



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XLII
July 17, 2019

NUMBER 2
Pages 69 to 174

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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]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

JACK EWING, Administrative Code Editor
Publications Editing Office (Administrative Code)

Telephone: (515)281-6048
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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2019

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 26, 2019	August 14, 2019
5	Friday, August 9, 2019	August 28, 2019
6	Wednesday, August 21, 2019	September 11, 2019

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

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

CIVIL RIGHTS COMMISSION[161]

Assistance animal as
reasonable accommodation in
housing—form, ch 9 appendix A
IAB 7/17/19 **ARC 4551C**

Room B100
Grimes State Office Bldg.
Des Moines, Iowa

September 13, 2019
12:30 to 1:30 p.m.

DENTAL BOARD[650]

Teledentistry, 27.12, 27.13
IAB 7/3/19 **ARC 4534C**

Board Office, Suite D
400 S.W. 8th St.
Des Moines, Iowa

July 24, 2019
2 p.m.

EDUCATION DEPARTMENT[281]

Gap tuition assistance
program—eligibility criteria,
assessment, redistribution of
funds, amendments to ch 25
IAB 7/3/19 **ARC 4524C**

ICN Room, Second Floor
Grimes State Office Bldg.
Des Moines, Iowa

July 23, 2019
9 to 10 a.m.

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OSHA standards—civil penalties,
adoption by reference; child
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IAB 7/3/19 **ARC 4520C**

150 Des Moines St.
Des Moines, Iowa

July 29, 2019
1:30 p.m.
(If requested)

REVENUE DEPARTMENT[701]

Remote sales and marketplace
sales, ch 215
IAB 7/3/19 **ARC 4535C**

Room 430, Fourth Floor
Hoover State Office Bldg.
Des Moines, Iowa

July 23, 2019
9 to 10 a.m.

UTILITIES DIVISION[199]

Practice and procedure before the
board, amendments to ch 7
IAB 7/17/19 **ARC 4537C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 20, 2019
2 to 4 p.m.

Intrastate gas pipelines and
underground gas storage,
amendments to ch 10
IAB 6/19/19 **ARC 4506C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 1, 2019
1 to 3 p.m.

Water, sanitary sewage, and
storm water drainage utilities,
amendments to ch 21
IAB 7/17/19 **ARC 4536C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 20, 2019
11:30 a.m. to 1 p.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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ARC 4545C**AGING, DEPARTMENT ON[17]****Notice of Intended Action****Proposing rule making related to definitions and providing an opportunity for public comment**

The Department on Aging hereby proposes to amend Chapter 1, “Introduction, Abbreviations and Definitions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.4.

Purpose and Summary

This proposed amendment implements 2018 Iowa Acts, House File 2451, section 3. The amendment also eliminates the duplication in Chapter 1 of definitions that are currently in Iowa Code section 231.4 and continues movement toward a single and comprehensive rule of definitions applicable to all chapters within the Department’s rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

AGING, DEPARTMENT ON[17](cont'd)

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind the definitions of “Administrative action,” “Certified volunteer long-term care ombudsman,” “Commission,” “Department on aging,” “Director,” “Legal representative,” “Long-term care facility,” “Long-term care ombudsman program,” “Older individual,” “Options counseling” and “Resident” in rule **17—1.5(231)**.

ARC 4542C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to complaint and appeal procedures and providing an opportunity for public comment

The Department on Aging hereby proposes to amend Chapter 2, “Department on Aging,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.53.

Purpose and Summary

This amendment proposes to include Senior Community Service Employment Program (SCSEP) subgrantees as an aggrieved party in the Department's complaint and appeal procedures as required by federal guidelines. The lack of complaint and appeals procedures for SCSEP subgrantees was identified as an issue in a recent federal review of the SCSEP.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

AGING, DEPARTMENT ON[17](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 17—2.9(231) as follows:

17—2.9(231) Department complaint and appeal procedures.

2.9(1) *Aggrieved party identified.* An aggrieved party is any agency, organization, or individual that alleges that the party’s rights have been denied or that services provided were not in compliance with regulations or were substandard because of an action of the department, the commission on aging, an AAA, ~~or~~ an AAA subcontractor, or a Senior Community Service Employment Program (SCSEP) subgrantee.

2.9(2) *Complaints or appeals to the department from the AAA or SCSEP subgrantee level.*

a. Except in cases where an AAA is acting in its capacity as a Medicaid provider, complaints at the AAA or SCSEP subgrantee level by any aggrieved party shall be heard first by the AAA or SCSEP subgrantee using the AAA’s or SCSEP subgrantee’s procedures.

b. Local complaint procedures of an AAA ~~or an~~ AAA subcontractor or SCSEP subgrantee shall be exhausted before the department on aging is contacted.

2.9(3) *Requests for an informal review or a contested case hearing.*

a. Informal review. An aggrieved party or a party appealing an AAA-level or SCSEP subgrantee-level decision has 30 calendar days from receipt of written notice of action from the AAA, the SCSEP subgrantee, or the department to request an informal review by the department or a contested case hearing.

(1) Any person who desires to pursue an informal settlement of any complaint may request a meeting with appropriate department staff. The request shall be in writing and shall be delivered to the Director, Department on Aging, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319.

AGING, DEPARTMENT ON[17](cont'd)

(2) The request must contain the subject matter(s) of the complaint and an explanation of all steps taken to resolve the matter prior to requesting an informal review.

(3) Upon receipt of the request for informal review, all formal contested case proceedings, if begun, are stayed.

(4) The department may, as a result of the informal review, negotiate a settlement of the complaint or, if appropriate, may send the matter back to the AAA or SCSEP subgrantee for reconsideration.

(5) to (8) No change.

b. No change.

2.9(4) and **2.9(5)** No change.

ARC 4543C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to area agencies on aging and providing an opportunity for public comment

The Department on Aging hereby proposes to amend Chapter 4, “Department Planning Responsibilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.32.

Purpose and Summary

These proposed amendments satisfy the requirements of 2018 Iowa Acts, House File 2451, and eliminate unnecessary language from subrule 4.4(3) that currently exists in the federal Older Americans Act and Iowa Code chapter 231 regarding qualifications of an area agency on aging. In subrule 4.4(4), the amendments also update a citation to the Older Americans Act and Iowa Code chapter 231.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

AGING, DEPARTMENT ON[17](cont'd)

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 4.4(3) as follows:

4.4(3) Qualifications to serve. Any entity applying for designation as an area agency on aging must have the capacity to perform all functions of an area agency on aging as outlined in the Older Americans Act and Iowa Code chapter 231. ~~An area agency on aging shall be any one of the following:~~

- ~~a. An established office of aging operating within a planning and service area;~~
- ~~b. Any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit;~~
- ~~c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;~~
- ~~d. Any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which for designation purposes is under the supervision or direction of the department and which can and will engage only in the planning or provision of a broad range of supportive services or nutrition services within such planning and service area; or~~
- ~~e. Any other entity authorized by the Older Americans Act.~~

ITEM 2. Amend paragraph **4.4(4)“d”** as follows:

~~d. Any entity meeting the qualification requirements outlined in subrule 4.4(3) the Older Americans Act and Iowa Code chapter 231 may submit an application to serve as an area agency on aging.~~

ARC 4544C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to contracts and subgrants and providing an opportunity for public comment

The Department on Aging hereby proposes to amend Chapter 6, “Area Agency on Aging Planning and Administration,” Iowa Administrative Code.

AGING, DEPARTMENT ON[17](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.33.

Purpose and Summary

These proposed amendments satisfy the requirements of 2018 Iowa Acts, House File 2451, section 9, which eliminates the use of subgrants in emergency situations, to ensure appropriate use of funds for services and to comply with the Older Americans Act.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

AGING, DEPARTMENT ON[17](cont'd)

ITEM 1. Amend paragraph **6.9(2)“c”** as follows:

c. Include in ~~subgrants or~~ contracts provisions for responding to emergency or disaster situations including, but not limited to, shifting funds from one activity to another or from one contractor to another.

ITEM 2. Amend subrule 6.10(4) as follows:

6.10(4) Establishment of a request for proposal process that includes methods of selection of providers and methods for award of grants or contracts under the area plan, including stipulations that all subcontractors ~~or subgrantees~~ comply with all applicable local, state and federal laws, rules or regulations, and, if applicable, all requirements for nonprofit entities;

ITEM 3. Amend rule 17—6.11(231) as follows:

17—6.11(231) Contracts and subgrants.

6.11(1) and **6.11(2)** No change.

6.11(3) Contracts with for-profit organizations. An AAA must request prior approval from the department of any proposed service contracts with for-profit organizations under an area plan.

a. No change.

b. The department may approve the contracts only if the AAA demonstrates that the for-profit organization can provide services that are in compliance with the Older Americans Act and consistent with the goals of the AAA as stated in the area plan.

ARC 4547C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

**Proposing rule making related to managed care ombudsman program
and providing an opportunity for public comment**

The Department on Aging hereby proposes to amend Chapter 8, “Long-Term Care Ombudsman,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.42.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.44.

Purpose and Summary

These proposed amendments are required under 2016 Iowa Acts, House File 2460, which directed the Office of the State Long-Term Care Ombudsman (OSLTCO) to adopt rules that relate to the OSLTCO’s managed care ombudsman program.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

AGING, DEPARTMENT ON[17](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
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Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 17—8.1(231) as follows:

17—8.1(231) Purpose. This chapter establishes procedures for notice and appeal of penalties imposed for interference with the official duties of a long-term care ombudsman, which are established in Iowa Code sections 231.42 and 231.45 and in accordance with Section 712 of the Older Americans Act. This chapter also establishes criteria for serving under the certified volunteer long-term care ombudsman program. The long-term care ombudsmen investigate complaints related to the actions or inactions of long-term care providers that may adversely affect the health, safety, welfare, or rights of residents and tenants who reside in long-term care facilities, assisted living programs, and elder group homes. In addition, this chapter establishes the process for representatives of the office of the state long-term care ombudsman who are local long-term care ombudsmen performing managed care ombudsman services to provide assistance and advocacy related to long-term services and supports under the Medicaid program.

ITEM 2. Adopt the following **new** rule 17—8.7(231):

17—8.7(231) Managed care ombudsman program.

8.7(1) The office of the long-term care ombudsman may provide advocacy and assistance to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and

AGING, DEPARTMENT ON[17](cont'd)

supports provided through the Medicaid program who are receiving services in a long-term care facility or under one of the home- and community-based services waivers.

8.7(2) Representatives of the office of long-term care ombudsman providing an individual with assistance and advocacy services authorized under Iowa Code section 231.44 shall be provided access to the individual and to the individual's medical, social and administrative records related to the provision of the long-term services and supports to the individual, as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified by Iowa Code section 231.44.

8.7(3) The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under Iowa Code section 231.44, shall be considered a health oversight agency as defined in 45 CFR §164.501 for the purposes of health oversight activities described in 45 CFR §164.512(d). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subrule shall be limited to the recipient's protected health information as defined in 45 CFR §160.103 for the purpose of recipient case resolution.

ITEM 3. Amend **17—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 231.42 and 231.44.

ARC 4546C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to older American community service employment program and providing an opportunity for public comment

The Department on Aging hereby proposes to rescind Chapter 10, "Older American Community Service Employment Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.51.

Purpose and Summary

This amendment proposes to rescind and reserve Chapter 10, which pertains to the Older American Community Service Employment Program. This program is a federal program, and duplication in the Iowa Administrative Code is unnecessary.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

AGING, DEPARTMENT ON[17](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
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Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind and reserve **17—Chapter 10.**

ARC 4550C**AGING, DEPARTMENT ON[17]****Notice of Intended Action****Proposing rule making related to office of public guardian and providing an opportunity for public comment**

The Department on Aging hereby proposes to amend Chapter 22, “Office of Substitute Decision Maker,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 231E.

Purpose and Summary

This rule amendment implements the requirements in 2018 Iowa Acts, House File 2449, which made certain changes to Iowa Code chapter 231E, which governs the Office of Public Guardian. Significant changes include changing the name of the office from Office of Substitute Decision Maker to Office of Public Guardian and the removal of two categories of services—acting as attorney-in-fact under a Power

AGING, DEPARTMENT ON[17](cont'd)

of Attorney and acting as a personal representative in probate estates—from the list of services provided by the Office. These amendments make clarifying changes to conform eligibility criteria to those in the Iowa Code and to refer to the Center for Guardianship Certification instead of the National Guardianship Association certification.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

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Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend 17—Chapter 22, title, as follows:

OFFICE OF ~~SUBSTITUTE DECISION MAKER~~ PUBLIC GUARDIAN

ITEM 2. Amend rules 17—22.1(231E,633) to 17—22.8(231E,633) as follows:

17—22.1(231E,633) Purpose. This chapter implements the office of ~~substitute decision maker~~ public guardian as created in Iowa Code chapter 231E and establishes standards and procedures for those

AGING, DEPARTMENT ON[17](cont'd)

appointed as ~~substitute decision makers~~ public guardians. It also establishes the qualifications of consumers eligible for services.

17—22.2(231E,633) Definitions. Words and phrases used in this chapter are as defined in 17—Chapter 1 unless the context indicates otherwise. The following definitions also apply to this chapter:

~~“Active” means assuming the role of attorney in fact upon the triggering event specified in a power of attorney document.~~

“Assessment” means a comprehensive, in-depth evaluation to identify an individual’s current situation, ability to function, strengths, problems, and care needs in the following major functional areas: physical health, medical care utilization, activities of daily living, instrumental activities of daily living, mental and social functioning, financial resources, physical environment, and utilization of services and support.

“Case opening” means the internal administrative process used by the ~~state~~ local office in establishing a temporary or ongoing case, including, but not limited to: collecting and reviewing necessary financial, legal, medical or social history information pertaining to the consumer or the consumer’s estate; opening bank or other financial accounts on the consumer’s behalf; assigning ~~substitute decision makers~~ staff to perform ~~substitute decision making~~ public guardianship responsibilities for the consumer; collecting and receiving property of the consumer; creating files, summaries and other documents necessary for the management of the consumer or the consumer’s estate; and any other activities related to preparing for and assuming the responsibilities as a ~~substitute decision maker~~ public guardian.

“Consumer” as used in this chapter means any individual ~~in need of substitute decision making~~ receiving public guardianship services.

“Court” means the probate court having jurisdiction over the consumer.

“Department” means the department on aging established in Iowa Code section 231.21.

“Estate” means all property owned by the consumer including, but not limited to: all cash, liquid assets, furniture, motor vehicles, and any other tangible personal and real property.

“Fee” or *“fees”* means any costs assessed by the state office against a consumer ~~or a consumer’s estate~~ for substitute decision making public guardianship services, including monthly fees or a one-time case-opening fee for establishment of a case.

~~“Fiduciary” means the person or entity appointed as the consumer’s substitute decision maker and includes a person or entity acting as personal representative, guardian, conservator, representative payee, attorney in fact or trustee of any trust.~~

“Financial hardship” means a living consumer who has a total value in liquid assets below \$6,500; or the consumer’s estate proving otherwise inadequate to obtain or provide for physical or mental care or treatment, assistance, education, training, sustenance, housing, or other goods or services vital to the well-being of the consumer or the consumer’s dependents.

“Inventory” means a detailed list of the estate.

“Liquid assets” means the portion of a consumer’s estate comprised of cash, negotiable instruments, or other similar property that is readily convertible to cash and has a readily ascertainable fixed value, including but not limited to: savings accounts, checking accounts, certificates of deposit, money market accounts, corporate or municipal bonds, U.S. savings bonds, stocks or other negotiable securities, and mutual fund shares.

“Local office” means a local office of public guardian.

“Local public guardian” means an individual under contract with the department to act as a guardian, conservator, or representative payee.

“Net proceeds” means the value of the property at the time of sale minus taxes, commissions and other necessary expenses.

“Program” means the services offered by the office of ~~substitute decision maker~~ public guardian.

“Public guardian” means the state public guardian or a local public guardian.

“Record” means any information obtained by the state or local office in the performance of its duties.

“State office” means the state office of public guardian.

AGING, DEPARTMENT ON[17](cont'd)

“State public guardian” means the administrator of the state office of public guardian.

“Substitute decision maker” or “SDM” means a person providing substitute decision-making services pursuant to Iowa Code chapter 231E.

17—22.3(231E,633) ~~Substitute decision maker~~ Public guardian qualifications. All SDMs public guardians shall have graduated from an accredited four-year college or university and shall be certified by the National Guardianship Association Center for Guardianship Certification within 12 months of assuming duties as an SDM a public guardian. This certification shall be kept current while the person is serving as an SDM a public guardian.

17—22.4(231E,633) Ethics and standards of practice. The state office adopts the National Guardianship Association Standards of Practice adopted in 2000, including any subsequent amendments thereto, as a statement of the best practices and the highest quality of practice for persons serving as guardians or conservators. The adoption of standards of practice in this document is not intended to amend or diminish the statutory scheme, but rather to supplement and enhance the understanding of the statutory obligations to be met by the SDM public guardians when serving as an SDM a public guardian. Subsequent to appointment to serve a consumer, the SDM public guardian shall perform all duties imposed by the court or other entity having jurisdiction and imposed by applicable law and, as appropriate, shall utilize standards found in the most current edition of the National Guardianship Association Standards of Practice.

17—22.5(231E,633) Staffing ratio. SDMs Local offices shall be responsible for no more than 40 consumers per full-time equivalent position at any one time. The state office shall notify the state court administrator when the maximum number of appointments is reached by a local office.

22.5(1) In its sole discretion, if the state office determines that due to the complexity of current cases SDMs a local office would have significant difficulty meeting the needs of consumers, the state office may choose to temporarily suspend acceptance of appointments. The state office shall notify the state court administrator of the suspension of services.

22.5(2) In the state office’s sole discretion, the SDM a local office may exceed staffing ratios under the following circumstances:

- a. A priority situation exists as defined in subrule 22.7(2), and
- b. Acceptance of case(s) will not adversely affect services to current consumers.

17—22.6(231E,633) Conflict of interest—~~state office~~. A conflict of interest arises when the SDM public guardian has any personal or agency interest that is or may be perceived as self-serving or adverse to the position or best interest of the consumer. When assigning a consumer to an SDM a public guardian, all reasonable efforts shall be made to avoid an actual conflict of interest or the appearance of a conflict of interest.

22.6(1) The assigned SDM public guardian shall not:

- a. Provide direct services to the consumer receiving substitute decision-making public guardianship services;
- b. Have an affiliation with or financial interest in the consumer’s estate;
- c. Employ friends or family to provide services to the consumer for a fee; or
- d. Solicit or accept incentives from service providers.

22.6(2) The SDM public guardian shall be independent from all service providers, thus ensuring that the SDM public guardian remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the consumer.

17—22.7(231E,633) ~~Consumers~~ Individuals eligible for services. The state office shall seek to restrict appointments to only those necessary. The state office will not accept an appointment based upon a voluntary petition.

22.7(1) In order to qualify for services, the consumer individual shall meet all of the following criteria:

AGING, DEPARTMENT ON[17](cont'd)

- a. Is a resident of the state of Iowa;
 - b. Is aged 18 or older;
 - c. Does not have a ~~willing and responsible fiduciary to serve as an SDM~~ suitable individual or appropriate entity willing and able to serve as guardian or conservator;
 - d. ~~Is capable of benefiting from the services of an SDM~~ incompetent; and
 - e. ~~Receipt of SDM services is in the best interest of the consumer; and~~ Is an individual for whom guardianship or conservatorship services are the least restrictive means of meeting the individual's needs.
 - f. ~~No alternative SDM resources are available.~~
- 22.7(2)** The following cases shall be given priority:
- a. Those involving abuse, neglect or exploitation;
 - b. Those in which a critical medical decision must be made; or
 - c. Any situation which may cause serious or irreparable harm to the ~~consumer's~~ consumer's mental or physical health or estate.

17—22.8(231E,633) Application and intake process—guardianship, conservatorship, and representative payee and personal representative.

22.8(1) Any person may ~~request~~ submit an application for services on behalf of an individual believed to be in need of public guardianship services. Applications are available through the state office. Completed applications shall be submitted to the Office of ~~Substitute Decision Maker~~ Public Guardian, Jessie M. Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319-9025. Incomplete applications will not be considered. Communication with the state office or local office or the submission of an application does not imply an appointment and does not create any type of fiduciary relationship between the state office and the ~~consumer~~ individual on whose behalf the application is submitted.

22.8(2) The state office shall make a determination regarding eligibility of the ~~consumer~~ individual and acceptance or denial of the case based on a review of the completed application.

22.8(3) The state office shall grant or deny an application for services as soon as practicable, but, in any event, shall do so within 60 days of receipt of the application.

22.8(4) Failure of the state office to grant or deny an application within the specified time period shall be deemed a denial of the application by the state office.

ITEM 3. Rescind rule **17—22.9(231E,633).**

ITEM 4. Renumber rules **17—22.10(231E,633)** to **17—22.16(231E,633)** as **17—22.9(231E,633)** to **17—22.15(231E,633).**

ITEM 5. Amend renumbered rules **17—22.9(231E,633)** to **17—22.13(231E,633)** as follows:

17—22.9(231E,633) Case records.

22.9(1) A case record must be established for each consumer. At a minimum, the case record must contain:

- a. Copies of the assessments, medical records, and updates, if any;
- b. A separate financial management folder containing an inventory, an individual financial management plan, a record of all financial transactions made on behalf of the consumer by the ~~SDM~~ public guardian, copies of receipts for all expenditures made by the ~~SDM~~ public guardian on behalf of the consumer, and copies of all other documents pertaining to the ~~consumer's~~ consumer's financial situation as required by the state office;
- c. Itemized statements of costs incurred in the provision of services for which the ~~SDM~~ public guardian received court-authorized reimbursement directly from the ~~consumer's~~ consumer's estate; and
- d. Other information as required by the state office.

22.9(2) All case records maintained by the ~~SDM~~ public guardian shall be confidential as provided in Iowa Code section 231E.4(6) "g."

AGING, DEPARTMENT ON[17](cont'd)

17—22.10(231E,633) Confidentiality. Notwithstanding Iowa Code chapter 22, the following provisions shall apply to records obtained by ~~SDMs~~ public guardians in the course of their duties.

