Penalty form. Waivers will be granted only for exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or request a contested case proceeding pursuant to rule 351—8.13(68B) to appeal the board's decision.

This rule is intended to implement Iowa Code ~~sections~~ section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code section 68B.32A(9).

ITEM 15. Amend subrule 8.13(1) as follows:

**8.13(1) Request.** If an ~~executive branch lobbyist or an~~ executive branch lobbyist client accepts administrative resolution of a matter through the payment of an assessed civil penalty, the matter shall be closed. If the person chooses to contest the board's decision to deny a request or grant a partial waiver of an assessed civil penalty, the person shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

ITEM 16. Amend rule **351—8.13(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4, and Iowa Code sections 68B.32A(9); and 68B.33.

ITEM 17. Amend subrule 8.20(2) as follows:

**8.20(2) Internet access.** Forms filed under this chapter shall be accessible for viewing via the board's Web site at [www.iowa.gov/ethics](http://www.iowa.gov/ethics) as follows:

*a.* A list of registered executive branch lobbyists and executive branch lobbyist clients for the current calendar year and the two previous calendar years.

~~*b.* An executive branch periodic lobbyist report for a period of at least three years from the report due date.~~

~~*e. b.* An executive branch lobbyist client report for a period of at least three years from the report due date.~~

~~*d. c.* A ~~reception~~ session function registration notice and a session function reporting form for a period of at least three years from the date the form was filed as long as the general assembly posts the session function registration notice and a session function reporting form on the general assembly's Web site.~~

ITEM 18. Amend rule **351—8.20(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68B.32A(5) as amended by 2010 Iowa Acts, Senate File 2067, section 4.

[Filed Without Notice 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8785B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

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

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

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

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

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

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 24, 2010, as **ARC 8619B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 11, 2010.

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

These amendments shall become effective on August 1, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.2(5), 75.14, 75.55(2)"a"] is being omitted. These amendments are identical to those published under Notice as **ARC 8619B**, IAB 3/24/10.

[Filed 5/11/10, effective 8/1/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8816B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 321G.23, 321I.25, 462A.1 and 483A.27(4), the Natural Resource Commission hereby amends Chapter 12, "Conservation Education," Iowa Administrative Code.



## NATURAL RESOURCE COMMISSION[571](cont'd)

The adopted amendments clarify the general requirements of the Department's boating, snowmobiling, all-terrain vehicle, snow groomer operator, fur harvester, and bow hunting education programs, as well as further delineate each program's instructor certification criteria.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8463B**. Public comments were taken through February 2, 2010. A subsequent public hearing was held April 2, 2010, and notice was given via press releases and E-mail messages.

- Comments received and the response from the Department regarding the Iowa Hunter Education and Ethics program are as follows:

There was concern that requiring hunter education (HE) instructors to teach a course once every two years, at a minimum, was not sufficient and that a yearly requirement would be better. The Department believes, however, that every two years is adequate to keep instructors up-to-date on subject matter and better accommodates the volunteers' schedules. By also requiring HE instructors to attend an instructor development workshop once every two years, the Department believes adequate measures are in place to guarantee that active and informed instructors are teaching all courses. These requirements are mandatory and an instructor's failure to meet them will result in the revocation of an instructor's certification, making the instructor ineligible to teach classes.

The Department received a comment expressing concern over how the program addresses students who are felons and if this issue needs to be specifically addressed in the rules. The Department does a thorough job of training instructors on how to handle these situations, gives refreshers on this topic at its instructor workshops, and covers the topic in the instructor policy and procedures manual. The Department does not believe that this issue needs to be included in the rules.

Another comment added that a one-day HE class was not sufficient. In response, the Department has structured its current curriculum based upon authorization of, at a minimum, a ten-hour class pursuant to Iowa Code section 483A.27(2). Additionally, approved online courses that pair online instruction with a field day only require a four-hour block of classroom instruction. The Department believes that mandating a two-day, in-person class would negatively impact the online certification option, and that keeping the two methods more aligned by incorporating the ten-hour and four-hour rather than the four-hour and two-day option is sufficient and appropriate.

- Comments received and the responses from the Department regarding the All-Terrain Vehicle (ATV) Education Program are as follows:

Several comments stated that students who do not have access to the Internet should still be able to register for classes in person or via the telephone. The Department agrees. Students will be able to contact the Program Coordinator, a Recreation Safety Officer, a Department district office, the Online Training Registration and Tracking System (OTRATS) Administrator, or the instructor to set up a student account. Furthermore, the Department would like to clarify that a home computer is not necessary to utilize the online registration and education programs. Internet access available from public computers, such as those at a school or a library, is sufficient to navigate the online registration and course programs.

Several comments focused on ATV registration requirements. The Department clarified that ATVs do not currently have to be registered for use on private land, and that same rule applies for ATV education courses held on private land. Comments also focused on whether an ATV that is not currently required to be registered would have to be registered if ridden in an education course held on public lands. The Department has revised the rule to add that there is not a course-only registration requirement. Students will be given a registration waiver free of charge for the duration of the education course, but will not be allowed to ride on the designated riding area at any other time if the machine is unregistered, including directly after instruction is over. The Department will provide a "registration applied for" placard to owners of machines who have not yet received their registration to use during a course of instruction held on public lands. The Department believes these fact-specific waivers are clearly justified. Current law exempts from registration ATVs solely used on a farm, or those exclusively ridden on private lands. The Department is concerned that requiring registration, which carries tax implications, may dissuade these individuals from getting important safety training.

Finally, a comment inquired whether instructors could teach private (exclusionary) classes. The Department's preference is that all classes are open to general registration, but the rules do provide

## NATURAL RESOURCE COMMISSION[571](cont'd)

for an exception. A written request for a private class must be submitted to the Program Coordinator or the Recreational Safety Programs Supervisor, who will either grant or deny the request and will provide justification for doing so.

- Comments received and the responses from the Department regarding the Snowmobile Education Program are as follows:

Some comments inquired about the proposed increase in the snowmobile education program fee. The current \$5 fee goes solely toward the education certificate that students receive upon successful completion of the course. These amendments increase the course fee to \$10 to cover the cost of materials provided to students. The DNR is allowed to charge a course fee under Iowa Code section 321G.23.

Comments expressed concern that the current program denied participation by children younger than 12 years of age. However, the Department clarified that students of all ages may participate, but only those 11 years of age and older are eligible for a certificate of completion. An 11-year-old can earn a certificate but it will not be effective until the student's twelfth birthday.

Stakeholders questioned the requirement that only public buildings be used for classroom instruction, stating that many successful courses had been taught in private buildings and homes. The Department has implemented this requirement based upon national trends to protect both instructors and students from the possibility or even the appearance of impropriety. Fortunately, there have been no incidents in Iowa where a student has accused a volunteer instructor of improper behavior, but the Department has a responsibility to put safeguards in place to protect students participating in its educational programs. The rule does provide for an exception to be granted at the discretion of the Program Coordinator, Recreation Safety Officer, or Recreational Safety Programs Supervisor.

Comments expressed concern over the verification issues anticipated with online courses; namely, how to verify student participation which is an issue that did not arise in traditional classroom settings. The Department intends to manage the online course by utilizing built-in security that requires personalized registration and log-on information. This built-in security system will ensure that the registered student is the actual student taking the course. Moreover, across the country, students of online recreation education courses are exhibiting increased course knowledge compared to students from traditional classroom settings, making the Department confident in its choice to offer the programs in Iowa. This increased knowledge is due to the mixed teaching styles and the self-paced approach of the online course. The Department is not intending to phase out classroom-based courses, but rather respond to the interest in the public for more and different education options.

Finally, a comment asked why snowmobile instructors were required to take a continuing education (CE) course every two years when the curriculum content does not change that quickly. This comment is applicable to all instructors because they must fulfill CE requirements as well. The CE requirement does not focus solely on substantive issues related to the sport, but rather is all-inclusive of the responsibilities of being an instructor. The Department believes it is imperative to keep instructors current on program requirements, changes to paperwork and reporting requirements, and administrative rule changes and to keep instructors active and in regular contact with Department personnel.

