



# IOWA ADMINISTRATIVE BULLETIN

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Pages 83 to 176

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## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2015

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 14, 2015	September 2, 2015
6	Wednesday, August 26, 2015	September 16, 2015
7	Friday, September 11, 2015	September 30, 2015

**PLEASE NOTE:**

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

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

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

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Organization and operation of Terrace Hill, 114.1 to 114.8 IAB 8/5/15 <b>ARC 2072C</b>	Terrace Hill Gift Shop 2300 Grand Ave. Des Moines, Iowa	August 25, 2015 9 to 10 a.m.
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**INSURANCE DIVISION[191]**

Authorized methods of delivery of notices of cancellation, nonrenewal or termination, 4.24, 20.80, 30.9, 35.9, 39.33, 40.26 IAB 8/5/15 <b>ARC 2078C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	September 3, 2015 10 a.m.
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Regulation of securities offerings and those who engage in the securities business, amendments to ch 50 IAB 8/5/15 <b>ARC 2079C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	August 27, 2015 10 a.m.
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**IOWA FINANCE AUTHORITY[265]**

Low-income housing tax credit program—qualified allocation plan, 12.1, 12.2 IAB 8/5/15 <b>ARC 2077C</b>	Authority Offices 2015 Grand Ave. Des Moines, Iowa	August 25, 2015 1 to 4 p.m.
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**NURSING BOARD[655]**

Iowa nurse assistance program, ch 19 IAB 8/5/15 <b>ARC 2085C</b>	Board Office, Suite B 400 S.W. 8th St. Des Moines, Iowa	August 25, 2015 9 a.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Chiropractors—continuing education, grounds for discipline, 44.3(2), 45.2(31) IAB 8/5/15 <b>ARC 2094C</b>	Conference Room 513, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	August 25, 2015 9 to 9:30 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Reportable diseases, poisonings and conditions; quarantine and isolation, amendments to ch 1 IAB 8/5/15 <b>ARC 2083C</b> <b>(ICN Network)</b>	Rooms 517 and 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 5152815099	August 25, 2015 1 to 2 p.m.
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Early hearing detection and intervention, amendments to ch 3 IAB 8/5/15 <b>ARC 2082C</b>	Room 523, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa <i>To participate by conference call:</i> Dial 1-866-685-1580 Conference code: 5152816466#	August 26, 2015 9 to 10 a.m.
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Medical residency training state matching grants program, 108.3, 108.4 IAB 7/22/15 <b>ARC 2066C</b>	Participation by conference call: Call-in no.: 1-866-685-1580 Conference code: 0008881777	August 11, 2015 2 to 3 p.m.
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**PUBLIC SAFETY DEPARTMENT[661]**

Electrician and electrical contractor licensing program; postsecondary electrical education programs; electrical inspection program and inspector qualifications, amendments to chs 501, 502, 505, 550 IAB 7/8/15 <b>ARC 2057C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	August 20, 2015 10 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Federal motor carrier safety regulations—adoption by reference; licensing, amendments to chs 602, 604, 605, 607 IAB 8/5/15 <b>ARC 2070C</b> (See also <b>ARC 2071C</b> herein)	Motor Vehicle Division Offices 6310 S.E. Convenience Blvd. Ankeny, Iowa	August 28, 2015 10 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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## ARC 2072C

## ADMINISTRATIVE SERVICES DEPARTMENT[11]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 8A.326, the Terrace Hill Commission proposes to amend Chapter 114, “Organization and Operation of Terrace Hill,” Iowa Administrative Code.

The Terrace Hill Commission is updating its administrative rules by amending certain rules to be consistent with statute and making revisions that reflect and clarify Commission practice.

The Terrace Hill Commission does not intend to grant waivers under the provisions of these rules.

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on August 25, 2015. Comments should be directed to Lisa Schneider, Terrace Hill Commission, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312. Comments may be sent by e-mail to [Lisa.Schneider@iowa.gov](mailto:Lisa.Schneider@iowa.gov).

A public hearing will be held on August 25, 2015, from 9 to 10 a.m. at the Terrace Hill Gift Shop, 2300 Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise Terrace Hill of specific needs by calling (515)281-7205.

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

These amendments are intended to implement Iowa Code section 8A.326.

The following amendments are proposed.

ITEM 1. Amend rule 11—114.1(8A) as follows:

**11—114.1(8A) Definitions.** The definitions listed in Iowa Code section 17A.2 shall apply for terms as used throughout this chapter. In addition, the following definitions shall apply:

“*Administrator*” means the administrator of Terrace Hill.

“*Commission*” means the Terrace Hill commission as established by ~~2003 Iowa Acts, chapter 145, section 41~~ Iowa Code section 8A.326.

“*Facility*” means the Terrace Hill mansion, carriage house, grounds, and all related property, all of which have been designated a National Historic Landmark.

~~“*Foundation*” means the Terrace Hill Foundation, a nonprofit corporation which solicits contributions and raises funds for the renovation and improvement of the facility.~~

~~“*Society*” means the Terrace Hill Society, an unofficial organization which raises funds and provides volunteers for restoration and landscape projects of Terrace Hill.~~

ITEM 2. Amend rule 11—114.2(8A) as follows:

**11—114.2(8A) Mission statement.** ~~The Terrace Hill commission exists in accordance with 2003 Iowa Code Supplement~~ section 8A.326 to preserve, maintain, renovate, landscape, and administer the ~~Terrace Hill~~ facility. The commission has authority to establish policy and procedures and approve the ongoing expenditures for preservation, renovation, and landscaping of ~~Terrace Hill~~ the facility and seeks necessary funds for these activities. ~~Terrace Hill~~ The facility is maintained as the official residence for the governor of Iowa and serves as a facility for public and private functions.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 3. Amend rule 11—114.3(8A) as follows:

**11—114.3(8A) Terrace Hill commission.**

~~114.3(1) *Function.* The Terrace Hill commission exists to establish policy and procedures for the renovation, interpretation, operation and fiscal management of the facility.~~

~~114.3(2) 114.3(1) *Composition.* The commission consists of nine members appointed by the governor in accordance with 2003 Iowa Code Supplement section 8A.326.~~

~~114.3(3) 114.3(2) *Meetings.* The commission shall meet at the call of the chair. Six A majority of the members present and voting constitutes of the commission shall constitute a quorum, and an affirmative vote of five a majority of the members present is required for approval of an item.~~

All meetings are open to the public under Iowa Code chapter 21; and conducted in accordance with Robert's Rules of Order, Revised Edition, to the extent such rules are not inconsistent with Iowa law. Public notice of all meetings shall be distributed made available to the news media. The tentative agenda for meetings shall be posted in the governor's office at the State Capitol at least 24 hours prior to the commencement of any meeting in accordance with Iowa Code chapter 21.

~~114.3(4) 114.3(3) *Committees—appointment.* Committees of the commission may be appointed on an ad hoc basis by the chairperson of the board commission. Nonboard Persons who are not members of the commission may be appointed to committees as nonvoting members.~~

ITEM 4. Amend rule 11—114.4(8A) as follows:

**11—114.4(8A) Gifts, bequests, endowments.** The commission, acting on behalf of the society and the foundation, may accept private gifts, bequests, and endowments with such gifts credited to the account of the society. Accepted gifts, bequests, and endowments shall be used in accordance with the desire of the donor as expressed at the time of the donation. Undesignated funds shall be credited to the general fund of the society and used for projects and activities of the commission or society.

ITEM 5. Amend rule 11—114.5(8A) as follows:

**11—114.5(8A) Public and private grants and donations.** The commission, society, or foundation may apply for and receive funds from public or private sources. Receipts from these grants shall be credited to the appropriate account and shall be used in accordance with all stipulations of the grant contract.

ITEM 6. Rescind and reserve subrules 114.6(1) and 114.6(2).

ITEM 7. Amend rule 11—114.7(8A) as follows:

**11—114.7(8A) Facilities management.**

**114.7(1) *Address.*** Terrace Hill is located at 2300 Grand Avenue, Des Moines, Iowa 50312. Telephone number (515)281-7205.

**114.7(2) *Hours of operation.*** Terrace Hill is open to the public a minimum of 20 hours per week and is closed the months of January and February. Specific hours and days shall be posted at the facility. The hours shall be approved by the commission. Changes in the hours shall be effective upon 30 days' notice as posted.

**114.7(3) *Fees.*** Fees may be charged and collected by the commission and shall be administered according to 2003 Iowa Code Supplement section 8A.326. Fees may be charged including, but not limited to, fees for, but are not limited to, admission, special events, use of images, and technical services. All fees charged shall be approved by the commission and shall become effective upon 30 days' notice. This notice shall be a public posting in the facility. All fees shall be permanently posted.

**114.7(4) *Smoking.*** Smoking shall be prohibited in all designated areas of the facility. Smoking areas shall be approved by the commission.

**114.7(5) *Food and drink.*** Consumption of food and beverages shall be prohibited in the facility except in specific areas as designated by the commission.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**114.7(6) *Use of alcoholic beverages.*** Alcoholic beverages may be served at functions at the facility only with the use of an approved caterer. Interested caterers shall contact the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

**114.7(7) *Liability.*** ~~All individuals and groups renting the facility for any use shall agree in writing to abide by the “hold harmless” clause specified in the letter of agreement.~~

All individuals or groups renting the facility shall be liable for any or all damages to the facility. The renter shall be billed for the cost of the repairs, extraordinary cleaning and, if necessary, the collection costs.

**114.7(8) *Public functions.*** Public functions may be held at the facility when the governor has an immediate interest or the function meets the special events criteria established by the commission. The criteria require that the event be in accordance with the mission of the facility. Weddings and wedding receptions are strictly prohibited, except in the case of the immediate family of the current governor. Inquiries shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

ITEM 8. Amend rule 11—114.8(8A) as follows:

**11—114.8(8A) Tours.**

**114.8(1) *Group tours.*** Reservations shall be required for tour groups of ten or more. Requests for reservations shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

**114.8(2) *Fees.*** An admission fee is charged at Terrace Hill. There shall be no charge for school groups. The fee schedule shall be permanently posted at the site. Inquiries concerning fees shall be directed to the Administrator, Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa 50312.

**114.8(3) *Parking.*** Designated parking has been established by the commission. Vehicles are not permitted in the east driveway.

**114.8(4) *Pets.*** Pets are not permitted at the facility with exception of those belonging to the governor, ~~or those the governor’s family or service dogs or assistive animals accompanying and under the control of a person with a disability, a person assisting the hearing or visually impaired a person with a disability, or a person training a service dog or assistive animal. The person is liable for damage done to the facility by the service dog or assistive animal.~~

ITEM 9. Amend **11—Chapter 114**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code Supplement section 8A.326.

**ARC 2096C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment is related to a 2015 mandate by the General Assembly that administrative rules be adopted to provide for coverage of telehealth under the Medicaid program. The administrative rule must provide that an in-person contact between a health care professional and a patient is not required as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional

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

community at the time the services are provided. The mandate also directs that health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

This amendment will formalize a long-standing (non-rule-based) coverage standard that payment may be made for services rendered via telehealth to the same extent as such services are covered under Medicaid when they are rendered in person and where provision of such services via telehealth are considered appropriate by the current standards in the medical community.

Any interested person may make written comments on the proposed amendment on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

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

The following amendment is proposed.

Adopt the following **new** rule 441—78.55(249A):

**441—78.55(249A) Services rendered via telehealth.** An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided. Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

**ARC 2097C**

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments implement a cost-savings initiative that is part of the basis for the Department's budgets for state fiscal years 2016 and 2017, as appropriated by the Iowa Legislature in 2015. As appropriated, the Department's budgets assume savings from this initiative beginning July 1, 2015. The amendments would cap the monthly cost of all intellectual disability (ID) waiver services provided to a member (other than home and vehicle modifications) at the maximum monthly cost of services in an intermediate care facility for persons with intellectual disabilities (ICF/ID).

These amendments are a cost-savings initiative that was proposed by the Iowa Medicaid Enterprise (IME), incorporated into the Governor's budget as proposed to the Legislature, and used by the Legislature's Conference Committee in estimating the needs to be met by the Medicaid budget. At all stages of development, these amendments were assumed to become effective for dates of service on or after July 1, 2015. These amendments will require an amendment to the ID waiver approved application from the Centers for Medicare and Medicaid Services (CMS). The projected November

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

4, 2015, effective date for the amendments is based on the time line to receive CMS approval on the waiver amendment.

Any interested person may make written comments on the proposed amendments on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement Iowa Code section 249A.4 and 2015 Iowa Acts, Senate File 505.