22.10(1) Records or information obtained for use by ~~an SDM~~ a public guardian is confidential. All records or information obtained from federal, state or local agencies and health or mental care service providers shall be managed by the state ~~office~~ and local offices with the same degree of confidentiality required by law or the policy utilized by the entity having control of such records or information. Such records or information shall not be disseminated without written permission from the entity having control of such records or information.

22.10(2) In its sole discretion, the state or local office may disclose a record obtained in the performance of its duties if release of the record is necessary and in the best interest of the consumer. Disclosure of a record under this rule does not affect the confidential nature of the record.

22.10(3) Information may be redacted so that personally identifiable information is kept confidential.

22.10(4) Confidential information may be disclosed to employees and agents of the department as needed for the performance of their duties. The state office shall determine what constitutes legitimate need to use confidential records. Individuals affected by this rule may include paid staff and volunteers working under the direction of the department and commission members.

22.10(5) Information concerning program expenditures and client eligibility may be released to staff of the state executive and legislative branches who are responsible for ensuring that public funds have been managed correctly. This same information may also be released to auditors from federal agencies when those agencies provide program funds.

22.10(6) The state office or a local office may enter into contracts or agreements with public or private entities in order to carry out the state or local office's official duties. Information necessary to carry out these duties may be shared with these entities. The state or local office may disclose protected health information to an entity under contract and may allow an entity to create or receive protected health information on the state or local office's behalf if the state or local office obtains satisfactory assurance that the entity will appropriately safeguard the information.

22.10(7) Release for judicial and administrative proceedings.

a. Information shall be released to the court as required by law.

b. The state or local office shall disclose protected health information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal. The state or local office shall disclose only the protected health information expressly authorized by the order and when the court makes the order knowing that the information is confidential.

c. If a court subpoenas other information that the state or local office is prohibited from releasing, the state or local office shall advise the court of the statutory and regulatory provisions against disclosure of the information and shall disclose the information only on order of the court.

22.10(8) Information concerning suspected fraud or misrepresentation in order to obtain ~~SDM~~ public guardianship services or assistance may be disclosed to law enforcement authorities.

22.10(9) Information concerning consumers may be shared with service providers under contract.

a. Information concerning the consumer's circumstances and need for services may be shared with prospective service providers to obtain placement for the consumer. If the consumer is not accepted for service, all written information released to the service provider shall be returned to the state or local office.

b. When the information needed by the service provider is mental health information or substance abuse information, the consumer's specific consent is required.

22.10(10) After the state or local office receives a request for access to a confidential record, and before the state or local office releases such a record, the state or local office may make reasonable efforts to promptly notify any person who is a subject of that record, who is identified in that record, or whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

AGING, DEPARTMENT ON[17](cont'd)

17—22.11(231E,633) Termination or limitation. Either ~~an SDM~~ a local office or the state office may seek the termination or limitation of ~~an SDM's a local office's~~ duties under circumstances including but not limited to the following:

1. ~~The SDM's~~ Public guardianship services are no longer needed or do not benefit the consumer;
2. The consumer's assets allow for hiring a paid ~~substitute decision maker~~ guardianship or conservatorship service provider;
3. A conflict of interest or the appearance of a conflict of interest arises;
4. The state or local office lacks adequate staff or financial resources;
5. The consumer moves outside the state or outside the local office's service area;
6. The state office is no longer the last resort for assistance;
7. The ~~SDM~~ local office withdraws from the service agreement;
8. Termination of the program by law; or
9. Other circumstances which indicate a need for termination or limitation.

17—22.12(231E,633) Service fees.

22.12(1) The state ~~SDM~~ public guardian and local ~~SDM~~ public guardian shall be entitled to reasonable compensation for their ~~substitute decision making~~ public guardianship services as determined by using the following criteria:

- a. Such compensation shall not exceed actual costs.
- b. Fees may be adjusted or waived based upon the ability of the consumer to pay, upon whether financial hardship to the consumer would result, or upon a finding that collection of such fees is not economically feasible.
- c. Fees shall be as established in rule ~~17—22.14(231E,633)~~ 17—22.13(231E,633). The state office may collect a fee from the estate of a deceased consumer.

22.12(2) Fees shall not be assessed on income or support derived from Medicaid. Income or support derived from Social Security and other federal benefits shall be subject to assessment unless the funds have been expressly designated for another purpose. Written notice shall be given to the consumer prior to the collection of fees. The written notice shall describe the type and amount of fees assessed.

22.12(3) Case-opening fees. All consumers, except those receiving representative payee services, with liquid assets valued at \$6,500 or more on the date of the ~~SDM's~~ public guardian's appointment shall be assessed a one-time case-opening fee for establishment of the case by the ~~state~~ local office. Case-opening fees shall be assessed for each appointment, including a reappointment more than six months after the termination of a prior appointment as ~~SDM~~ public guardian for the same consumer which involves similar powers and duties.

22.12(4) Monthly fees.

a. A monthly fee for ~~SDM~~ public guardianship services other than the sale or management of real or personal property shall be assessed against all consumers with liquid assets valued at \$6,500 or more on any one day during the month. Monthly fees shall be collected by the state office on a pro rata basis on the first of each month. A monthly fee shall be assessed when ~~an SDM~~ a public guardian is appointed to guardianship, conservatorship, or representative payee duties.

~~b. Under a power of attorney, monthly fees shall be assessed once the state office assumes an active role as attorney-in-fact. The state office shall evaluate a consumer's estate annually or as necessary to determine the need for an increase or decrease in the monthly fee.~~

~~e. b.~~ In all cases where the state office serves as representative payee under programs administered by the Social Security Administration, Railroad Retirement Board, or similar programs, the monthly fee for providing representative payee services shall be as established by the federal governmental agency which appoints the representative payee.

22.12(5) Additional fees.

a. Fees for the sale of a consumer's real or personal property shall be in addition to case-opening and monthly service fees.

b. Fees for the sale of real or personal property shall be 10 percent of the net proceeds resulting from the sale of the property and shall be paid at the time the sale is completed.

AGING, DEPARTMENT ON[17](cont'd)

c. Such further allowances as are just and reasonable may be made by the court to ~~SDMs~~ public guardians for actual, necessary and extraordinary expenses and services.

22.12(6) Preparation and filing of state or federal income tax returns. Fees for the preparation and filing of a consumer's state or federal income tax return may be assessed at the time of filing of a return for each tax year in which a return is filed.

22.12(7) Settlement of a personal injury cause of action. Fees for the settlement of a consumer's personal injury cause of action may be collected upon court approval of the settlement.

22.12(8) Establishment of a recognized trust. Fees for establishing a recognized trust for the purpose of conserving or protecting a consumer's estate and for petitioning the court for the approval of the trust may be collected at the time of court approval of establishment of the trust.

22.12(9) Extraordinary expenses and services. The state office may collect fees pursuant to court order for other actual, necessary and extraordinary expenses or services. Necessary and extraordinary services shall be construed to also include services in connection with real estate, tax matters, and litigated matters.

22.12(10) Impact on creditors. The state office may collect fees even when claims of creditors of the consumer may be compromised.

17—22.13(231E,633) Fee schedule. The following fees are applicable to services provided by ~~an SDM~~ a public guardian unless reduced or waived pursuant to paragraph ~~22.13(1) "b."~~ 22.12(1) "b."

Action or Responsibility	Fee
One-time case opening:	
Guardianship	\$200
Conservatorship	\$300
Guardianship and conservatorship	\$500
Durable power of attorney for health care	\$ 60
Durable power of attorney for financial matters	\$100
Power of attorney for health care and financial matters	\$160
Monthly SDM public guardianship services for conservator, durable power of attorney for health care and general power of attorney for financial matters <u>except representative payee.</u>	
Total value of liquid assets:	
\$ 6,500 – \$ 9,999	\$100
\$10,000 – \$19,999	\$125
\$20,000 – \$29,999	\$150
\$30,000 – \$39,999	\$175
\$40,000 – \$49,999	\$200
\$50,000 – \$59,999	\$225
\$60,000 – \$69,999	\$250
\$70,000 – \$79,999	\$275
\$80,000 – \$89,999	\$300
\$90,000 – \$99,999	\$325
\$100,000 or above	\$350
Personal representative	As determined by Iowa Code section 633.197
Preparation and filing of income tax returns:	
Each federal return	\$ 50
Each state return	\$ 25
Settlement of a personal injury cause of action:	
Each cause of action approved by the probate court	\$250
Establishment of a recognized trust for the consumer's financial estate:	
Each trust	\$250
Representative payee—monthly fee	As determined by the federal governmental agency that appoints the representative payee

AGING, DEPARTMENT ON[17](cont'd)

ITEM 6. Rescind rule 17—22.17(231E,633).

ITEM 7. Renumber rule 17—22.18(231E,633) as 17—22.16(231E,633).

ARC 4548C

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to aging and disability resource center and providing an opportunity for public comment

The Department on Aging hereby proposes to amend Chapter 23, “Aging and Disability Resource Center,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.64.

Purpose and Summary

This amendment satisfies the requirements to eliminate outdated language and add new service descriptions pursuant to 2018 Iowa Acts, House File 2451, section 17. It directs aging and disability resource centers (ADRCs) to perform duties mandated by federal and state law and rule in conjunction with the Area Agencies on Aging Area Plan in accordance with 17—Chapter 6 and as described in the Area Agency on Aging Reporting Manual.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

AGING, DEPARTMENT ON[17](cont'd)

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend **17—Chapter 23** as follows:

CHAPTER 23
AGING AND DISABILITY RESOURCE CENTER

~~17—23.1(231) General.~~ The aging and disability resource center (ADRC) serves to assist individuals in living healthy, independent, and fulfilled lives in the community. The ADRC will work to ensure that individuals accessing the long-term care services and supports system experience the same process and receive the same information about service options wherever they enter the system.

~~17—23.2(231) Authority.~~ The department has been given authority to administer the aging and disability resource center centers (ADRCs) by Iowa Code section 231.64.

~~17—23.3(231) Aging and disability resource center centers.~~ The department shall administer the aging and disability resource center centers and shall do all of the following:

1. Perform all duties mandated by federal and state law.
2. Designate ADRC ~~coordination centers~~ ADRCs.
3. Provide technical assistance to ADRC ~~coordination centers~~ ADRCs.
4. Provide oversight of ADRC ~~coordination centers~~ ADRCs to ensure compliance with federal and state law and applicable rules and regulations.

~~17—23.4(231) ADRC coordination centers.~~ An ADRC ~~coordination center~~ designated by the department shall do all of the following:

~~23.4(1) Perform~~ perform all duties mandated by federal and state law and applicable rules and regulations. Services provided under this chapter shall be included in the area agencies on aging area plan in accordance with 17—Chapter 6 and as described in the Area Agency on Aging Reporting Manual.

~~23.4(2) Increase the accessibility of community long-term care services and supports by providing comprehensive information, referral, and assistance regarding the full range of available public and private long-term care programs, options, service providers, and resources within a community.~~

~~23.4(3) Develop a community long-term care services and supports enrollment system.~~

~~23.4(4) Provide options counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term care.~~

~~23.4(5) Serve as a point of entry for programs that provide consumer access to the range of publicly supported long-term care programs.~~

~~23.4(6) Designate ADRC local access points.~~

~~23.4(7) Provide technical assistance to ADRC local access points.~~

AGING, DEPARTMENT ON[17](cont'd)

~~23.4(8)~~ Establish an advisory council to advise the ADRC coordination center and to review and comment on ADRC coordination center policies and actions.

~~23.4(9)~~ Provide oversight of ADRC local access points to ensure compliance with federal and state law, applicable rules and regulations, and policies and mandates as determined by the advisory board.

~~17—23.5(231) ADRC local access points.~~ An ADRC local access point designated by an ADRC coordination center shall do all of the following:

- ~~1.—Perform one or more functions of an ADRC coordination center.~~
- ~~2.—Maintain an agreement with the ADRC coordination center, in the form of a referral agreement, contract, memorandum of understanding, or similar document, which specifies the duties of the ADRC local access point.~~
- ~~3.—Serve on the advisory board of the ADRC coordination center.~~

~~17—23.6(231) Population served.~~ The An aging and disability resource center, ADRC coordination centers, and ADRC local access points shall assist the following individuals in seeking long-term care services and supports: shall assist individuals in accordance with Iowa Code section 231.64(2).

- ~~1.—Older individuals;~~
- ~~2.—Individuals with disabilities who are aged 18 or older;~~
- ~~3.—Family caregivers of older individuals;~~
- ~~4.—Family caregivers of individuals with disabilities who are aged 18 or older;~~
- ~~5.—Individuals who inquire about or request assistance on behalf of older individuals; and~~
- ~~6.—Individuals who inquire about or request assistance on behalf of individuals with disabilities who are aged 18 or older.~~

~~17—23.7(231) Options counselors.~~ An ADRC ~~coordination center~~ shall ensure that options counselors meet the requirements of this chapter and applicable federal and state law.

~~23.7(1) Background checks.~~ All ADRC ~~coordination centers~~ ADRCs shall establish and maintain background check policies and procedures that include, but are not limited to, the following:

~~a. to c. No change.~~

~~23.7(2) to 23.7(4) No change.~~

~~23.7(5) Position-specific training.~~ The options counselor shall provide to the ADRC ~~coordination center~~ documentation of successful completion of the person-centered counseling core curriculum provided by Elsevier, or an equivalent that is approved by the department, within 30 days of employment as an options counselor. Documentation shall be included in the individual's personnel record.

~~23.7(6) No change.~~

These rules are intended to implement Iowa Code section 231.64.

ARC 4551C

CIVIL RIGHTS COMMISSION[161]

Notice of Intended Action

Proposing rule making related to assistance animal as reasonable accommodation in housing and providing an opportunity for public comment

The Civil Rights Commission hereby proposes to amend Chapter 9, "Discrimination in Housing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, Senate File 341.

CIVIL RIGHTS COMMISSION[161](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 341.

Purpose and Summary

The purpose of the proposed amendment to Chapter 9 is to comply with Iowa Code section 216.8C(3) as enacted by 2019 Iowa Acts, Senate File 341, section 3, which provides requirements pertaining to a request for an assistance animal as a reasonable accommodation for a disability in housing. The legislation requires the Commission to adopt a form for a health care professional, as defined by the statute, to make a written finding regarding whether a patient or client has a disability and whether the need for an assistance animal is related to the disability.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 161—Chapter 15.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on September 12, 2019. Comments should be directed to:

Andrew Greenberg
Iowa Civil Rights Commission
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa 50319
Phone: 515.281.4121
Fax: 515.242.5840
Email: andrew.greenberg@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 13, 2019
12:30 to 1:30 p.m.

Room B100
Grimes State Office Building
400 East 14th Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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 Commission and advise of specific needs.

CIVIL RIGHTS COMMISSION[161](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 4552C**, IAB 7/17/19). The purpose of this Notice of Intended Action is to solicit public comment on that emergency rule making, whose subject matter is hereby adopted by reference.

ARC 4554C

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Notice of Intended Action

**Proposing rule making related to circulation policies
and providing an opportunity for public comment**

The Commission of Libraries hereby proposes to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.52(4).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.59.

Purpose and Summary

The proposed amendments add a circulation policy regarding library cards, loan periods, fines, fees, and the suspension of library privileges to the rule describing access to the State Library's collections.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 286—Chapter 10.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Michael Scott
State Librarian
State Library of Iowa
Ola Babcock Miller State Office Building
1112 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.242.5062
Email: michael.scott@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** subrule 1.5(3):

1.5(3) Definitions.

“*Holds*” are patron requests to reserve items checked out to other patrons. Materials may be placed on hold through the library’s online catalog using a library card. When an item on hold becomes available, the patron placing the hold will be contacted and given five days to pick up the item.

“*Individual library card*” means a card distributed by the state library that allows a patron to access the library’s collections, reference assistance, and online resources.

“*Proof of identity and state residence*” means a government-issued form of identification with a photo and indication of Iowa residency, including but not limited to a driver’s license, a passport, a nonoperator’s identification card, or a military identification card; or, for minors, a school identification card.

“*Resident*” means a person who lives in Iowa or pays property taxes in Iowa.

“*State employee library card*” means a card distributed by the state library that allows a state employee to access the library’s collections, reference assistance, online resources, and interlibrary loan services.

ITEM 2. Adopt the following **new** subrule 1.5(4):

1.5(4) Library cards. A resident of Iowa may obtain an individual library card by providing proof of identity and state residence in person, by mail, or online. A state employee may obtain a state employee library card by providing proof of identity, state residence, and state employment in person, by mail, or online. Cards expire regularly but can be reactivated. Library privileges will be suspended or canceled when a patron’s library card has expired.

ITEM 3. Adopt the following **new** subrule 1.5(5):

1.5(5) Circulation of library materials. Circulating materials are checked out for three weeks, and each item may be renewed once if there are no holds on the item. Patrons may renew materials through the library’s online catalog.

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

ITEM 4. Adopt the following **new** subrule 1.5(6):

1.5(6) Fines and fees. Fines are not assessed for overdue materials. Lost, unreturned or damaged materials may incur replacement costs up to \$100. Replacement copies will not be accepted. Library privileges will be suspended or canceled when a patron has outstanding debt to the library.

ITEM 5. Adopt the following **new** subrule 1.5(7):

1.5(7) Library records confidential. Library records are confidential pursuant to Iowa Code section 22.7. The state librarian is the custodian of the library's records.

ARC 4553C**LIBRARIES AND INFORMATION SERVICES DIVISION[286]****Notice of Intended Action****Proposing rule making related to publications depository program and providing an opportunity for public comment**

The Commission of Libraries hereby proposes to amend Chapter 3, "Statewide Programs and Agreements," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.52(4).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 256.51(1)"d" and 256.53.

Purpose and Summary

Rule 286—3.9(256) describes the State Library's publications depository program. These proposed amendments remove the requirement for an advisory council, lower the number of copies of state agency publications to be deposited with the State Library, and increase the minimum retention period for depository collections.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 286—Chapter 10.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Michael Scott
State Librarian
State Library of Iowa
Ola Babcock Miller State Office Building
1112 East Grand Avenue
Des Moines, Iowa 50319
Phone: 515.242.5062
Email: michael.scott@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.9(2) as follows:

3.9(2) *Administration of the depository program.*

a. No change.

~~*b.* A nine member advisory council shall be organized to advise the state library regarding this program. The advisory council may be composed of members of state agencies, representatives of depository and nondepository libraries, and the general public. The council shall be appointed by the state librarian with the recommendation of the depository librarian.~~

~~*e. b.* The state library/depository library center shall serve as the last copy depository for predepository state information products and for those products never deposited with the center since its 1979 inception.~~

ITEM 2. Amend paragraph **3.9(3)“a”** as follows:

a. Upon issuance of a state publication a state agency shall deposit with the depository library center, at no cost to the center, ~~75~~ ten copies of the publication, or a lesser amount if specified by the center.

ITEM 3. Amend paragraph **3.9(5)“b”** as follows:

b. All publications received under this program by the full depository and core depository libraries shall be retained for a minimum period of ~~three~~ six years unless a lesser retention period is designated for an item or items by the depository library center.

ARC 4539C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to organization of committees and councils
and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 88, “Volunteer Health Care Provider Program,” Chapter 90, “Iowa Child Death Review Team,” Chapter 110, “Center for Rural Health and Primary Care,” Chapter 130, “Emergency Medical Services Advisory Council,” and Chapter 138, “Trauma System Advisory Council,” and to rescind Chapter 186, “Governmental Public Health Advisory Council,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 147A and 2019 Iowa Acts, House File 766, sections 66, 70, 72, 73, 74, 78, 82, and 84.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 147A and 2019 Iowa Acts, House File 766, sections 66, 70, 72, 73, 74, 78, 82, and 84.

Purpose and Summary

2019 Iowa Acts, House File 766, repeals the Iowa Code section that established the Iowa Collaborative Safety Net Provider Network. The proposed amendments to Chapter 88 remove the definition for “specialty care referral network” because the network no longer exists (Item 1), amend the definition of “specialty health care provider office” to remove the reference to the Iowa Collaborative Safety Net Provider Network (Item 2), and rescind subrule 88.5(3) due to the elimination of the referenced specialty care referral network (Item 3).

2019 Iowa Acts, House File 766, section 82, amends Iowa Code section 135.43(2) to remove a sentence that stated, “The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their duties.” Item 4 of this rule making proposes to rescind rule 641—90.7(135) related to expenses of the team members due to the removal of the underlying statutory authority.

2019 Iowa Acts, House File 766, section 70, removes the statutory authority for the establishment of an advisory committee to the Center for Rural Health and Primary Care. The proposed amendments to Chapter 110 (Items 5 to 7) rescind the rules regarding the advisory committee’s definition, purpose, organization, and meetings. The amendments also remove the identification of the specific bureau in which the Center for Rural Health and Primary Care is located, and instead propose to only note that the center is located within the Department of Public Health.

2019 Iowa Acts, House File 766, section 84, removes the statutory requirement allowing for reimbursement of expenses for members of the Emergency Medical Services Advisory Council. Due to this change, expenses can no longer be paid. Item 8 removes the rule in Chapter 130 that describes which and at what rates expenses are reimbursed.

2019 Iowa Acts, House File 766, section 78, amends Iowa Code section 147A.24(2) to state that the Trauma System Advisory Council shall consist of seven members. Prior to this legislative change, each organization or entity named in Iowa Code section 147A.24(1) could be on the Council. The number of members was previously undefined and could be as high as the total number of organizations or entities named in that Iowa Code section. The proposed amendment in Item 9 clarifies that the Director of the Department of Public Health shall select the seven members from the pool of nominated persons recommended by the listed organizations and entities.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

2019 Iowa Acts, House File 766, section 84, amends Iowa Code section 147A.3 to remove the ability to pay for advisory council member expenses. The proposed amendment in Item 10 rescinds rule 641—138.9(147A) regarding expense reimbursement.

2019 Iowa Acts, House File 766, sections 72 through 74, remove all references to the governmental Public Health Advisory Council from the Iowa Code, and House File 766 removes the underlying statutory authority for Chapter 186. The proposed amendment in Item 11 rescinds Chapter 186.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Susan Dixon
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: susan.dixon@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Rescind the definition of “Specialty care referral network” in rule **641—88.2(135)**.

ITEM 2. Amend rule **641—88.2(135)**, definition of “Specialty health care provider office,” as follows:

“*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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~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.

ITEM 3. Rescind subrule **88.5(3)**.

ITEM 4. Rescind and reserve rule **641—90.7(135)**.