- Comments received and the responses from the Department regarding the Snow Groomer Operator Program are as follows:

A comment was not in favor of the CE requirement for this program. The Department's response is the same as that expressed above for snowmobile instructors.

Another comment disagreed with the requirement that operators pay a \$10 fee every three years to be recertified. The Department clarified that the \$10 fee is a one-time fee collected when the operator is originally certified; no other subsequent fees are collected.

Comments were received that encourage more advance advertising of courses. The Department agrees and will continue to work with local associations and groups, including the Iowa State Snowmobile Association, to ensure sufficient notice is given to interested parties.

A comment was received that asked for clarification of the snow groomer operator apprenticeship program. The Department has reviewed this rule and redrafted it for clarity. The apprenticeship is conducted by the operator-applicant in conjunction with a certified operator. An operator card will be

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given to successful operator-applicants after the Program Coordinator has received a positive review from the certified operator who oversaw the apprenticeship.

- No comments were received, either in writing or at the public meeting, concerning the Department's Boating Education Program, Bow Hunter Education Program, or Fur Harvester Education Program.

These amendments are intended to implement Iowa Code sections 321G.23, 321I.25, 462A.1, and 483A.27(4).

These amendments will become effective July 7, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following new division title before rule **571—12.1(455A)**:

DIVISION I  
RESOURCE ENHANCEMENT AND PROTECTION  
CONSERVATION EDUCATION PROGRAM (REAP)

ITEM 2. Amend **571—Chapter 12**, implementation sentence for Division I, as follows:  
~~These~~ The rules in this division are intended to implement Iowa Code sections 455A.19 and 455A.21.

ITEM 3. Amend **571—Chapter 12** by adopting the following new division title:

DIVISION II  
RECREATION EDUCATION COURSES

ITEM 4. Amend **571—Chapter 12** by adopting the following new Part I title:

PART I  
VOLUNTEER INSTRUCTOR CERTIFICATION AND DECERTIFICATION PROCEDURES

ITEM 5. Adopt the following new rules 571—12.20(321G,321I,462A,483A) to 571—12.29(321G,321I,462A,483A):

**571—12.20(321G,321I,462A,483A) Purpose.** Pursuant to Iowa Code sections 321G.23, 321I.25, 462A.1 and 483A.27(4), these rules set forth curriculum and course standards for the department's recreation education courses and provisions for certification of volunteer instructors to teach the courses.

**571—12.21(321G,321I,462A,483A) Definitions.** For the purpose of this division:

*"Certified instructor"* means a person who meets all criteria in rule 571—12.23(321G,321I,462A,483A) and the specifics contained in each education program's Instructor Policies and Procedures Manual and who wishes to voluntarily teach an education course.

*"Department"* means the department of natural resources.

*"DNR online training registration and tracking system"* means the Web-based application that tracks student data, allows students to register for courses, allows certified instructors to list their course offerings and to track volunteer hours and program details, and displays downloadable PDF files.

*"Education course"* means the department's bow hunter, fur harvester, snowmobile, all-terrain vehicle (ATV), boating, snow groomer operator, and hunter safety and ethics courses.

*"Instructor applicant"* means a person who has applied to become a certified volunteer instructor for one of the department's education courses.

*"Managed Internet course"* means a course offered via the Internet which contains a protocol that ensures that the person registering for the course is the person taking the test and includes a progressive sequence for the presentation of course material.

*"Program coordinator"* means the person assigned from the snowmobile, all-terrain vehicle, and boating programs to coordinate instructor certification and development activities, develop curriculum standards for the programs, conduct outreach for the programs, train volunteer instructors and evaluate their skills, and serve as the primary contact for information about the programs.

*"Recreational safety programs supervisor"* means the person charged by the department with the coordination and management of the recreation education programs, including personnel employed by the department to work with these programs.

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“*Recreation safety officer*” means a peace officer employed by the department who has received specialized training in managing and overseeing the recreation education programs of the department, including training volunteer instructors and evaluating their skills.

“*Student*” means a person who wishes to enroll or has enrolled in an education course.

**571—12.22(321G,321I,462A,483A) Certified instructor application process.****12.22(1) Application procedures.**

a. The instructor applicant must request an application by contacting a program coordinator, a recreation safety officer, or the recreational safety programs supervisor.

b. The instructor applicant must provide all information requested on the application or the department may reject the application.

c. The application will remain on file until the instructor applicant meets all the requirements in rule 571—12.23(321G,321I,462A,483A).

d. Once the instructor applicant successfully completes all required training and meets all required qualifications, the program coordinator, recreation safety officer, or recreational safety programs supervisor shall document that all certification requirements have been met and shall issue a certified instructor identification card to the instructor.

**12.22(2) Acceptance of certified instructor applications.** If the number of existing certified instructors in one or more of the education courses meets the demand for those courses, based on student enrollment, the department may choose not to accept new applications for the specified education program.

**571—12.23(321G,321I,462A,483A) Requirements for instructor certification.**

**12.23(1) Minimum requirements.** The conditions listed in this rule must be satisfied before an instructor applicant may become a certified instructor. Failure to meet these requirements shall result in the denial of the application. The instructor applicant will be notified of the denial by the program coordinator or recreational safety programs supervisor. The instructor applicant must:

a. Submit an application as provided by the department.

b. Be at least 18 years of age.

c. Attend and pass an instructor training and certification course administered by the department and described as follows:

(1) ATV education program. The instructor training and certification course for the ATV education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

(2) Boating education program. The instructor training and certification course for the boating education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, course material, criteria for evaluating the performance of student skills, and teaching techniques and requires completion of the student course and instruction of the course under the direction of department representatives.

(3) Hunter safety and ethics education program. The instructor training and certification course for the hunter safety and ethics program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

(4) Bow hunter education program. The instructor training and certification course for the bow hunter education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education course and an apprenticeship.

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(5) Fur harvester education program. The instructor training and certification course for the fur harvester education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education program material, teaching techniques, and criteria for evaluating the performance of student skills and requires completion of the education program and an apprenticeship.

(6) Snowmobile education program. The instructor training and certification course for the snowmobile education program reviews policies and procedures of the department as contained in these rules and the specifics of the program, paperwork required by the department, education course materials, skills that pertain to administering the student examination, and teaching techniques and requires completion of an apprenticeship.

(7) Snow groomer operator education program. The training for the snow groomer operator program teaches the basics of snow science, best practices of equipment operation, documentation requirements, liability issues, insurance coverage, and the requirements of the equipment agreement that is in place between the individual club and the department and requires completion of an apprenticeship.

**12.23(2) Apprenticeship.** The instructor applicant must complete an apprenticeship for the specific education program.

*a. ATV education program.* The apprenticeship requirement for the ATV education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*b. Boating education program.* The apprenticeship requirement for the boating education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*c. Hunter safety and ethics education program.* The apprenticeship requirement for the hunter safety and ethics education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students. The apprenticeship may be completed during the instructor training and certification course or within one year of attending the course.

*d. Bow hunter education program.* The apprenticeship requirement for the bow hunter education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*e. Fur harvester education program.* The apprenticeship requirement for the fur harvester education program consists of either teaching a simulated class to other instructor applicants or assisting a certified instructor to prepare and present an education course to students.

*f. Snowmobile education program.* The apprenticeship requirement for the snowmobile education program consists of assisting a certified instructor to prepare and present an education course to students.

*g. Snow groomer operator education program.* The apprenticeship requirement for the snow groomer operator education program consists of assisting a certified instructor to prepare and present an education course to operator applicants.

**12.23(3) Background check.** The instructor applicant must authorize a background check that includes, but may not be limited to, a criminal history check. A record of a felony conviction will disqualify the instructor applicant. A record of a serious or aggravated misdemeanor within the last three years will disqualify the instructor applicant.

**12.23(4) Fish and wildlife violation check (hunting, fishing, and trapping).** The instructor applicant must authorize a fish and wildlife violation check. The instructor applicant may be disqualified if the instructor applicant has accumulated any habitual offender points pursuant to rule 571—15.6(483A) within the last five years or had a license suspended by a court of law or the department.

**571—12.24(321G,321I,462A,483A) Certified instructor responsibilities and requirements.**

**12.24(1)** A certified instructor has the following responsibilities:

*a.* To follow all policies and procedures as set forth by the department for the specified education program.