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(2)**, provider category "HCBS waiver service providers," paragraphs "18," "24" and "25," as follows:

Provider category	Basis of reimbursement	Upper limit
18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	For <del>intellectual disability and brain injury</del> waiver effective 7/1/13: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 3%.  <u>For the intellectual disability waiver effective 7/1/15: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day.</u>
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate.
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 7/1/13: Lesser of maximum Medicare rate in effect 6/30/13 plus 3%, converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/13 plus 3%, converted to a 15-minute rate.
Child development home or center	Fee schedule	Effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$3.45 per 15-minute unit.

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

Provider category	Basis of reimbursement	Upper limit
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	<del>Effective</del> For the brain injury waiver and health and disability waiver, effective 7/1/13, provider's rate in effect 6/30/13 plus 3%, converted to a 15-minute rate. If no 6/30/13 rate: \$9.19 per 15-minute unit, not to exceed the maximum ICF/ID rate per day plus 3%.  For the intellectual disability waiver effective 7/1/15: \$9.19 per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day.
25. Residential-based supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/13 15: Not to exceed the maximum ICF/ID rate per day plus 3%.

ITEM 2. Rescind rule 441—83.66(249A) and adopt the following new rule in lieu thereof:

**441—83.66(249A) Allowable services and aggregate cap.**

**83.66(1) Allowable services.** Services allowable under the HCBS intellectual disability waiver are supported community living, respite, personal emergency response system, nursing, home health aide, home and vehicle modification, supported employment, consumer-directed attendant care, interim medical monitoring and treatment, transportation, adult day care, day habilitation, prevocational services, financial management, independent support brokerage, self-directed personal care, self-directed community supports and employment, and individual-directed goods and services as set forth in rule 441—78.41(249A).

**83.66(2) Aggregate cap.** The aggregate monthly cost for all intellectual disability waiver services authorized in a member's service plan, excluding the cost of home and vehicle modifications, shall not exceed the maximum daily ICF/ID per diem rate in effect on July 1 of the fiscal year during which the services are rendered, converted to a monthly amount.

**ARC 2076C**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

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

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

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

This amendment changes the current threshold for inpatient hospital readmissions combined into a single claim from 7 days to 30 days, effective July 1, 2015. As a function of the amendment, the Iowa Medicaid program will combine claims for a given member's inpatient readmissions to the same hospital for the same conditions occurring within 30 days.

This amendment implements a cost-savings initiative that is part of the basis for the Department's budgets for state fiscal years 2016 and 2017, beginning July 1, 2015, as appropriated by the Iowa Legislature in 2015 Iowa Acts, Senate File 505. The change to a 30-day standard, which is the policy

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

of the Medicare program, was incorporated into the Governor's budget as proposed to the Legislature and used by the Legislature's Conference Committee in estimating the needs to be met by the Medicaid budget. In both the Governor's and the Committee's budget, it was assumed that the change would be effective for dates of service on or after July 1, 2015. Therefore, this amendment provides that the change will be effective for dates of service on or after July 1, 2015. To the extent necessary, the policy will be applied to hospital claims retroactively after the effective date of the amendment.

This amendment will result in cost savings over the current 7-day standard because it will allow a greater number of inpatient readmissions for the same condition to be combined with the original inpatient hospital stay.

Any interested person may make written comments on the proposed amendment on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 2075C**. The purpose of this Notice is to solicit comments on that submission, the subject matter of which is incorporated by reference.

The Administrative Rules Review Committee reviewed this Notice of Intended Action in conjunction with **ARC 2075C** on July 14, 2015.

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

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

**ARC 2095C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

In 2013 Iowa Acts, chapter 138, section 12(19)(a)(7), the Iowa Legislature mandated a functional assessment for recipients of intellectual disability (ID) waiver services using the Supports Intensity Scale® (SIS) developed and licensed by the American Association on Intellectual and Developmental Disabilities (AAIDD), to be administered by an independent entity under contract with the Department.

In the past, a variety of assessment tools, interview questions, and information-gathering processes have been used by case managers responsible for assessing the needs of individuals receiving ID waiver services. Conflicts of interest were possible, in that case managers performing needs assessments were also responsible for developing a care plan using services provided by the case manager's employer.

As noted, the Supports Intensity Scale® was developed and licensed by the American Association on Intellectual and Developmental Disabilities. AAIDD is a nonprofit organization of professionals who work with individuals with intellectual and developmental disabilities. The SIS has been in use since 2004 and, as of August 2014, was being used by 22 other states and three Canadian provinces to plan the services provided to individuals with intellectual or developmental disabilities. As administered by an independent contractor, the SIS will provide consistent information statewide about individuals receiving ID waiver services, to objectively assess their needs and match those needs with services, free from conflicts of interest.

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

In addition to the 2013 legislative mandate, use of the SIS, administered by an independent contractor, is consistent with the recommendations of the stakeholder groups convened to advise the Department on implementation of the legislatively mandated redesign of Iowa's mental health and disability services system, pursuant to 2011 Iowa Acts, chapter 121 (Senate File 525), and 2012 Iowa Acts, chapter 1120 (Senate File 2315). And the SIS has also been specified in Iowa's application for enhanced federal Medicaid funding under the federal Balancing Incentive Program (BIP), established by Pub. L. No. 111-148, § 10202), which application was submitted pursuant to the state Legislature's direction in 2012 Iowa Acts, chapter 1133 (Senate File 2336), section 14.

These amendments bring the Department's rules into compliance with the 2013 legislative mandate, the recommendations of the redesign stakeholder groups, Iowa's BIP application, and current practice regarding use of the SIS in the ID waiver program. People with intellectual disabilities who are receiving long-term services through Medicaid, as home and community-based services or in intermediate care facilities for the intellectually disabled, have been evaluated using the SIS beginning August 1, 2014, providing consistent information statewide to objectively assess needs and match those needs with services, free from conflicts of interest. When managed care entities (MCEs) begin operation, they will utilize the same core standardized assessment instrument as the existing contractor and will absorb responsibility for conducting core standardized assessments for all long-term services and supports (LTSS) waiver Medicaid members who are already enrolled for regular Medicaid benefits. MCEs' assessors will be required to comply with conflict-free standards for case management and qualifications for assessor staff to ensure quality and objectivity of assessment processes.

Any interested person may make written comments on the proposed amendments on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, chapter 138, section 12(19)(a)(7).

The following amendments are proposed.

ITEM 1. Rescind the definition of "Assessment" in rule **441—83.60(249A)**.

ITEM 2. Adopt the following **new** definition of "SIS assessment" in rule **441—83.60(249A)**:

"SIS assessment" means the Supports Intensity Scale® assessment developed and licensed by the American Association on Intellectual and Developmental Disabilities for use in the assessment of the support and service needs of individuals.

ITEM 3. Amend paragraph **83.61(2)"a"** as follows:

*a.* Applicants currently receiving Medicaid case management or services of a department-qualified intellectual disability professional (QIDP) shall have the applicable coordinating staff and other interdisciplinary team members complete Form 470-4694, Case Management Comprehensive Assessment, and identify the applicant's needs and desires as well as the availability and appropriateness of the services coordinate with the department to arrange an SIS assessment.

ITEM 4. Amend subparagraph **83.61(2)"b"(1)** as follows:

(1) ~~Complete Form 470-4694, Case Management Comprehensive Assessment,~~ Arrange an SIS assessment for the initial level of care determination;

ITEM 5. Amend paragraph **83.61(2)"f"** as follows:

*f.* ~~The service worker, department QMRP, or Medicaid case manager shall complete Form 470-4694, Case Management Comprehensive Assessment,~~ coordinate with the department to arrange an SIS assessment for the initial level of care determination within 30 days from the date of the HCBS

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

application unless the worker can document difficulty in locating information necessary for completion of Form 470-4694 to arrange the SIS assessment or other circumstances beyond the worker's control.

ITEM 6. Amend paragraph **83.61(2)“g”** as follows:

g. At initial enrollment, the ~~service worker, department QIDP, case manager or Medicaid case manager~~ shall establish an interdisciplinary team for each applicant and, with the team, identify the applicant's need for service based on the applicant's needs and desires as well as the availability and appropriateness of services. The Medicaid case manager shall complete an annual review thereafter. The following criteria shall be used for the initial and ongoing ~~assessments~~ identification of need for services:

(1) ~~The assessment shall be based, in part, on information on the completed Case Management Comprehensive Assessment, Form 470-4694. The assessment shall be based on the results of the most recent SIS assessment or of the SIS contractor's off-year review.~~

(2) and (3) No change.

ITEM 7. Amend paragraph **83.62(3)“c”** as follows:

c. An applicant shall be given the choice between HCBS waiver services and ICF/ID care. The case manager or worker shall have the consumer or legal representative ~~complete and sign Form 470-4694, Case Management Comprehensive Assessment, indicating~~ indicate the consumer's choice of care.

ITEM 8. Amend rule 441—83.64(249A) as follows:

**441—83.64(249A) Redetermination.** A redetermination of nonfinancial eligibility for HCBS intellectual disability waiver services shall be completed at least once every 12 months. In years in which an SIS assessment is not completed, the SIS contractor shall conduct a review in collaboration with the case manager, documenting any changes in the member's functional status since the previous SIS or other full assessment.

A redetermination of continuing eligibility factors shall be made when a change in circumstances occurs that affects eligibility in accordance with rule 441—83.61(249A).

**ARC 2073C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 109, “Child Care Centers,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

These proposed amendments revise rules regarding child care providers who are currently allowed to operate child care facilities considered exempt from licensing by the Department of Human Services because the facilities are administered under contract with the Department of Education.

These proposed amendments also modify rules regarding the definition of “child care” and pertaining to allowable exemptions. Programs previously exempt when operating under the Department of Education will no longer be allowable exemptions.

Any interested person may make written comments on the proposed amendments on or before August 25, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street,

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

Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend rule **441—109.1(237A)**, definition of “Child care,” as follows:

“*Child care*” means the care, supervision, or guidance of a child by a person other than the parent, guardian, or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child's home, but does not include care, supervision, or guidance of a child by any of the following:

1. ~~An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents or a program provided under Iowa Code sections 279.49 and 280.3A.~~

2. to 14. No change.

ITEM 2. Amend **441—Chapter 170**, preamble, as follows:

## PREAMBLE

The intent of this chapter is to establish requirements for the payment of child care services. Child care services are for children of low-income parents who are in academic or vocational training; or employed or looking for employment; or for a limited period of time, unable to care for children due to physical or mental illness; or needing protective services to prevent or alleviate child abuse or neglect. Services may be provided in a licensed child care center, a registered child development home, the home of a relative, the child's own home, or a nonregistered family child care home, ~~or in a facility exempt from licensing or registration.~~

ITEM 3. Amend rule **441—170.1(237A)**, definition of “Provider,” as follows:

“*Provider*” means a licensed child care center, a registered child development home, a relative who provides care in the relative's own home solely for a related child, a caretaker who provides care for a child in the child's home, or a nonregistered child care home, ~~or a child care facility which is exempt from licensing or registration.~~

ITEM 4. Rescind subparagraph **170.4(2)“a”(3)**.

ITEM 5. Rescind paragraph **170.4(3)“g.”**

ITEM 6. Reletter paragraphs **170.4(3)“h”** to **“j”** as **170.4(3)“g”** to **“i.”**

ITEM 7. Amend relettered paragraph **170.4(3)“i”** as follows:

*i. Transgressions.* If any person subject to the record checks in paragraph 170.4(3)“~~h~~“g” or 170.4(3)“~~i~~“h” has a record of founded child abuse, dependent adult abuse, a criminal conviction, or placement on the sex offender registry, the department shall follow the process for prohibition or evaluation defined at 441—subrule 110.7(3).

(1) and (2) No change.

**ARC 2080C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

The proposed amendment adopts the 2014 Guidelines for Design and Construction of Hospitals and Outpatient Facilities produced by the Facility Guidelines Institute as the minimum construction standards for hospitals and off-site premises licensed under Iowa Code chapter 135B.

The rule making also strikes language pertaining to the number of beds per patient room in a critical access hospital and strikes restrictions on maternity services and other surgical procedures that may be conducted in critical access hospitals. These restrictions are no longer needed because the 2014 Guidelines address these issues.

Additionally, the proposed amendment makes technical changes to incorporate suggestions from the State Fire Marshal’s Office pertaining to the submission of architectural plans and drawings and makes changes to make references to the state building code consistent with citations in the administrative rules of the State Fire Marshal’s Office.

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

The proposed amendment was approved by the Hospital Licensing Board at its March 27, 2015, meeting.