ITEM 5. Amend rule 641—110.1(135) as follows:

641—110.1(135) Purpose and scope. The following rules developed by the department of public health govern the organization of the center for rural health and primary care within ~~the bureau of oral and health delivery systems~~ of the department of public health.

ITEM 6. Rescind the definition of “Center for rural health and primary care advisory committee” in rule **641—110.2(135,135B)**.

ITEM 7. Rescind and reserve rules **641—110.4(135)** to **641—110.6(135)**.

ITEM 8. Rescind and reserve rule **641—130.7(147A)**.

ITEM 9. Amend rule 641—138.3(147A) as follows:

641—138.3(147A) Appointment and membership.

138.3(1) The seven members of the TSAC shall be appointed by the director from the recommendations of the organizations listed in subrule 138.3(4).

138.3(2) Appointments shall be for two-year staggered terms, which shall expire on June 30.

138.3(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

138.3(4) Membership. The voting membership of the TSAC shall be comprised of ~~one representative nominated~~ seven members, appointed by the director, who are selected from the pool of individuals recommended from each of the following organizations or entities:

- a. American Academy of Pediatrics.
- b. American College of Emergency Physicians, Iowa chapter.
- c. American College of Surgeons, Iowa chapter.
- d. Department of public health.
- e. Governor’s traffic safety bureau.
- f. Iowa Academy of Family Physicians.
- g. Iowa Emergency Medical Services Association.
- h. Iowa Emergency Nurses Association.
- i. Iowa Hospital Association representing rural hospitals.
- j. Iowa Hospital Association representing urban hospitals.
- k. Iowa Medical Society.
- l. Iowa Osteopathic Medical Society.
- m. Iowa Physician Assistant Society.
- n. Iowa Society of Anesthesiologists.
- o. Orthopedic System Advisory Council of the American Academy of Orthopedic Surgeons, Iowa representative.
- p. Rehabilitation services delivery representative.
- q. Iowa’s Medicare quality improvement organization.
- r. State medical examiner.
- s. Trauma nurse coordinator representing a trauma registry hospital.
- t. University of Iowa, Injury Prevention Research Center.

138.3(5) Absences.

a. Three unexcused absences in a 12-month period shall be grounds for the director to ~~request nomination of~~ consider an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. The chairperson of the TSAC shall be charged with providing notification of absences to the department.

ITEM 10. Rescind and reserve rule **641—138.9(147A)**.

ITEM 11. Rescind and reserve **641—Chapter 186**.

ARC 4538C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Proposing rule making related to mandatory reporter training and providing an opportunity for public comment

The Public Health Department hereby proposes to rescind Chapter 93, “Mandatory Reporter Training Curricula,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, House File 731, section 1.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, House File 731, section 1.

Purpose and Summary

2019 Iowa Acts, House File 731, section 1, strikes Iowa Code section 135.11(24). This action removes the statutory authority for the Department of Public Health to approve the curricula for child and dependent adult abuse mandatory reporter training. Therefore, the proposed rule making action rescinds Chapter 93.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver and variance provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Deann Decker
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: deann.decker@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Rescind and reserve **641—Chapter 93.**

ARC 4540C

PUBLIC HEALTH DEPARTMENT[641]**Notice of Intended Action****Proposing rule making related to interagency coordinating council for the state medical examiner and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 124, “Interagency Coordinating Council for the State Medical Examiner,” and to rescind Chapter 125, “Advisory Council for the State Medical Examiner,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 691.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 691 and 2019 Iowa Acts, House File 766.

Purpose and Summary

2019 Iowa Acts, House File 766, sections 76 and 77, combine most of the duties and members of the Advisory Council for the State Medical Examiner into the Interagency Coordinating Council for the State Medical Examiner. The proposed amendments to Chapter 124 will incorporate the duties and members of the Advisory Council for the State Medical Examiner into the Interagency Coordinating Council for the State Medical Examiner as prescribed in House File 766. The proposed rescission of Chapter 125 will remove the obsolete rules pertaining to the eliminated Advisory Council for the State Medical Examiner.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance provisions contained in 641—Chapter 178.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Jon Thompson
Iowa Office of the State Medical Examiner
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: jonathan.thompson@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 641—124.1(691) as follows:

641—124.1(691) Purpose. ~~The purpose~~ purposes of the interagency coordinating council for the state medical examiner is to are to provide guidance concerning medicolegal death investigation for the state of Iowa, facilitate optimal relationships between the state and county medical examiners and other agencies involved in death investigation, and provide a venue for both the exchange of information vital to the continued operations of the Iowa office of the state medical examiner and the effective coordination of the functions and operations of the office of the state medical examiner with the needs and interests of the department of public safety and the department of public health, with input and guidance from the governor's office and other council members.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Amend rule 641—124.2(691) as follows:

641—124.2(691) Membership. Members shall include the representatives from agencies and organizations that are directly involved with the office of the state medical examiner and medicolegal death investigation in the state of Iowa.

124.2(1) The interagency coordinating council for the state medical examiner members shall include the following:

a. The chief state medical examiner or, when the state medical examiner is not available, the deputy state medical examiner, the;

b. The commissioner of public safety or the commissioner's designee, the;

c. The director of public health or the director's designee, and the;

d. The governor or the governor's designee;

e. A representative from the office of the attorney general;

f. A representative from the Iowa County Attorneys Association;

g. A representative from the Iowa Medical Society;

h. A representative from the Iowa Association of Pathologists;

i. A representative from the Iowa Association of County Medical Examiners;

j. A representative from the statewide emergency medical system; and

k. A representative from the Iowa Funeral Directors Association.

124.2(2) Each specific organization listed in paragraphs 124.2(2) "e" through "k" shall designate a representative to serve on the coordinating council. Representatives shall be approved by the state medical examiner in consultation with the director of public health.

124.2(3) The state medical examiner may invite representatives from other relevant organizations to provide specific insights to a particular issue, as needed.

ITEM 3. Amend rule 641—124.4(691) as follows:

641—124.4(691) Duties. The interagency coordinating council shall perform do all of the following duties:

124.4(1) Advise and consult with the state medical examiner on a range of issues affecting the organization and functions of the office of the state medical examiner and the effectiveness of the medical examiner system in the state.

~~124.4(1)~~ **124.4(2)** Provide a venue to coordinate Advise the state medical examiner concerning the assurance of effective coordination of the functions and operations of the office of the state medical examiner with the department of public safety and the department of public health in order to better serve the needs of the citizens of Iowa.

124.4(3) Provide information to council members regarding the current operations and functions of the office of the state medical examiner.

~~124.4(2)~~ **124.4(4)** Provide to and receive from the governor's office updated information relevant to the mission of the state medical examiner's office.

~~124.4(3)~~ **124.4(5)** Discuss legislative and budgetary decisions that may impact the functions and operations of one, two, or all three agencies any agency or member entity represented by the interagency coordinating council.

124.4(6) Elicit council members' suggestions and recommendations to improve the overall operations of the office of the state medical examiner.

ITEM 4. Rescind and reserve **641—Chapter 125.**

ARC 4541C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action****Proposing rule making related to mandatory reporting training and treatment programs in correctional facilities and providing an opportunity for public comment**

The Public Health Department hereby proposes to amend Chapter 155, “Licensure Standards for Substance Use Disorder and Problem Gambling Treatment Programs,” and to rescind Chapter 156, “Licensure Standards for Substance Abuse Treatment Programs in Correctional Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 125.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 125.13 and 2019 Iowa Acts, House File 731.

Purpose and Summary

The proposed amendments will increase the frequency of training for mandatory child abuse and dependent adult abuse reporters from once every five years to once every three years. Additional amendments include separating the child abuse identification and reporting training from the dependent adult abuse identification and reporting training with which it is currently combined. Each training is required to be of two hours’ duration. If the person receiving training completes one hour of additional child abuse identification and reporting training and one hour of additional dependent adult abuse identification and reporting training prior to the expiration period, the person shall be deemed in compliance with the training requirements for an additional three years. The proposed amendments permit an employer of a staff person subject to the training requirements to provide supplemental training in addition to the core training. There will be a transition provision for persons who received the child abuse or dependent adult abuse identification and reporting training certificate prior to July 1, 2019.

Chapter 156 is proposed to be rescinded since substance abuse treatment is no longer being provided in correctional institutions. Community-based correctional facilities continue to provide licensed substance use disorder treatment services and currently adhere to Chapter 156. Following the rescission of Chapter 156, any community-based corrections facility providing substance use disorder treatment services will be required to adhere to Chapter 155.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver and variance provisions contained in 641—Chapter 178.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Deann Decker
Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: deann.decker@idph.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

ITEM 1. Amend paragraph **155.21(9)“d”** as follows:

d. A staff person providing screening, OWI evaluation, assessment or treatment in accordance with this chapter shall complete two hours of ~~training on~~ child abuse identification and reporting of child abuse training and two hours of dependent adult abuse identification and reporting training within six months of initial employment and at least two hours of additional child abuse identification and reporting training and two hours of additional dependent adult abuse identification and reporting training every ~~five~~ three years thereafter. If the staff person completes at least one hour of additional child abuse identification and reporting training and one hour of additional dependent adult abuse identification and reporting training prior to the three-year expiration period, the staff person shall be deemed in compliance with the training requirements for an additional three years. An employer of a staff person subject to these requirements may provide supplemental training, specific to identification and reporting of child abuse or dependent adult abuse as it relates to the person’s professional practice, in addition to the core training provided. A training certificate relating to the identification and reporting of child abuse or dependent adult abuse issued prior to July 1, 2019, remains effective and continues in effect as issued for the five-year period following its issuance.

ITEM 2. Rescind and reserve **641—Chapter 156**.

ARC 4549C**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action****Proposing rule making related to identification card replacement fees and providing an opportunity for public comment**

The Department of Public Safety hereby proposes to amend Chapter 93, "Identification Cards for Former Peace Officers of the Iowa Department of Public Safety," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 18 U.S.C. §926C.

State or Federal Law Implemented

This rule making implements, in whole or in part, 18 U.S.C. §926C.

Purpose and Summary

The purpose of the proposed amendment to Chapter 93 is to more accurately reflect the Department's practice of not charging a fee to qualified former peace officers who request a replacement identification card.

Fiscal Impact

This rule making has an extremely low fiscal impact to the State of Iowa. Although the proposed amendment removes a fee of \$5 per replacement identification card, this fee is routinely not charged to qualified former peace officers. The Department only began printing these replacement cards in-house nine months ago and has printed three replacement cards in that time frame.

Jobs Impact

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

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Chandler Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend subrule 93.3(9) as follows:

93.3(9) If a qualified former peace officer of the department loses an identification card, or if a card is damaged, a replacement may be issued. The former officer shall notify the office of the commissioner of the loss or damage and may apply for a replacement card. ~~A nonrefundable fee of \$5, to defray expenses of the department, shall be charged for each application for a replacement former peace officer ID card. The fee is payable to the Iowa Department of Public Safety by personal check or money order. If loss of or damage to the former peace officer identification card occurred in an area subject to a formal disaster emergency declaration issued by the governor pursuant to Iowa Code section 29.6 and is attributable to the conditions which led to the disaster emergency declaration, no charge shall apply.~~

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Rob Sand has established today the following rates of interest for public obligations and special assessments. The usury rate for July is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective July 9, 2019, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days	Minimum .35%
32-89 days	Minimum .35%
90-179 days	Minimum .45%
180-364 days	Minimum .60%
One year to 397 days	Minimum .75%
More than 397 days	Minimum .90%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 4537C

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to practice and procedure before the board and providing an opportunity for public comment

The Utilities Board (Board) hereby proposes to amend Chapter 7, “Practice and Procedure,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 476.

Purpose and Summary

The Board is required to have rules governing the practices and procedures to be followed by those requesting Board action or participating in Board proceedings. The amendments to Chapter 7 of the Board’s rules update the practices and procedures and filing requirements for those making filings with the Board.

The Board issued an order commencing rule making on June 26, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

UTILITIES DIVISION[199](cont'd)

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

August 20, 2019
2 to 4 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 199—7.1(17A,474,476) as follows:

199—7.1(17A,474,476) Scope and applicability.

~~7.1(1) This Except for hearings regarding objections to assessments pursuant to 199—Chapter 17, this chapter applies to contested case all proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances including electric franchise and pipeline permit dockets unless different procedures are specifically set out in those chapters. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise. The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and number of copies required apply to paper filings. Where electronic filing is required, documents shall be filed and served according to 199—Chapter 14. The board has established additional procedural requirements in other chapters as described in subrules 7.1(2) through 7.1(4). All pleadings filed with the board shall be filed in the board's electronic filing system pursuant to 199—Chapter 14.~~

~~7.1(2) No change.~~

~~7.1(3) With the exception of rules 199—7.22(17A,476) (ex parte communications), 199—7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 199—7.27(17A,476)~~

UTILITIES DIVISION[199](cont'd)

(rehearing and reconsideration), none of these procedures shall apply to electric transmission line hearings under Iowa Code chapter 478 and 199—Chapter 11 or to pipeline or underground gas storage hearings under Iowa Code chapter 479 or 479B and 199—Chapters 10 and 13. Procedural rules applicable to these proceedings are found in the respective chapters.

~~7.1(4)~~ 7.1(3) Notice of inquiry dockets and investigations. The board may issue a notice of inquiry or investigation and establish a docket through which the inquiry or investigation can be processed. The procedural rules in this chapter shall not apply to these dockets. ~~Instead, the procedures for a notice of inquiry docket shall be specified in the initiating order and shall be subject to change by subsequent order or ruling by the board or the assigned inquiry docket manager. The procedures may include some or all of these procedural rules.~~

~~7.1(5)~~ 7.1(4) Reorganizations. Procedural rules applicable to reorganizations are included in 199—32.9(476). In the event the requirements in 199—32.9(476) conflict with the requirements in this chapter, the 199—32.9(476) requirements are controlling.

~~7.1(6)~~ 7.1(5) Discontinuance of service incident to utility property transfer.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules including, but not limited to, the rights and obligations created by Iowa Code sections 476.22 to 476.26. Additional rules applicable to discontinuance of service by local exchange utilities and interexchange utilities are contained at rule 199—22.16(476). Discontinuance of service to individual customers is addressed in rules 199—19.4(476), 199—20.4(476), 199—21.4(476), and 199—22.4(476). Procedures in the event of a sale or transfer of a customer base by a telecommunications carrier are contained in 199—paragraph 22.23(2)“e.”

b. to e. No change.

~~7.1(7)~~ 7.1(6) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board or presiding officer pursuant to 199—1.3(17A,474,476).

~~7.1(8)~~ 7.1(7) Procedural orders.

a. Authority to issue procedural orders in contested case proceedings, investigations, hearings, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by an administrative law judge a presiding officer employed by the board. If an administrative law judge a presiding officer is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the executive secretary or general counsel of the board.

b. Procedural orders under this subrule shall be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule shall state that it is issued pursuant to the delegation authority established in 199 IAC 7.1(8) subrule 7.1(7) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

ITEM 2. Amend rule 199—7.2(17A,476) as follows:

199—7.2(17A,476) Definitions. Except where otherwise specifically defined by law:

“Board” means the Iowa utilities board or a majority thereof.

“Complainants” are persons who complain to the board of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 479B, or of any order or rule of the board.

UTILITIES DIVISION[199](cont'd)

~~“Consumer advocate” means the consumer advocate office of consumer advocate, a division of the Iowa department of justice, referred to in Iowa Code chapter 475A.~~

~~“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under Iowa Code section 17A.10A.~~

~~“Data request” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.~~

~~“Expedited proceeding” means a proceeding before the board in which a statutory or other provision of law requires the board to render a decision in the proceeding in six months or less.~~

~~“Filed” means received at the office of the board in a manner and form in compliance with the board’s filing requirements accepted for filing by the board in compliance with 199—Chapter 14.~~

~~“Intervenor” means any person who, upon written petition, is permitted to intervene as a party in a specific proceeding before the board.~~

~~“Issuance” means the date written on the order unless another date is specified in the order on which an order is uploaded into the board’s electronic filing system.~~

~~“Parties” include, but are not limited to, complainants, petitioners, applicants, respondents, and intervenors.~~

~~“Party” means each person named or admitted as a party in a proceeding before the board.~~

~~“Person” means as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.~~

~~“Petitioner” or “applicant” means any party who, by written petition, application, or other filing, applies for or seeks relief from the board.~~

~~“Presiding officer” means one board member, the administrative law judge, or another person so designated by the board for the purposes of with the authority to preside over a particular proceeding.~~

~~“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case that has been assigned by the board to the presiding officer.~~

~~“Respondent” means any person against whom a complaint or petition is filed, or who by reason of interest or possible interest in the subject matter of a petition or application or the relief sought therein is made a respondent, or to whom an order is directed by the board initiating a proceeding.~~

~~“Service” means service by first-class mail pursuant to subrule 7.4(6), unless otherwise specified as prescribed in 199—Chapter 14.~~

ITEM 3. Amend rule 199—7.3(17A,476) as follows:

199—7.3(17A,476) Presiding officers. Presiding officers may be designated by the board to preside over contested cases or other proceedings and conduct hearings and shall have the following authority, unless otherwise ordered by the board:

1. to 8. No change.
9. To render a proposed decision and order in a contested case proceeding, investigation, or other hearing proceeding, subject to review by the board on its own motion or upon application appeal by any party; and
10. No change.

ITEM 4. Amend rule 199—7.4(17A,474,476) as follows:

199—7.4(17A,474,476) General information.

7.4(1) Orders. All orders will shall be issued and placed in the board’s records and information center uploaded into the board’s electronic filing system. Orders shall be deemed effective upon issuance acceptance into the electronic filing system, unless otherwise provided in the order. Parties and members of the public may view orders in the board’s records and information center and may also view orders and a daily summary of filings on the board’s Web site at <http://iub.iowa.gov> Orders and other filings in dockets may be viewed in the specific docket accessed through the board’s electronic filing system.

7.4(2) Communications.

- a. No change.

UTILITIES DIVISION[199](cont'd)

~~b. Paper communications filings. All paper communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other documents required to be filed on paper with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board. Paper filings may only be made with board approval.~~

~~c. The board may order that filings be submitted electronically in proceedings in which the electronic filing requirement in 199—14.2(17A,476) does not apply. Such filings shall be made pursuant to instructions in 199—Chapter 14 and the board's published standards for electronic information or as delineated in the board order or other official statement requiring those filings.~~

~~7.4(3) No change.~~

~~7.4(4) Number of copies for paper filings.~~

~~a. An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies:~~

~~A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)~~

~~C = Complaints filed pursuant to 199—6.2(476) (original)~~

~~CCF = Customer Contribution Fund (original + 1 copy)~~

~~E = Electric Franchise or Certificate (original + 3 copies)~~

~~EAC = Energy Adjustment Clause (original + 3 copies)~~

~~EDR = Electric Delivery Reliability (original + 3 copies)~~

~~ES = Extended Area Services (original + 2 copies)~~

~~GCU = Generating Certificate Utility (original + 20 copies)~~

~~H = Accident (original + 1 copy)~~

~~HLP = Hazardous Liquid Pipeline (original + 2 copies)~~

~~NIA = Negotiated Interconnection Agreement (original + 3 copies)~~

~~P = Pipeline Permit (original + 2 copies)~~

~~PGA = Purchased Gas Adjustment (original + 3 copies)~~

~~R = Reports-Outages (original + 1 copy)~~

~~RFU = Refund Filing Utility (original + 4 copies)~~

~~RN = Rate Notification (original + 3 copies)~~

~~TF = Tariff Filing (original + 4 copies)~~

~~b. Unless otherwise ordered or specified in this rule, parties must either file an original and ten copies or make an electronic filing pursuant to 199—Chapter 14 of all filings including, but not limited to, pleadings and answers (rule 199—7.9(17A,476)), prefiled testimony and exhibits (rule 199—7.10(17A,476)), motions (rule 199—7.12(17A,476)), petitions to intervene and responses (rule 199—7.13(17A,476)), proposals for settlement and responses (rule 199—7.18(17A,476)), stipulations (rule 199—7.19(17A,476)), withdrawals (rule 199—7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 199—7.24(17A,476)), interlocutory appeals (rule 199—7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 199—7.26(17A,476)), applications for rehearing and responses (rule 199—7.27(17A,476)), and requests for stay and responses (rule 199—7.28(17A,476)).~~

~~c. When separate dockets are consolidated into a single case, parties shall file one extra copy for each consolidated docket, in addition to the original and the normally required number of copies. For example, if three separate dockets are consolidated into a single case, parties must file an original plus two copies plus the normally required number of copies of each document.~~

UTILITIES DIVISION[199](cont'd)

~~d. a.~~ Rule 199—7.23(17A,476) contains requirements regarding the required number of copies for evidence introduced at hearing and for briefs. ~~Subrule 7.10(5) contains requirements regarding the required number of copies for workpapers and supporting documents.~~

~~e. b.~~ 199—Chapter 26 contains additional requirements regarding the number of copies of minimum filing requirements required to be filed in rate and tariff proceedings.

7.4(5) Defective filings. Only applications, pleadings, documents, testimony, and other submissions that conform to the requirements of an applicable rule, statute, or order of the board or presiding officer will be accepted for filing. Applications, pleadings, documents, testimony, and other submissions that fail to substantially conform with applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board or presiding officer prior to filing. The board or presiding officer may reject a filing even though board employees have file-stamped or otherwise acknowledged receipt of the filing. If a filing is defective due only to the number of copies filed, the board's records and information center staff may correct the shortage of copies with the permission of the filing party and the filing party's agreement to cover all costs of reproduction. The board's customer service section shall reject all filings that do not comply with the rules in this chapter or board orders.

7.4(6) Service of documents.

a. Method of service.

(1) Paper service. ~~In situations where service of a paper document is permitted or required, and unless otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first-class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first-class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served. Paper service of filings is only required on those parties, or persons, whom the board has approved to receive paper service. All filings served by paper shall be filed electronically pursuant to rule 199—14.16(17A,476) in the appropriate docket in the electronic filing system.~~

(2) No change.

b. Date of service.

(1) Paper service. Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2) filed in the board's electronic filing system.

(2) No change.

c. Parties entitled to service.

(1) Paper service. ~~A party or other person filing a notice, motion, pleading, or other paper document in any proceeding shall contemporaneously serve the document on all other parties. If a party has been approved by the board to receive service of paper documents, the person filing the document shall serve that party as required by this subrule.~~

(2) and (3) No change.