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*b.* To sign an acknowledgment form confirming receipt of the department's policies and procedures. The certified instructor is ineligible to begin teaching an education course until the acknowledgment form is signed and filed with the department. Any updates to the policies and procedures shall be provided in writing to the certified instructor, and an additional acknowledgment form must be signed and filed with the department. Failure to file a subsequent acknowledgment form with the department invalidates the instructor's certification.

*c.* To assist in the recruitment and training of additional certified instructors.

*d.* To recruit students for and train students in the education course.

*e.* To actively promote the education program in the instructor's county and to publicize each new education course. A course must be posted at least 30 days prior to the start date of the course.

*f.* To maintain order and discipline in the classroom and outdoor classroom at all times.

*g.* To accurately fill out forms and reports required by the department for the accurate input and upkeep of the DNR online training registration and tracking system's records, or paper forms if applicable.

*h.* To teach the education course as prescribed by the department.

**12.24(2)** A certified instructor must teach a minimum of one course every two years. If this requirement is not met, the instructor's certification may be revoked after notification by certified mail. If an instructor's certification is revoked due to inactivity, the instructor may reapply to become a certified instructor pursuant to rule 571—12.22(321G,321I,462A,483A). Based upon the period of inactivity, some of the requirements in rule 571—12.23(321G,321I,462A,483A) may be waived by the program coordinator or recreational safety programs supervisor.

**12.24(3)** A certified instructor must attend one continuing education instructor workshop every two years.

**12.24(4)** A certified instructor shall represent the department in a positive manner that supports the department's goals and shall avoid even the appearance of impropriety while instructing students.

**12.24(5)** A certified instructor must teach the education course with another adult present unless the certified instructor obtains prior approval from the department. It is the department's preference that the certified instructor is assisted by another department-certified instructor, but a noncertified assistant over 18 years of age may assist so long as the noncertified assistant does not directly teach the students substantive issues of the course. The person assisting the certified instructor must meet the same standards and expectations for character and behavior as the department has for its instructors. The certified instructor is responsible for the conduct of the noncertified assistant. The certified instructor is subject to suspension or revocation of certification based upon the actions of the noncertified assistant.

If the course is taught without another adult present, notification to the program coordinator, recreation safety officer, or recreational safety programs supervisor must be made and authorization of the course must be given by the department in writing prior to holding the class. A parent or legal guardian of a student in the class who is present as a direct result of the student's participation is not eligible to assist with the class.

This subrule does not apply to a conservation officer or any other department representative who is teaching an education course alone.

**12.24(6)** A certified instructor shall not use private residences for classes, and shall limit instruction to public buildings or facilities unless a private, nonresidence venue is approved beforehand in writing by the program coordinator, recreation safety officer, or recreational safety programs supervisor.

**12.24(7)** All recreation education courses shall be made available to the public except for special circumstances that are preapproved by the department, such as courses being held in conjunction with schools, camps, and other special events.

**571—12.25(321G,321I,462A,483A) Grounds for revocation or suspension of instructor certification.** The department may, at any time, seek to revoke or suspend the instructor certification of any person who:

1. Fails to meet the instructor responsibilities and requirements as outlined in rule 571—12.24(321G,321I,462A,483A).

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2. Fails to follow the policies and procedures of the department.
3. Falsifies any information that may be required by the department. Falsifying information is understood to mean purposefully supplying information that is inaccurate or misleading or the intentional omission of information.
4. Handles any equipment in an unsafe manner, or allows any student or other instructor to handle equipment in a reckless or unsafe manner.
5. Is convicted of or forfeits a bond for any fish and game, snowmobile, ATV, or navigation violation of this state or any other state. Anyone who has a privilege to operate a motor vehicle suspended, barred, or revoked shall not be eligible to be an instructor for the snowmobile, ATV, or snow groomer operator education programs.
6. Uses profanity or inappropriate language, such as any type of sexist or racial references or generalities.
7. Engages in the physical punishment of a student, including the use of unreasonable or unnecessary physical force or physical contact made with the intent to cause pain, or any type of indecent contact with a child as defined by the Iowa Code.
8. Participates in a course while under the influence of alcohol or any illegal drug or while ingesting prescription medication in a manner contrary to the dosing directions given by the prescribing physician.
9. Has substantiated complaints filed against the instructor by the public, department personnel, or another certified instructor.
10. Fails to meet the requirements in subrule 12.24(2) or 12.24(3).
11. Is under investigation for committing, is in the process of a judicial proceeding based on the allegation of committing, or is convicted of committing a felony or an aggravated or serious misdemeanor as defined in the statutes of this state or another state. Every certified instructor is subject to a criminal history check and conservation violation check at any time during the instructor's tenure as an instructor.
12. Receives compensation directly or indirectly from students for time spent preparing for or participating in an education course.
13. Teaches an education course without another adult present without prior department approval.

**571—12.26(321G,321I,462A,483A) Temporary suspensions and immediate revocations of instructor certifications.**

**12.26(1)** Any complaint made against a department-certified instructor will be taken seriously and will be investigated by a program coordinator, a recreation safety officer, or a conservation officer. If convincing evidence exists that a certified instructor engaged in any of the activities listed in rule 571—12.25(321G,321I,462A,483A), the instructor's certification will be temporarily suspended. A letter detailing the reason(s) for the instructor's certification suspension will be sent via certified mail to the last-known address of the instructor. The letter will detail the length of the suspension and any corrective action to be taken by the instructor before the instructor's certification is reinstated.

**12.26(2)** At the conclusion of the department's investigation, any certified instructor who is found to have engaged in the activities listed in rule 571—12.25(321G,321I,462A,483A), numbered paragraph "3," "5," "7," "8," "11," or "12," shall immediately have the instructor's certification revoked. In the event that an instructor's certification is revoked, rule 571—12.29(321G,321I,462A,483A) shall apply.

**12.26(3)** At the conclusion of the department's investigation, if a certified instructor is found to have exercised bad judgment while teaching a class, failed to complete paperwork in a timely and proper manner, or engaged in risky or unsafe behavior or in an activity listed in rule 571—12.25(321G,321I,462A,483A), numbered paragraph "4," "6," "9," or "13," the suspension shall be exercised at the department's discretion based upon the nature and seriousness of the misconduct.

**12.26(4)** For the hunter safety and ethics education program, bow hunter education program, and fur harvester education program, the results of the department's investigation shall be supplied to the Iowa Hunter Education Instructor Association (IHEIA), which shall review the results and supply a disciplinary recommendation to the department. The department shall consider IHEIA's

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recommendation when exercising its discretion to suspend or revoke the instructor's certification, based upon the nature and seriousness of the misconduct.

**571—12.27(321G,321I,462A,483A) Termination of certification.** Any certified instructor has the right, at any time, to voluntarily terminate the instructor's certification. If a certified instructor voluntarily terminates the certification or the instructor's certification is terminated by the department, the instructor must return to the department the certification card and all materials that were provided to the individual.

**571—12.28(321G,321I,462A,483A) Compensation for instructors.** Instructor applicants and certified instructors shall not receive any compensation for their time either directly or indirectly from students while preparing for or participating in a course. However, instructor applicants and certified instructors may require students to pay for actual, course-related expenses involving facilities, meals, or materials other than those provided by the department. All certified instructors shall keep all records, bills, receipts, etc., relating to student payments for at least one year after the course and shall submit such documents to the department upon request.

**571—12.29(321G,321I,462A,483A) Hearing rights.** If the department seeks to revoke an instructor certification pursuant to rule 571—12.26(321G,321I,462A,483A), the department shall provide to the certified instructor written notice of the intent to revoke the certification as provided in Iowa Code chapters 17A and 455A, and Iowa Administrative Code 561—Chapter 7. If the certified instructor requests a hearing, it shall be conducted in accordance with Iowa Administrative Code 561—Chapter 7.

ITEM 6. Amend **571—Chapter 12** by adopting the following new Part II title:

## PART II

## RECREATION EDUCATION PROGRAMS

ITEM 7. Adopt the following new rules 571—12.31(321I) to 571—12.37(483A):

**571—12.31(321I) ATV education program.**

**12.31(1)** For the ATV education program, the department has developed a rider-based course designed to meet the statutory requirement to provide rider education and instructor development as provided in Iowa Code section 321I.25.