The State Board of Health initially reviewed the proposed amendment at its July 8, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 25, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

This amendment is intended to implement Iowa Code sections 10A.104(5) and 135B.7.

The following amendment is proposed.

Amend rule 481—51.50(135B) as follows:

**481—51.50(135B) Minimum standards for construction.**

**51.50(1) Minimum standards.** Hospitals and off-site premises licensed under this chapter shall be built in accordance with the following construction standards.

*a.* Construction shall be in accordance with the standards set forth in ~~Part 2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010~~ the Guidelines for Design and Construction of Hospitals and Outpatient Facilities, 2014 edition, produced by the Facility Guidelines Institute.

*b.* A critical access hospital as defined in rule 481—51.1(135B) shall meet the standards for construction for ~~small primary care hospitals~~ set forth in ~~Part 2.3 2.4 of the Guidelines for Design and Construction of Health Care Facilities, 2010~~ Guidelines for Design and Construction of Hospitals and Outpatient Facilities, 2014 edition, produced by the Facility Guidelines Institute, ~~with the following exceptions:~~

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

~~(1) The patient room capacity requirements contained in section 2.3-2.2.2.1(1) shall not apply. The maximum number of beds per room shall be two.~~

~~(2) The first paragraph of section 2.3-2.2.4.6 is amended to read as follows: "The small primary care hospital shall include the following:"~~

~~(3) Section 2.3-3.4.1, which limits the types of surgical procedures, shall not apply.~~

~~c. Existing hospitals, critical access hospitals, and off-site premises built in compliance with prior editions of the hospital construction guidelines will be deemed in compliance with subsequent regulations, with the exception of any new structural renovations, additions, functional alterations, or changes in utilization to existing facilities, which shall meet the standards specified in this subrule.~~

~~d. The design and construction of a hospital or off-site premises shall be in conformance with the provisions of 661—Chapter 205.~~

~~e. In jurisdictions without a local building code enforcement program, the construction shall be in conformance with the state building code, as authorized by Iowa Code section 103A.7, in effect at the time of plan submittal for review and approval. In jurisdictions with a local building code enforcement program, local building code enforcement must include both the adoption and enforcement of a local building code through plan reviews and inspections.~~

~~A hospital or off-site premises that is required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the hospital or off-site premises is in compliance with the provisions of rule 661—205.5(100). In any case in which an applicable requirement of the Life Safety Code, 2000 edition, 661—Chapter 205 is inconsistent with an applicable requirement of the state building code, the hospital or off-site premises shall be deemed to be in compliance with the state building code requirement if the Life Safety Code requirement of 661—Chapter 205 is met.~~

~~Rule 661—301.5(103A) shall not be applicable to hospitals and other structures required under this chapter to meet the provisions of the state building code.~~

~~e. The design and construction of a hospital or off-site premises shall be in conformance with NFPA 101: Life Safety Code 2000 as published by the National Fire Protection Association.~~

**51.50(2) *Submission of construction documents.***

~~a. Submissions of architectural technical documents, engineering documents, and plans and specifications to the building code commissioner are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.~~

~~b. Submissions shall comply with the provisions of rule 661—300.4(103A).~~

~~b. "Responsible design professional" means a registered architect or licensed professional engineer who signs the documents submitted.~~

~~c. Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the requirements of the applicable provisions of the state building code.~~

~~d. In section 107.2.5 of the International Building Code, 2009 edition, the word "permit" shall be replaced by the words "plan review."~~

~~e. Submittals to the commissioner shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of professional engineering as defined by Iowa Code section 542B.2.~~

~~f. c. The responsible design professional shall certify that the building plans meet the requirements specified in subrule 51.50(1), unless a variance has been granted pursuant to subrule 51.50(3).~~

**51.50(3) *Variances.*** The director of the department may grant variances to building and construction guidelines as contained in the ~~2010 edition of the Guidelines for Design and Construction of Health Care Facilities~~ Guidelines for Design and Construction of Hospitals and Outpatient Facilities, 2014 edition. The hospital or off-site premises must submit a variance request in writing to the director. The request must demonstrate how patient safety and the quality of care offered will not be compromised by the variance. The facility must demonstrate its ability to completely fulfill all other requirements of the

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

service. The director shall make a written determination of the request. In determining whether a variance request shall be granted, the director shall give consideration to the following conditions and to any other conditions the director deems relevant:

- a. The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;
- b. Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability; utility; safety; structural strength and rigidity; sanitation; odor control; protection from corrosion, decay and insect attack; and quality of workmanship;
- c. The health, safety or welfare of any patient shall not be endangered;
- d. The variance shall be limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;
- e. Occupancy and function of the building shall be considered; and
- f. The type of licensing shall be considered.

**ARC 2081C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 56, “Fining and Citations,” Iowa Administrative Code.

The amendments implement changes to Iowa Code chapter 135C, “Health Care Facilities,” resulting from 2015 Iowa Acts, House File 579. The legislation permits health care facilities to request a contested case hearing pursuant to Iowa Code chapter 17A without first going through the informal conference process. The legislation also requires any state penalty, including a fine and citation, to be retained or reinstated if a corresponding federal deficiency is retained or reinstated.

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

The State Board of Health initially reviewed the proposed amendments at its July 8, 2015, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 25, 2015. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 135C.14 and 2015 Iowa Acts, House File 579.

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraph **56.3(5)“c”**:

c. Any state penalty, including a fine or citation, shall be retained or reinstated if the federal deficiency is retained or reinstated.

ITEM 2. Amend paragraph **56.14(1)“a”** as follows:

a. The violation was issued in conjunction with a federal civil money penalty, and the department holds the fine issued pursuant to this chapter in abeyance pursuant to Iowa Code section ~~249A.19~~ 249A.57, or

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

ITEM 3. Amend subrule 56.14(3) as follows:

**56.14(3) Informal conference.** ~~If the facility desires to contest a citation for a class I, class II or class III violation, the facility shall notify the department of inspections and appeals in writing that it the facility desires to contest such citation and request in writing an informal conference with an independent reviewer. The informal conference will be held concurrently with any informal dispute resolution held pursuant to 42 CFR Section 488.331 for those health care facilities certified under Medicare or the medical assistance program. shall do one of the following:~~

~~a.—*Definition.* For purposes of these rules, “independent reviewer” means an attorney licensed in the state of Iowa who is not currently and has not been employed by the department in the past eight years, or has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.~~

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

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

~~c.—*Submission of documentation.* Within the same ten-day period required for submission of a plan of correction pursuant to 481—subrule 50.10(7), the facility shall submit the following:~~

- ~~(1) The names of those who will be attending the informal conference, including legal counsel; and~~
- ~~(2) Documentation supporting the facility’s position. The facility must highlight or use some other means to identify written information pertinent to the disputed deficiency(ies). Supporting documentation that is not submitted within the required time frame will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the facility has shown good cause, the independent reviewer shall consider what circumstances kept the facility from submitting the supporting documentation within the required time frame.~~

~~d.—*Face-to-face or telephone conference.* A face-to-face or telephone conference, if requested, will be scheduled to occur within ten business days of the receipt of the written request, all supporting documentation, and the plan of correction required by 481—subrule 50.10(7).~~

- ~~(1) Failure to submit supporting documentation will not delay scheduling.~~
- ~~(2) The conference will be scheduled for one hour to allow the facility to informally present information and explanation concerning the contested deficiencies. Due to the confidential nature of the conference, attendance may be limited.~~
- ~~(3) If additional information is requested during the informal conference, the facility will have two business days to deliver the additional materials to the department.~~
- ~~(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the facility may be given one opportunity to reschedule the face-to-face conference.~~

~~e.—*Results.* The results of the informal conference will generally be sent within ten business days after the date of the informal conference, or within ten business days after the receipt of additional information, if requested.~~

~~(1) The independent reviewer may affirm or may modify or dismiss the citation. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the citation.~~

~~(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) citation if changes result from the informal conference.~~

~~(3) The facility must submit to the department a new plan of correction for the amended or corrected citation within ten calendar days from the date of the letter conveying the results of the informal conference.~~

a. Request an informal conference with an independent reviewer pursuant to rule 481—56.15(135C); or

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

b. Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.

ITEM 4. Renumber rule **481—56.15(135C)** as **481—56.16(135C)**.

ITEM 5. Adopt the following **new** rule 481—56.15(135C):

**481—56.15(135C) Informal conference.** An informal conference will be held concurrently with any informal dispute resolution held pursuant to 42 CFR Section 488.331 for those health care facilities certified under Medicare or the medical assistance program.

**56.15(1) Definition.** For purposes of these rules, “independent reviewer” means an attorney licensed in the state of Iowa who is not currently employed by the department, has not been employed by the department in the past eight years, and has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

**56.15(2) Request for informal conference.** The request for an informal conference must be in writing, addressed to the compliance officer and include the following:

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

**56.15(3) Submission of documentation.** Within the same ten-day period required for submission of a plan of correction pursuant to 481—subrule 50.10(7), the facility shall submit the following:

- a. The names of those who will be attending the informal conference, including legal counsel; and
- b. Documentation supporting the facility’s position. The facility must highlight or use some other means to identify written information pertinent to the disputed deficiency(ies). Supporting documentation that is not submitted within the required time frame will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. “Good cause” means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the facility has shown good cause, the independent reviewer shall consider what circumstances kept the facility from submitting the supporting documentation within the required time frame.

**56.15(4) Face-to-face or telephone conference.** A face-to-face or telephone conference, if requested, will be scheduled to occur within ten business days of the receipt by the department of the written request, all supporting documentation, and the plan of correction required by 481—subrule 50.10(7).

- a. Failure to submit supporting documentation will not delay scheduling.
- b. The conference will be scheduled for one hour to allow the facility to informally present information and explanation concerning the contested deficiencies. Due to the confidential nature of the conference, attendance may be limited.
- c. If additional information is requested during the informal conference, the facility will have two business days to deliver the additional materials to the department.
- d. When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the facility may be given one opportunity to reschedule the face-to-face conference.

**56.15(5) Results.** The results of the informal conference will generally be sent to the facility within ten business days after the date of the informal conference or, if additional information is requested, within ten business days after the department’s receipt of the additional information.

- a. The independent reviewer may affirm or may modify or dismiss the citation. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the citation.
- b. The department will issue an amended (changes in factual content) or corrected (correction of typographical/data errors) citation if changes result from the informal conference.
- c. The facility must submit to the department a new plan of correction for the amended or corrected citation within ten calendar days from the date of the letter conveying the results of the informal conference.

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

ITEM 6. Amend renumbered subrule 56.16(2) as follows:

**56.16(2)** If the facility does desire to further contest an affirmed or modified citation for a class I, class II or class III violation, the facility shall, within five business days after ~~the informal conference, or within five business days after~~ receipt of the written decision and explanation of the independent reviewer, ~~whichever occurs later,~~ notify the department of inspections and appeals in writing of the facility's intent to formally contest the citation.

**ARC 2078C**

**INSURANCE DIVISION[191]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 505.8 and chapter 505B as amended by 2015 Iowa Acts, House File 504, the Insurance Division (the “Division”) hereby gives Notice of Intended Action to amend Chapter 4, “Agency Procedure for Rule Making and Waiver of Rules,” Chapter 20, “Property and Casualty Insurance,” Chapter 30, “Life Insurance Policies and Annuities,” Chapter 35, “Accident and Health Insurance,” Chapter 39, “Long-Term Care Insurance,” and Chapter 40, “Health Maintenance Organizations,” Iowa Administrative Code.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, nonrenewal or termination and to recognize acceptable proof of receipt for such notices, so as to implement the various policyholder protections intended by Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504; chapter 508; and sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29, and 519.8; and by rules 191—39.22(514G), 191—40.10(514B), and 191—92.6(508).

Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Amendments to Iowa Code chapter 505B were enacted by 2015 Iowa Acts, House File 504, and became effective July 1, 2015. The amendments to Iowa Code chapter 505B prohibit the use of electronic means to provide required notices of cancellation, nonrenewal or termination. However, the amendments to Iowa Code chapter 505B contemplate that the Iowa Insurance Commissioner may approve an insurance company's proposed electronic means of delivery of a notice or document. The amendments in this Notice of Intended Action prescribe the manner in which an insurance company may seek the Insurance Commissioner's approval of a proposed electronic means of delivery.

The Division intends that insurance companies doing business in Iowa must be in compliance with these rules beginning November 4, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 4, 2015. Such written materials should be directed to Doug Ommen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail [doug.ommen@iid.iowa.gov](mailto:doug.ommen@iid.iowa.gov).

Also, there will be a public hearing on September 3, 2015, at 10 a.m., at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The Insurance Division's general waiver provisions in 191—Chapter 4 apply to these rules.