(4) ~~Service on consumer advocate.~~ A party formally filing any paper document or any other material on paper with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding or that request initiation of a docketed proceeding. The address of the

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consumer advocate is Office of Consumer Advocate, 1375 E. Court Avenue, Room 63, Des Moines, Iowa 50319-0063.

d. No change.

7.4(7) ~~Written appearance~~ Appearance. Each party to a proceeding shall file in the docket in the board's electronic filing system a separate written appearance, substantially conforming to the form set forth in 199—subrule 2.2(15), identifying one person upon whom the board may electronically serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the designated person be changed in the appearance. If a party files an application, petition, or other initial pleading, or an answer or other responsive pleading, containing the information that would otherwise be required in an appearance, the filing of a separate appearance is not required. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

7.4(8) ~~Representation by attorney-at-law~~ attorney.

a. Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed ~~attorney-at-law~~ attorney. If the attorney is not licensed by the state of Iowa, ~~permission to appear must be granted by the board or presiding officer~~ the attorney shall apply for admission pro hac vice as required by Iowa Court Rule 31.14(2)(b). A verified statement that contains the attorney's agreement to submit to and comply with the Iowa Code of Professional Responsibility for Lawyers must be filed with the board and the written appearance of a resident attorney must be provided for service pursuant to Iowa Admission to the Bar rule 31.14(2).

b. No change.

7.4(9) ~~Cross reference to public documents, confidential filings, and electronic filings.~~ The board's rule regarding public documents and confidential filings is at 199—1.9(22). The board's rule regarding electronic filing of documents containing confidential material is at 199—14.12(17A,476).

7.4(10) ~~Expedited proceedings.~~

a. If a person claims that a ~~statutory~~ statute or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall include the phrase "Expedited Proceedings Required" in the caption of the first pleading filed by the person in the proceeding. If the phrase is not so included in the caption, the board or presiding officer may find and order that the proceeding did not commence for purposes of the required time for decision until the date on which the first pleading containing the required phrase is filed or such other date that the board or presiding officer finds is just and reasonable under the circumstances.

b. If a person claims that a ~~statutory~~ statute or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall state the basis for the claim in the first pleading in which the claim is made.

c. No change.

d. A party may file a motion that proceedings be expedited even though such treatment is not required by statute or other provision of law. Such voluntary expedited treatment may be granted at the board's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the board or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in paragraph 7.4(10)"c" do not apply to voluntary expedited proceedings under this paragraph unless ordered by the board or presiding officer. If a party requests an expedited proceeding pursuant to this paragraph, the pleading in which the expedited decision is requested shall state in the title "Expedited Proceedings Requested."

ITEM 5. Amend rule 199—7.6(17A,476) as follows:

199—7.6(17A,476) ~~Telephone~~ Electronic proceedings. The board or presiding officer may hold proceedings by telephone conference call or other electronic means, such as a webinar service, in which all parties have an opportunity to participate. The board or presiding officer will determine the location

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of the parties and witnesses for ~~telephone hearings~~ electronic proceedings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

ITEM 6. Amend rule 199—7.7(17A,476) as follows:

199—7.7(17A,476) Electronic information. Filing of electronic information shall comply with the board's rules on electronic filing at 199—Chapter 14 and the board's published standards for electronic information, available on the board's ~~Web site~~ website at <http://iub.iowa.gov> or from the board's ~~records and information~~ customer service center.

ITEM 7. Amend rule 199—7.8(17A,476) as follows:

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be ~~by first-class mail or~~ by electronic notice through the electronic filing system, and to those persons who have been approved to receive paper documents, unless otherwise ordered.

ITEM 8. Amend rule 199—7.9(17A,476) as follows:

199—7.9(17A,476) Pleadings and answers.

7.9(1) Pleadings. Pleadings may be ~~required by~~ filed pursuant to statute, rule, or order or filed to initiate a docket and shall be filed in the board's electronic filing system.

7.9(2) Answers.

a. Unless otherwise ordered by the board or presiding officer, answers to complaints, petitions, applications, or other pleadings shall be filed with the board within ~~20~~ 14 days after the day on which the pleading being answered was filed in the board's electronic filing system and served upon the respondent or other party. However, when a statute or other provision of law requires the board to issue a decision in the case in six months or less, the answer shall be filed with the board within 10 days of service of the pleading being answered, unless otherwise ordered by the board or presiding officer.

b. to d. No change.

~~*e.* An answer shall substantially comply with the form prescribed in 199—subrule 2.2(8).~~

7.9(3) No change.

ITEM 9. Amend rule 199—7.10(17A,476) as follows:

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) The board or presiding officer may order the parties to file prefiled prepared testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in board contested case and other proceedings. ~~If ordered to do so, parties must~~ Parties shall file the prefiled testimony and exhibits according to the schedule in the procedural order.

7.10(2) Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the board or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three corrections to make to the prefiled testimony or exhibits, then the ~~corrections~~ corrected testimony or exhibits should be filed in ~~written form~~ the appropriate docket in the board's electronic filing system at least three days prior to the hearing. The prefiled testimony and any exhibits shall be marked and identified in conformance with the board's approved naming convention provided on the board's electronic filing system website or as directed in a board order.

7.10(3) Parties who wish to present a witness or other evidence in a proceeding shall comply with the board's or presiding officer's order concerning prefiled testimony ~~and documentary evidence~~ and exhibits, unless otherwise ordered, or unless otherwise provided by statute or other provision of law.

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7.10(4) No change.

7.10(5) Prefiled testimony and exhibits ~~submitted on paper shall include, where applicable~~ shall be filed in the board's electronic filing system in conformance with subrule 7.10(2), and any supporting documents shall be filed as follows:

a. All supporting workpapers.

(1) ~~Unless otherwise ordered by the board or presiding officer, electronic~~ Electronic workpapers in native electronic formats ~~that shall~~ shall comply with the board's standards for electronic information, which are available on the board's ~~Web site~~ website or from the board's ~~records and information customer service center~~, shall be provided. ~~Noncompliant electronic workpapers shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.~~

(2) ~~All other workpapers and hard copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.~~

(3) ~~(2)~~ Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.

(4) ~~(3)~~ The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. and *c.* No change.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the board's standards for electronic information, which are available on the board's ~~Web site~~ website or ~~in from~~ from the board's ~~records and information customer service center~~. ~~Noncompliant electronic computer-generated exhibits shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.~~

e. ~~Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:~~

(1) ~~Electronic workpapers—two copies and two hard copy printouts.~~

(2) ~~Other workpapers—five copies.~~

(3) ~~Specific studies or financial literature—two copies.~~

(4) ~~Computer-generated exhibits—two copies.~~

7.10(6) Any prefiled testimony, ~~including workpapers and exhibits, that is subject to the electronic filing requirement~~ shall comply with the board's standards for electronic information, which are available on the board's ~~Web site~~ website or in the board's ~~records and information customer service center~~, and the electronic filing rules in 199—Chapter 14.

7.10(7) If a party has filed part or all of its prefiled testimony and exhibits as confidential pursuant to ~~199—1.9(22)~~, and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the board denies the request to hold the testimony and exhibits confidential, the party ~~must~~ shall refile the testimony and exhibits ~~without the confidential stamp on each page~~ with the information made public.

ITEM 10. Amend rule 199—7.11(17A,476) as follows:

199—7.11(17A,476) Documentary evidence in books and materials. When documentary evidence being offered is contained in a book, report, or other document, the offering party ~~should ordinarily~~ shall file only the material, relevant portions in an exhibit ~~or read them into the record~~. If a party offers the entire book, report, or other document containing the evidence being offered, the party shall plainly designate the evidence so offered.

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ITEM 11. Amend rule 199—7.12(17A,476) as follows:

199—7.12(17A,476) Motions. Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. ~~Motions filed on paper shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed and served pursuant to rule 199—7.4(17A,476).~~ Motions filed electronically shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed according to in compliance with 199—Chapter 14. Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within ~~7~~ seven days of the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at ~~199—subrules 7.15(4) and 7.15(5).~~

ITEM 12. Amend subrule 7.13(1) as follows:

7.13(1) Petition. Unless otherwise ordered by the board or presiding officer, a request to intervene in a proceeding shall be by petition to intervene filed no later than 20 days following the order setting a procedural schedule. However, when a statutory or other provision of law requires the board to issue a decision in the case in six months or less, the petition to intervene must be filed no later than ~~10~~ ten days following the order setting a procedural schedule, unless otherwise ordered by the board or presiding officer. ~~A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10).~~

ITEM 13. Amend subrule 7.14(1) as follows:

7.14(1) Consolidation. The board or presiding officer may consolidate in one docket any or all matters at issue in two or more ~~contested cases~~ dockets. When deciding whether to consolidate, the board or presiding officer shall consider:

a. to d. No change.

ITEM 14. Amend subrule 7.15(5) as follows:

7.15(5) Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within ~~ten~~ 14 days of the filing of the motion unless the time is extended or shortened by order of the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to ~~five~~ seven days, unless otherwise ordered by the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response, or may order argument or other proceedings on the motion.

ITEM 15. Amend rule 199—7.17(17A,476) as follows:

199—7.17(17A,476) Prehearing or scheduling conference. ~~An informal conference of parties may be ordered at the discretion of the~~ The board or presiding officer may schedule a prehearing conference, scheduling conference, or other informal conference at the board's or presiding officer's discretion or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

ITEM 16. Amend subrule 7.18(6) as follows:

7.18(6) Unanimous proposed settlement. In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the board or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) shall not apply to a proposed settlement filed concurrently by all parties to the proceeding. Settlements in general rate case proceedings shall comply with rule 199—26.3(17A,476).

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ITEM 17. Amend paragraph 7.23(4)“d” as follows:

d. ~~Unless the exhibit was previously included with prefiled testimony, the party seeking admission of an exhibit at a hearing must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence shall be appropriately marked in accordance with the board’s approved naming convention and made part of the evidentiary record. If an exhibit is admitted, unless it was previously included with prefiled testimony, the sponsoring party must provide at least one copy of the exhibit to each opposing party, one copy for each board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered. The sponsoring party shall file the hearing exhibit in the docket in the board’s electronic filing system within three days of the close of the hearing.~~

ITEM 18. Amend subrule 7.23(7) as follows:

7.23(7) Participation at hearings by nonparties. ~~The board or presiding officer may permit any person to be heard and to examine and cross-examine witnesses at any hearing, but such person shall not be a party to the proceedings unless so designated. The testimony or statement of any person so appearing shall be given under oath and such person shall be subject to cross-examination by parties to the proceeding, unless the board or presiding officer orders otherwise. If a person who is not a party to a proceeding appears at a hearing and requests to examine or cross-examine witnesses, the board or presiding officer may grant the person intervention in the proceeding as a party for the limited purpose requested by the person and in compliance with subrule 7.4(8).~~

ITEM 19. Amend subrule 7.23(8) as follows:

7.23(8) Briefs.

a. No change.

~~*b.* Unless otherwise electronically filed and served pursuant to 199 Chapter 14 or otherwise ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).~~

e. b. Initial briefs shall contain a concise statement of the case. Arguments based on evidence introduced during the proceeding shall specify the portions of the record where the evidence is found. Initial briefs shall include all arguments the party intends to offer in support of its case and against the record case of the adverse party or parties. Unless otherwise ordered, a reply brief shall be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party’s failure to address an issue by brief shall not be deemed a waiver of that issue and shall not preclude the board or presiding officer from deciding the issue on the basis of evidence appearing in the record.

~~*c.* Every brief of more than 20 pages shall contain on its front leaves a table of contents with page references. Each party’s initial brief shall not exceed 90 pages and each subsequent brief shall not exceed 40 pages, exclusive of the table of contents, unless otherwise ordered. Such orders may be issued ex parte. A brief that exceeds these page limits shall be deemed a defective filing and may be rejected as provided in subrule 7.4(5).~~

e. d. Briefs shall comply with the following requirements.

(1) to (6) No change.

(7) Briefs filed electronically shall comply with the requirements in this paragraph and the standards for electronic information available on the board's ~~Web site~~ website or in the board's records and information center.

ITEM 20. Amend subrule 7.23(9) as follows:

7.23(9) Oral arguments. The board or presiding officer may set a time for oral argument to address issues raised by the parties during the proceeding or at the conclusion of the hearing, or may set a separate date and time for oral argument. The board or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party’s failure to address an issue in oral argument shall not be deemed a waiver of the issue.

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ITEM 21. Amend subrule 7.23(10) as follows:

7.23(10) Record. The record of the case is maintained in the board's ~~records and information center at the office of the board~~ electronic filing system. Unless the record is held confidential pursuant to 199—1.9(22), parties and members of the public may examine the record and obtain copies of documents other than, including the transcript. ~~The transcript will be available for public examination, but copying of the transcript may be restricted by the terms of the contract with the court reporting service.~~

ITEM 22. Amend paragraph **7.23(11)“b”** as follows:

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the board or presiding officer. However, within 15 days after the date of electronic notification or mailing of the decision, a motion to vacate may be filed with the board. The motion to vacate must state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts must be substantiated by affidavit attached to the motion. Unless otherwise ordered, adverse parties shall have ~~40~~ ten days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the board may review it on the board's own motion within 15 days after the date of notification or mailing of the decision.

ITEM 23. Amend rule 199—7.24(17A,476) as follows:

199—7.24(17A,476) Reopening record. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record shall be made prior to ~~the expiration of the time for appeal from issuance of the proposed decision, and the motion shall stay the time for filing an appeal.~~ A motion to reopen the record shall substantially comply with the form prescribed in 199—subrule 2.2(12). Affidavits of witnesses who will present new evidence shall be attached to the motion and shall include an explanation of the competence of the witness to sponsor the evidence and a description of the evidence to be included in the record.

ITEM 24. Amend rule 199—7.26(17A,476) as follows:

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. Notice of the presiding officer's proposed decision and order in a contested case shall be sent through the electronic filing system, or by first-class mail if ~~any paper filing requirements apply to the proceeding~~ the board has granted a party approval to receive service in paper, on the date the order is issued, ~~to the last known address of each party.~~ The decision shall normally include “Proposed Decision and Order” in the title and shall normally inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

7.26(2) No change.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. ~~If the electronic filing requirement applies to the proceeding in which the appeal is taken, the~~ The notice of appeal shall be electronically filed unless the appellant has received permission from the board to submit paper filings. ~~If the electronic filing requirement does not apply, the appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.~~

7.26(4) The board shall not consider any claim of error based on evidence which was not introduced before the presiding officer. ~~Newly discovered material evidence must be presented to the presiding officer pursuant to a motion to reopen the record, unless the board orders otherwise.~~ If the board determines that new evidence that is material to the proposed decision should be heard, the board may remand the proposed decision to the presiding officer for the taking of the new evidence or may conduct a hearing and issue an order based upon the record before the presiding officer and the new evidence.

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7.26(5) Contents of notice of appeal. The notice of appeal shall include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules.

a. to f. No change.

g. The request for a stay or other temporary remedy, if a party wishes to request a stay or other temporary remedy pending review of the proposed decision by the board. The request shall state the reasons justifying a stay or other temporary remedy and shall address the factors listed in Iowa Code section 17A.19(5)“c.”

~~*g. h.*~~ Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

7.26(6) Responsive filings and cross-appeals. If parties wish to respond to the notice of appeal, or file a cross-appeal, they must file the response or notice of cross-appeal within 14 days after the filing of the notice of appeal; unless otherwise ordered by the board. If a request for a stay or other temporary remedy was included in the notice of appeal, any party wishing to respond to the request shall include the response to the request in the party’s response to the notice of appeal or notice of cross-appeal. When a statutory or other provision of law requires the board to issue a decision in the case in less than six months, the response or cross-appeal must be filed within 7 seven days of filing the notice of appeal.

a. and b. No change.

7.26(7) Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the board shall issue an order that may establish a procedural schedule for the appeal or may be the board’s final decision on the merits of the appeal. If a request for a stay or other temporary remedy was included in the notice of appeal, the request shall be evaluated by the board using the factors stated in rule 199—7.28(17A,476). A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board’s own motion.

ITEM 25. Amend rule 199—7.27(17A,476) as follows:

199—7.27(17A,476) Rehearing and reconsideration.

7.27(1) No change.

7.27(2) *Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included. ~~An application shall substantially comply with the form prescribed in 199—subrule 2.2(13).~~

7.27(3) *Requirements for objections to applications for rehearing or reconsideration.* Notwithstanding the provisions of subrule 7.9(2), an answer or objection to an application for a rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board; unless otherwise ordered by the board. ~~The answer or objection to the application shall substantially comply with the form prescribed in 199—subrule 2.2(8).~~

ITEM 26. Amend subrule 7.28(3) as follows:

7.28(3) A stay or other temporary remedy may be vacated by the board upon application of any party or upon the board’s own motion.

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UTILITIES DIVISION[199]**Notice of Intended Action****Proposing rule making related to water, sanitary sewage, and storm water drainage utilities and providing an opportunity for public comment**

The Utilities Board (Board) hereby proposes to amend Chapter 21, “Service Supplied by Water Utilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 476.

Purpose and Summary

The Utilities Board is undertaking a periodic review and update of each chapter of its rules. The Board is proposing to update Chapter 21 to add clarity, improve consistency, and eliminate outdated or unneeded provisions. The Board is also proposing to use this opportunity to implement recent legislation. In 2016, the Legislature expanded the definition of “public utility” in Iowa Code section 476.1(3) to include providing sanitary sewage and storm water drainage disposal services by piped collection systems to the public for compensation and brought these utilities under regulation by the Board. Iowa Code section 476.1(4) exempts municipally owned sanitary sewage and storm water drainage utilities from Board regulation. The Board is proposing new rules in Chapter 21 that apply to sanitary sewage and storm water drainage utilities subject to the Board’s jurisdiction.

The Board issued an order commencing rule making on June 26, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0035.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

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Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

August 20, 2019
11:30 a.m. to 1 p.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **199—Chapter 21**, title, as follows:
SERVICE SUPPLIED BY WATER, SANITARY SEWAGE, AND STORM WATER DRAINAGE
UTILITIES

ITEM 2. Adopt the following **new** 199—Chapter 21, Division I heading, to precede rule 199—21.1(476):

DIVISION I
GENERAL PROVISIONS

ITEM 3. Amend rules 199—21.1(476) and 199—21.2(476) as follows:

199—21.1(476) Application of rules.

21.1(1) Application of rules. ~~The rules apply~~ This chapter applies to any water, sanitary sewage, or storm water drainage utility operating within the state of Iowa under the jurisdiction of the Iowa utilities board and ~~are~~ is established under Iowa Code chapter 476.

a. Purpose. ~~These rules are intended to promote~~ establish standards of service to the public, by utilities providing sanitary sewage or storm water drainage disposal by piped collection systems, and utilities providing water by piped distribution systems, which are subject to the jurisdiction of the Iowa utilities board, and to provide standards for uniform practices by those utilities, and establish a basis for determining the reasonableness of the demands made by the public upon the utilities.

b. Organization. This rule and rule 199—21.2(476) apply to water, sanitary sewage, and storm water drainage utilities. Rules 199—21.3(476) through 199—21.10(476) apply only to water utilities. Rules 199—21.11(476) through 199—21.17(476) apply only to sanitary sewage utilities. Rules 199—21.18(476) through 199—21.21(476) apply only to storm water drainage utilities.

c. Board. The term “board” as used in this chapter means the Iowa utilities board.

d. Utility. The term “utility” or “utilities,” when not more specifically described, means a water, sanitary sewage, or storm water drainage public utility as defined in Iowa Code section 476.1(3) “c” and “d.”

e. Waiver. A utility or customer may file for a waiver of these rules in accordance with the provisions of rule 199—1.3(17A,474,476,78GA,HF2206).

f. Other laws. These rules shall not relieve a utility from its duties under the laws of this state.

UTILITIES DIVISION[199](cont'd)

21.1(2) Authorization of rules. Iowa Code chapter 476 provides that the Iowa utilities board shall establish all needful, just, and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, content, and filing of reports, documents, and other papers necessary to carry out the provisions of ~~this law~~ Iowa Code chapter 476.

199—21.2(476) Records and reports for water, sanitary sewage, and storm water drainage utilities.

21.2(1) Location and retention of records. Unless otherwise specified in this chapter, all records required by these rules shall be kept and preserved in accordance with the applicable provisions of 199—Chapter 18.

21.2(2) Tariffs. The utility shall maintain its tariff filing in a current status.

The ~~schedules of rates and rules of all rate-regulated utilities~~ subject to the rules in this chapter shall be filed with the board.

The form, identification and content of tariffs shall be in accordance with these rules.

a. Form and identification.

(1) The tariff shall be ~~printed, typewritten or otherwise reproduced~~ on 8½ × 11 inch sheets pages so as to result in a clear and permanent record. ~~The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding.~~ Tariffs shall be filed electronically in compliance with 199—Chapter 14.

(2) The title page of every tariff and supplement shall specify the following tariff shall conform to the following requirements:

1. The first page shall be the title page, which will show: the name of the utility, the type of utility service being provided, and the words “Iowa Utilities Board.”

~~Name of Public Utility~~

~~Water Tariff~~

~~Filed With~~

~~The Iowa Utilities Board~~

2. When a tariff is to be superseded or replaced in its entirety, the replacing tariff shall show on the upper right corner of its title page that it is a revision of a tariff on file and the number being superseded or replaced; for example:

Tariff No. _____
Supersedes Tariff No. _____

3. ~~When a new part of a tariff revises, amends, or eliminates an existing part of a tariff, it shall so state and identify the part revised, amended or eliminated~~ sheet in a tariff is revised, amended, or eliminated, the tariff sheet shall indicate in the top right corner the number of the revision to that tariff sheet.

4. ~~Any tariff sheet modifications, as defined in “3” above, replacing tariff sheets shall be marked in the right margin with symbols as described below to indicate the place, nature, and extent of the change in text.~~ The marked version shall show all added language marked with underlined text and all deleted language with strike-through.

UTILITIES DIVISION[199](cont'd)

Symbol	Meaning
(C)	A change in regulation.
(D)	A discontinued or deleted rate, treatment or regulation.
(I)	An increased rate or new treatment resulting in increased rate.
(N)	A new rate, treatment or regulation.
(R)	A reduced rate or new treatment resulting in a reduced rate.
(T)	A change in text but no change in rate, treatment or regulation.