**12.31(2) Reciprocity.** The department also recognizes safety courses taught by ATV Safety Institute (ASI)-certified instructors. Students who successfully complete this course are not required to take any additional training or testing from the department and are eligible to receive an education card issued by the department upon proof of successful completion of the course from the ASI-certified instructor and the payment of the \$5 certification fee.

**12.31(3)** The department's ATV Education Program Skills Course is approximately four to six hours in length and is designed to be completed in one day. The education course is designed to teach ATV riders the principles and behaviors of safe and responsible ATV riding. The education course consists of both lecture and riding lessons.

**12.31(4)** The following criteria apply to the ATV education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certificate shall not become valid until the student's twelfth birthday.

*b.* A student successfully completes the education course by demonstrating proficiency in the riding skills taught in the course. Students who are not able to demonstrate safe riding skills will not earn an education certificate.

*c.* The cost of the education course is \$25 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*d.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which



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includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*e.* Students must provide their own protective riding gear and an ATV properly sized for the student. "Properly sized" means the student can comfortably reach all of the controls on the machine and can operate them. Students must also be of sufficient body weight to be able to maintain safety on the machine by shifting their weight during the training. The student must wear a helmet and protective eyewear at all times when the student is operating an ATV. The ATV must be in good working order, equipped with a proper muffler, and have current registration if the class is taught on public land as required by Iowa Code section 321I.3. If the class is held on private land, the registration requirement is not applicable. If the machine being used by the student is not required to have a recreation-use registration by statute, the registration requirement is not applicable and the lead instructor will put a placard on the machine to be used during the class indicating the exception. Students whose ATVs do not meet the requirements of this paragraph or whose ATVs are not properly sized will not be allowed to participate in the education course.

**12.31(5)** The department will establish requirements and standards for curriculum, security protocol, and managed delivery for an online education offering. Only vendors that have entered into a memorandum of understanding with the department will be allowed to offer an online course that results in the issuance of a department education certificate. Vendors may charge for their courses as agreed to in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

**571—12.32(321G) Snowmobile education program.**

**12.32(1)** For the snowmobile education program, the department has developed an education course designed to meet the statutory requirement in Iowa Code section 321G.23 to provide rider education and instructor development.

**12.32(2)** The education course is approximately eight hours in length, consists solely of lecture, and is designed to be completed in one day.

**12.32(3)** The following criteria apply to the snowmobile education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

*b.* Students will be given a written examination that they must pass with 80 percent accuracy in order to earn an education certificate.

*c.* A home study course may be offered at the discretion of the department. The home study packet will contain the same written material provided in the classroom-based setting. An attestation form must be signed by a parent or guardian stating that the student completed the work. A student completing a home study course must pass a written examination with 80 percent accuracy in order to earn the education certificate.

*d.* The cost of the education course, for both the instructor-led class and the home study option, is \$10 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Home study students must mail in payment with their completed course paperwork. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*e.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

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**12.32(4)** The department will establish requirements and standards for curriculum, security protocol, and managed delivery. Only vendors that have entered into a memorandum of understanding with the department will be allowed to offer an online course which results in the issuance of a department education certificate. Vendors will be allowed to charge for their courses as agreed to in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

**571—12.33(462A) Boating education program.**

**12.33(1)** In accordance with Iowa Code section 462A.1, the goal of the boating education program and education course is to promote safe and responsible boating practices.

**12.33(2)** Reciprocity. The department also recognizes safety courses taught by United States Coast Guard Auxiliary- and United States Power Squadron-certified instructors. Students who successfully complete this course are not required to take any additional training or testing from the department and are eligible to receive an education card issued by the department upon proof of successful completion of the course from the United States Coast Guard Auxiliary- or United States Power Squadron-certified instructor and the payment of the \$5 certification fee.

**12.33(3)** The education course for the boating education program is taught by certified instructors in a classroom setting and shall be a minimum of eight hours in length.

**12.33(4)** The following criteria apply to the boating education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

*b.* Students will be given a written examination that they must pass with 80 percent accuracy in order to earn an education certificate.

*c.* A home study course may be offered at the discretion of the department. The home study packet will contain the same written material provided in the classroom-based setting. An attestation form must be signed by the parent or guardian stating that the student completed the work. A student must pass a written examination with 80 percent accuracy in order to earn an education certificate.

*d.* The cost of the education course, for both the instructor-led class and the home study option, is \$5 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Home study students must mail in payment with their completed course paperwork. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*e.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

**12.33(5)** The department will establish requirements and standards for curriculum, security protocol, and managed delivery. Only vendors that have the National Association of State Boating Law Administrators seal of approval and have entered into a memorandum of understanding with the department will be allowed to offer an online course which results in the issuance of a department education certificate. Vendors may charge for their courses as agreed to in the memorandum of understanding and must collect the department's education certificate fee on behalf of the department.

**571—12.34(483A) Hunter safety and ethics education program.**

**12.34(1)** The education course for the hunter safety and ethics education program is designed to teach students basic survival and first-aid skills, water safety, wildlife identification, and the basics of wildlife management, hunting laws, and firearm/archery safety. The education course also stresses the importance of individual responsibility and outdoor ethics. Satisfactory completion of the education course is mandatory pursuant to Iowa Code section 483A.27 for anyone born after January 1, 1972, who wishes to purchase an Iowa hunting license.

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**12.34(2)** The education course is taught by certified instructors and is a minimum of ten hours in length. The education course shall have both classroom and hands-on components. Where permitted, live fire exercises may be taught.

**12.34(3)** The hunter safety and ethics education program also offers an online course/field day. The online course is approximately six hours in length and covers the same subject taught in the lecture portion of the department's course. A field day voucher may be purchased from the online vendor for a fee determined in the memorandum of understanding between the vendor and the department upon the student's successful completion of the online course. The field day voucher is valid for one year from the date of issuance and authorizes entrance into a field day course. The field day portion is approximately four hours in length and is designed to meet the additional required elements of the hunter safety and ethics education program required in Iowa Code section 483A.27. Students must preregister for the field day course by using the DNR online training registration and tracking system unless Internet access is unavailable, in which case the student shall preregister by contacting the department.

*a.* The department recommends that the student be 16 years of age or older to take the online/field day course.

*b.* Only vendors that have been approved by the International Hunter Education Association and have entered into a memorandum of understanding with the department shall be allowed to offer an online course that results in the issuance of a field day voucher.

**12.34(4)** The following criteria apply to the hunter safety and ethics education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certificate shall not become valid until the student's twelfth birthday. If the certificate is lost, a replacement certificate may be obtained from any electronic license system for Iowa (ELSI) vendor during regular business hours for \$3.50.

*b.* A student successfully completes the course by completing a minimum of ten hours of training, six of which may be completed online if a student chooses to attend an online/field day course. Upon completion of the ten-hour curriculum, each student must take an individual oral or written test provided by the department. The student must pass the test with a score of 75 percent or higher. Based on the results of the test and the student's demonstration of safe handling of a firearm, the instructor shall determine if the student shall be issued a certificate of completion.

*c.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*d.* There is no fee for the education course.

**571—12.35(321G) Snow groomer operator education program.**

**12.35(1)** The department has developed a program to educate snow groomer operators to meet the statutory requirement of Iowa Code section 321G.2.

**12.35(2)** The snow groomer operator education program includes review of the department's policies and procedures, course materials, operator certification requirements, paperwork requirements, and the department's equipment agreement and completion of an apprenticeship as detailed in subrule 12.23(2).

**12.35(3)** The following criteria apply to the snow groomer operator education program:

*a.* An operator must be at least 18 years of age and possess a valid Iowa driver's license in order to be certified to operate a piece of snow grooming equipment.

*b.* The cost of the course is \$10 per student. Payment may be made when the student registers for the course or to the instructor at the time of class. Payment shall be made by check or money order made payable to the DNR. Course fees are nonrefundable.

*c.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which

## NATURAL RESOURCE COMMISSION[571](cont'd)

includes access through a public option such as a school or library, may contact the program coordinator, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918.