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These amendments will impose no fiscal impact to the State.

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

These amendments are intended to implement Iowa Code chapters 505, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519 and chapter 505B as amended by 2015 Iowa Acts, House File 504.

The following amendments are proposed.

ITEM 1. Amend rule 191—4.24(17A) as follows:

**191—4.24(17A) Criteria for waiver or variance.**

**4.24(1)** *Criteria for order for waiver or variance.* In response to a petition completed pursuant to rule 191—4.26(17A), except for a petition seeking a waiver order issued pursuant to subrule 4.24(2), the insurance division may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the division finds, based on clear and convincing evidence, all of the following:

~~1. a.~~ Application of the rule would impose an undue hardship on the person for whom the waiver is requested;

~~2. b.~~ Waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

~~3. c.~~ Provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;

~~4. d.~~ Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested; and

~~5. e.~~ If the rule implements Iowa Code chapter 502, or is being applied in conjunction with implementation of Iowa Code chapter 502, a waiver may be granted only if the waiver is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of Iowa Code chapter 502.

**4.24(2)** *Criteria for waiver or variance related to approval of a manner of electronic delivery of notices of cancellation, nonrenewal or termination.* This subrule is intended to implement Iowa Code section 17A.9 and section 505B.1 as amended by 2015 Iowa Acts, House File 504.

a. For purposes of Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504, and this subrule, the following definitions shall apply:

(1) “Commissioner” means the Iowa insurance commissioner or insurance division.

(2) “Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code chapters 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519 and chapter 505B as amended by 2015 Iowa Acts, House File 504, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:

• An insurance company’s notice of cancellation, nonrenewal, suspension, exclusion, intention not to renew, failure to renew, termination, replacement, rescission, forfeiture or lapse in an annuity policy, a life insurance policy, a long-term care insurance policy, or an insurance policy other than life;

• An insurance company’s rescission or discontinuance of an accident and health insurance policy;

• An insurance company’s notice of cancellation of personal lines policies or contracts;

• A health maintenance organization’s notice to an enrollee of cancellation or rescission of membership;

• An employer’s or group policyholder’s notice to an employee or member of the termination or substantial modification of the continuation of an employer group accident or health policy; or

• A carrier’s or organized delivery system’s advance notice to affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of health insurance coverage.

INSURANCE DIVISION[191](cont'd)

b. This subrule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance in Iowa, health maintenance organizations, employers, group policyholders, carriers and organized delivery systems and to all requirements by statute or rule related to notices of cancellation, nonrenewal or termination. This subrule shall apply when an insurance company, health maintenance organization, employer, group policyholder, carrier or organized delivery system seeks the commissioner's approval of a manner for delivering by electronic means required notices of cancellation, nonrenewal or termination, as described in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504.

c. The commissioner, by order pursuant to this chapter, may approve a request for approval of a manner for delivering notices of cancellation, nonrenewal or termination by an electronic means if the commissioner has jurisdiction to enforce the statute or rule requiring the notice and if the requested approval is consistent with Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and with this chapter.

d. In response to a petition submitted pursuant to rule 191—4.26(17A) and related statutes and rules, the commissioner may approve an insurer's proposed manner for delivering notices of cancellation, nonrenewal or termination by an electronic means and issue an order waiving in whole or in part the requirements of a rule, if the commissioner finds, based on clear and convincing evidence, all of the following:

(1) The proposed manner provides for verification of receipt by the person for whom the notice is required;

(2) The proposed manner provides for consent, by the person for whom the notice is required, to have notices or documents delivered by electronic means, in compliance with Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504; and

(3) The proposed manner provides that the insurance company to maintain adequate records of notices, receipt verifications and consents. The records shall be available for review upon request by the commissioner or by the person for whom the notice was required.

e. Such an order of waiver would constitute approval by the commissioner to satisfy Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504.

f. The commissioner may, upon proper request by an insurance company pursuant to rule 191—1.3(22,502,505) or another applicable rule, maintain, in whole or in part, the confidentiality of information, documents and materials describing an insurer's proposed manner for delivering notices of cancellation, nonrenewal or termination by electronic means:

(1) If release of the submitted documents or materials would disclose trade secrets protected by law, pursuant to Iowa Code section 22.7(3) and rule 191—1.3(22,502,505);

(2) If release would give advantage to competitors and serve no public purpose, pursuant to Iowa Code section 22.7(6) and rule 191—1.3(22,502,505); or

(3) If the documents or materials otherwise may be withheld from public inspection pursuant to Iowa Code chapter 22 or rule 191—1.3(22,502,505).

ITEM 2. Amend rule 191—20.80(505B,515,515D,518,518A,519) as follows:

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

**20.80(1) Purpose and definitions.**

a. Purpose. The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B as amended by 2015 Iowa Acts, House File 504, by clarifying the authorized methods of delivery for notices of cancellation, nonrenewal and or termination by an insurer. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the~~

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~~purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

b. Definitions. As used in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and this rule:

(1) "Commissioner" means the Iowa insurance commissioner or insurance division.

(2) "Notice of cancellation, nonrenewal or termination" means:

1. Notice of an insurance company's termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company's decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8, "notice of cancellation, nonrenewal or termination" includes but is not limited to an insurance company's notice of cancellation, forfeiture, suspension, exclusion, nonrenewal, intention not to renew, or failure to renew.

**20.80(2)** No change.

**20.80(3)** ~~Delivery and receipt.~~ For any notice of cancellation, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, ~~either deliver the notice to the insured, named insured, or loss payee or to another person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the insured, named insured, loss payee or other person to whom notice is required to be provided.~~ The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

**20.80(4)** ~~Electronic transmissions.~~ ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 20.80(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and chapter 505B as amended by 2015 Iowa Acts, House File 504. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504.

ITEM 3. Amend rule 191—30.9(505,508) as follows:

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

**30.9(1)** Purpose and definitions.

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~forfeiture, lapse,~~ nonrenewal and or termination by an insurer or insurance producer required for contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, so as to require reasonable procedures for providing notice to policyholders of the consequences of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination of life insurance and annuity contracts. ~~In universal life contracts, specific advance notice is required by rule 191—92.6(508).~~ The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) "b," provides that a requirement under a law to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) "b," delivery by~~

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~~electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

b. Definitions. As used in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and this rule:

(1) "Commissioner" means the Iowa insurance commissioner or insurance division.

(2) "Notice of cancellation, nonrenewal or termination" means:

1. Notice of an insurance company's termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company's decision or intention not to renew a policy; and

3. For purposes of notices of cancellation, nonrenewal or termination of contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25, "notice of cancellation, nonrenewal or termination" includes but is not limited to the following:

• An insurance company's notice of cancellation, nonrenewal or termination of life insurance or annuities;

• Notice of replacement of life insurance, for which specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B); and

• Notice of termination of universal life contracts, for which specific advance notice is required to be provided by the insurance company pursuant to rule 191—92.6(508).

**30.9(2)** No change.

**30.9(3)** ~~Delivery and receipt.~~ For any notice of cancellation, ~~forfeiture, lapse,~~ nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, ~~either~~ deliver the notice to the ~~named~~ insured, applicant, policyowner, or another person to whom notice is required to be provided either in person or by mail ~~the notice~~ through the U.S. Postal Service to the last-known address of the ~~named~~ insured, applicant, policyowner, or other person to whom notice is required to be provided. For replacements of life insurance, specific notice is required to be provided by the insurance producer pursuant to rule 191—16.24(507B). For universal life contracts, specific advance notice of termination is required to be provided by the insurance company pursuant to rule 191—92.6(508). The use of U.S. Postal Service Intelligent Mail® fulfills any requirement for the contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 and for notices required by rule 191—16.24(507B) or 191—92.6(508) for certified mail or certificate of mailing as proof of mailing.

**30.9(4)** ~~Electronic transmissions.~~ Electronic transmissions do not currently Notwithstanding the requirements of subrule 30.9(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice for cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the requirements of Iowa Code section 505B.1(6) or 508.25, 2015 Iowa Acts, House File 504, rule 191—16.24(507B) or 191—92.6(508), or this rule ~~or of rule 191—92.6(508).~~ However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

ITEM 4. Amend **191—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 505.8, 508.25, 508.28 and 508A.4 and Iowa Code ~~chapters 505B and chapter 509~~ and chapter 505B as amended by 2015 Iowa Acts, House File 504.

ITEM 5. Amend rule 191—35.9(509B,513B,514D) as follows:

**191—35.9(509B,513B,514D) Notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination of accident and health insurance.**

**35.9(1) Purpose and definitions.**

a. Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~rescission, discontinuance and~~ nonrenewal or termination by an insurer, issuer, employer, group policyholder, carrier or organized delivery system, so as to implement the various policyholder

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protections intended by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B as amended by 2015 Iowa Acts, House File 504. ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

*b. Definitions.* As used in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and this rule:

- (1) “Commissioner” means the Iowa insurance commissioner or insurance division.
- (2) “Notice of cancellation, nonrenewal or termination” means:
  1. Notice of termination of an insurance policy at the end of a term or before the termination date;
  2. Notice of a decision or intention not to renew a policy; and
  3. For purposes of notices required by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A and chapter 505B as amended by 2015 Iowa Acts, House File 504, “notice of cancellation, nonrenewal or termination” includes but is not limited to the following:
    - An employer’s or group policyholder’s notification to employees or members of the termination or substantial modification of the continuation of an employer group accident or health policy pursuant to Iowa Code section 509B.5;
    - A carrier’s or organized delivery system’s advance notice to all affected small employers, participants, and beneficiaries of its decision to discontinue offering a particular type of small group health insurance plan pursuant to Iowa Code section 513B.5(1)“e”(2);
    - An insurance company’s notice of termination of an individual accident and sickness policy, pursuant to rules promulgated pursuant to Iowa Code section 514D.3;
    - An insurance company’s notice of forfeiture, suspension, cancellation, or intention not to renew, pursuant to Iowa Code section 515.25; or
    - An insurance company’s notice of cancellation of personal lines policies or contracts pursuant to Iowa Code section 515.129A.

**35.9(2)** No change.

**35.9(3)** ~~*Delivery and receipt.*~~ For any notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by an insurer under Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A, ~~employer, group policyholder, carrier or organized delivery system to be effective, an insurer, employer, group policyholder, carrier or organized delivery system must, within the time frame established by law, either deliver the notice to the insured, named insured, policyholder, employee, member, affected small employer, participant beneficiary, or another person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the insured, named insured, policyholder, employee, member, affected small employer, participant beneficiary, or other person to whom notice is required to be provided. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.~~

**35.9(4)** ~~*Electronic transmissions.*~~ ~~Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 35.9(3), if an insurer, issuer, employer, group policyholder, carrier or organized delivery system receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5, and 514D.3, 515.125 and 515.129A and chapter 505B as amended by 2015 Iowa Acts, House File 504. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapters 509B, 513B, 514D, and 515 and chapter 505B as amended by 2015 Iowa Acts, House File 504.

INSURANCE DIVISION[191](cont'd)

ITEM 6. Amend rule 191—39.33(514G) as follows:

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

**39.33(1) Purpose and definitions.**

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

*b. Definitions.* As used in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and this rule:

(1) “Commissioner” means the Iowa insurance commissioner or insurance division.

(2) “Notice of cancellation, nonrenewal or termination” means:

1. Notice of an insurance company’s termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company’s decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code section 514G.111 and rule 191—39.22(514G), at a minimum, an insurance company’s notice of lapse or termination of a long-term care insurance policy.

**39.33(2) No change.**

**39.33(3) Delivery and receipt.** For any notice of cancellation, ~~forfeiture, lapse and~~ nonrenewal or termination by an insurer under Iowa Code section 514G.111 and rule 191—39.22(514G) to be effective, an insurer must, within the time frame established by law, ~~either deliver the notice to the named insured policyholder, insured, designee, or another person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured policyholder, insured, designee, or other person to whom notice is required to be provided.~~ The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code section 514G.111 and rule 191—39.22(514G) for certified mail or certificate of mailing as proof of mailing.

**39.33(4) Electronic transmissions.** ~~Electronic transmissions currently fail to~~ Notwithstanding the requirements of subrule 39.33(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code section 514G.111 and rule 191—39.22(514G). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504.

ITEM 7. Amend rule 191—40.26(514B) as follows:

**191—40.26(514B) Notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination of enrollment.**

**40.26(1) Purpose and definitions.**

*a. Purpose.* The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). ~~Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by~~

## INSURANCE DIVISION[191](cont'd)

~~electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).~~

b. Definitions. As used in Iowa Code section 505B.1 as amended by 2015 Iowa Acts, House File 504, and this rule:

(1) "Commissioner" means the Iowa insurance commissioner or insurance division.