- (C)—Change in regulation.
- (D)—Discontinued rate or regulation.
- (I)—Increase in rate or new treatment resulting in increased rate.
- (N)—New rate, treatment, or regulation.
- (R)—Reduction in rate or new treatment resulting in reduction in rate.
- (T)—Change in text only.

5. All sheets except the title page shall have the following information located at the top left of the tariff sheet:

- Company name.
- Type of utility tariff.
- The words “Filed with board.”

6. All sheets except the title page shall have the following information located at the top right of the tariff sheet:

- Tariff part identification, if any.
- Tariff sheet number, original or revised.
- Canceled tariff sheet number, original or revised.

7. All sheets except the title page shall have the following information located at the bottom left of the tariff sheet:

- The issued date.
- The name of the person responsible for the issuance.

8. All sheets except the title page shall have the following information located at the bottom right of the tariff sheet:

- An effective date field.
- Proposed effective date for the tariff sheet.

~~(3) All sheets except the title page shall have, in addition to the above requirements, the issue date.~~

~~(4) All sheets except the title page shall have the following form:~~

(Company Name)	(Part Identification)
Water Tariff	(This sheet identification)
Filed with board	(Canceled sheet identification, if any)
	(Content of tariff)
Issued: (Date)	Effective Date:
	(Proposed Effective Date:)

(3) The issued date is the date the tariff or the ~~amended revised~~ sheet content was ~~adopted by the utility~~ filed by the utility in the board’s electronic filing system.

UTILITIES DIVISION[199](cont'd)

(4) The effective date ~~is to~~ may be left blank by the utility and shall be determined by the board. The utility may propose an effective date.

b. Content of tariffs. A tariff filed with the board shall contain: a table of contents and rates,

~~(1) Table of contents.~~

~~(2) Rates,~~ including all rates of utilities ~~subject to rate regulation~~ for service with indication for each rate of the type of ~~water~~ service and the class of customers to which each rate applies as approved by the board. There shall also be shown the prices per unit of service, ~~and~~ the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands and consumptions, including method of calculating or estimating loads or minimums, and any special terms and conditions applicable. ~~There shall be specified any~~ Any discount for prompt payment or penalty for late payment and the period during which the net amount may be paid; shall be specified and ~~both~~ shall be in accordance with subrule 21.4(4).

ITEM 4. Adopt the following new 199—Chapter 21, Division II heading, to precede rule 199—21.3(476):

DIVISION II
WATER UTILITIES

ITEM 5. Amend rules 199—21.3(476) to 199—21.9(476) as follows:

199—21.3(476) General water service requirements.

21.3(1) ~~Disposition of water~~ Water service.

a. Metered measurement of water. All water sold by a utility shall be on the basis of metered measurement except that the utility may at its option provide flat rate or estimated service for the following:

- (1) Temporary service where the water use can be readily estimated.
- (2) Public and private fire protection service.
- (3) Water used for street sprinkling and sewer flushing.

b. Separate metering for premises. Separate premises shall be separately metered and billed. Submetering shall not be permitted.

21.3(2) *Temporary service.* When the utility renders temporary service to a customer, it may require that the customer bear all the costs of installing and removing the service in excess of any salvage realized.

21.3(3) ~~Meter~~ Water meter requirements.

a. ~~Meter~~ Water meter installation. Each water utility shall adopt a written standard method of meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. Records of water meters and associated metering devices. Each water utility shall maintain for each meter and associated metering device the following applicable data.

(1) *Meter identification.*

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity, ~~multiplier and constants.~~
4. ~~Unit registration measures~~ Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials ~~in~~ on register.
6. Number of ~~stationary or pointed~~ fixed zeros on register.
7. Pressure rating of the meter.

(2) *Meter location history.*

1. Dates of installation and removal from service.
2. Location of installations.
3. All customer names with readings and read out dates (~~Remote register readings shall be maintained identical to readings of the meter register.~~)

Remote register readings shall be maintained identical to readings of the meter register.

UTILITIES DIVISION[199](cont'd)

c. Registration devices for meters. ~~Where a constant or multiplier is necessary to determine the meter reading, it shall be indicated on the face of the meter.~~ Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. Meter Water meter readings.

(1) ~~Meter~~ Water meter reading interval. Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer water meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility, or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 24 12 months and when there is a change of customer.

~~(2)~~ (3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, ~~such bills~~ the bill shall be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.3(4) Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.3(5) Extensions to customers.

a. Definitions. The following definitions shall apply to the terms used in this ~~rule~~ subrule:

"Advances for construction costs;" ~~as used in these subrules, are~~ means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

"Agreed-upon attachment period;" ~~as used in this subrule,~~ means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

"Contribution in aid of construction;" ~~as used in these subrules,~~ means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

"Customer advances advance for construction records, record" ~~as used in this subrule,~~ means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project on which or work order pursuant to which the extension was installed ~~on~~.

"Estimated annual revenues;" ~~as used in this subrule, shall be calculated~~ means an estimated calculation of annual revenue based upon the following factors, including, but not limited to: The ~~The~~ size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

"Estimated construction costs;" ~~as used in this subrule, shall be calculated~~ means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors: amount of service required or desired by the customer requesting the extension; size, location and characteristics of the extension, including all appurtenances; and whether

UTILITIES DIVISION[199](cont'd)

or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

“Extensions” means a distribution main extension.

“Similarly situated customer” is means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, ~~is similar to other customers with are~~ approximately the same as the annual consumption or service requirements of other customers.

“Utility,” ~~as used in these subrules, means a rate-regulated utility.~~

b. *Terms and conditions.* The utility shall extend service to new customers under the following terms and conditions:

(1) ~~Plant additions.~~ The utility ~~will~~ shall provide all water ~~plants~~ plant additions at its cost and expense without requiring an advance for ~~construction or contribution in aid of construction~~ from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) ~~Advances for construction costs for distribution main extensions for customers who will attach within 30 days.~~ Where the customer will attach within 30 days after completion of the distribution main extension, the following shall apply:

1. If the estimated construction cost to provide a distribution main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the ~~main~~ extension without requiring an advance for construction.

2. If the estimated construction cost to provide a distribution main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer ~~no more than 30 days prior to commencement of construction.~~

(3) ~~Advances for construction costs for distribution main extensions for customers who will not attach within the agreed-upon attachment period.~~ Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the ~~applicant for~~ customer requesting the extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions ~~which~~ are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit,

UTILITIES DIVISION[199](cont'd)

the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the distribution main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of ~~three~~ five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of ~~three~~ five times the estimated annual revenue for the depositor and each customer who has attached to the distribution main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal ~~three~~ five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. Extensions not required. Utilities shall not be required to make extensions as described in this rule, subrule unless the extension shall be of a permanent nature.

e. Extensions More favorable methods permitted. ~~This rule~~ Subrule 21.3(5) shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. ~~This rule~~ Subrule 21.3(5) shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in subrules 21.5(1) and 21.5(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with paragraph 21.3(5) "c." The utility shall be responsible for the operation and maintenance of the extension after attachment.

g. Reimbursement of extension construction cost. If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.3(6) Service Water service connections. ~~In urban areas with well defined streets, the~~ The utility shall control (supervise the installation and maintenance of) supervise the installation and maintenance of that portion of the water service pipe from its main to and including the customer's meter. A curb stop shall be installed at a convenient place between the property line and the curb. All services shall include a curb stop and curb box or meter vault. In installations where meters are installed in meter vaults incorporating a built-in valve, and are installed between the property line and curb, no separate curb stop and curb box is required.

21.3(7) Location of meters. Meters may be installed outside or inside as mutually agreed upon by the customer and the utility.

a. Outside meters. Meters installed out-of-doors shall be readily accessible for maintenance and reading, and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

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b. Inside meters. Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

199—21.4(476) Customer relations for water service.**21.4(1) Customer information.**

a. Each utility shall:

~~a. (1)~~ Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the ~~rate schedules~~ rates and rules relating to the service of the utility are available for public inspection.

~~b. (2)~~ Maintain up-to-date maps, plans, or records of its entire water system.

~~c. (3)~~ Upon request, assist the customer or ~~proposed~~ prospective customers in selecting the most economic rate schedule available for the proposed type of service.

~~d. (4)~~ Upon request, inform ~~its customers~~ the customer as to the method of reading meters and the method of computing the customer's bill.

~~e. (5)~~ Notify customers affected by a change in rates or rate classification as directed in the ~~board~~ board's rules of practice and procedures.

~~f. b.~~ Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 1-877-565-4450, by writing to 1375 E. Court Avenue, ~~Room 69~~, Des Moines, Iowa 50319-0069, or by ~~E-mail~~ email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard ~~form contained herein~~ statement described in this subrule shall file its proposed ~~form~~ statement in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.4(2) Customer deposits.

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit shall not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest shall be paid by the ~~rate-regulated~~ utility to each customer required to make a deposit. ~~On or after April 21, 1994, rate-regulated utilities~~ Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for

UTILITIES DIVISION[199](cont'd)

prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4 at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section ~~556.11~~ 556.13.

21.4(3) Customer bill forms. The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

- a.* The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.
- b.* The number of units metered when applicable.
- c.* Identification of the applicable ~~rate schedule~~ rates.
- d.* The gross and net amount of the bill.
- e.* The ~~delayed~~ late payment charge and the latest date on which the bill may be paid without incurring a penalty.
- f.* A distinct marking to identify an estimated bill.

21.4(4) Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. Late payment charge. A ~~rate-regulated~~ utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

b. Charge forgiveness. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

~~The company rules shall state how the customer is notified the eligibility has been used.~~

21.4(5) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with 21.4(6), but not less than three years.

21.4(6) Adjustment of bills. Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

- a. Fast meters.* Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

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b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in 21.4(6) "a" unless otherwise ordered by the board.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.4(7) Refusal or disconnection of service. Service may be refused or discontinued only for the reasons listed in paragraphs 21.4(7) "a" through "f" below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board.

- a.* Without notice in the event of an emergency.
- b.* Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.
- c.* For violation of or noncompliance with the utility's rules on file with the board.
- d.* For failure of the customer to permit the utility reasonable access to its equipment.
- e.* For nonpayment of bill, provided that the utility has: (1) made a reasonable attempt to effect collection; and (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph shall only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the ~~public water~~ utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the ~~public water~~ utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the ~~public water~~ utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the ~~public water~~ utility shall reconnect water service to the customer as provided for in the ~~public water~~ utility's tariff.

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(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the ~~public water~~ utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the ~~public water~~ utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the ~~water~~ utility's tariffs approved by the ~~utilities~~ board, and that recovery of lost revenue by the ~~public water~~ utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

21.4(8) *Reconnection and charges.* In all cases of discontinuance of service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.4(9) *Insufficient reasons for denying service.* The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

a. ~~Nonpayment for service by someone who is no longer an occupant of the premises to be served, except in cases of immediate family occupation or cohabitation of adults at the premises.~~ Delinquency in payment for service by a previous occupant of the premises to be served.

b. Failure to pay the bill of another customer as guarantor thereof.

c. Failure to pay for a different type or class of ~~public~~ utility service, except sanitary sewage disposal service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7) "f" is not considered a different type or class of public utility service for purposes of subrule 21.4(9).

d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.4(10) *Customer complaints.* A "complaint" shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

199—21.5(476) Engineering practice for water service.

21.5(1) *Requirement of good engineering practice.* The design and construction of the utility's ~~water~~ plant and distribution system shall conform to good standard engineering practice.

21.5(2) *Inspection of ~~water~~ plant.* Each utility shall adopt and follow a program of inspection of its ~~water~~ plant and distribution system in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility's experience and accepted good practice.

199—21.6(476) Meter testing for water service.

21.6(1) *Periodic and routine tests.* Each utility shall adopt schedules approved by the board for periodic and routine tests and repair of its meters.

21.6(2) *Meter test facilities and equipment.* Each utility furnishing metered ~~water~~ service shall provide the necessary standard facilities, instruments, and other equipment for testing its meters, or ~~may~~ contract for test of its meters by another utility or agency equipped to test meters subject to approval by the board.

UTILITIES DIVISION[199](cont'd)

21.6(3) Accuracy requirements. All meters ~~used for measuring quantity of water delivered to a customer~~ shall be in good mechanical condition. All meters shall be accurate to the following standards:

a. Test flow limits. For determination of minimum test flow and normal test flow limits, the ~~company will~~ utility shall use as a guide the appropriate standard specifications of the American Water Works Association for the various types of meters.

b. Accuracy limits. A meter shall not be placed in service if it registers less than 95 percent of the ~~water volume~~ passed through it at the minimum test flow, or overregisters or underregisters more than 1.5 percent at the intermediate or maximum limit.

21.6(4) Initial test and storage of meters. Every ~~water~~ meter shall be tested prior to its installation either by the manufacturer, the utility, or an organization equipped for meter testing.

If a meter is not stored as recommended by the manufacturer, the meter shall be tested immediately before installation.

21.6(5) As found tests. To determine the average meter error in accordance with these rules for periodic or complaint tests, meters shall be tested in the condition as found in the customer's service. Tests shall be made at intermediate and maximum rates of flow, and the meter error shall be the algebraic average of the errors of the two tests.

21.6(6) Request tests. A utility shall test any ~~water~~ meter upon written request of a customer. The utility will not be required to perform request tests more than once each 18 months. The customer shall be given the opportunity to be present at the request tests.

21.6(7) Board-ordered tests. The board shall order tests of meters as follows:

a. Application. Upon written application to the board by a customer or a utility, a test shall be made of the customer's meter as soon as practicable.

b. Guarantee. The application shall be sent by certified or registered mail and accompanied by a certified check or money order made payable to the utility in the amount indicated below:

- | | |
|--|------|
| (1) Capacity of 80 gallons per minute or less. | \$24 |
| (2) Capacity over 80 gallons, up to 120 gallons per minute | \$26 |
| (3) Capacity of over 120 gallons per minute | \$30 |

c. Conduct of test. On receipt of a request from a customer, the board shall forward the deposit to the utility and notify the utility of the requirement for the test. The utility shall not knowingly remove or adjust the meter until tested. The utility shall furnish all instruments, load devices, and other facilities necessary for the test and shall perform the test and shall furnish verification of the accuracy of test instruments used.

d. Test results. If the tested meter is found to overregister to an extent requiring a refund under the provisions of 21.4(6) "a," the amount paid to the utility shall be returned to the customer by the utility.

e. Notification. The utility shall notify the customer in advance of the date and time of the board-ordered test.

f. Utility report. The utility shall make a written report of the results of the test which. The report shall be sent to the customer and to the board.

21.6(8) Sealing of meters. Upon completion of adjustment and test of any water meter the utility shall place a suitable register seal on the meter in a manner that adjustment or registration of the meter cannot be changed without breaking the seal.

21.6(9) Record of meter tests. Meter test records shall include:

a. The date and reason for the test.

b. The meter reading prior to any test.

c. The accuracy as found at each of the flow rates required by 21.6(3) "a."

d. The accuracy as left at each of the flow rates required by 21.6(3) "a."

e. Statement of any repairs.

f. If the meter test is made using a standard meter, the utility shall retain all data taken at the time of the test sufficient to permit the convenient checking of the test method, calculations, and traceability to the National Bureau of Standards' volumetric standardization.

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The test records of each meter shall be retained for two consecutive periodic tests or at least for two years. A record of the test made at the time of the meter's retirement, if any, shall be retained for a minimum of three years.

199—21.7(476) Standards of quality of water service.

21.7(1) *Pressures* Water pressures. Under normal condition of water usage, the pressure (~~per square inch gauge~~) at a customer's service line shall ~~be not less than 25 PSIG and not more than 125 PSIG~~ be neither less than 25 pounds per square inch gauge (psig) nor more than 125 psig.

At regular intervals, a utility shall make a survey of pressures in its water system. The survey shall be of sufficient magnitude to indicate the quality of service being rendered at representative points on its system. ~~Survey should~~ The survey shall be conducted during periods of high usage at or near the maximum usage during the year. The pressure charts for these surveys shall show the date and time of beginning and end of the test, and the test location. Records of these pressure surveys shall be maintained at the utility's principal office in the state and made available to the board upon request.

21.7(2) *Interruption of supply* water service.

a. A utility shall make a reasonable effort to prevent interruptions of water service. When an emergency interruption occurs, the utility shall reestablish service with the shortest possible delay consistent with the safety ~~to~~ of its customers and the general public. If an emergency interruption affects fire protection service, the utility shall immediately notify the fire chief or other responsible local official.

b. When a utility finds it necessary to schedule an interruption of water service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions ~~should~~ shall be scheduled at hours which create the least inconvenience to the customer.

c. A utility shall retain records of interruptions for a period of at least five years.

21.7(3) *Supply* Water supply shortage. The utility shall attempt to furnish a continuous and adequate supply of water to its customers and to avoid any shortage or interruption of water delivery.

a. If a utility finds that it is necessary to restrict the use of water, it shall ~~notify its customers, and give the board notice, before the restriction becomes effective~~ equitably apportion its available water supply among its customers. ~~The notification shall specify~~ The utility shall notify its customers and the board of the following:

- (1) The reason for the restriction.
- (2) The nature and extent of the restriction.
- (3) The effective date of the restriction.
- (4) The probable date of termination of the restriction.

b. ~~During the times of threatened or actual water shortage, the utility shall equitably apportion its available water supply among its customers.~~ The water use restriction shall not take effect unless approved by the board.

199—21.8(476) Applications for water costs for fire protection services.

21.8(1) *Definition.* For purposes of ~~these rules~~ this rule, "water costs for fire protection service" shall be defined as all or a part of the utility's costs of fire hydrants and other improvements, maintenance, and operations for the purpose of providing adequate water production, storage, and distribution for public fire protection, as reflected in the utility's current tariff for public fire protection water service.

21.8(2) *Utility requirements.* A ~~rate-regulated~~ utility which provides public fire protection water service to a city preparing an application pursuant to subrule 21.8(3) shall provide the city all necessary information and affidavits to enable the city to meet its application filing requirements.

21.8(3) *Application contents.* Any city filing an application with the board requesting inclusion of all or a part of the water costs for fire protection service in a ~~rate-regulated~~ utility's rates or charges to customers covered by the city's fire protection service shall submit, at the time the application is filed, the following information with supporting testimony:

UTILITIES DIVISION[199](cont'd)

a. A statement showing (1) the proposed method of allocating costs to affected customers, and (2) both the proposed per-customer rate increase and the average percentage increase by customer class, based on the utility's current tariff, if the costs for fire protection water service are included in rates charged to affected customers;

b. Copies of all bills rendered to the city by the utility for public fire protection water service during the preceding 24-month period;

c. The current number of utility customers served within the city's corporate limits, by customer class, with an affidavit from the utility verifying the information;

d. A map illustrating both (1) the city's corporate limits, and (2) the portion of the utility's customer service area within the city's corporate limits, with an affidavit from the utility verifying the customer service area;

e. An affidavit from the utility showing that the notice required by Iowa Code section 476.6(18) "~~e~~" 476.6(14) "c" and subrule 21.8(4) has been provided and paid for by the applicant and mailed by the utility to all affected customers.

21.8(4) Customer notification.

a. Prior approval. The city shall ~~submit to file with~~ file with the board for its approval, not less than 30 days before providing notification to affected customers, ~~ten copies~~ a copy of the proposed notice.

b. Required content of notification. The notice shall advise affected customers of the proposed increase in rates and charges, the proposed effective date of the increase, and the percentage increase by customer class. It shall advise customers that the city is requesting the increase and that they customers have a the right to file with the board a written objection to the proposed increase and to request a public hearing. It shall also include a written explanation of the reason for the increase.

c. Notice of deficiencies. Within 30 days of the filing of the proposed notice, the city shall be notified ~~of either~~ of the approval of the notice or of any deficiencies in the notice and the corrective measures required for approval.

d. Distribution. The city shall provide to the utility, for mailing, a sufficient number of copies of the approved notice. The city shall direct the utility either to (1) include the notice with the utility's next regularly scheduled mailing to the affected customers; or (2) make a separate mailing of the notice to affected customers within 30 days of receiving from the city the requisite number of copies of the notice. The city shall pay all expenses incurred by the utility in providing notice to affected customers. The utility may require payment prior to the mailing.

e. Delivery. The written notice to affected customers shall be mailed or delivered by the utility not more than 90 days before the application is filed and no later than the date the application is filed.

21.8(5) Procedure.

a. Service Filing of application. The applicant shall file ~~an original plus ten copies of the application with the executive secretary's office, serve two copies of the application on the public utility and serve two copies on the consumer advocate division of the Iowa department of justice~~ the application with the board.

b. Docketing. Within 30 days of the filing of the application, the board shall either approve the application or docket the case as a formal proceeding and establish a procedural schedule.

c. Rules. If the case is docketed as a formal proceeding, the rules in 199—Chapter 7, if not inconsistent, shall apply.

d. Decision. The board shall render its decision within six months of the date of the application. If the application is approved, the board shall order the ~~rate-regulated~~ utility providing the water service to the city to file tariffs implementing the board's decision. The utility shall include annually a bill insert explaining to customers that they are being charged for water-related fire protection costs. The city shall pay all costs incurred by the utility to file and implement the required tariff.

199—21.9(476) Incident reports regarding water service.

21.9(1) Notification. A ~~regulated public~~ water utility shall notify the board ~~when it notifies the Iowa department of natural resources or the local county health department~~ about an any incident involving: (1) an occurrence of waterborne emergency (e.g., treatment process malfunction, chemical/biological spill

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~~in the water supply, contamination event in the distribution system, emergency that has the potential for drinking water contamination); (2) a boil water advisory and contamination event; or (3) a low-pressure event (less than 20 psi) affecting a widespread area of the system. Notification shall be made to the board by e-mail to the board duty officer at dutyofficer@iub.iowa.gov or, in appropriate circumstances, by calling (515)745-2332. The person contacting the board shall leave a call-back number for a person knowledgeable about the incident. The utility shall report to the board when the incident has ended and normal water service has been restored.~~

- a. The occurrence of a waterborne illness;
- b. The issuance of a boil water advisory;
- c. A contamination event;
- d. A low-pressure event (less than 20 psig) that negatively affects the quality of water service;
- e. A flood event affecting the utility's plant or distribution system; or
- f. A cyberattack affecting the well-being of the utility, its customers, or the environment.