*d.* Operators shall agree to follow all policies and procedures as set forth by the department and sign an acknowledgment form for these policies and procedures and file it with the department. The operator is ineligible to begin operating equipment, including during the apprenticeship training, until the acknowledgment form is signed and on file with the department.

**12.35(4)** A student who wishes to become a certified operator must complete an apprenticeship to receive the student's certification card. A student must operate the equipment under the direct supervision of a certified operator until the certified operator is confident that the student can successfully operate the equipment independent of assistance. Upon successful completion of the apprenticeship, the certified instructor will notify the program coordinator that the certification card can be issued. Operation of snow grooming equipment is allowed only by someone with a department-issued certification card or by an apprentice under direct supervision of a certified snow groomer operator. The certification card must be in the certified snow groomer operator's possession when the equipment is being operated.

**12.35(5)** Certified operators must attend a recertification course once every three years to maintain their certification.

**12.35(6)** The department may revoke an operator's certification if it finds that equipment was used or maintained in violation of the equipment agreement in place for the equipment, that there are founded cases of misuse of the equipment, or that an operator does not possess a valid driver's license issued by the Iowa department of transportation.

**571—12.36(483A) Bow hunter education program.**

**12.36(1)** The education course for the bow hunter education program is designed to teach bow hunters safe and ethical hunting techniques and to instill responsible attitudes toward people, wildlife, and the environment. The education course is based on the National Bowhunter Education Foundation's publications and is administered by the department. The education course covers topics such as responsibilities of a bow hunter, knowledge necessary before hunting, shot placement, tree stand safety, blood trailing, and game care.

**12.36(2)** The education course is offered in both a classroom and an online setting.

*a.* The classroom course is taught by department-certified instructors and is approximately six hours in length. The course consists of both a lecture and hands-on exercises. Students will be given a written examination which they must pass with 75 percent accuracy in order to earn an education certificate.

*b.* The online course is a combination of an online class and a field day and is recommended for students 16 years of age or older. A student must complete both the online class and field day to gain certification. Only vendors that have been approved by the International Hunter Education Association and have entered into a memorandum of understanding with the department will be allowed to offer an online course that results in the issuance of a field day voucher. The field day voucher is valid for one year and authorizes entrance into a field day course.

(1) The online class is completed by the student on the student's own time. This portion of the course is in conjunction with the National Bowhunter Education Foundation, which charges a fee to students for the foundation's service.

(2) The field day is offered free of charge by a certified bow hunter instructor. A student successfully completes the online course/field day by presenting to the field day instructor a copy of the Field Day Qualifier Certificate from the National Bowhunter Education Foundation online course to show that the student has successfully completed the online portion. Students then must successfully participate in practical testing at the field day and demonstrate bow and arrow safety and hunting skills under the supervision of a certified instructor. Students may be required to bring their own bow hunting equipment to be used during the field day. Students must also preregister for the field day course by using the DNR online training registration and tracking system unless Internet access is unavailable, in which case the student shall preregister by contacting the department.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**12.36(3)** The following criteria apply to the bow hunter education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

*b.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*c.* There is no charge for the department's course.

**571—12.37(483A) Fur harvester education program.**

**12.37(1)** The fur harvester education program is designed to teach trappers safe and ethical trapping techniques and to instill responsible attitudes toward people, wildlife, and the environment.

**12.37(2)** The fur harvester education program is between six to eight hours in length, and students will receive instruction and hands-on training on the history and heritage of the fur trade, biology and management of Iowa furbearers, wildlife regulations and their purpose, ethics and responsibility, fur harvesting equipment, the basics of harvesting Iowa furbearers, marketing furbearers, public relations, and the basics of outdoor safety and survival. Students will receive a certificate of completion at the end of the education program.

**12.37(3)** The following criteria apply to the fur harvester education program:

*a.* Any student who is 11 years of age or older may enroll in a course and receive a certificate if the student successfully completes the course; however, if the student is 11 years old, the certification shall not become valid until the student's twelfth birthday.

*b.* Students must use the DNR online training registration and tracking system to register for classes unless Internet access is unavailable. Students who do not have access to the Internet, which includes access through a public option such as a school or library, may contact a recreation safety officer, a department district office, the system administrator, or an instructor to set up a student account and register for the class. Assistance may be found by calling (515)281-5918. Students under the age of 11 must have a parent or guardian establish a user account and register on their behalf.

*c.* There is no fee for the education program.

The rules in this division are intended to implement Iowa Code sections 321G.2, 321G.23, 321I.25, 462A.1, and 483A.27.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8815B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 321G.2, 321I.2, and 462A.16, the Natural Resource Commission hereby amends Chapter 44, "Boating, Special Events," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8462B**. A public hearing was held March 31, 2010, and one public comment was received.

The Notice proposed changes to fulfill statutory requirements regarding special events for snowmobiles and all-terrain vehicles (ATVs). This chapter previously contained only special event permit requirements for boating. These amendments add special event permit rules applicable to

## NATURAL RESOURCE COMMISSION[571](cont'd)

snowmobiles and ATVs and update rules for boating. These changes also address and support the Department's new centralized special events application system.

The Department received a detailed comment about the amendments, and the response to it is as follows:

The commenter asked for clarification on the proposed new chapter title, as it suggested the rules applied only to the "Law Enforcement Bureau," and special events on state lands and waters can impact several other bureaus in the Department. The Department agreed that the proposed title may be confusing and has changed the title to "Special Events." Additionally, the Department has added language in rule 571—44.16(321G,321I,462A) that addresses situations in which multiple special events permits may be needed. Under this rule, and other applicable chapter changes in the Commission's rules, acquisition of one permit from the Department is sufficient.

The commenter sought clarification in several definitions and proposed language to refine the use of "permit" in lieu of "authorization letter" throughout the chapter. The Department has made these proposed changes. At the commenter's suggestion, the Department did not adopt the definition of "navigable waters," as the term is not used in the chapter.

The commenter recommended refining rule 571—44.2(321G,321I,462A), which describes the applicability of these rules to lands and waters in the state. The Department has made that change and deleted repetitive clauses.

The commenter sought clarification on the application timeline contained in subrule 44.5(3). The Department has reworded the subrule to parallel the application time frames contained in other special event permit chapters.

The commenter suggested procedural changes in rule 571—44.6(321G,321I,462A), which describes the ability of an applicant to submit and use an alternate date for a special event. The Department has made appropriate changes to refine the notification and approval process for an alternate date.

The Department did not adopt three of the proposed new rules: the rule on inclusion of vehicles (proposed rule 571—44.9(321I)), the snowmobile special event rule (proposed rule 571—44.11(321G)), and the indemnification rule (proposed rule 571—44.15(321G,321I,462A)). The subjects of the first two are covered by other rules, and the latter is unnecessary due to the chapter's insurance requirement. The remaining rules have been renumbered accordingly.

These amendments are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.

These amendments shall become effective July 7, 2010.

The following amendments are adopted.

ITEM 1. Amend **571—Chapter 44**, title, as follows:

**BOATING, SPECIAL EVENTS**

ITEM 2. Rescind rule 571—44.1(462A) and adopt the following **new** rule in lieu thereof:

**571—44.1(321G,321I,462A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

*"Administrative processing fee"* means the fee collected for the processing of each special event application that is submitted for specific vessel, snow, and all-terrain vehicle events.

*"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 activities related to regulated vehicles and vessels which are 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 land, ice, and water.

*"Commission"* means the natural resource commission.

*"Demonstration"* means an outward display showing how equipment works or items are used, with or without the intent to sell; a meeting, gathering, or parade; or a competitive event, tournament, or race.

## NATURAL RESOURCE COMMISSION[571](cont'd)

*“Department”* means the Iowa department of natural resources.

*“Exhibition”* means the act or fact of exhibiting items or equipment; or a public show or display of items or equipment.

*“Off-road motorcycle”* 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”* 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 event.

*“Program coordinator”* means the person assigned from the snowmobile, all-terrain vehicle, and boating programs to coordinate the processing of special event applications and who serves as the primary contact for information about special events for the respective programs.

*“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 an organized race, tournament, exhibition, or demonstration of limited duration that is conducted on public land, ice, or waters of the state under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested.

*“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. Ice boats are considered watercraft.