(2) "Notice of cancellation, nonrenewal or termination" means:

1. Notice of an insurance company's termination of an insurance policy at the end of a term or before the termination date;

2. Notice of an insurance company's decision or intention not to renew a policy; and

3. For purposes of notices required by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B), "notice of cancellation, nonrenewal or termination" includes but is not limited to a health maintenance organization's notice to an enrollee of cancellation or rescission of membership.

**40.26(2)** No change.

**40.26(3)** ~~Delivery and receipt.~~ For any notice of cancellation, ~~rescission, discontinuance~~ nonrenewal or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, ~~either deliver the notice to the named insured enrollee or to another person to whom notice is required to be provided either in person or by mail the notice through the U.S. Postal Service to the last-known address of the named insured enrollee or of the other person to whom notice is required to be provided.~~ The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) for certified mail or certificate of mailing as proof of mailing.

**40.26(4)** ~~Electronic transmissions. Electronic transmissions do not currently~~ Notwithstanding the requirements of subrule 40.26(3), if an insurer receives, pursuant to 191—subrule 4.24(2), approval from the commissioner of a manner of electronic delivery of a notice of cancellation, nonrenewal or termination of a policy, the approved manner shall satisfy the notice requirements of Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). ~~However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.~~

This rule is intended to implement Iowa Code chapter 505B as amended by 2015 Iowa Acts, House File 504.

**ARC 2079C**

## INSURANCE DIVISION[191]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 502.605, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

Iowa Code chapter 502, among other things, prescribes the terms and conditions under which broker-dealers, investment advisers and securities offerings operate. Amendments to Iowa Code chapter 502 were enacted by 2015 Iowa Acts, House File 632, and became effective July 1, 2015.

The amendments proposed to this chapter do the following:

- Require entities that wish to make Form D filings to do so electronically. The Division intends that the amendment to rule 191—50.81(502) will go into effect November 4, 2015, and that securities issuers must be in compliance with this rule by January 1, 2016.

## INSURANCE DIVISION[191](cont'd)

- Require every investment adviser doing business in Iowa to create and implement written procedures to address business continuity and succession planning related to possible instances of disruptions or cessation of business activities. Proposed rule 191—50.47(502) is based on the North American Securities Administrators Association’s Investment Adviser Model Rule and Guidance for Business Continuity and Succession Planning Under the Uniform Securities Acts of 1956 and 2002. The Division intends that the rule will go into effect November 4, 2015, and that investment advisers must be in compliance with this rule by July 1, 2016.

- In rule 191—50.60(502), change the fees for notice filings for investment company securities offerings.

- Clarify the travel reimbursement guidelines that may be used for an audit or inspection made pursuant to Iowa Code section 502.411(4).

- Update the address of the Iowa Insurance Division, Iowa Securities and Regulated Industries Bureau.

- Provide the Web site address for North American Securities Administrators Association information.

- Require Rule 506 offerings to be filed electronically.

The Division intends that these amendments will go into effect November 4, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 27, 2015. Such written materials should be directed to Gary Marquett, Iowa Insurance Division, Iowa Securities and Regulated Industries Bureau, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-5014; e-mail [gary.marquett@iid.iowa.gov](mailto:gary.marquett@iid.iowa.gov).

Also, there will be a public hearing on August 27, 2015, at 10 a.m., at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The Insurance Division’s general waiver provisions at 191—Chapter 4 apply to these rules.

These rules will impose no fiscal impact on the State.

These amendments are intended to implement Iowa Code chapter 502 as amended by 2015 Iowa Acts, House File 632.

The following amendments are proposed.

ITEM 1. Rescind the definition of “Form D” in rule **191—50.1(502)**.

ITEM 2. Amend rule 191—50.2(502) as follows:

**191—50.2(502) Cost of audit or inspection.**

**50.2(1) A** ~~The administrator may assess the broker-dealer or investment adviser may be assessed the actual and necessary costs for reasonable charges of travel, lodging, and other expenses incurred by division staff or independent persons conducting an audit or inspection and directly attributable to an audit or inspection made pursuant to Iowa Code section 502.411(4). The assessment of costs of travel meals, lodging, transportation, and other actual and necessary travel expenses, if any, incurred by persons conducting an audit or inspection shall be determined in accordance with one of the following, as agreed by the administrator and the persons conducting an audit or inspection:~~

a. the The department of administrative services (DAS) state accounting enterprise Accounting Policy and Procedures Manual guidelines for employee travel (<https://das.iowa.gov/state-accounting/sae-policies-procedures-manual>) and the DAS form Travel Section Policy and Procedures (<https://das.iowa.gov/state-accounting/travel-relocation>) in effect at the time of the audit or inspection.

b. The department of administrative services state accounting enterprise Accounting Policy and Procedures Manual guidelines for travel for in-state board, commission, advisory council, and task force member expenses.

## INSURANCE DIVISION[191](cont'd)

*c.* The United States General Services Administration Continental United States (“CONUS”) per diem travel allowances for lodging, meals and incidental expenses.

*d.* A reimbursement schedule as agreed by the administrator and the persons conducting the audit or inspection.

**50.2(2)** and **50.2(3)** No change.

**50.2(4)** Assessments collected pursuant to this rule shall be paid to the administrator and shall be deposited as provided in Iowa Code section 505.7 by the broker-dealer or investment adviser as directed by the administrator either to the administrator or to the persons conducting the audit or inspection. The persons conducting the audit or inspection shall be reimbursed only for the actual and necessary costs incurred in conducting the audit or inspection.

This rule is intended to implement Iowa Code section 502.411(4).

ITEM 3. Adopt the following **new** paragraph **50.42(1)“x”**:

*x.* Written procedures relating to a business continuity and succession plan, pursuant to rule 191—50.47(502).

ITEM 4. Adopt the following **new** rule 191—50.47(502):

**191—50.47(502) Business continuity and succession planning for investment advisers.**

**50.47(1)** After July 1, 2016, every investment adviser registered in Iowa shall establish, implement, and maintain written procedures relating to a business continuity and succession plan. The procedures must be created and implemented in a manner consistent with the Guidance on Business Continuity and Succession Planning for State-Registered Investment Advisers issued by the North American Securities Administrators Association, Inc. (see the division’s Web site, [www.iid.iowa.gov](http://www.iid.iowa.gov)). The procedures shall consider the size of the firm, the types of services provided, and the number of locations of the investment adviser, and shall provide for at least the following:

*a.* The protection, backup, and recovery of books and records.

*b.* Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians) and regulators, including but not limited to providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

*c.* Office relocation in the event of temporary or permanent loss of a principal place of business.

*d.* Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.

*e.* Otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.

**50.47(2)** The division shall include as part of its audit or examination process verification of the establishment of a business continuity and succession plan, and the investment adviser shall keep the business continuity and succession plan pursuant to 191—50.42(502).

This rule is intended to implement Iowa Code section 502.302(3) and 2015 Iowa Acts, House File 632.

ITEM 5. Amend paragraph **50.60(3)“b”** as follows:

*b.* Payment of the applicable fee under Iowa Code section ~~502.302(1)“a.”~~ 502.302(1)“a” as amended by 2015 Iowa Acts, House File 632.

ITEM 6. Amend subrule 50.60(4) as follows:

**50.60(4)** Amendments to notice filings are made on Form NF and are effective upon receipt by the administrator. Withdrawal or termination of a notice filing is made by filing Form NF or providing the administrator with notice of the withdrawal or termination in a similar format. An amendment, withdrawal, or termination is effective upon receipt by the administrator of the required notice and all fees required by Iowa Code section ~~502.302(1)“a.”~~ 502.302(1)“a” as amended by 2015 Iowa Acts, House File 632.

This subrule is intended to implement Iowa Code section 502.302 and 2015 Iowa Acts, House File 632.

## INSURANCE DIVISION[191](cont'd)

ITEM 7. Amend subrule 50.60(6) as follows:

**50.60(6)** An investment company that makes a notice filing under subrule 50.60(2) and that pays an initial ~~\$250~~ \$400 filing fee under Iowa Code section 502.302(1)“a” as amended by 2015 Iowa Acts, House File 632, shall pay an additional \$1,250 filing a \$400 renewal fee within 90 days after prior to the notice filing’s annual renewal date, or shall file on Form NF an annual or periodic report of the value of the federal covered securities offered or sold in Iowa, together with a filing fee of one-tenth of 1 percent of the amount of securities sold in excess of \$250,000. Notice filings that are not renewed by the annual renewal date shall expire.

This subrule is intended to implement Iowa Code section 502.302 and 2015 Iowa Acts, House File 632.

ITEM 8. Amend subrule 50.61(1) as follows:

**50.61(1)** Form U-7 may be obtained by ~~contacting the Iowa Securities and Regulated Industries Bureau, 340 East Maple Street, Des Moines, Iowa 50319-0066; via E-mail at iowa.sec.@iid.state.ia.us; or from the division Web site at http://www.iid.state.ia.us/division/securities~~ from the NASAA Web site at [www.nasaa.org](http://www.nasaa.org). Form U-7 has been developed under the Small Business Investment Incentive Act of 1980 which prescribes state and federal cooperation in furthering the policies of the Act: diminishing the burden of raising investment capital and minimizing interference with the business of capital formation.

ITEM 9. Amend subrule 50.66(1) as follows:

**50.66(1)** *Overview of national models.* In cooperation with the securities administrators of other states and with a view to effectuating a policy to achieve maximum uniformity of regulations regarding the registration of securities, registration and business practices of securities industry and investment advisory registrants, and enforcement of antifraud laws, and in the interest of streamlining the rules contained in Chapter 50, the administrator incorporates by reference the following guidelines and statements of policy promulgated by NASAA. This rule does not include any later amendments or editions of the incorporated matter.

~~The official reporter for NASAA statements of policy is the NASAA Reports volume printed by CCH. A copy of the CCH NASAA Reports is available to the public during regular business hours at the office of the administrator. Upon request, and for a reasonable fee not to exceed the cost of providing the service, the administrator will furnish to any person photostatic or other copies of the following NASAA guidelines and statements of policy. The office of the administrator is located at and requests may be mailed to the Iowa Securities and Regulated Industries Bureau, 340 Maple Street, Des Moines, Iowa 50319-0066; via E-mail at [iowa.sec@iid.state.ia.us](mailto:iowa.sec@iid.state.ia.us); or from the division Web site at <http://www.iid.state.ia.us/division/securities>. NASAA statements of policy may also generally be found at [www.nasaa.org](http://www.nasaa.org). The NASAA Web site allows access to statements of policy, comment letters, model rules, NASAA proposals published for comment, and state rule proposals and may be found at [www.nasaa.org](http://www.nasaa.org), under “regulatory & legal activity.”~~

ITEM 10. Rescind paragraphs **50.80(2)“c”** and **“d.”**

ITEM 11. Reletter paragraph **50.80(2)“e”** as **50.80(2)“c.”**

ITEM 12. Amend rule 191—50.81(502) as follows:

**191—50.81(502) Notice filings for Rule 506 offerings.**

**50.81(1)** An Beginning January 1, 2016, an issuer offering a security that is a covered security pursuant to Section 18(b)(4)(D) of the Securities Act of 1933 shall submit no later than 15 days after the first sale of such federal covered security in Iowa: an electronic filing and fees through [www.efdnasaa.org](http://www.efdnasaa.org), under “filers and issuers.”

*a.*—A notice on Form D, including the Appendix;

*b.*—A consent to service of process on Form U-2; and

*c.*—A \$100 filing fee, or a \$250 fee for any late filing.

**50.81(2)** “SEC Form D,” for the purposes of this rule, means the document, as adopted by the SEC and in effect on September 1, 1996, as may be amended by the SEC from time to time, entitled “FORM

INSURANCE DIVISION[191](cont'd)

~~D: Notice of Sale of Securities pursuant to Regulation D, Section 4(6), and/or Uniform Limited Offering Exemption,” including Part E and the Appendix.~~

This rule is intended to implement Iowa Code section 502.302(3) and 2015 Iowa Acts, House File 632.

ITEM 13. Rescind subrule **50.82(3)**.

**ARC 2077C**

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

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the allocation of 9 percent low-income housing tax credits with a revised 2016 9% Qualified Allocation Plan. The amendments also revise statutory references to reflect recent legislative changes and to update the implementation sentence for the chapter.

The updated 2016 9% Qualified Allocation Plan sets forth the purposes of the plan, the administrative information required for participation, threshold criteria, selection criteria, postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority, and the plan is available electronically on the Authority’s Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov). It is the Authority’s intent to incorporate the updated 2016 9% Qualified Allocation Plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.35.)