21.9(2) Information required. The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

- a. The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b. The location of the incident.
- c. The time of the incident.
- d. The number of deaths or personal injuries and the extent of those injuries, if any.
- e. An initial estimate of the damages.
- f. The number of services interrupted.
- g. A summary of the significant information available to the utility regarding the probable cause of the incident and the extent of damages.

21.9(3) Normal service restored. The utility shall notify the board when the incident has ended and normal water service has been restored.

ITEM 6. Adopt the following new rule 199—21.10(476):

199—21.10(476) Separate books for acquired water service assets. A utility acquiring the whole or any substantial part of a water system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.

ITEM 7. Adopt the following new 199—Chapter 21, Division III heading, to precede rule 199—21.11(476):

DIVISION III
SANITARY SEWAGE UTILITIES

ITEM 8. Adopt the following new rules 199—21.11(476) to 199—21.17(476):

199—21.11(476) General sanitary sewage disposal service requirements.

21.11(1) Sanitary sewage disposal service.

a. Metered measurement of sanitary sewage. All sanitary sewage disposal service sold by a utility shall be on the basis of metered measurement except that the utility may at its option, pursuant to board-approved tariffs, provide flat rate or estimated service for the following:

- (1) Temporary service; or
- (2) The disposal at the sewage treatment plant of delivered sewage where the amount of sewage can be readily estimated.

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b. Sanitary sewage meter requirements. Sanitary sewage disposal service provided by a utility may be based upon the amount of water used by the customer as measured pursuant to rule 199—21.3(476) or separately metered in substantial conformity with the requirements of rule 199—21.3(476). The method of measuring sanitary sewage disposal service shall be filed in the utility's tariff and approved by the board.

c. Customer classes. In establishing customer classes, the utility may consider the characteristics of the sewage generated by that customer class and the existence of any industrial pretreatment agreements. Customer classes shall be established pursuant to board-approved tariffs.

21.11(2) Temporary service. When the utility renders temporary service to a customer, it may require that the customer bear all of the costs of installing and removing the service in excess of any salvage realized, pursuant to board-approved tariffs.

21.11(3) Sewage meter requirements.

a. Sewage meter installation. Each sanitary sewage utility shall adopt a written standard method or a method preapproved by the board for meter installation. Copies of standard methods shall be made available upon request. All meters shall be set in place by the utility.

b. Records of sewage meters and associated metering devices. Each sanitary sewage utility shall maintain for each meter and associated metering device the following applicable data:

(1) Meter identification.

1. Manufacturer.
2. Meter type, catalog number, and serial number.
3. Meter capacity.
4. Registration unit of measurement (gallons or cubic feet).
5. Number of moving digits or dials on register.
6. Number of fixed zeros on register.
7. Pressure rating of the meter.

(2) Meter location history.

1. Dates of installation and removal from service.
2. Location of installation.
3. All customer names with readings and read out dates.

Remote register readings shall be maintained identical to readings of the meter register.

c. Registration devices for meters. Where remote meter reading is used, the customer shall have a readable meter register at the meter.

d. Sewage meter readings.

(1) Sewage meter reading interval. Reading of all meters used for determining charges to customers shall be scheduled at least quarterly. An effort shall be made to read meters on corresponding days of each meter reading period. The meter reading date may be advanced or postponed no more than ten days without adjustment of the billing for the period.

(2) Customer sewage meter reading. The utility may permit the customer to supply the meter readings on a form supplied by the utility or, in the alternative, may permit the customer to supply the meter reading information by telephone, or electronically, provided a utility representative reads the meter at least once every 12 months and when there is a change of customer.

(3) Readings and estimates in unusual situations. When a customer is connected or disconnected, or the regular meter reading date is substantially revised causing a given billing period to be longer or shorter than usual, such bills shall be prorated on a daily basis.

(4) Estimated bill. An estimated bill may be rendered in the event that access to a meter cannot be gained and a meter reading form left with the customer is not returned in time for the billing operation. Only in unusual cases shall more than three consecutive estimated bills be rendered.

21.11(4) Filing published meter and service installation rules. A copy of the utility's current rules, if any, published or furnished by the utility for the use of engineers, architects, plumbing contractors, etc., covering meter and service installation shall be filed with the board.

21.11(5) Extensions to customers.

a. Definitions. The following definitions shall apply to the terms used in subrule 21.11(5):

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“Advances for construction costs” means cash payments or surety bonds or an equivalent surety made to the utility by an applicant for an extension, portions of which may be refunded depending on any subsequent connections made to the extension. Cash payments, surety bonds, or equivalent sureties shall include a grossed-up amount for the income tax effect of such revenue.

“Agreed-upon attachment period” means a period of not less than 30 days nor more than one year mutually agreed upon by the utility and the applicant within which the customer will attach. If no time period is mutually agreed upon, the agreed-upon attachment period shall be deemed to be 30 days.

“Contribution in aid of construction” means a nonrefundable cash payment covering the costs of an extension that are in excess of utility-funded allowances. Cash payments shall be grossed-up for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

“Customer advance for construction record” means a separate record established and maintained by the utility, which includes by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond or equivalent surety, and if by surety bond, all relevant information concerning the bond or equivalent surety, the amount of refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project on which or work order pursuant to which the extension was installed.

“Estimated annual revenues” means an estimated calculation of annual revenue based upon the following factors, including but not limited to: the size of the facility to be used by the customer, the size and type of equipment to be used by the customer, the average annual amount of service required by the equipment, and the average number of hours per day and days per year the equipment will be in use.

“Estimated construction cost” means an estimated calculation of construction costs using average costs in accordance with good engineering practices and based upon the following factors: amount of service required or desired by the customer requesting the extension; size, location and characteristics of the extension, including all appurtenances; and whether or not the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be calculated utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility.

“Extensions” means a sanitary sewer main extension.

“Similarly situated customer” means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are approximately the same as the annual consumption or service requirements of other customers.

b. Terms and conditions. The utility shall extend service to new customers under the following terms and conditions:

(1) The utility shall provide all sewage treatment plant additions at its cost and expense without requiring an advance for construction or contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A contract between the utility and the customer which requires an advance by the customer to make plant additions shall be available for board inspection.

(2) Where the customer will attach within 30 days after completion of the sewer main extension, the following shall apply:

1. If the estimated construction cost to provide a sewer main extension is less than or equal to five times the estimated annual revenue calculated on the basis of similarly situated customers, the utility shall finance and make the extension without requiring an advance for construction.

2. If the estimated construction cost to provide a sewer main extension is greater than five times the estimated annual revenue calculated on the basis of similarly situated customers, the applicant for such an extension shall contract with the utility and deposit no more than 30 days prior to commencement

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of construction an advance for construction equal to the estimated construction cost less five times the estimated annual revenue to be produced by the customer.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the sewer main extension, the customer requesting the extension shall contract with the utility and deposit no more than 30 days prior to the commencement of construction an advance for construction equal to the estimated construction cost.

(4) Advance payments for plant additions or extensions are subject to refund for a ten-year period and may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

c. Refunds. The utility shall refund to the depositor for a period of ten years from the date of the original advance, a pro-rata share for each service attachment to the sewer main extension. The pro-rata refund shall be computed in the following manner:

(1) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor.

(2) If the combined total of five times the estimated annual revenue for the depositor and each customer who has attached to the sewer main extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal five times the estimated annual revenue of the customer attaching to the extension.

(3) In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten-year period, the customer advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

d. Extensions not required. Utilities shall not be required to make extensions as described in subrule 21.11(5), unless the extension shall be of a permanent nature.

e. More favorable methods permitted. Subrule 21.11(5) shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors.

f. Connections to utility-owned equipment. Subrule 21.11(5) shall not be construed as prohibiting an individual, partnership, or company from constructing its own extension. An extension constructed by a nonutility entity must meet at a minimum the applicable portions of the standards in subrules 21.13(1) and 21.13(2) and such other reasonable standards as the utility may employ in constructing extensions, so long as the standards do not mandate a particular supplier. All connections to the utility-owned equipment or facilities shall be made by the utility at the applicant's expense. At the time of attachment to the utility-owned equipment or facilities, the applicant shall transfer ownership of the extension to the utility and the utility shall book the original cost of construction of the extension as an advance for construction, and refunds shall be made to the applicant in accordance with paragraph 21.11(5) "c." The utility shall be responsible for the operation and maintenance of the extension after attachment.

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g. Reimbursement of extension construction cost. If the utility requires the applicant to construct the extension to meet service requirements greater than those necessary to serve the applicant's service needs, the utility shall reimburse the applicant for the difference in cost between the extension specifications required by the utility and the extension specifications necessary to meet the applicant's service needs.

21.11(6) Sanitary sewer service connections. The utility shall supervise the installation and maintenance of that portion of the sanitary sewer service line from the main to and including the customer's meter or, if the customer does not have a separate meter for sanitary sewage disposal service, to the point where the sanitary sewage line exits the customer's residence or building.

21.11(7) Location of meters. Meters may be installed outside or inside as mutually agreed upon by the customer and utility.

a. Outside meters. Meters installed out-of-doors shall be readily accessible for maintenance and reading, and so far as practicable the location should be mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from injury.

b. Inside meters. Meters installed inside the customer's building shall be located as near as possible to the point where the service pipe enters the building and at a point reasonably secure from injury and readily accessible for reading and testing. In cases of multiple buildings, such as two-family dwellings or apartment buildings, the meter(s) shall be located within the premises served or in a common location accessible to the customers and the utility.

199—21.12(476) Customer relations for sanitary sewage disposal service.

21.12(1) Customer information.

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of reading meters and the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board's rules of practice and procedures.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; or by email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.12(2) Customer deposits.

UTILITIES DIVISION[199](cont'd)

a. Deposit required. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. Amount of deposit. The total deposit shall not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. New or additional deposit. A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. Customer's deposit receipt. The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

e. Interest on customer deposits. Interest shall be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.13.

21.12(3) Customer bill forms. The utility shall bill each customer as promptly as possible following the reading of the customer's meter. Each bill, including the customer's receipt, shall show:

a. The date and the reading of the meter at the beginning and at the end of the period or the period for which the bill is rendered.

b. The number of units metered when applicable.

c. Identification of the applicable rates.

d. The gross and net amounts of the bill.

e. The late payment charge and the latest date on which the bill may be paid without incurring a penalty.

f. A distinct marking to identify an estimated bill.

21.12(4) Bill payment terms. The bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. There shall be not less than 20 days between the rendering of a bill and the date by which the account becomes delinquent.

a. Late payment charge. A utility's late payment charge shall not exceed 1.5 percent per month of the past due amount.

b. Charge forgiveness. Each account shall be granted not less than one complete forgiveness of a late payment charge each calendar year. The utility's rules shall be definitive that on one monthly bill in each period of eligibility, the utility will accept the net amount of such bill as full payment for such month after expiration of the net payment period. The rules shall state how the customer is notified that the eligibility has been used.

UTILITIES DIVISION[199](cont'd)

21.12(5) Customer records. The utility shall retain customer billing records for the length of time necessary to permit the utility to comply with subrule 21.12(6), but not less than three years.

21.12(6) Adjustment of bills. Bills which are incorrect due to meter or billing errors are to be adjusted as follows:

a. Fast meters. Whenever a meter in service is tested and found to have overregistered more than 2 percent, the utility shall adjust the customer's bill for the excess amount paid. The estimated amount of overcharge is to be based on the period the error first developed or occurred. If that period cannot be definitely determined, it will be assumed that the overregistration existed for a period equal to one-half the time since the meter was last tested, or one-half the time since the meter was installed unless otherwise ordered by the board. If the recalculated bill indicates that more than \$5 is due an existing customer, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last-known address.

b. Nonregistering meters. Whenever a meter in service is found not to register, the utility may render an estimated bill.

c. Slow meters. Whenever a meter is found to be more than 2 percent slow, the utility may bill the customer for the amount the test indicates the customer has been undercharged for the period of inaccuracy, or a period as estimated in paragraph 21.12(6) "a" unless otherwise ordered by the board.

d. Overcharges. When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. The time period for which the utility is required to adjust, refund, or credit the customer's bill shall not exceed five years unless otherwise ordered by the board.

e. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the metering installation, or other similar reasons, the tariff may provide for billing the amount of the undercharge to the customer. The time period for which the utility may adjust for the undercharge need not exceed five years unless otherwise ordered by the board. The maximum bill shall not exceed the billing for like charges (e.g., usage-based, fixed, or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

21.12(7) Refusal or disconnection of service. Service may be refused or disconnected only for the reasons listed in paragraphs 21.12(7) "a" through "e" below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is disconnected. When a person is refused service, the utility shall notify the person promptly of the reason for the refusal to serve and of the person's right to file a complaint about the utility's decision with the board. Except for emergencies, a utility shall not disconnect sanitary sewage disposal service unless water service has also been disconnected at least 24 hours prior. Disconnection of service shall be pursuant to tariffs approved by the board.

a. Without notice in the event of an emergency.

b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining service by fraudulent means.

c. For violation of or noncompliance with the utility's rules on file with the board.

d. For failure of the customer to permit the utility reasonable access to its equipment.

e. For nonpayment of bill, provided that the utility has: (1) made a reasonable attempt to effect collection; and (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

UTILITIES DIVISION[199](cont'd)

21.12(8) Reconnection and charges. In all cases of discontinuance of sanitary sewage disposal service where the cause of discontinuance has been corrected, the utility shall promptly restore service to the customer. The utility may make a reasonable charge applied uniformly for reconnection of service.

21.12(9) Insufficient reasons for denying service. The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

- a. Delinquency in payment for service by a previous occupant of the premises to be served.
- b. Failure to pay the bill of another customer as guarantor thereof.
- c. Failure to pay for a different type or class of utility service.
- d. Delinquency in payment for service arising more than ten years prior, as measured from the most recent of the last date of service, the physical disconnection of service, or the last payment or promise of payment made by the customer.

21.12(10) Customer complaints. A “complaint” shall mean any objection to the charge, facilities, or quality of service of a utility.

a. Each utility shall investigate promptly and thoroughly and keep a record of all complaints received from its customers that will enable it to review its procedures and actions. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date resolved.

b. All complaints caused by a major service interruption shall be summarized in a single report.

c. A record of the original complaint shall be kept for a period of three years after final settlement of the complaint.

199—21.13(476) Engineering practice for sanitary sewage disposal service.

21.13(1) Requirement of good engineering practice. The design and construction of the utility’s plant and collection system shall conform to good standard engineering practice.

21.13(2) Inspection. Each utility shall adopt and follow a program of inspection of its plant and collection system in order to determine the necessity for replacement and repair. The frequency of the various inspections shall be based on the utility’s experience and accepted good practice.

199—21.14(476) Meter testing for sanitary sewage disposal service. If a utility uses separate meters to measure the volume of sewage disposal, the separate meters shall be tested in substantial conformity with the requirements of rule 199—21.6(476).

199—21.15(476) Standards of quality of sanitary sewage disposal service.

21.15(1) Operation and maintenance. The utility shall maintain and operate any sewage treatment facility with adequate capacity and equipment to convey all sewage to the plant and to treat the sewage to the quality required by all applicable laws and regulations.

21.15(2) Design and construction. The design and construction of the utility’s collection system, treatment facility, and all additions and modifications shall conform to the requirements prescribed by law.

21.15(3) Reasonable efforts to prevent. The utility shall make reasonable efforts to eliminate or prevent the entry of surface water or groundwater into its sanitary sewage system or the unlawful release of untreated sanitary sewage. The utility may request assistance from any appropriate state, county, or municipal authorities, but such a request does not relieve the utility of its responsibility to make reasonable efforts to eliminate or prevent the entry of surface water or groundwater and to contain sewage. The utility shall notify the board when it requests assistance from other state or local agencies.

21.15(4) Bypass and upset. The utility shall comply with the bypass and upset provisions of rule 567—63.6(455B).

21.15(5) Interruption of sanitary sewage disposal service.

a. A utility shall make a reasonable effort to prevent interruptions of sanitary sewage service. When an emergency interruption occurs, the utility shall reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

UTILITIES DIVISION[199](cont'd)

b. When a utility finds it necessary to schedule an interruption of service, it shall make a reasonable effort to notify all customers to be affected by the interruption. The notice shall include the time and anticipated duration of the interruption. Interruptions shall be scheduled at hours which create the least inconvenience to the customer. The utility shall notify the board when sanitary sewage service is interrupted.

c. A utility shall retain records of interruptions for a period of at least five years.

21.15(6) *Separate class.* Sanitary sewage service shall be considered a separate class of service for ratemaking purposes.

199—21.16(476) Incident reports regarding sanitary sewage disposal service.

21.16(1) *Notification.* A sanitary sewage utility shall notify the board about any incident involving:

- a.* An unlawful or uncontained release of sewage into the environment;
- b.* A flood event affecting the utility's plant or collection system;
- c.* A cyberattack affecting the well-being of the utility, its customers, or the environment; or
- d.* Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.16(2) *Information required.* The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

- a.* The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b.* The location of the incident.
- c.* The time of the incident.
- d.* The number of deaths or personal injuries and the extent of those injuries, if any.
- e.* An initial estimate of the damages.
- f.* The number of services interrupted.
- g.* A summary of the significant information available to the utility regarding the probable cause of the incident and the extent of damages.

21.16(3) *Normal service restored.* The utility shall notify the board when the incident has ended and normal sanitary sewage service has been restored.

199—21.17(476) *Separate books for acquired sanitary sewage disposal service assets.* A utility acquiring the whole or any substantial part of a sanitary sewage system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.

ITEM 9. Adopt the following **new** 199—Chapter 21, Division IV heading, to precede rule 199—21.18(476):

DIVISION IV
STORM WATER DRAINAGE UTILITIES

ITEM 10. Adopt the following **new** rules 199—21.18(476) to 199—21.21(476):

199—21.18(476) Standards of quality of storm water drainage service.

21.18(1) *Design and maintenance.* Systems for storm water drainage by piped collection shall be designed and maintained in conformance with good engineering practices. Such systems shall be designed and maintained so as to minimize flooding and ponding outside of areas designed to retain storm water and to reasonably provide for the drainage of normally anticipated rainfall events.

21.18(2) *Inspection.* Storm water drainage systems shall be inspected on a routine basis to identify and correct the blockage or obstruction of intake structures. The frequency of such inspections shall be based upon the utility's experience and be pursuant to tariffs approved by the board.

UTILITIES DIVISION[199](cont'd)

21.18(3) Connections. Utilities providing piped storm water drainage shall control the installation and maintenance of the piped connection up to and including all storm water intakes. Connections shall be adequate to receive all storm water drainage from properties upgradient of the storm water drainage connection unless other upgradient connections are provided. Connections shall be pursuant to tariffs approved by the board.

21.18(4) Rates. Rates for storm water drainage service provided by a utility may be based upon the acreage drained, or by some other method pursuant to tariffs approved by the board.

21.18(5) Separate class. Storm water drainage service shall be considered a separate class of service for ratemaking purposes.

199—21.19(476) Customer relations for storm water drainage service.**21.19(1) Customer information.**

a. Each utility shall:

(1) Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rates and rules relating to the service of the utility are available for public inspection.

(2) Maintain up-to-date maps, plans, or records of its entire storm water drainage system.

(3) Upon request, assist the customer or prospective customers in selecting the most economic rate schedule available for the proposed type of service.

(4) Upon request, inform the customer as to the method of computing the customer's bill.

(5) Notify customers affected by a change in rates or rate classification as directed in the board rules of practice and procedures.

b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.

c. Each utility shall notify its customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: "If (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board by calling 877-565-4450; by writing to 1375 E. Court Avenue, Des Moines, Iowa 50319-0069; or by email to customer@iub.iowa.gov."

d. The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A utility which bills by postcard may place an advertisement in a local newspaper of general circulation or a customer newsletter instead of a mailing. The advertisement must be of a type size that is easily legible and conspicuous and must contain the information set forth above.

21.19(2) Customer deposits.

a. *Deposit required.* Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service.

b. *Amount of deposit.* The total deposit shall not be less than \$5 nor more in amount than the maximum estimated charge for service for 90 days or as may reasonably be required by the utility in cases involving service for short periods or special occasions.

c. *New or additional deposit.* A new or additional deposit may be required from a customer when a deposit has been refunded or is found to be inadequate. Written notice shall be mailed advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of mailing to comply. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

d. *Customer's deposit receipt.* The utility shall issue a receipt of deposit to each customer from whom a deposit is received.

UTILITIES DIVISION[199](cont'd)

e. Interest on customer deposits. Interest shall be paid by the utility to each customer required to make a deposit. Utilities shall compute interest on customer deposits at 7.5 percent per annum, compounded annually. Interest for prior periods shall be computed at the rate specified by the rule in effect for the period in question. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent is the most recent date the account is treated as uncollectible.

f. Deposit refund. The deposit shall be refunded after 12 consecutive months of prompt payment, unless the utility has evidence to indicate that the deposit is necessary to ensure payment of bills for service. In any event, the deposit shall be refunded upon termination of the customer's service.

g. Unclaimed deposits. The utility shall make a reasonable effort to return each unclaimed deposit and accrued interest after the termination of the services for which the deposit was made. The utility shall maintain a record of deposit information for at least two years or until such time as the deposit, together with accrued interest, escheats to the state pursuant to Iowa Code section 556.4, at which time the record and deposit, together with accrued interest, less any lawful deductions, shall be sent to the state treasurer pursuant to Iowa Code section 556.13.

199—21.20(476) Incident reports regarding storm water drainage service.

21.20(1) Notification. A utility shall notify the board about any incident involving:

- a.* A non-storm water discharge from the storm water drainage system;
- b.* A flood event affecting the storm water drainage system;
- c.* A cyberattack affecting the well-being of the utility, its customers, or the environment; or
- d.* Any event that causes serious adverse impact on the health of people or the environment or interrupts service to the customer.

21.20(2) Information required. The utility shall notify the board immediately, or as soon as practical, of any reportable incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, when email is not available, by calling the board duty officer at (515)745-2332. The person sending the email shall leave the telephone number of a person who can provide the following information:

- a.* The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.
- b.* The location of the incident.
- c.* The time of the incident.
- d.* The number of deaths or personal injuries and the extent of those injuries, if any.
- e.* An initial estimate of the damages.
- f.* The number of services interrupted.
- g.* A summary of the significant information available to the utility regarding the probable cause of the incident and the extent of damages.