ITEM 3. Rescind rule 571—44.2(462A) and adopt the following **new** rule in lieu thereof:

**571—44.2(321G,321I,462A) Applicability.** These rules are applicable to all fee title and dedicated lands and all waters under the jurisdiction of the commission or those lands and waters managed by the commission for public access.

ITEM 4. Adopt the following **new** rules 571—44.3(321G,321I,462A) to 571—44.16(321G,321I,462A):

**571—44.3(321G,321I,462A) Permit required.** A permit issued by the department is required in order to conduct a special event as defined in this chapter on public land, ice, or waters under the jurisdiction of the natural resource commission, including dealer demonstrations. Any one of the following criteria may determine the need for a special event permit:

1. The event is open to the public.
2. The event charges an admission fee.
3. The event awards prizes.
4. The event promotes competitive events.
5. Attendance is solicited through advertising, invitation, or other solicitation.
6. The event may adversely impact the use of the area by others.

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

## NATURAL RESOURCE COMMISSION[571](cont'd)

**571—44.5(321G,321I,462A) Application procedures.** The following procedures shall be used when applying for a special event permit:

**44.5(1)** Application shall be made on an electronic form accessed through the department's centralized special events application system.

**44.5(2)** The application shall be received electronically by the department via the centralized special events application system.

**44.5(3)** Applications shall be accepted beginning January 1 of a given year for requested tournament dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for tournaments.

**44.5(4)** The number of events to be held at any area on the same day may be restricted if deemed necessary to avoid congestion within the area so as to protect the resource. The commission shall consider the capacity of facilities such as boat ramps, docks, parking lots, and other area facilities and features when processing applications.

**44.5(5)** Permits are nontransferable.

**571—44.6(321G,321I,462A) Alternate dates.** Alternate dates for the event may be submitted by the applicant. The department may approve a submitted alternate date for the event. If an alternate date is approved, the primary date shall still be used unless unforeseen circumstances prevent its use. If an 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,462A) Insurance coverage.** The applicant shall secure event liability insurance 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.

**571—44.8(321G,321I,462A) Fees.** The administrative fee for processing each special event application is \$25. The fee is nonrefundable.

**571—44.9(321G,321I,462A) Buildings or structures placed on ice during a special event.** The following criteria apply to the placement, construction, or erection of structures placed 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 building or structure owner shall be displayed legibly in a color contrasting to the background on all sides of the building or structure in block letters at least four inches in height.

**44.9(3) Accessibility.** Buildings or structures shall not be locked when in use.

**44.9(4) Reflectors.** Buildings or structures shall have reflectors attached to all sides of the building or 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.** Vessels entered in special events shall not be required to be registered as stated in Iowa Code sections 462A.4 and 462A.5, subject to the following regulations.

**44.10(1) Vessel and participant list.** Sponsors of the special event shall maintain a list of the names and addresses of all persons participating in the event and a description of each vessel in the event.

**44.10(2) Vessels identified.** Each vessel in the special event shall be labeled with an identifying number or letter, which shall be clearly visible and which shall be recorded with the names and addresses of vessel passengers on the list as provided for in subrule 44.10(1).



## NATURAL RESOURCE COMMISSION[571](cont'd)

**44.10(3) Exemption period.** Any vessel entered into a special event may be exempted from state registration requirements for the full 24-hour period of each day covered by the permit to conduct such event and as issued under Iowa Code section 462A.16.

**571—44.11(462A) Mississippi River or Missouri River.** A department special event application is not needed for fireworks or boating events on the Mississippi River or Missouri River upon notification and proof that a United States Coast Guard (U.S.C.G.) permit has been secured. The regional U.S.C.G. office issuing permits for Mississippi and Missouri River events is located in St. Louis, Missouri.

**571—44.12(321G,321I,462A) Other Iowa Code provisions and permits.** The applicant for a special event permit is responsible for ensuring full compliance with regulations of Iowa Code chapters 321G, 321I, and 462A and any other Iowa Code chapters and rules promulgated under those chapters that may be applicable for an event. Likewise, an applicant is required to 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,462A) Authority to cancel or stop an event.** At any time that a conservation officer, park manager, or park ranger determines that a special event is not in compliance with the permit issued or that safety concerns warrant canceling or stopping the event, the conservation officer, park manager, or park ranger has the authority to do so.

**571—44.14(321G,321I,462A) Future special event permits.** The issuance of future permits to an applicant is contingent upon the applicant's compliance with past permits.

**571—44.15(321G,321I,462A) Nonexclusive use of area.** Issuance of a special event permit does not grant the applicant exclusive use of the land, water, or ice that is the subject of the permit unless the permit explicitly authorizes exclusive use.

**571—44.16(321G,321I,462A) Other special events.** These rules do not apply to special events that are governed exclusively by the department's parks bureau, fisheries bureau, or wildlife bureau, except to the extent that the authorization given under this chapter to use a concession in a state park fulfills the parks bureau's special event concession requirements in 571—Chapter 61.

ITEM 5. Adopt the following new implementation sentence in **571—Chapter 44**:  
These rules are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8821B**

**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.

These amendments:

1. Update the definition of "immediate family" to also include spouses, legal guardians, and domestic partners.
2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated chaperoned, organized youth group campsites; and (2) families that exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.
3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. This last

## NATURAL RESOURCE COMMISSION[571](cont'd)

change will, for example, allow individuals such as a husband and wife to sleep in two small separate tents on the same campsite, and allow unrelated campers with six or fewer people, such as school club members or friends, to have an approved second tent on a campsite.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 10, 2010, as **ARC 8593B**. A public hearing was held on March 20, 2010. No one attended the hearing and no written or oral comments were received. The adopted amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 461A.3, 461A.48 and 461A.57.

These amendments will become effective July 7, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [61.2, 61.4(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 8593B**, IAB 3/10/10.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8820B****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 62, "State Forest Camping," Iowa Administrative Code.

These amendments:

1. Update the definition of "immediate family" to also include spouses, legal guardians, and domestic partners.

2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated chaperoned, organized youth group campsites; and (2) families that exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.

3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. For example, this amendment will allow individuals such as a husband and wife to sleep in two small separate tents on the same campsite and allow unrelated campers with six or fewer people, such as a school club or friends, to have an approved second tent on a campsite.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 10, 2010, as **ARC 8592B**. A public hearing was held on March 30, 2010. No one attended the hearing and no written or oral comments were received. A nonsubstantive amendment has been added to change "rule" to "chapter" in the introductory paragraph of rule 571—62.1(461A).

These amendments are intended to implement Iowa Code sections 461A.3, 461A.48 and 461A.57.

These amendments will become effective July 7, 2010.

The following amendments are adopted.

ITEM 1. Amend rule 571—62.1(461A), introductory paragraph, as follows:

**571—62.1(461A) Applicability.** This ~~rule~~ chapter governs camping activity in the following areas:

ITEM 2. Amend rule **571—62.2(461A)**, definition of "Immediate family," as follows:

"*Immediate family*" means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

ITEM 3. Rescind subrule 62.6(3) and adopt the following **new** subrule in lieu thereof:

**62.6(3)** No more than six persons shall occupy a campsite except for the following:

## NATURAL RESOURCE COMMISSION[571](cont'd)

- a. Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites.
- b. Campsites which are designated as chaperoned, organized youth group campsites.

ITEM 4. Adopt the following **new** subrule 62.6(5):

**62.6(5)** Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8774B**

**NATURAL RESOURCES DEPARTMENT[561]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.4, the Director of the Department of Natural Resources hereby adopts new Chapter 15, "Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities," Iowa Administrative Code.

This chapter provides a mechanism through which the Department may suspend, revoke or deny issuance or renewal of licenses of persons who fail to pay liabilities to the state in compliance with the requirements in Iowa Code chapter 272D and Iowa Code section 261.126.

Notice of Intended Action was published March 10, 2010, as **ARC 8598B**. No comments were received, and no changes have been made to the Noticed rules.

These rules will become effective July 7, 2010.

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

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 rules [Ch 15] is being omitted. These rules are identical to those published under Notice as **ARC 8598B**, IAB 3/10/10.