The Authority will receive written comments on the proposed amendments and on the qualified allocation plan until 4:30 p.m. on August 25, 2015. Comments may be addressed to Dave Vaske, Low-Income Housing Tax Credit Manager, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Dave Vaske at (515)725-4941 or e-mailed to [dave.vaske@iowa.gov](mailto:dave.vaske@iowa.gov).

The Authority will hold a public hearing on August 25, 2015, to receive public comments on these amendments and on the proposed 2016 9% Qualified Allocation Plan. The public hearing will be held from 1 to 4 p.m. at the Authority’s offices, located at 2015 Grand Avenue, Des Moines, Iowa.

The Authority anticipates that it may make changes to the qualified allocation plan based on comments received from the public.

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years’ QAPs. The Low-Income Housing Tax Credit Program has a substantial positive impact on job creation in Iowa with many jobs created annually in the construction, finance, and property management fields, among others.

These amendments are intended to implement Iowa Code sections 16.5(1)“r,” 16.35, 17A.12, and 17A.16 and IRC Section 42.

## IOWA FINANCE AUTHORITY[265](cont'd)

The following amendments are proposed.

ITEM 1. Amend rule 265—12.1(16) as follows:

**265—12.1(16) Qualified allocation plans.**

**12.1(1)** *Four percent qualified allocation plan.* The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 4% Qualified Allocation Plan (“4% QAP”) shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section ~~46.52~~ 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to October 8, 2014.

**12.1(2)** *Nine percent qualified allocation plan.* The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2015~~ 2016 Qualified Allocation Plan (“9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section ~~46.52~~ 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~October 8, 2014~~ July 1, 2015.

ITEM 2. Amend rule 265—12.2(16) as follows:

**265—12.2(16) Location of copies of the plans.**

**12.2(1)** *4% QAP.* The 4% QAP can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of October 8, 2014. Additionally, the 4% QAP incorporates by reference Iowa Code section ~~46.52~~ 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site.

**12.2(2)** *9% QAP.* The 9% QAP can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the 9% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~October 8, 2014~~ July 1, 2015. Additionally, the 9% QAP incorporates by reference Iowa Code section ~~46.52~~ 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site.

ITEM 3. Amend **265—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~46.52~~ 16.35.

**ARC 2093C**

**IOWA PUBLIC INFORMATION BOARD[497]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

This amendment permits the Board to elect a vice chair.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 25, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendment does not contain a waiver provision as no obligation is being imposed on the public or regulated community.

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

This amendment is intended to implement Iowa Code chapter 23.

The following amendment is proposed.

Amend rule 497—1.1(84GA,ch1115) as follows:

**497—1.1(84GA,~~ch1115~~ 23) Board description.**

**1.1(1)** The Iowa public information board is established by ~~2012 Iowa Acts, chapter 1115, section 6,~~ Iowa Code chapter 23 and consists of nine members, including a chairperson.

**1.1(2) and 1.1(3)** No change.

**1.1(4)** On an annual basis at the board's first meeting on or after July 1, the members shall elect a chairperson and vice chair. The board shall also employ a person who shall be an attorney admitted to practice law before the courts of Iowa to serve as the executive director of the board. The chairperson and vice chair may be reelected or elected to a different office. If the chairperson is absent, the vice chair shall act as chairperson.

**1.1(5) to 1.1(7)** No change.

**1.1(8)** The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board's Web site at <https://ipib.iowa.gov/>. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules 497—1.2(84GA,~~ch1115~~ 23) and 497—1.3(84GA,~~ch1115~~ 23)) or by declaratory orders (see rules 497—3.1(84GA,~~ch1115~~ 17A) to 497—3.8(84GA,~~ch1115~~ 17A)). In addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(84GA,~~ch1115~~ 23).

This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 6~~ Iowa Code chapter 23.

**ARC 2085C**

**NURSING BOARD[655]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to adopt new Chapter 19, “Iowa Nurse Assistance Program,” Iowa Administrative Code.

Chapter 19 is being promulgated to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, while protecting the health, safety and welfare of the public.

Any interested person may make written suggestions or comments on the proposed rules on or before August 25, 2015. Such written materials should be directed to the Executive Director, Iowa Board of

## NURSING BOARD[655](cont'd)

Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. E-mail may be sent to [rules.comments@iowa.gov](mailto:rules.comments@iowa.gov). Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256 or at the Board office at the above address by appointment.

Also, there will be a public hearing on August 25, 2015, at 9 a.m. at the Board of Nursing office, 400 S.W. 8th Street, Suite B, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

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

The proposed rules are subject to waiver or variance pursuant to 655—Chapter 15.

The proposed rules were approved by the Board on June 10, 2015.

After analysis and review of this rule making, a fiscal impact has been found. The fiscal impact would include the cost of one new full-time employee and the costs to recruit and hire this individual, along with the costs of new equipment for this individual's working environment; the cost for committee member expenses, including electronic equipment, pay, and travel expenses; and miscellaneous travel and marketing expenses to educate nurses on the availability of this new program.

After analysis and review of this rule making, there may be an impact on jobs because the Iowa nurse assistance program committee (INAPC) may impose restrictions on the license to practice as a term of the initial agreement or contract until such time as the INAPC receives a report from an approved evaluator and the INAPC determines, based on all relevant information, that the participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the initial agreement or contract.

These rules are intended to implement Iowa Code sections 272C.3(1)“k,” 272C.6(4) and 28E.4.

The following amendment is proposed.

Adopt the following **new** 655—Chapter 19:

CHAPTER 19  
IOWA NURSE ASSISTANCE PROGRAM

**655—19.1(272C) Iowa nurse assistance program committee.** Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa nurse assistance program committee (INAPC), formerly known as the licensee review committee, to implement the Iowa nurse assistance program (INAP). The purpose of the INAPC is to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, while protecting the health, safety and welfare of the public.

**655—19.2(272C) Definitions.**

“*Approved treatment provider*” means a licensed health care provider with board-approved expertise in substance use disorder or mental or physical health conditions.

“*Board*” means the Iowa board of nursing.

“*Contract*” means the written document executed by an applicant or licensee and the INAPC after the INAPC receives a report from an approved treatment provider, which establishes the terms for participation in the INAP.

“*Impairment*” means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition.

“*INAPC*” or “*committee*” means the Iowa nurse assistance program committee.

“*INAP*” or “*program*” means the Iowa nurse assistance program.

“*Initial agreement*” means the written document establishing the initial terms for participation in the INAP.

## NURSING BOARD[655](cont'd)

“*Participant*” means an applicant or licensee who does any of the following: self-reports an impairment to the program, is referred to the program by the board, signs an initial agreement with the committee, or signs a contract with the committee.

“*Referral by the board*” means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the program.

“*Self-report*” means an applicant or licensee provides written notification to the committee that the applicant or licensee has been, is, or may be impaired. Information related to impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report.

**655—19.3(272C) Organization of the committee.** The board shall appoint the members of the INAPC.

**19.3(1) Membership.** The membership of the INAPC includes, but is not limited to:

- a. The executive director of the board or the director’s designee from the board’s staff;
- b. One board of nursing licensee who has maintained sobriety for a period of no less than two years following successful completion of a recovery program;
- c. One licensed health care provider with expertise in substance use disorders;
- d. One licensed provider with expertise in mental health; and
- e. One public member.

**19.3(2) Officers.** At the last meeting of each calendar year, the INAPC shall elect a chairperson and a vice chairperson, each of whom will begin serving a one-year term on January 1.

a. The chairperson is responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including guidance and direction concerning negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice, on behalf of the committee. The INAPC retains authority to review all interim decisions at its discretion.

b. The vice chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson is unavailable or unable to assist in a particular matter.

**19.3(3) Terms.** Committee members, except the executive director or designee, shall be appointed for three-year terms and shall serve for a maximum of three terms. Each term shall expire on December 31 of the third year of the term.

**655—19.4(272C) Eligibility.**

**19.4(1) Self-report.** An applicant or a licensee shall self-report an impairment or potential impairment directly to the program.

**19.4(2) Board referral.** The board may refer an applicant or licensee to the program if a complaint or investigation reveals an impairment or potential impairment and the board determines that the individual is an appropriate candidate for review by the INAPC. The board may refer a licensee to the program in a public disciplinary order or other public order.

**19.4(3) Review by the INAPC.** The INAPC will determine on a case-by-case basis whether an applicant or licensee who self-reports or is referred by the board is an appropriate candidate for participation in the program. Several factors may lead to the INAPC’s determination that an applicant or licensee is ineligible to participate in the program, including but not limited to if the committee finds sufficient evidence that the applicant or licensee:

- a. Diverted drugs for distribution to third parties or for personal profit;
- b. Adulterated, misbranded, or otherwise tampered with drugs intended for a patient;
- c. Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the INAPC;
- d. Participated in the program, or similar programs offered by other states, without success; or
- e. Fails to sign a contract when recommended by the INAPC.

**19.4(4) Discretion.** Eligibility to participate in the program is at the sole discretion of the INAPC. No person is entitled to participate in the program.

**19.4(5) Authority and jurisdiction.** Participation in the program does not divest the board of its authority or jurisdiction over the participant. A participant with an impairment or potential impairment

## NURSING BOARD[655](cont'd)

may be eligible to participate in the program while being subject to investigation or discipline by the board for matters other than the alleged impairment.

**655—19.5(272C) Terms of participation.** A participant shall agree to comply with the INAP terms of participation established in the initial agreement and contract. Participants will be responsible for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

**19.5(1) Duration.** The length of time a participant may participate in the program shall be determined by the INAPC in accordance with the following:

*a.* Participation in the program for participants impaired as a result of a substance use disorder is set at a minimum of three years. The INAPC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's nurse assistance program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.

*b.* Length of participation in the program for participants with impairments resulting from mental or physical conditions will vary depending upon the recommendations provided by an approved licensed health care professional and the determination of the INAPC following review of all relevant information.

**19.5(2) Requirements.** The INAPC shall establish terms designed to meet the specific needs of the participant. The committee shall determine the type of recovery, rehabilitation, or maintenance program required to treat the participant's impairment. The contract shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein. The committee may establish terms specific to a participant's impairment including, but not limited to: treatment, aftercare, worksite monitoring, chemical screening, further evaluations, structured recovery meetings, therapy, and medication management.

**19.5(3) Practice restrictions.** The INAPC may impose restrictions on the license to practice as a term of the initial agreement or contract until such time as the INAPC receives a report from an approved evaluator and the INAPC determines, based on all relevant information, that the participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the initial agreement or contract. In the event the licensee refuses to agree to or comply with the practice restrictions, the committee shall refer the licensee to the board for appropriate action.

**19.5(4) Noncompliance.** Noncompliance is the failure to adhere to the terms of the initial agreement or contract. Participants shall promptly notify the INAPC of any instances of noncompliance, including relapse. Instances of noncompliance shall initially be reviewed by the INAP program coordinator. The INAP program coordinator may refer instances of noncompliance to the INAPC for further review of continued participation in the program. The INAPC may refer instances of noncompliance to the board for possible disciplinary action.

**655—19.6(272C) Limitations.** Participation in the INAP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A participant who violates a statute or board administrative rule which is unrelated to impairment shall be referred to the board for appropriate action.

**655—19.7(272C) Confidentiality.** Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about participants in the program shall not be disclosed except as provided in this rule.

**19.7(1)** The INAPC is authorized, pursuant to Iowa Code section 272C.6(4), to communicate information about a current or former INAP participant to the applicable regulatory authorities or impaired licensee programs in the state of Iowa and in any jurisdiction of the United States or foreign nations in which the participant is currently licensed or in which the participant seeks licensure. INAP participants must report their participation to the applicable nurse assistance program or licensing

## NURSING BOARD[655](cont'd)

authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

**19.7(2)** The INAPC is authorized to communicate information about an INAP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

**19.7(3)** The INAPC is authorized to communicate information about an INAP participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 655—19.5(272C). The INAPC may provide the board with a participant's INAP file in the event the participant does not comply with the terms of the contract and the INAPC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the INAP in the public disciplinary documents. The INAPC is also authorized to communicate information about a participant to the board in the event the participant is under investigation by the board.

**19.7(4)** The INAPC is authorized to communicate information about a current or former INAP participant to the board if reliable information held by the INAPC reasonably indicates a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

**655—19.8(28E) Authority for 28E agreements.** The INAPC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions who self-report and to report to those professional licensing boards regarding the compliance of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action.