21.20(3) Normal service restored. The utility shall notify the board when the incident has ended and normal storm water drainage service has been restored.

199—21.21(476) Separate books for acquired storm water drainage service assets. A utility acquiring the whole or any substantial part of a storm water drainage system with a fair market value of \$500,000 or more from a non-rate-regulated entity described in Iowa Code section 476.1(4) shall maintain separate books and records for the acquired system until the utility's next general rate case, unless otherwise ordered by the board.

ARC 4552C

CIVIL RIGHTS COMMISSION[161]

Adopted and Filed Emergency

Rule making related to assistance animal as reasonable accommodation in housing

The Civil Rights Commission hereby amends Chapter 9, "Discrimination in Housing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2019 Iowa Acts, Senate File 341.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 341.

Purpose and Summary

The purpose of the amendment to Chapter 9 is to comply with Iowa Code section 216.8C(3) as enacted by 2019 Iowa Acts, Senate File 341, section 3, which provides requirements pertaining to a request for an assistance animal as a reasonable accommodation for a disability in housing. The legislation requires the Commission to adopt a form for a health care professional, as defined by the statute, to make a written finding regarding whether a patient or client has a disability and whether the need for an assistance animal is related to the disability.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are unnecessary or impractical because statute so provides. The amendment implements the provisions of 2019 Iowa Acts, Senate File 341, which was signed on May 2, 2019. The amendment is necessary to effect the legislation. The contents of the form are specified in the legislation, and the form conforms to the precise requirements.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a), the Commission also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on June 26, 2019, because the statute, 2019 Iowa Acts, Senate File 341, section 8, so provides.

Adoption of Rule Making

This rule making was adopted by the Commission on June 14, 2019.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4551C** to allow for public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

CIVIL RIGHTS COMMISSION[161](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 161—Chapter 15.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on June 26, 2019.

The following rule-making action is adopted:

Adopt the following **new** Appendix A in 161—Chapter 9:

**Appendix A
Form 1**

Request for Assistance Animal as a Reasonable Accommodation in Housing:
Health Care Professional Form

Requester's Name: _____

Address: _____

Telephone: _____ E-mail: _____

I, _____, intend to request that _____ permit me to keep an assistance animal as a reasonable accommodation in housing for my disability. In connection with that application, I am requesting that you complete this form regarding my disability.

Requester's Signature

Date

REQUIREMENTS FOR HEALTH CARE PROFESSIONAL

A health care professional shall only make the findings listed in the next section if all of the following conditions apply:

- 1) The health care professional has met with the patient or client in person or by telemedicine,
 - 2) The health care professional is familiar with the patient or client and the disability, and
 - 3) The health care professional is legally and professionally qualified to make the finding.
-

TO BE COMPLETED BY HEALTH CARE PROFESSIONAL

1. Does the individual identified above have a disability?

Yes No

2. If yes, is the need for an assistance animal related to that disability? For example, does or would an assistance animal alleviate one or more of the symptoms or effects of the disability?

Yes No

Health Care Provider's Name: _____

Signature: _____

CIVIL RIGHTS COMMISSION[161](cont'd)

Title: _____
 Date: _____

References: Iowa Code sections 216.8B and 216.8C

Resources: <https://icrc.iowa.gov/>, 515-281-4121, 1-800-457-4416

[Filed Emergency 6/17/19, effective 6/26/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.

ARC 4555C**PHARMACY BOARD[657]****Adopted and Filed Emergency After Notice****Rule making related to vaccine administration**

The Pharmacy Board hereby amends Chapter 39, "Expanded Practice Standards," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 155A.44.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 155A.44 and 2019 Iowa Acts, House File 766.

Purpose and Summary

During the 2019 Legislative Session, a change was made to 2018 Iowa Acts, chapter 1142, section 8, to extend the repeal date of Iowa Code section 155A.44 to July 1, 2020. This rule making similarly amends rule 657—39.10(155A) to reflect the updated repeal date.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4450C**. No public comments were received. No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Board finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 1, 2019. Without this early effective date, a pharmacy would be prohibited from providing immunizations under a physician-signed protocol and would be allowed to provide immunizations solely under the Board's protocols with the pharmacist acting as the ordering practitioner. Many third-party insurance providers, including Medicaid, do not yet recognize pharmacists as ordering practitioners and would thus deny claims for reimbursement for providing immunizations.

Adoption of Rule Making

This rule making was adopted by the Board on June 26, 2019.

PHARMACY BOARD[657](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on July 1, 2019.

The following rule-making action is adopted:

Amend rule 657—39.10(155A) as follows:

657—39.10(155A) Vaccine administration by pharmacists—physician-approved protocol. Through June 30, ~~2019~~ 2020, an authorized pharmacist may administer vaccines pursuant to protocols established by the CDC in compliance with the requirements of this rule. An authorized pharmacist may only delegate the administration of a vaccine to an authorized pharmacist-intern under the direct supervision of the authorized pharmacist.

39.10(1) to 39.10(7) No change.

[Filed Emergency After Notice 6/26/19, effective 7/1/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.

ARC 4556C

DENTAL BOARD[650]**Adopted and Filed****Rule making related to sedation and nitrous oxide**

The Dental Board hereby rescinds Chapter 29, "Sedation and Nitrous Oxide Inhalation Analysis," and adopts a new Chapter 29, "Sedation and Nitrous Oxide," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 153.33.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 153.33 and 153.33B.

Purpose and Summary

The primary purpose of this rule making is to update the requirements for providing sedation and nitrous oxide in dental offices. The rules in new Chapter 29 were drafted based on updated recommendations from the American Dental Association and input from the Board's Anesthesia Credentials Committee.

The new chapter contains updated requirements for providing moderate sedation, deep sedation and general anesthesia in dental offices. The chapter specifies the conditions under which the administration of the sedation services may be performed by another health care provider, such as an anesthesiologist or nurse anesthetist.

The new chapter clarifies that training in the use of nitrous oxide during enrollment in an accredited school of dentistry or dental hygiene is approved for the purposes of these rules. The chapter also clarifies what a dental assistant is allowed to do or required to do, or both, while monitoring the administration of nitrous oxide.

The new chapter establishes a requirement for training in the monitoring of patients under moderate sedation, deep sedation or general anesthesia. Due to the increased risk of these levels of sedation, the training allows an option to focus on additional training in observation of a patient under sedation and prepare staff to recognize signs of an adverse reaction or occurrence.

The new chapter establishes a prohibition of the use of drugs intended for deeper levels of sedation from being employed for the purposes of moderate sedation. The chapter clarifies which facilities and locations are subject to inspection and specifies the equipment required to be maintained at each facility where moderate sedation, deep sedation or general anesthesia, or all three are performed.

The new chapter contains updated terminology to be more specific and clarifies the requirements for providing sedation or nitrous oxide inhalation analgesia. The new chapter also reflects the reordering of some rules for clearer understanding and reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 27, 2019, as **ARC 4358C**. Four written comments were received and reviewed by the Board.

One of the comments received was fully in support of the rules and recommended that the Board adopt the rules as originally drafted. The remaining three comments, submitted by the Iowa Association of Nurse Anesthetists (IANA) and the Iowa Society of Anesthesiologists (ISA), were generally supportive of the rules but included suggestions for changes to some of the provisions proposed in the Notice of Intended Action. The comments and suggestions are summarized below.

Comments from IANA:

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1. IANA disagrees with the use of the term “delegated” in conjunction with requesting the services of another anesthesia provider. IANA requests that the Board update the language in the preamble to strike “delegated to” from the language, and use other terminology such as “performed by” or other similar language.

2. IANA requests that the use of the term “patient monitor” as defined in rule 650—29.1(153) be changed to other terminology to minimize confusion. IANA states that “patient monitor” generally refers to a piece of equipment and not to a licensee/registrant whose purpose is to observe the patient while under sedation. IANA suggests use of “patient observer” or “patient supervisor” in lieu of “patient monitor.”

3. IANA requests that the Board clarify or update rules (29.6(2), 29.7(2)) to allow another anesthesia provider (as defined in the draft) to provide sedation services to pediatric patients and ASA III, IV patients even in cases where the dentist permit holder may not have that specific qualification. IANA indicates that the scope of practice would allow a CRNA or anesthesiologist to provide those services without additional qualifications or training.

4. IANA requests that the Board clarify or update the rule (29.6(3)) to allow an anesthesia provider (CRNA, anesthesiologist) to be counted as one of the licensees/registrants required to monitor a patient under sedation.

5. IANA requests that the Board clarify that the proposed rule (29.9(2)) would allow a moderate sedation permit holder or a general anesthesia permit holder to allow an anesthesia provider to administer moderate sedation, deep sedation, or general anesthesia in a dental office regardless of the specific permit held by the dentist.

6. IANA requests that the Board clarify or update subrule 29.9(2) that the dentist need not remain present in the recovery room/area following completion of the dental procedure in cases when an anesthesia provider has administered the sedation.

7. IANA requests that the Board update subrule 29.9(4) to specify that an anesthesia provider is allowed (or not restricted) to determine patient suitability for sedation separate and apart from any decisions made by the dentist.

Comments from ISA:

In its first written comments, ISA primarily referenced the 2015 “Standards for Basic Anesthetic Monitoring” issued by the American Society of Anesthesiologists (ASA), and legal changes related to sedation in California.

ISA submitted additional written comments on May 15, 2019, which are intended to be a supplement to the comments submitted previously.

1. ISA referred to the ASA recommendation that “qualified anesthesia personnel shall be present in the room throughout the conduct of all general anesthetics, regional anesthetics and monitored anesthesia care.”

2. ISA requests that an individual other than the practitioner performing the procedure be designated to monitor the patient throughout the procedure. The comments referred to a recommendation for a dedicated and independent anesthesia provider if the patient is under the age of seven as “a recommendation contained in the California Dental Board’s new rules.”

3. ISA requests that the individual responsible for monitoring the patient be trained in the recognition of apnea and airway obstruction and be authorized to seek additional help.

4. ISA requests that the individual responsible for monitoring the patient not be a member of the procedural team and that the individual only be allowed to assist with minor, interruptible tasks.

5. ISA requests that two patient monitors be required for moderate sedation.

6. ISA requests that the Board require that a licensed sedation provider be required to serve as one of the two patient monitors required when deep sedation or general anesthesia is administered in a dental office. ISA does not believe that a dentist with a general anesthesia permit is able to adequately supervise the patient monitors. More specifically, ISA believes that the requirements for patient monitors as proposed in the Notice are inadequate in situations where a patient requires the sedation to be redosed during the procedure.

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Following discussion at its meeting, the Board adopted this rule making, which includes rule revisions in response to comments as follows:

Responses to IANA comments/suggestions:

Comment 1. Updated language in the preamble of this rule making as suggested.

Comment 2. The Board did not adopt the recommendations made in this comment. The ADA guidelines almost exclusively reference the term “monitor” with respect to the service provided by the licensee/registrant to the patient who is under sedation.

Comment 3. Revised subrule 29.9(1) to update the rules as requested.

Comment 4. Added a new subrule 29.9(3) to clarify the rules as requested and renumbered the subsequent subrules of the rule.

Comment 5. Revised subrule 29.9(1) to clarify the rules as requested.

Comment 6. Revised subrule 29.9(2) to clarify the rules as requested.

Comment 7. Revised renumbered subrule 29.9(5) to clarify the rules as requested.

Responses to ISA comments/suggestions:

Comment 1. The Board did not adopt the recommendations made in this comment as the Board believes that the sedation training requirements are sufficient for the purposes of administering sedation in dental offices.

Comment 2. The Board did not adopt the recommendations made in this comment since the standard referred to in this comment was not included in the California legislation that was signed into law. Additionally, the new California law will not become effective until 2022.

Comment 3. Revised subrule 29.6(3) to further clarify the training required of licensees/registrants to serve as a patient monitor.

Comment 4. Revised the definition of “patient monitor” in rule 650—29.1(153) to clarify that the primary responsibility of the patient monitor shall be to observe the patient under sedation.

Comment 5. The Board did not adopt the recommendations made in this comment since studies have not conclusively shown that two patient monitors increase safety to the patient when moderate sedation is administered.

Comment 6. The Board did not adopt the recommendations made in this comment since the rules provide minimum training standards for deep sedation/general anesthesia, which include successful completion of a Commission on Dental Accreditation (CODA)-accredited advanced education program that includes training in deep sedation and general anesthesia and a minimum of one year of advanced training in anesthesiology and related academic subjects. Additionally, the rules allow a licensed dentist to request the services of another licensed sedation provider (e.g., an anesthesiologist, a nurse anesthetist, or another dentist with a sedation permit) if the dentist believes that doing so is preferable or warranted. There is not any evidence that suggests that the higher standard of regulation increases patient safety. Should the evidence become available, the Board could revisit the issue quickly and amend the rules as deemed appropriate. Lastly, concerns have been raised about diminished access to care due to increased costs for services if the standards recommended in the comment were to be adopted.

Adoption of Rule Making

This rule making was adopted by the Board on June 7, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

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Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 650—Chapter 7.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 21, 2019.

The following rule-making action is adopted:

Rescind 650—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
SEDATION AND NITROUS OXIDE

650—29.1(153) Definitions. For the purpose of these rules, relative to the administration of deep sedation, general anesthesia, moderate sedation, minimal sedation, and nitrous oxide inhalation analgesia by licensed dentists, the following definitions shall apply:

“*ACC*” means the anesthesia credentials committee of the board.

“*ASA*” refers to the American Society of Anesthesiologists Patient Physical Status Classification System. Category I means normal healthy patients, and category II means patients with mild systemic disease. Category III means patients with severe systemic disease, and category IV means patients with severe systemic disease that is a constant threat to life.

“*Board*” means the Iowa dental board established in Iowa Code section 147.14(1) “*d.*”

“*Capnography*” means the monitoring of the concentration of exhaled carbon dioxide in order to assess physiologic status or determine the adequacy of ventilation during anesthesia.

“*Current ACLS or PALS certification*” means current certification in advanced cardiac life support (ACLS) or pediatric advanced life support (PALS). Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the individual has been properly certified for each year covered by the renewal period. The course for the purposes of certification must include a clinical component.

“*DAANCE*” means the dental anesthesia assistant national certification examination as offered by the American Association of Oral and Maxillofacial Surgeons (AAOMS).

“*Deep sedation*” means drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

“*Facility*” means any dental office or clinic where sedation is used in the practice of dentistry. The term “*facility*” does not include a hospital.

“*General anesthesia*” means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

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“Licensed sedation provider” means a physician anesthesiologist currently licensed by the Iowa board of medicine or a certified registered nurse anesthetist (CRNA) currently licensed by the Iowa board of nursing.

“Minimal sedation” means a minimally depressed level of consciousness produced by a pharmacological method that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. A patient whose only response reflex is withdrawal from repeated painful stimuli is not considered to be in a state of minimal sedation.

“Moderate sedation” means a drug-induced depression of consciousness, either by enteral or parenteral means, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. A patient whose only response reflex is withdrawal from a painful stimulus is not considered to be in a state of moderate sedation.

“Monitoring nitrous oxide inhalation analgesia” means continually observing the patient receiving nitrous oxide and recognizing and notifying the dentist of any adverse reactions or complications.

“MRD” means the manufacturer’s maximum recommended dose of a drug as printed in FDA-approved labeling.

“Nitrous oxide inhalation analgesia” refers to the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

“Patient monitor” means a dental assistant, dental hygienist, nurse or dentist whose primary responsibility is to continuously monitor a patient receiving moderate sedation, deep sedation or general anesthesia until the patient meets the criteria to be discharged to the recovery area.

“Pediatric” means patients aged 12 or under.

“Permit holder” means an Iowa licensed dentist who has been issued a moderate sedation or general anesthesia permit by the board.

“Time-oriented anesthesia record” means documentation at appropriate time intervals of drugs, doses and physiologic data obtained during patient monitoring.

650—29.2(153) Advertising. A dentist shall ensure that any advertisements related to the availability of antianxiety premedication or minimal sedation clearly reflect the level of sedation provided and are not misleading.

650—29.3(153) Nitrous oxide inhalation analgesia.

29.3(1) A dentist may use nitrous oxide inhalation analgesia sedation on an outpatient basis for dental patients provided the dentist has completed training and complies with the following:

- a. Has adequate equipment with fail-safe features.
- b. Has routine inspection, calibration, and maintenance on equipment performed every two years and maintains documentation of such and provides documentation to the board upon request.
- c. Ensures the patient is continually monitored by a patient monitor while receiving nitrous oxide inhalation analgesia.

29.3(2) A dentist shall provide direct supervision of the administration and monitoring of nitrous oxide and establish a written office protocol for taking vital signs, adjusting anesthetic concentrations, and addressing emergency situations that may arise. The dentist shall be responsible for dismissing the patient following completion of the procedure.

29.3(3) A dental hygienist may administer and monitor nitrous oxide inhalation analgesia provided the services have been prescribed by a dentist and the hygienist has completed training while a student in an accredited school of dental hygiene or a board-approved course of training.

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29.3(4) A dental assistant may monitor a patient who is under nitrous oxide after the dentist has induced a patient and established the maintenance level, provided the dental assistant has completed a board-approved expanded function course. A dental assistant may make adjustments to decrease the nitrous oxide concentration while monitoring the patient or may turn off oxygen delivery at the completion of the dental procedure.

29.3(5) Record keeping. The patient chart must include the concentration administered and duration of administration, as well as any vital signs taken.

650—29.4(153) Minimal sedation standards.

29.4(1) A dentist shall evaluate a patient prior to the start of any sedative procedure. In healthy or medically stable patients (ASA I, II), the dentist should review the patient's current medical history and medication use. For a patient with significant medical considerations (ASA III, IV), a dentist may need to consult with the patient's primary care provider or consulting medical specialist. A dentist shall obtain informed consent from the patient or the patient's parent or legal guardian prior to providing minimal sedation.

29.4(2) Record keeping. A time-oriented anesthesia record must be maintained and must contain the names of all drugs administered, including local anesthetics and nitrous oxide, dosages, time administered, and monitored physiological parameters, including oxygenation, ventilation, and circulation.

29.4(3) Minimal sedation for ASA I or II nonpediatric patients.

a. A dentist may prescribe or administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for unmonitored home use. A dentist may administer a supplemental dose of the same drug provided the total aggregate dose does not exceed 1.5 times the MRD on the day of treatment. The dentist shall not administer a supplemental dose until the clinical half-life of the initial dose has passed.

b. A dentist may administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for monitored use on the day of treatment.

c. A dentist may utilize nitrous oxide inhalation analgesia in combination with a single enteral drug.

29.4(4) Minimal sedation for ASA III, ASA IV or pediatric patients.

a. A dentist may prescribe or administer a single medication for minimal sedation via the enteral route for ASA III or IV patients or pediatric patients that does not exceed the MRD for unmonitored home use.

b. A dentist may administer a single medication for minimal sedation via the enteral route that does not exceed the MRD for monitored use on the day of treatment.

c. A dentist may administer nitrous oxide inhalation analgesia for minimal sedation of ASA III or IV patients or pediatric patients provided the concentration does not exceed 50 percent and is not used in combination with any other drug.

650—29.5(153) Shared standards for moderate sedation, deep sedation and general anesthesia.

29.5(1) Prior to administering moderate sedation, deep sedation or general anesthesia, a dentist must obtain a current moderate sedation permit or general anesthesia permit pursuant to rule 650—29.11(153).

29.5(2) A dentist administering moderate sedation, deep sedation or general anesthesia must maintain current ACLS certification. A dentist administering moderate sedation to pediatric patients may maintain current PALS certification in lieu of current ACLS certification.

29.5(3) A dentist shall evaluate a patient prior to the start of any sedative procedure. A dentist should review a patient's medical history, medication(s) and NPO (nothing by mouth) status. For a patient with significant medical considerations (ASA III, IV), a dentist may need to consult with the patient's primary care provider or consulting medical specialist. The dentist should consult the body mass index as part of the preprocedural workup.

29.5(4) A dentist who administers sedation or anesthesia shall ensure that each facility where sedation services are provided is appropriately staffed to reasonably handle emergencies incident to the

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administration of sedation. A patient monitor shall be present in the treatment room and continually monitor the patient until the patient returns to a level of minimal sedation.

29.5(5) The dentist must provide postoperative verbal and written instructions to the patient and caregiver prior to discharging the patient.

29.5(6) The dentist must not leave the facility until the patient meets the criteria for discharge.

29.5(7) The dentist or another designated permit holder or licensed sedation provider must be available for postoperative aftercare for a minimum of 48 hours following the administration of sedation.

29.5(8) The dentist must establish emergency protocols which comply with the following:

a. A dentist must establish a protocol for immediate access to backup emergency services;

b. A patient monitor shall employ initial life-saving measures in the event of an emergency and shall activate the EMS system for life-threatening complications;

c. A dentist who utilizes an immobilization device must avoid chest or airway obstruction when applying the device and shall allow a hand or foot to remain exposed; and

d. The recovery room for a pediatric patient must include a functioning suction apparatus as well as the ability to provide >90% oxygen and positive-pressure ventilation, along with age- and size-appropriate rescue equipment.

29.5(9) Record keeping. A time-oriented anesthesia record must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

650—29.6(153) Moderate sedation standards.

29.6(1) Moderate sedation for ASA I or II nonpediatric patients.

a. A dentist may prescribe or administer a single enteral drug in excess of the MRD on the day of treatment.

b. A dentist may prescribe or administer a combination of more than one enteral drug.

c. A dentist may administer a medication for moderate sedation via the parenteral route.

d. A dentist may administer a medication for moderate sedation via the parenteral route in incremental doses.

e. A dentist shall ensure the drug(s) or techniques, or both, carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

f. A dentist may administer nitrous oxide with more than one enteral drug.

29.6(2) Moderate sedation for ASA III, ASA IV or pediatric patients. A dentist who does not meet the requirements of paragraph 29.11(3)“c” is prohibited from administering moderate sedation to pediatric or ASA III or IV patients. The following constitutes moderate sedation:

a. The use of one or more enteral drugs in combination with nitrous oxide.

b. The administration of any intravenous drug.

29.6(3) A dentist administering moderate sedation in a facility shall have at least one patient monitor observe the patient while under moderate sedation. The patient monitor shall be capable of administering emergency support and shall complete one of the following:

a. A minimum of three hours of on-site training in airway management that provides the knowledge and skills necessary for a patient monitor to competently assist with emergencies including, but not limited to, recognizing apnea and airway obstruction;

b. Current ACLS or PALS certification; or

c. Current DAANCE certification.