[Filed 5/4/10, effective 7/7/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8810B**

**NURSING BOARD[655]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments make the requirements for license by examination of foreign-educated nurses the same for both RNs and LPNs. The amendments also require foreign-educated nurses who are applying for licensure by endorsement to have the Commission on Graduates of Foreign Nursing Schools submit a credentials evaluation prior to issuance of a nursing license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8675B**. These amendments are identical to those published under Notice.

These amendments will become effective July 7, 2010.

NURSING BOARD[655](cont'd)

These amendments are intended to implement Iowa Code chapters 147, 152 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 [3.4(4), 3.5] is being omitted. These amendments are identical to those published under Notice as **ARC 8675B**, IAB 4/7/10.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8809B**

## **NURSING BOARD[655]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 4, "Discipline," Iowa Administrative Code.

These amendments change the rule related to applications for reinstatement to meet current office procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8674B**. These amendments are identical to those published under Notice.

These amendments will become effective July 7, 2010.

These amendments are intended to implement Iowa Code chapters 147, 152 and 272C.

The following amendments are adopted.

ITEM 1. Amend rule 655—4.11(17A,147,152,272C), introductory paragraph, as follows:

**655—4.11(17A,147,152,272C) Application for reinstatement.** Any person whose license to practice nursing has been suspended or revoked by order of the board or has been voluntarily surrendered may apply for reinstatement. A request for reinstatement must be accomplished in accordance with the terms and conditions specified in the board's order and filed in conformance with these rules. ~~The reinstatement request must be submitted with two sets of the fingerprint packet to facilitate a national criminal history background check, plus the fee identified in the definition of "fees" in 655—3.1(17A,147,152,272C). All fees are nonrefundable.~~

ITEM 2. Amend subrules 4.11(2) and 4.11(5) as follows:

**4.11(2)** The respondent shall initiate proceedings for licensure reinstatement by making application to the board. ~~The application shall be docketed in the original case in which the license was revoked, suspended or voluntarily surrendered and shall be subject to the same rules of procedure as other contested cases before the board. The person filing the application for reinstatement shall immediately serve a copy upon the attorney for the state of Iowa and shall in the same manner serve any additional documents filed in connection with the application.~~

**4.11(5)** Applications not denied for failure to conform to the requirements imposed by these rules shall be set for hearing before the board. The hearing shall be a contested case hearing within the meaning of Iowa Code section 17A.12, and the order to grant or deny reinstatement shall incorporate findings of fact and conclusions of law. If reinstatement is granted, terms and conditions may be imposed. The applicant shall be provided a license reinstatement packet containing an application, a continuing education report form, fingerprint cards, and a statement of the fees as defined in rule 655—3.1(17A,147,152,272C).

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8801B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 6, “Venereal Disease Prophylactics,” Iowa Administrative Code.

This amendment rescinds the rules that pertained to the establishment of standards for, permits for and control over the distribution of venereal disease prophylactics. These rules were outdated and not enforceable. The Legislature repealed 2009 Iowa Code Supplement section 135.11, subsection 13, effective July 1, 2010. That action removed the statutory authority for Chapter 6 in the rules of the Department.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the statutory authority for the rules being rescinded has been repealed.

This amendment was adopted by the State Board of Health on May 12, 2010.

This amendment shall become effective July 7, 2010.

This amendment is intended to implement 2010 Iowa Acts, House File 2144, section 4.

The following amendment is adopted.

Rescind and reserve **641—Chapter 6**.

[Filed Without Notice 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8802B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 83, “Early Childhood Iowa Council,” Iowa Administrative Code.

This amendment rescinds the rules that pertained to the Early Childhood Council. The Legislature repealed Iowa Code sections 135.173 and 135.174 effective July 1, 2010. That action removed the statutory authority for Chapter 83 in the rules of the Department.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the statutory authority for the rules being rescinded has been repealed.

This amendment was adopted by the State Board of Health on May 12, 2010.

This amendment shall become effective July 7, 2010.

This amendment is intended to implement 2010 Iowa Acts, Senate File 2088, section 308.

The following amendment is adopted.

Rescind and reserve **641—Chapter 83**.

[Filed Without Notice 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8804B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code sections 135.11 and 135.28, the Department of Public Health hereby rescinds Chapter 84, “State Substitute Medical Decision-Making Board,” Iowa Administrative Code.

This amendment rescinds the rules that pertained to the duties and composition of the State Substitute Medical Decision-Making Board. The Legislature repealed Iowa Code section 135.28 effective July 1, 2010. That action removed the statutory authority for Chapter 84 in the rules of the Department.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the statutory authority for the rules being rescinded has been repealed.

This amendment was adopted by the State Board of Health on May 12, 2010.

This amendment shall become effective July 7, 2010.

This amendment is intended to implement 2010 Iowa Acts, Senate File 2088, section 399.

The following amendment is adopted.

Rescind and reserve **641—Chapter 84**.

[Filed Without Notice 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8791B****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby rescinds Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code, and adopts a new chapter with the same title.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8627B**. The following changes have been made since the publication of the Notice.

Prior to the public hearing, questions were raised regarding the definitions of “minor dental surgery” and “primary dental care service,” which had been proposed for transparency as this is the way the Department has interpreted these services. The Department has chosen not to adopt these definitions at this time to allow discussion with the Dental Board and the Iowa Dental Association. In turn, this change has also required that the Department not adopt the proposed change in the description of covered services for dentists in subparagraph 88.5(1)“d”(7). The language regarding covered services for dentists will remain the same as the language found in rescinded Chapter 88.

Comments were received at a public hearing that was held on Thursday, April 15, 2010. Comments pertained to the days, maximum hours, clinic sites, and patient groups that were included in rescinded Chapter 88 and have not been changed in new Chapter 88. These items are included in the VHCPP application/agreement for the specialty provider office and the individual volunteer health care provider.

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The VHCPP specialty health care volunteer will list all sites where services will be provided; thus, if the specialty health care providers are in a practice and have several offices where free health care services will be provided, the specialty health care providers will include all of those office locations on their application/agreement.

Due to comments received from the Iowa Collaborative Safety Net Provider Network, the definition of “Iowa specialty referral network” has been changed to “specialty care referral network.” The definition of the “specialty health care provider office” has not been changed as this is the definition that is in the Iowa Code.

There was also comment regarding the issue of minor surgical procedures. The Department has determined that this issue requires further study with the stakeholders and, in order to proceed with enrollment of specialty health care providers and specialty health care provider offices in the Volunteer Health Care Provider Program in July, the Department has adopted the rules without a change to the language regarding minor surgical procedures.

As a result of additional internal review, one additional change to the Noticed rules has been made. In rule 641—88.9(135), the word “deny” has been added in the first sentence so that the sentence reads “The VHCPP may deny, suspend, revoke, or condition the protection of an individual volunteer health care provider, protected clinic or sponsor entity for cause, including but not limited to:”

These rules were adopted by the State Board of Health on May 12, 2010.

These rules shall become effective July 7, 2010.

These rules are intended to implement 2009 Iowa Code Supplement section 135.24.

The following amendment is adopted.

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

CHAPTER 88  
VOLUNTEER HEALTH CARE PROVIDER PROGRAM

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

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

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

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

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

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

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

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

“*Health care services*” means services received from an individual volunteer health care provider at a protected clinic or sponsor entity, as provided in Iowa Code section 135.24 and these rules, and approved in a protection agreement or sponsor entity agreement. The agreement covers “health care services” that are volunteer, uncompensated services. For those services to qualify as volunteer, uncompensated services under this chapter, the individual volunteer health care provider, protected clinic, or sponsor entity must receive no compensation for any services provided under the agreement

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and must not bill or accept compensation from the person, or any public or private third-party payor, for the specific services provided by the individual volunteer health care provider covered by the agreement.