These rules are intended to implement Iowa Code sections 272C.3(1) "k," 272C.6(4) and 28E.4.

**ARC 2094C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76, 151.11 and 272C.3, the Board of Chiropractic hereby gives Notice of Intended Action to amend Chapter 44, "Continuing Education for Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

These amendments propose a new subrule establishing unprofessional conduct or behavior as grounds for discipline that may be imposed by the Board on licensed chiropractors in the state of Iowa. The amendments also remove an outdated provision that has become obsolete.

Any interested person may make written comments on the proposed amendments no later than August 25, 2015, addressed to Susan Reynolds, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail to [susan.reynolds@idph.state.ia.us](mailto:susan.reynolds@idph.state.ia.us).

A public hearing will be held on August 25, 2015, from 9 to 9:30 a.m. in Conference Room 513, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Division of Professional Licensure are subject to the waiver provisions accorded under 645—Chapter 18.

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

These amendments are intended to implement Iowa Code chapters 147, 151 and 272C.

The following amendments are proposed.

ITEM 1. Amend subparagraph **44.3(2)“a”(1)** as follows:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. ~~Beginning with the July 1, 2012, to June 30, 2014, renewal cycle, on-line instruction may qualify for “live” continuing education credit if provided by a Council on Chiropractic Education (CCE)-accredited chiropractic college in the United States, the Iowa Chiropractic Society, the American Chiropractic Association, or the International Chiropractors Association or if certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB). The remaining 12 hours may be obtained by independent study, including any on-line instruction.~~ Beginning with the July 1, 2014, to June 30, 2016, renewal cycle, at least 20 of these hours shall be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any on-line instruction, that complies with conditions specified in 645—44.1(151).

ITEM 2. Adopt the following **new** subrule 45.2(31):

**45.2(31)** Unprofessional conduct or behavior. A chiropractor shall not exhibit unprofessional behavior in connection with the practice of chiropractic. Unprofessional behavior shall include, but not be limited to, the following acts: verbal abuse, coercion, intimidation, harassment, sexual advances, threats, degradation of character, indecent or obscene conduct, requesting patient records without a medical justification, and theft.

**ARC 2083C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapters 135, 136A, 139A, 141A and 144, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 1, “Reportable Diseases, Poisonings and Conditions, and Quarantine and Isolation,” Iowa Administrative Code.

The proposed amendments add language to protect the confidentiality of a subject during a contested case hearing; remove references to outdated guidance documents; add language about specimens for which the fee charged by the state hygienic laboratory shall be waived, to clarify Iowa Code section 263.8 and 681—subrule 5.3(1); add microcystin toxin poisoning to the list of reportable poisonings and conditions in Appendix B; and provide clarification of existing language throughout the chapter.

In addition, several modifications are being made to Appendix A. The following reportable communicable and infectious diseases have been removed from Appendix A: Enterococcus invasive disease; group A Streptococcus invasive disease; Staphylococcus aureus invasive disease: methicillin-resistant invasive disease; Streptococcus pneumoniae invasive disease; toxic shock syndrome; and trichinosis. The following reportable communicable and infectious diseases have been added to Appendix A: Q fever; tularemia; viral hemorrhagic fever; and vancomycin intermediate Staphylococcus

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

aureus/vancomycin-resistant Staphylococcus aureus. In addition, reporting requirements for the following reportable communicable and infectious diseases have been clarified in Appendix A: anthrax; botulism; chlamydia; gonorrhea; mosquito-borne diseases; tickborne diseases; and tuberculosis.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 25, 2015. Such written materials should be directed to Ann Garvey, Center for Acute Disease Epidemiology, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-5698 or e-mail [Ann.Garvey@idph.iowa.gov](mailto:Ann.Garvey@idph.iowa.gov).

Also, there will be a public hearing on Tuesday, August 25, 2015, from 1 to 2 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The public hearing will originate from Rooms 517 and 518 on the fifth floor of the Lucas State Office Building, Des Moines, Iowa, and will be accessible over the Iowa Communications Network (ICN) teleconference system by calling 1-866-685-1580 and entering the conference code 5152815099 when prompted.

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

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

These amendments are intended to implement Iowa Code chapters 135, 136A, 139A, 141A and 144. The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Microcystin toxin” and “Microcystin toxin poisoning” in rule **641—1.1(139A)**:

“*Microcystin toxin*” means the toxin that is released by blue-green algae or cyanobacteria.

“*Microcystin toxin poisoning*” means any acute or subacute systemic, ophthalmologic, or dermatologic illness or injury resulting from or suspected of resulting from inhalation, ingestion, or dermal exposure to toxins associated with a blue-green algae or cyanobacteria bloom in water.

ITEM 2. Amend rule **641—1.1(139A)**, definitions of “Infectious tuberculosis,” “Quarantine” and “Sexually transmitted disease or infection,” as follows:

“*Infectious tuberculosis*” means pulmonary or laryngeal tuberculosis as evidenced by:

1. Isolation of *M. tuberculosis* complex (positive culture) from a clinical specimen or positive nucleic acid amplification test, or

2. Both radiographic evidence of tuberculosis, such as an abnormal chest X-ray, and clinical evidence, such as a positive skin test or whole blood assay test for tuberculosis infection, coughing, sputum production, fever, or other symptoms compatible with infectious tuberculosis that lead a ~~physician~~ health care provider to diagnose infectious tuberculosis according to currently acceptable standards of medical practice and to initiate treatment for tuberculosis.

“*Quarantine*” means the limitation of freedom of movement of persons or animals that have been exposed to a quarantinable disease within specified limits marked by placards, if necessary, for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a quarantinable disease which affects people.

“*Sexually transmitted disease or infection*” or “*STI*” means a disease or infection as identified by this chapter that is transmitted through sexual practices. “Sexually transmitted disease or infection” includes, but is not limited to, acquired immunodeficiency syndrome (AIDS), chlamydia, gonorrhea, hepatitis B, hepatitis C, human immunodeficiency virus (HIV), human papillomavirus, and syphilis.

ITEM 3. Adopt the following **new** paragraph **1.4(2)“m”**:

*m.* The treatment provided for the reportable disease (for STIs only).

ITEM 4. Amend paragraph **1.6(2)“g”** as follows:

*g.* The ~~patient's~~ patient's telephone number.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 5. Amend rule 641—1.8(139A) as follows:

**641—1.8(139A) Isolation and quarantine.** Isolation and quarantine should be consistent with guidelines provided by the Centers for Disease Control and Prevention's ~~2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, June 2007;~~ <http://www.cdc.gov/ncidod/dhqp/pdf/guidelines/Isolation2007.pdf> Prevention.

ITEM 6. Amend paragraphs **1.9(1)**“a,” “b,” “d” and “e” as follows:

a. A health care provider who attends an individual with a suspected or active quarantinable disease shall make all reasonable efforts in accordance with guidance from a local health department or the department to examine or cause all household and other known contacts of the individual to be examined by a physician health care provider. ~~The physician health care provider~~ shall promptly report to the department the results of such examination. If the individual refuses or is unable to undergo examination, the health care provider shall promptly report such information to the department.

b. When required by the department, all contacts ~~not examined by a physician~~ of an individual who has a suspected or active quarantinable disease, including all adult and minor contacts, shall submit to a diagnostic test or tests or other monitoring. If any suspicious abnormality is found, steps satisfactory to the department shall be taken to refer the individual promptly to a physician health care provider or appropriate medical facility for further evaluation and, if necessary, treatment. The department or the referring health care provider or facility shall notify the receiving health care provider or facility of the suspicious abnormality. When requested by the department, a physician health care provider shall report the results of the examination of a contact to the case or suspected case or incident. If an individual with a suspected or active quarantinable disease fails to comply with a department order to submit to diagnostic testing or monitoring, such individual may be ordered to be quarantined or isolated as determined by the department.

d. A person diagnosed with or clinically suspected of having infectious tuberculosis shall complete voluntary treatment until, in the opinion of the ~~attending physician~~ health care provider or the state public health medical director and epidemiologist, the person's tuberculosis is cured or such person is no longer a threat to public health. If such person refuses to complete the course of voluntary treatment, the department or local board of health may issue an order compelling mandatory treatment. Such order shall include the identity of the person subject to the mandatory treatment order, a description of the treatment ordered, the medical basis upon which the treatment is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory treatment order may be subject to the penalties provided in Iowa Code section 135.38 or ~~137.21~~ 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

e. A person diagnosed with extrapulmonary tuberculosis or clinically suspected of having infectious tuberculosis who fails to comply with a ~~physician's health care provider's~~ health care provider's recommendation for diagnostic testing may be ordered to undergo diagnostic testing by the department or local board of health. Such order shall include the identity of the person subject to mandatory diagnostic testing, a description of the diagnostic testing ordered, the medical basis upon which the diagnostic testing is ordered, and a description of the potential medical and legal consequences of violating such order. A person who violates a mandatory diagnostic testing order may be subject to the penalties provided in Iowa Code section 135.38 or ~~137.21~~ 137.117 and may be placed under mandatory quarantine or isolation in accordance with the provisions of this chapter.

ITEM 7. Amend paragraphs **1.9(4)**“a” and “b” as follows:

a. ~~Sites~~ If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

b. An individual subject to isolation or quarantine shall obey the rules and orders of the department or the local board of health and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 8. Amend subparagraph **1.9(6)“a”(1)** as follows:

(1) The department, through the director, the department's medical director, or the director's or medical director's designee, may:

1. Isolate individuals or groups of individuals who are presumably or actually infected with a quarantinable disease; and

2. Quarantine individuals or groups of individuals who have been exposed to a quarantinable disease, including individuals who are unable or unwilling to undergo examination, testing, vaccination, or treatment, pursuant to Iowa Code section ~~135.144(9)~~ 135.144.

ITEM 9. Amend paragraph **1.9(7)“c”** as follows:

*c. Proceeding.* The contested case hearing shall be conducted in accordance with the provisions contained at 641—Chapter 173. The hearing shall be held as soon as is practicable, and in no case later than ten days from the date of receipt of the appeal. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the communicable or possibly communicable disease. In extraordinary circumstances and for good cause shown, the department may apply to continue the hearing date for up to ten additional days on a petition filed pursuant to this rule. The presiding officer may use discretion in granting a continuance giving due regard to the rights of the affected individuals, the protection of the public's health, and the availability of necessary witnesses and evidence. Pursuant to Iowa Code sections 139A.3(2) and 22.7(16), the hearing shall be closed to the public at the discretion of the subject of the order. If the hearing is closed to the public, the department's final decision shall redact information which could lead to the identification of the subject of the order.

ITEM 10. Amend paragraphs **1.12(5)“a”** and **“b”** as follows:

*a. Sites* If deemed appropriate by the department, sites of isolation or quarantine shall be prominently placarded with isolation or quarantine signs prescribed and furnished by the department and posted on all sides of the building wherever access is possible.

*b.* An individual subject to isolation or quarantine shall obey the rules and orders of the board and shall not go beyond the isolation or quarantine premises unless expressly authorized to do so by the order.

ITEM 11. Amend subrule 1.14(2) as follows:

**1.14(2) What to report.** The content of the reports shall include, but not be limited to, follow-up data and demographic, diagnostic, treatment, and other medical information. ~~Tissue samples may also be submitted under the authority of this rule.~~

ITEM 12. Amend subrule 1.17(3) as follows:

**1.17(3)** Reportable disease records and information, with the exception of AIDS and HIV records, which identify a person or a business named in a report, may be disclosed under the following limited circumstances:

*a.* No change.

*b.* By and between department employees and agents and local boards of health and local health departments as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

*c.* By and between department employees and agents and health care providers, laboratories, and hospitals as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

*d.* By and between department employees and agents and employees and agents of federal, state, and local agencies as necessary to conduct an investigation or to enforce a department order or an order of a local board of health.

*e.* and *f.* No change.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 13. Adopt the following **new** division heading to precede rule 641—1.18(135,139A):

## STATE HYGIENIC LABORATORY

ITEM 14. Adopt the following **new** rule 641—1.18(135,139A):

**641—1.18(135,139A) Specimens for which the fee charged by the state hygienic laboratory shall be waived.**

**1.18(1) Purpose.** Iowa Code section 263.8 and 681—subrule 5.3(1) provide that the state hygienic laboratory shall perform without charge all bacteriological, serological, and epidemiological examinations and investigations which are required by the department and established in rule, including specimens relating to diseases communicable from human to human and from animals to human and any specimen when there is probable cause that a direct threat to public health exists. The purpose of this rule is to designate those examinations which shall be performed by the state hygienic laboratory without charge pursuant to these legal authorities.