29.6(4) Use of capnography or pretracheal/precordial stethoscope is required for moderate sedation providers.

a. All moderate sedation permit holders shall use capnography to monitor end-tidal carbon dioxide unless the use of capnography is precluded or invalidated by the nature of the patient, procedure or equipment.

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b. In cases where the use of capnography is precluded or invalidated for the reasons listed previously, a pretracheal or precordial stethoscope must be used to continually monitor the auscultation of breath sounds at all facilities where licensed sedation providers provide sedation.

650—29.7(153) Deep sedation or general anesthesia standards.

29.7(1) The administration of anesthetic sedative agents intended for deep sedation or general anesthesia, including but not limited to Propofol, Ketamine and Dilaudid, shall constitute deep sedation or general anesthesia.

29.7(2) A dentist shall have at least two patient monitors observe the patient while the patient is under deep sedation or general anesthesia. The patient monitors who observe patients under deep sedation or general anesthesia shall be capable of administering emergency support and shall have completed one of the following:

- a.* Current ACLS or PALS certification; or
- b.* Current DAANCE certification.

29.7(3) A dentist shall use capnography and a pretracheal/precordial stethoscope.

29.7(4) If the dentist has a recovery area separate from the operatory, the recovery area must have oxygen and suction equipment.

650—29.8(153) Facility and equipment requirements for moderate sedation, deep sedation or general anesthesia.

29.8(1) Change of address or addition of facility location(s). A permit holder shall notify the board office in writing within 60 days of a change in location or the addition of a sedation facility.

29.8(2) Facilities shall be permanently equipped. A dentist who administers moderate sedation, deep sedation or general anesthesia in a facility is required to be trained in and maintain, at a minimum, the following equipment to be properly equipped:

- a.* Electrocardiogram (EKG) monitor;
- b.* Positive pressure oxygen;
- c.* Suction;
- d.* Laryngoscope and blades;
- e.* Endotracheal tubes;
- f.* Magill forceps;
- g.* Oral airways;
- h.* Stethoscope;
- i.* Blood pressure monitoring device;
- j.* Pulse oximeter;
- k.* Emergency drugs;
- l.* Defibrillator;
- m.* Capnography machine to monitor end-tidal carbon dioxide;
- n.* Pretracheal or precordial stethoscope; and
- o.* Any additional equipment necessary to establish intravascular or intraosseous access, which shall be available until the patient meets discharge criteria.

29.8(3) The board or designated agents of the board may conduct facility inspections. The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed the fee specified in 650—Chapter 15.

650—29.9(153) Use of another licensed sedation provider or permit holder.

29.9(1) A dentist may only use the services of a licensed sedation provider or another permit holder to administer moderate sedation, deep sedation, or general anesthesia in a dental facility if the dentist holds a current moderate sedation or general anesthesia permit. A permit holder who does not meet the training requirement in paragraph 29.11(3) “*c*” to administer moderate sedation to pediatric or ASA III or IV patients may use a licensed sedation provider or another qualified permit holder to administer moderate sedation to pediatric or ASA III or IV patients. A dentist who does not hold a sedation permit

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is prohibited from using a licensed sedation provider or permit holder to provide moderate sedation, deep sedation or general anesthesia.

29.9(2) The dentist must remain present in the treatment room for the duration of any dental treatment.

29.9(3) When a licensed sedation provider or another permit holder is used to administer moderate sedation, deep sedation or general anesthesia, that provider constitutes one patient monitor for the purpose of complying with subrule 29.6(3) or 29.7(2).

29.9(4) A permit holder who has a licensed sedation provider or another permit holder administer moderate sedation, deep sedation or general anesthesia services must maintain a permanently and properly equipped facility pursuant to the provisions of this chapter.

29.9(5) A permit holder shall assess the need and the patient suitability for sedation services. A permit holder shall not interfere with any independent assessment performed by a licensed sedation provider.

650—29.10(153) Reporting of adverse occurrences related to sedation or nitrous oxide.

29.10(1) All licensed dentists must submit a report to the board office within a period of seven days of any mortality related to sedation or nitrous oxide or any other incident related to sedation or nitrous oxide which results in the patient receiving inpatient treatment at a hospital or clinic. The report shall include a complete copy of the patient record and include responses to the following:

- a. Description of dental procedure.
- b. Description of preoperative physical condition of patient.
- c. List of drugs and dosage administered.
- d. Description, in detail, of techniques utilized in administering the drugs utilized.
- e. Description of adverse occurrence:
 - (1) Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.
 - (2) Treatment instituted on the patient.
 - (3) Response of the patient to the treatment.
- f. Description of the patient's condition on termination of any procedures undertaken.

29.10(2) Failure to report an adverse occurrence, when the occurrence is related to the use of sedation or nitrous oxide, may result in disciplinary action.

650—29.11(153) Requirements for issuance of a moderate sedation or general anesthesia permit.

29.11(1) No dentist shall administer moderate sedation, deep sedation or general anesthesia for dental patients unless the dentist possesses a current permit issued by the board.

29.11(2) A dentist who intends to obtain a sedation permit must submit a completed application and pay the fee specified in 650—Chapter 15.

29.11(3) To qualify for a moderate sedation permit, the applicant shall have successfully completed the following education and training:

- a. A training program, approved by the board, that consists of a minimum of 60 hours of instruction and management of at least 20 patients, or an accredited residency program that includes formal training and clinical experience in moderate sedation.
- b. Training that includes rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications.
- c. For a dentist who intends to utilize moderate sedation on pediatric or ASA III or IV patients: an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA III or IV patients.

29.11(4) To qualify for a general anesthesia permit, the applicant shall have successfully completed the following education and training:

- a. An advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia.

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b. A minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level, in a training program approved by the ACC.

c. Formal training in airway management.

d. Current ACLS certification.

29.11(5) Prior to issuance of a new permit, all facilities where the applicant intends to provide sedation services must have passed inspection by the board or designated agent.

29.11(6) The applicant may be required to complete a peer review evaluation, if requested by the ACC, prior to issuance of a permit.

650—29.12(153) ACC.

29.12(1) The ACC shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the ACC shall hold deep sedation/general anesthesia or moderate sedation permits issued under this chapter.

29.12(2) The ACC shall perform the following duties:

a. Review all permit applications and take action as authorized.

b. Perform peer reviews as needed and report the results to the board.

c. Other duties as delegated by the board.

650—29.13(153) Review of permit applications.

29.13(1) *Referral to the ACC.* All applications will be referred to the ACC for review at its next scheduled meeting.

29.13(2) *Review by the ACC.* Following review and consideration of an application, the ACC may take any of the following actions:

a. Request additional information;

b. Request that the applicant appear for an interview;

c. Approve issuance of the permit;

d. Approve issuance of the permit under certain terms and conditions or with certain restrictions;

e. Recommend denial of the permit;

f. Refer the permit application to the board for review and consideration with or without recommendation; or

g. Request a peer review evaluation.

29.13(3) *Review by board.* The board shall consider applications and recommendations referred by the ACC. The board may take any of the following actions:

a. Request additional information;

b. Request that the applicant appear for an interview;

c. Grant the permit;

d. Grant the permit under certain terms and conditions or with certain restrictions; or

e. Deny the permit.

29.13(4) *Appeal process for denials.* If a permit application is denied, an applicant may file an appeal of the final decision using the process described in rule 650—11.10(147).

650—29.14(153) Renewal. A permit to administer deep sedation/general anesthesia or moderate sedation shall be renewed biennially at the time of license renewal. Permits expire August 31 of every even-numbered year.

29.14(1) To renew a permit, a licensee must submit the following:

a. Evidence of renewal of current ACLS certification or of current PALS certification if the permit holder provides sedation services for pediatric patients.

b. A minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.

c. The appropriate fee for renewal as specified in 650—Chapter 15.

29.14(2) Failure to renew the permit prior to November 1 following its expiration shall cause the permit to lapse and become invalid for practice.

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29.14(3) A permit that has been lapsed may be reinstated upon submission of a new application for a permit in compliance with the provisions of this chapter and payment of the application fee as specified in 650—Chapter 15.

650—29.15(147,153,272C) Grounds for nonrenewal. A request to renew a permit may be denied on any of the following grounds:

29.15(1) After proper notice and hearing, for a violation of these rules or Iowa Code chapter 147, 153, or 272C during the term of the last permit renewal.

29.15(2) Failure to pay required fees.

29.15(3) Failure to obtain required continuing education.

29.15(4) Failure to provide documentation of current ACLS or PALS certification.

29.15(5) Failure to provide documentation of maintaining a properly equipped facility.

29.15(6) Receipt of a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services in accordance with 650—Chapter 33 or 650—Chapter 34.

650—29.16(153) Noncompliance. Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or other disciplinary measures as deemed appropriate by the board.

These rules are intended to implement Iowa Code sections 153.13, 153.33, and 153.33B.

[Filed 6/19/19, effective 8/21/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.

ARC 4557C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Rule making related to behavior analysts and assistant behavior analysts

The Board of Behavioral Science hereby amends Chapter 5, "Fees," Chapter 31, "Licensure of Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," and Chapter 33, "Discipline for Marital and Family Therapists, Mental Health Counselors, Behavior Analysts, and Assistant Behavior Analysts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 147.76 and 154D.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 154D.

Purpose and Summary

These amendments add licensing rules for two new professions, behavior analysts and assistant behavior analysts. The amendments also set initial license fees at \$300 for the two new professions.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 10, 2019, as **ARC 4389C**. This rule making was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4390C** on the same date.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing was held on April 30, 2019, at 8 a.m. in Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. Comments received at the hearing and written comments covered three issues: a request for a minimum license issuance period, a request for a reduction in the renewal fee from \$300, and a request for a grace period when renewing a license.

The fee rule in Chapter 5 was changed to address public comment. The initial license fee adopted in subrule 5.3(10) in the Adopted and Filed Emergency rule making was renumbered as subrule 5.3(3) to make it clearer to the public that the fee is for initial license only and not for renewal; subsequent subrules were also renumbered and related cross references were updated. The Board also voted to add a provision that behavior analyst and assistant behavior analyst licenses issued for less than one year would not be subject to a renewal fee for the first renewal. Renumbered subrule 5.3(3) was revised to add this provision. No other changes were made from the Adopted and Filed Emergency rule making.

Adoption of Rule Making

This rule making was adopted by the Board on June 13, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 21, 2019, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following rule-making actions are adopted:

- ITEM 1. Renumber subrules **5.3(3)** to **5.3(9)** as **5.3(4)** to **5.3(10)**.
- ITEM 2. Renumber existing subrule **5.3(10)** as **5.3(3)**.
- ITEM 3. Amend renumbered subrule 5.3(3) as follows:
5.3(3) License fee for license to practice as a behavior analyst or assistant behavior analyst is \$300. Behavior analyst and assistant behavior analyst licenses issued for less than one year shall not be subject to a renewal fee for the first renewal.
- ITEM 4. Amend **645—Chapter 31**, title, as follows:
**LICENSURE OF MARITAL AND FAMILY THERAPISTS,
AND MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT
BEHAVIOR ANALYSTS**

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 5. Amend rule **645—31.1(154D)**, definitions of “Licensee” and “License expiration date,” as follows:

“*Licensee*” means any person licensed to practice as a marital and family therapist, or mental health counselor, behavior analyst, or assistant behavior analyst in the state of Iowa.

“*License expiration date*” means September 30 of even-numbered years for marital and family therapists and mental health counselors, and means the expiration date of the certification issued by the Behavior Analyst Certification Board for behavior analysts and assistant behavior analysts.

ITEM 6. Adopt the following new definition of “BACB” in rule **645—31.1(154D)**:

“*BACB*” means the Behavior Analyst Certification Board.

ITEM 7. Amend rule 645—31.2(154D), introductory paragraph, as follows:

645—31.2(154D) Requirements for permanent and temporary licensure as a mental health counselor or marriage and family therapist. The following criteria shall apply to licensure:

ITEM 8. Amend rule 645—31.3(154D), introductory paragraph, as follows:

645—31.3(154D) Examination requirements for mental health counselors and marital and family therapists. The following criteria shall apply to the written examination(s):

ITEM 9. Amend rule 645—31.8(154D), introductory paragraph, as follows:

645—31.8(154D) Licensure by endorsement for mental health counselors and marital and family therapists. An applicant who has been a licensed marriage and family therapist or mental health counselor under the laws of another jurisdiction may file an application for licensure by endorsement with the board office.

ITEM 10. Adopt the following new rule 645—31.9(147):

645—31.9(147) Licensure of behavior analysts and assistant behavior analysts.

31.9(1) The applicant shall complete a board-approved application. Application forms may be obtained from the board’s website (www.idph.iowa.gov/licensure) or directly from the board office. All paper applications shall be sent to the Board of Behavioral Science, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

31.9(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

31.9(3) Each application shall be accompanied by the appropriate fees payable to the board of behavioral science. The fees are nonrefundable.

31.9(4) For licensure as a behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified behavior analyst or board-certified behavior analyst-doctoral. For licensure as an assistant behavior analyst, the applicant shall submit proof of current BACB certification as a board-certified assistant behavior analyst.

ITEM 11. Amend rule 645—31.10(147), catchwords, as follows:

645—31.10(147) License renewal for mental health counselors and marriage and family therapists.

ITEM 12. Adopt the following new rule 645—31.11(272C):

645—31.11(272C) Initial licensing, reactivation, and license renewal for behavior analysts and assistant behavior analysts.

31.11(1) An initial license for a behavior analyst or assistant behavior analyst shall be issued with the same expiration date as the applicant’s current certification issued by BACB.

31.11(2) The biennial license renewal period for a behavior analyst or assistant behavior analyst shall run concurrent with the licensee’s BACB certification. Each license renewed shall be given the expiration

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date that is on the licensee's current BACB certification. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

31.11(3) A licensee seeking renewal shall:

- a. Meet the continuing education requirements required by BACB to renew a certification.
- b. Maintain current certification as a board-certified behavior analyst, board-certified behavior analyst-doctoral, or board-certified assistant behavior analyst issued by BACB.
- c. Submit the completed renewal application and renewal fee before the license expiration date.

31.11(4) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a license. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

31.11(5) A person licensed as a behavior analyst or assistant behavior analyst shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

31.11(6) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.3(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

31.11(7) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not engage in the practice of applied behavior analysis for which a license is required in Iowa until the license is reactivated. A licensee who practices applied behavior analysis in a capacity that requires licensure in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

31.11(8) Reactivation. To apply for reactivation of an inactive license, a licensee shall submit a completed renewal application and proof of current certification and shall be assessed a reactivation fee as specified in 645—subrule 5.3(6).

ITEM 13. Amend rule 645—31.16(17A,147,272C), introductory paragraph, as follows:

645—31.16(17A,147,272C) License reactivation for mental health counselors and marital and family therapists. To apply for reactivation of an inactive license, a licensee shall:

ITEM 14. Amend rule 645—31.17(17A,147,272C) as follows:

645—31.17(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—31.16(17A,147,272C) or subrule 31.11(8) prior to practicing mental health counseling, or marital and family therapy, or applied behavior analysis in this state.

ITEM 15. Amend **645—Chapter 33**, title, as follows:

DISCIPLINE FOR MARITAL AND FAMILY THERAPISTS,
AND MENTAL HEALTH COUNSELORS, BEHAVIOR ANALYSTS, AND ASSISTANT
BEHAVIOR ANALYSTS

ITEM 16. Amend rule **645—33.1(154D)**, definition of "Licensee," as follows:

"Licensee" means a person licensed to practice as a marital and family therapist, or mental health counselor, behavior analyst, or assistant behavior analyst in Iowa.

ITEM 17. Adopt the following **new** paragraph **33.2(1)"c"**:

c. *Behavior analysts and assistant behavior analysts.* Failure to comply with the current Behavior Analyst Certification Board (BACB) Professional and Ethical Compliance Code for Behavior Analysts,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

which is hereby adopted by reference. Copies of the Professional and Ethical Compliance Code may be obtained from the BACB website.

ITEM 18. Amend subrule 33.2(14) as follows:

33.2(14) Revocation, suspension, or other disciplinary action taken by a licensing authority or professional certifying entity of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority or certifying entity within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

ITEM 19. Amend subrule 33.2(24) as follows:

33.2(24) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a marital and family therapist, ~~or a~~ mental health counselor, behavior analyst, or assistant behavior analyst.

ITEM 20. Amend subrule 33.2(26) as follows:

33.2(26) Representing oneself as a licensed marital and family therapist, ~~or~~ mental health counselor, behavior analyst, or assistant behavior analyst when one's license has been suspended or revoked, or when one's license is on inactive status.

[Filed 6/21/19, effective 8/21/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.

ARC 4558C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to employer innovation fund

The Director of the Department of Workforce Development hereby adopts new Chapter 16, "Employer Innovation Fund," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96 and 2018 Iowa Acts, chapter 1067.

Purpose and Summary

This new chapter establishes rules and procedures for implementation and administration of the new Employer Innovation Fund as enacted by the Future Ready Iowa Act.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4449C**. The Notice was reviewed by the Administrative Rules Review Committee at its meeting held on June 11, 2019. No questions were asked at the meeting. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director of the Department on June 26, 2019.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 21, 2019.

The following rule-making action is adopted:

Adopt the following **new** 871—Chapter 16:

CHAPTER 16
EMPLOYER INNOVATION FUND

871—16.1(96,87GA,ch1067) Purpose. The Iowa department of workforce development shall implement and administer the employer innovation fund. The purpose of the employer innovation fund is to expand opportunities for credit and noncredit education and training for residents of Iowa, leading to high-demand jobs, and to encourage Iowa employers, community leaders, and others to provide leadership and support for regional workforce talent pools throughout the state. The state of Iowa seeks to encourage employers and foster new and creative initiatives toward the objectives of increasing employers' access to the workforce and assisting workers in finding long-term opportunities in high-demand sectors of the Iowa economy.

871—16.2(96,87GA,ch1067) Definitions. As used in this chapter:

“*High-demand job*” means a job identified by the workforce development board or by a community college pursuant to 2018 Iowa Acts, chapter 1067.

“*Internship*” means temporary employment of a student that focuses on providing the student with work experience in the student's field of study.

871—16.3(96,87GA,ch1067) Administration.

16.3(1) The employer innovation fund shall be managed and administered by the Iowa department of workforce development after consultation with the workforce development board.

16.3(2) An employer with its principal place of business in the state of Iowa, an employer consortium, a community organization, or another entity seeking matching funds may submit innovative, dynamic proposals for initiatives that expand opportunities for residents of Iowa to access training and education opportunities leading to high-demand jobs.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

16.3(3) The Iowa department of workforce development shall promulgate a policy for the application process for the employer innovation fund.

a. Proposals shall be submitted directly to the director of the department of workforce development for consideration.

b. Proposals are to be submitted on an annual basis by June 1 of each calendar year, except calendar year 2019, in which proposals are to be submitted by August 1.

c. Proposals shall contain a written, detailed plan, to include a narrative outlining the initiative to be pursued, the manner in which the initiative would be implemented, the costs involved, the number of participants to be served, whether the initiative will offer academic credit, and the outcomes expected to be achieved.

d. Any funds remaining after the initial awards are designated will be made available in additional application rounds.

16.3(4) The employer innovation fund can be used for credit and noncredit programs; for wrap-around support programs in areas such as child care, transportation, books, equipment, and fees; or for other innovative ideas and proposals that can assist Iowa residents in completing training and education.

a. Initiatives which qualify for the employer innovation fund must be tied to outcomes in employment and training in high-demand jobs or in jobs that are needed in the local area as identified with supporting data.

b. Initiatives do not have to be 15 weeks long or Pell Grant-eligible in order to qualify for the employer innovation fund.

c. Housing expenses, such as rent, do not qualify for consideration for matching funds under the employer innovation fund.

16.3(5) Employers must prove the existence and security of the original funds in order to qualify for a match from the employer innovation fund.

a. Proof may be provided by an official statement from a Federal Deposit Insurance Corporation (FDIC)-insured financial institution holding the funds.

b. In the absence of a statement from a financial institution, an affidavit from a certified public accountant can be used to certify the existence and security of the funds to be matched pursuant to this chapter.

16.3(6) Funds matched, along with the original funds provided by the employer, must be kept in a separate, FDIC-insured account.

16.3(7) Employer recipients must provide a detailed report of the use of the funds by December 31 of each calendar year. The detailed report shall be submitted to the director of the department of workforce development and include:

a. The date of funds received.

b. The amount of funds received.

c. The amount of funds provided by the employer.

d. The number of individuals, agencies, businesses, and others who received the funds.

e. The balance of available funds remaining as of December 31 of the reporting year.

f. A description of the activities paid for by the funds, along with amounts disbursed for each activity, and the number of participants served.

g. The completion rate for individuals supported by the award, including the specific credit or noncredit program completed.

h. Employment and wage outcomes.

These rules are intended to implement Iowa Code chapter 96 and 2018 Iowa Acts, chapter 1067.

[Filed 6/26/19, effective 8/21/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.

ARC 4559C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to wage earnings limitations

The Director of the Department of Workforce Development hereby amends Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

This amendment aligns the administrative rule relating to wage-earnings limitation with the Iowa Code so they are not in conflict.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on May 22, 2019, as **ARC 4451C**. The Notice was reviewed by the Administrative Rules Review Committee at its meeting held June 11, 2019. The Department was asked about the rationale for rounding down instead of up, and explained that the latter could result in overpayments. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director of the Department on June 26, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on August 21, 2019.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

The following rule-making action is adopted:

Amend rule 871—24.18(96) as follows:

871—24.18(96) Wage-earnings limitation. An individual who is partially unemployed may earn weekly a sum equal to the individual's weekly benefit amount plus \$15 before being disqualified for excessive earnings. If such individual earns less than the individual's weekly benefit amount plus \$15, the formula for wage deduction shall be a sum equal to the individual's weekly benefit amount less that part of wages, payable to the individual with respect to that week and rounded to the ~~nearest~~ lower multiple of one dollar, in excess of one-fourth of the individual's weekly benefit amount.

This rule is intended to implement Iowa Code sections 96.3, 96.4 and 96.19(38).

[Filed 6/26/19, effective 8/21/19]

[Published 7/17/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/17/19.