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

*“Individual volunteer health care provider”* means any one of the following health care providers who has a fully executed protection agreement with the VHCPP: an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter 148; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to Iowa Code chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to Iowa Code chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; a speech pathologist or audiologist licensed pursuant to Iowa Code chapter 154F; or a pharmacist licensed pursuant to Iowa Code chapter 155A.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

- (1) The patients to be served;
- (2) The health care services to be provided;
- (3) The site where health care services are to be provided;
- (4) The days and maximum number of hours when the free health care services will be provided each week at each site;
- (5) The services that will be provided to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

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

- (1) Provide that the individual volunteer health care provider shall perform only those health care services identified and approved by the VHCPP;
- (2) Identify the health care services to be provided by the sponsor entity or protected clinic which has been approved by the VHCPP through an application process;
- (3) Identify by category the patient groups to be served;
- (4) Identify the sites at which the free health care services will be provided;
- (5) Identify the maximum amount of time the free health care services will be provided by the individual volunteer health care provider at the identified sites each week;
- (6) Provide that the individual volunteer health care provider shall maintain proper records of the health care services;
- (7) Provide that the individual volunteer health care provider shall make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;
- (8) Provide that the individual volunteer health care provider shall cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;
- (9) Provide that the individual volunteer health care provider shall accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;
- (10) Provide that the individual volunteer health care provider shall receive no direct monetary compensation of any kind for services provided in the VHCPP;
- (11) Provide that the individual volunteer health care provider shall comply with the protection agreement with the VHCPP concerning approved health care services.

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

- a.* The protected clinic shall comply with subrules 88.4(1) through 88.4(5).
- b.* The protected clinic shall provide a list of all individual volunteer health care providers who provide health care services at the protected clinic.

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

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

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

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

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

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

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

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

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

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

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

- a. Provide that the individual volunteer health care provider within a sponsor entity or protected clinic shall perform only those health care services identified and approved by the VHCPP;
- b. Identify by category the patient groups to be served;
- c. Identify the sites at which the free health care services will be provided;
- d. Identify the days and times when health care services are to be provided at each site;
- e. Provide that the sponsor entity or protected clinic shall maintain proper records of health care services for a period of seven years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and

f. Provide that the sponsor entity agrees that only the individual volunteer health care provider or protected clinic is afforded protection under Iowa Code section 135.24 and that the state assumes no obligation to the sponsor entity, its employees, officers, or agents. The sponsor entity or protected clinic shall submit a statement, which shall be submitted on forms provided by the VHCPP, attesting that the sponsor entity or protected clinic and its staff, employees and volunteers agree to:

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

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

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

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

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

**641—88.5(135) Covered health care services.** An individual volunteer health care provider holding a current protection agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669, and a protected clinic holding a current protection agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury alleged to have been proximately caused by an individual volunteer health care provider's provision of covered health care services or solely on the basis of the individual volunteer health care provider's participation in the sponsor entity or protected clinic.

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

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

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

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

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

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

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

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

(7) Dentists for: dental examinations; diagnosis and treatment of acute and chronic conditions; health education; health maintenance; and minor surgical procedures.

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

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

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

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

(12) Master social workers for: psychosocial assessment, diagnosis, and treatment; performance of psychosocial histories; problem identification; evaluation of symptoms and behavior; assessment

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of psychosocial and behavioral strengths and weaknesses and effects of the environment on behavior; psychosocial therapy; differential treatment planning; and interdisciplinary consultation.

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

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

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

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

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

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

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

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

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

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

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

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

**88.5(3)** Patient referral to a specialty health care provider office shall be made solely by the specialty care referral network.

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

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

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

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

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

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

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

**641—88.7(135) Term of agreement.**

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

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

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

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

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

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

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

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

1. Failure to comply with the protection agreement or sponsor entity agreement with the VHCPP.
2. Violation of state law governing the respective scope of practice or other law governing the health care services provided under the VHCPP.
3. Making false, misleading, or fraudulent statements in connection with the VHCPP, including determination of eligibility of the individual volunteer health care provider, protected clinic, or sponsor

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entity or handling of a claim against the individual volunteer health care provider, protected clinic, sponsor entity or the state.

4. Evidence of substance abuse or intoxication affecting the provision of health care services under the VHCPP.

5. Reasonable grounds to believe that the individual volunteer health care provider may have provided incompetent or inadequate care to a patient under the VHCPP or is likely to do so.

6. Reasonable grounds to believe that the individual volunteer health care provider's, protected clinic's, or sponsor entity's participation in the VHCPP may expose the state to undue risk.

7. Failure to immediately notify the VHCPP of any disciplinary action brought against the individual volunteer health care provider by the applicable state licensing board.

**641—88.10(135) Procedure for revocation of agreement.** A proceeding for revocation of an individual volunteer health care provider's protection agreement or a protected clinic's protection agreement or a sponsor entity's agreement for participation shall be conducted as a contested case proceeding pursuant to Iowa Code chapter 17A and 641—Chapter 173. Iowa Code section 17A.18 does not preclude emergency summary suspension of a protection agreement or a sponsor entity agreement. The VHCPP shall immediately notify the appropriate licensing board and the appropriate protected clinic or sponsor entity of revocation of an individual volunteer health care provider's protection agreement.

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

**641—88.12(135) Protection denied.**

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

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

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

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

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retain responsibility for determining that health care personnel are competent and capable of adequately performing the health care services to be provided.

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

These rules are intended to implement Iowa Code section 135.24.

[Filed 5/13/10, effective 7/7/10]

[Published 6/2/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.

**ARC 8796B**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 125.7, the Department of Public Health hereby amends Chapter 157, "Standards for Substance Abuse Treatment and Assessment Programs and the Operating a Motor Vehicle While Intoxicated (OWI) Law," Iowa Administrative Code.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8629B**, and a public hearing was held on Tuesday, April 13, 2010. No one appeared at the public hearing. One written comment was received from a substance abuse treatment program executive director. The comment was generally positive but requested that the Department include a definition for "continuation of care." The Department determined this definition was not necessary. This amendment is identical to the amendment published under Notice of Intended Action.

The State Board of Health adopted this amendment on May 12, 2010.

This amendment is intended to implement Iowa Code chapter 125.

This amendment will become effective July 7, 2010.

The following amendment is adopted.

Amend rule 641—157.7(125) as follows:

**641—157.7(125) Records.**

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

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

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

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



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

[Filed 5/13/10, effective 7/7/10]

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**ARC 8797B**

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

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 191, "Advisory Bodies of the Department," Iowa Administrative Code.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8630B**. No public comments were received. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on May 12, 2010.

These amendments will become effective on July 7, 2010.

These amendments are intended to implement Iowa Code section 135.11.

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 [191.3 to 191.5] is being omitted. These amendments are identical to those published under Notice as **ARC 8630B**, IAB 3/24/10.

[Filed 5/13/10, effective 7/7/10]

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[For replacement pages for IAC, see IAC Supplement 6/2/10.]

**ARC 8798B**

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

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 192, "Child Support Noncompliance," Iowa Administrative Code, and adopts a new chapter with the same title.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8631B**. No public comments were received. The adopted amendment is identical to the one published under Notice.

These rules were adopted by the State Board of Health on May 12, 2010.

These rules will become effective on July 7, 2010.

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

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 rules [Ch 192] is being omitted. These rules are identical to those published under Notice as **ARC 8631B**, IAB 3/24/10.

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[For replacement pages for IAC, see IAC Supplement 6/2/10.]

## **ARC 8799B**

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

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 193, "Impaired Practitioner Review Committee," Iowa Administrative Code, and adopts a new chapter with the same title.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8634B**. No public comments were received. The adopted rules are identical to those published under Notice.

These rules were adopted by the State Board of Health on May 12, 2010.

These rules will become effective on July 7, 2010.

These rules are intended to implement Iowa Code chapter 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 rules [Ch 193] is being omitted. These rules are identical to those published under Notice as **ARC 8634B**, IAB 3/24/10.

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## **ARC 8800B**

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

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 195, "Student Loan Default/Noncompliance with Agreement for Payment of Obligation," Iowa Administrative Code, and adopts a new chapter with the same title.

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

Notice of Intended Action was published in the March 24, 2010, Iowa Administrative Bulletin as **ARC 8632B**. No public comments were received. The adopted rules are identical to those published under Notice.

These rules were adopted by the State Board of Health on May 12, 2010.

These rules will become effective on July 7, 2010.

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

These rules are intended to implement Iowa Code chapter 261.

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 rules [Ch 195] is being omitted. These rules are identical to those published under Notice as **ARC 8632B**, IAB 3/24/10.

[Filed 5/13/10, effective 7/7/10]

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