**1.18(2) Acute infectious diseases.** Regardless of the entity that submits the specimen, the following examinations shall be performed by the state hygienic laboratory without charge:

- a. Anthrax;
- b. Botulism;
- c. Cholera;
- d. Diphtheria;
- e. Haemophilus influenzae type B invasive disease;
- f. Measles;
- g. Meningococcal invasive disease;
- h. Pulsed-field gel electrophoresis (PFGE) (Listeria, Salmonella, E. coli);
- i. Plague;
- j. Poliomyelitis;
- k. Rabies, animal (human exposure only);
- l. Rabies, human;
- m. Smallpox;
- n. Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA) confirmation;
- o. Tuberculosis (exception: QuantiFERON-TB Gold testing that is not associated with contact investigation);
- p. Viral hemorrhagic fever;
- q. Yellow fever; and
- r. Under any of the following circumstances:
  - (1) All outbreaks (respiratory and enteric pathogens, and environmental contaminants where justified) shall be reported to the department, and the department will instruct the state hygienic laboratory to waive the fee.
  - (2) Periodic confirmations at the request of the department.
  - (3) All situations where negative stool cultures are being requested for public health purposes.
  - (4) When the state hygienic laboratory is specifically funded to do testing.

**1.18(3) Sexually transmitted disease and infections and HIV/AIDS.** The following examinations shall be performed by the state hygienic laboratory without charge if the following defined criteria have been met and if the specimen was sent to the state hygienic laboratory from sites approved by and submitted to the laboratory by the department:

- a. Chlamydia and gonorrhea.
  - (1) All individuals 24 years of age or younger.
  - (2) Individuals above the age of 24 with any of the following:
    - 1. New or multiple sex partners in the last 90 days;
    - 2. Persons with reported symptoms consistent with chlamydia or gonorrhea;

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

3. Persons with observed clinical signs consistent with chlamydia or gonorrhea or pelvic inflammatory disease (PID);
  4. Persons recently diagnosed with another sexually transmitted infection (STI);
  5. Persons who have a sex partner in one of the other risk groups (new or multiple partners, STI diagnosis); or
  6. Women presenting for an intrauterine device (IUD) insertion.
- (3) Persons who have tested positive within the last four months (i.e., retesting).
  - (4) Persons diagnosed with gonorrhea and treated with alternative regimens as defined by the Centers for Disease Control and Prevention (CDC) (i.e., tests of cure).
- b.* Hepatitis B. All unvaccinated individuals at increased risk, including:
    - (1) Men who have sex with men;
    - (2) HIV-positive persons; or
    - (3) Persons who have ever injected drugs.
  - c.* Maternal hepatitis B.
    - (1) Testing related to case management of HBsAG-positive pregnant women;
    - (2) Household contacts of HBsAG-positive pregnant women tested for infection or immunity (HBsAG, anti-HBs);
    - (3) Children born to HBsAG-positive women (postvaccination serology testing).
  - d.* Hepatitis C. All individuals at increased risk, including:
    - (1) Persons who have injected drugs;
    - (2) Injection drug users who share needles or other equipment;
    - (3) Persons who received blood, blood products, or an organ transplant prior to 1992; or
    - (4) Persons ever on long-term hemodialysis.
  - e.* Herpes simplex virus. Individuals who present with clinical signs of genital herpes.
  - f.* Human immunodeficiency virus (HIV). All individuals at increased risk, including:
    - (1) Men who have sex with men;
    - (2) Disproportionately impacted populations (as determined by the department based on epidemiological data);
    - (3) Injection drug users;
    - (4) Persons who exchange sex for drugs or money; or
    - (5) Persons with an STI diagnosis within the last 12 months or someone who has a partner in another risk group (IDU, MSM, recent STI, exchange sex for drugs or money).
  - g.* Syphilis.
    - (1) All individuals at increased risk, including:
      1. Men who have sex with men;
      2. Persons diagnosed with other STIs;
      3. Persons who exchange sex for drugs or money; or
      4. Persons who have recently been treated for syphilis to monitor serologic response (titers) at intervals recommended by the CDC.
    - (2) All pregnant women at first prenatal visit. Tests that are initially reactive will be followed up with a secondary test of different methodology to assist with diagnosis and staging of the infection (i.e., specimens reactive using a nontreponemal test will be analyzed using a treponemal test). Testing should be repeated in the third trimester for women at high risk of having been exposed to the infection.

ITEM 15. Amend **641—Chapter 1**, Appendix A, as follows:

**APPENDIX A**  
**Iowa Department of Public Health**  
**Table of Reportable Communicable and Infectious Diseases**

Report cases of the diseases listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

**To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.**

**IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.**

**IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases.** Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

**Report diseases by:**

Entering into the Iowa Disease Surveillance System (IDSS): For IDSS-related questions, call the Center for Acute Disease Epidemiology (CADE) at 1-800-362-2736.

Fax: (515)281-5698

Mail:

Iowa Department of Public Health  
Center for Acute Disease Epidemiology  
Lucas State Office Building  
321 E. 12th Street  
Des Moines, Iowa 50319

Isolates Specimens shall be sent to:

University State Hygienic Laboratory at the University of Iowa (SHL)  
102 Oakdale Campus, H101-OH  
Iowa City, Iowa 52242  
U of I Research Park  
2490 Crosspark Road  
Coralville, Iowa 52241-4721

For specimen submission questions, call (319)335-4500 or go to <http://www.uhl.uiowa.edu/>  
<http://www.shl.uiowa.edu>.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Acquired immune deficiency syndrome (AIDS) and AIDS-defining conditions	7 days	<p><u>Report by mail</u> Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <p><b>For HIV/AIDS-related questions, call (515)242-5141</b></p>
Anthrax	1-day <b>Immediately</b>	Phone, IDSS, or fax 24/7 disease reporting telephone hotline: 1-800-362-2736
Arboviral disease (includes West Nile Disease, St. Louis, LaCrosse, WEE, EEE, VEE encephalitis)	3 days	Phone, IDSS, fax or mail
Botulism (including infant botulism)	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Brucellosis (Brucella)	3 days	Phone, IDSS, fax or mail
Campylobacteriosis (Campylobacter)	3 days	Phone, IDSS, fax or mail
Chlamydia	3 days	<p>Use the Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> Fax (515)725-1278 Phone (515)281-3031 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>Mark envelope "Attention 00"</li> </ul>
Cholera	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Cryptosporidiosis	3 days	Phone, IDSS, fax or mail
Cyclospora	3 days	Phone, IDSS, fax or mail
Diphtheria	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
<del>Enterococcus invasive disease</del>	3 days	<del>Laboratories send isolate to the UHL</del>
Escherichia coli shiga toxin-producing and related diseases (includes HUS and TTP)	3 days	Phone, IDSS, fax or mail <del>Laboratories send isolate specimen to the UHL</del> <u>SHL</u>
Giardiasis (Giardia)	3 days	Phone, IDSS, fax or mail
Gonorrhea	3 days	<p>Use the Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> Fax (515)725-1278 Phone (515)281-3031 <u>Mail</u></p> <ul style="list-style-type: none"> <li>Use the Iowa Confidential Report of Sexually Transmitted Disease</li> <li>Mark envelope "Attention 00"</li> </ul>

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Diseases	When to Report	How to Report
Group A <i>Streptococcus</i> invasive disease	3 days	Send isolate to the UHL
<i>Haemophilus influenzae</i> type B invasive disease	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send <u>isolate specimen</u> to the <del>UHL</del> SHL
Hansen's disease (leprosy)	3 days	Phone, IDSS, fax or mail
Hantavirus syndromes	3 days	Phone, IDSS, fax or mail
Hepatitis A	1 day	Phone, IDSS or fax
Hepatitis B, C, D, E	3 days	Phone, IDSS, fax or mail
Human immunodeficiency virus (HIV) cases  Death of a person with HIV  Perinatally exposed newborn and child (newborn and child who was born to an HIV-infected mother)	7 days	<b>Report by mail</b> Report by one of the following methods: Phone (515)242-5141 or (515)281-6918 Mail <ul style="list-style-type: none"> <li>• Health care providers: use the Pediatric or Adult Confidential Case Report Form</li> <li>• Laboratories: send copy of lab report or the Iowa Confidential Report of Sexually Transmitted Disease &amp; HIV Infection. Mark envelope "Attention 03"</li> </ul> <b>For HIV/AIDS-related questions, call (515)242-5141</b>
Legionellosis ( <i>Legionella</i> )	3 days	Phone, IDSS, fax or mail
<i>Listeria monocytogenes</i> invasive disease	1 day	Phone, IDSS, or fax Laboratories send <u>isolate specimen</u> to the <del>UHL</del> SHL
Lyme disease	3 days	<del>Phone, IDSS, fax or mail</del>
Malaria	3 days	Phone, IDSS, fax or mail
Measles (rubeola)	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Meningococcal invasive disease	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736 Laboratories send <u>isolate specimen</u> to the <del>UHL</del> SHL
<u>Mosquito-borne diseases (includes chikungunya, dengue, eastern equine encephalitis, La Crosse, St. Louis, Venezuelan equine encephalitis, West Nile, and western equine encephalitis)</u>	<u>3 days</u>	<u>Phone, IDSS, fax or mail</u>
Mumps	3 days	Phone, IDSS, fax or mail
Pertussis	3 days	Phone, IDSS, fax or mail
Plague	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Poliomyelitis	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Psittacosis	3 days	Phone, IDSS, fax or mail
<u>Q fever</u>	<u>3 days</u>	<u>Phone, IDSS, fax or mail</u>
Rabies, animal	3 days	Phone, IDSS, fax or mail
Rabies, human	<b>Immediately</b>	24/7 disease reporting telephone hotline: 1-800-362-2736
Rocky Mountain spotted fever	3 days	<del>Phone, IDSS, fax or mail</del>
Rubella (including congenital)	1 day	Phone, IDSS, <u>or fax or mail</u>

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

<b>Diseases</b>	<b>When to Report</b>	<b>How to Report</b>
Salmonellosis (Salmonella)	3 days	Phone, IDSS, fax or mail Laboratories send <u>isolate specimen</u> to the <del>UHL</del> <u>SHL</u>
Severe acute respiratory syndrome (SARS)	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
Shigellosis (Shigella)	3 days	Phone, IDSS, fax or mail Laboratories send <u>isolate specimen</u> to the <del>UHL</del> <u>SHL</u>
Smallpox	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
<del>Staphylococcus aureus invasive disease: Methicillin-resistant invasive disease (number of S. aureus isolates should be reported to the department quarterly)</del>	<del>3 days</del>	<del>Laboratories send isolate to the UHL Mail the number of staphylococcus isolated quarterly to UHL</del>
<u>Vancomycin-resistant S. aureus</u>	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>800-362-2736</u>
<u>Streptococcus pneumoniae invasive disease</u>	3 days	Laboratories send isolate to the UHL
Syphilis	3 days	Use the <u>Iowa Confidential Report of Sexually Transmitted Disease and HIV Infection</u> Report by one of the following methods: <u>Secure electronic data system (as determined by the Department)</u> <u>Fax (515)725-1278</u> <u>Phone (515)281-3031</u> <u>Mail</u> <ul style="list-style-type: none"> <li>• <u>Use the Iowa Confidential Report of Sexually Transmitted Disease</u></li> <li>• <u>Mark envelope "Attention 00"</u></li> </ul>
Tetanus	3 days	Phone, IDSS, fax or mail
<u>Tickborne diseases (includes anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, and Rocky Mountain spotted fever)</u>	3 days	Phone, IDSS, fax or mail
<u>Toxic Shock Syndrome</u>	3 days	Phone, IDSS, fax or mail
<u>Trichinosis</u>	3 days	Phone, IDSS, fax or mail
<u>Tuberculosis, pulmonary and laryngeal (infectious)</u>	1 day	Phone (515)281-7504 or fax to (515)281-4570
<u>Tuberculosis, extrapulmonary</u>	3 days	Phone, IDSS, (515)281-7504 or fax or mail to (515)281-4570
<u>Tularemia</u>	3 days	Phone, IDSS or fax
Typhoid fever	1 day	Phone, IDSS or fax
<u>Vancomycin intermediate Staphylococcus aureus (VISA) and vancomycin-resistant Staphylococcus aureus (VRSA)</u>	1 day	Phone, IDSS or fax
<u>Viral hemorrhagic fever (VHF) (e.g., Lassa, Marburg, Ebola, and Crimean-Congo)</u>	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>
Yellow fever	<b>Immediately</b>	24/7 disease reporting telephone hotline: <u>1-800-362-2736</u>

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 16. Amend 641—Chapter 1, Appendix B, as follows:

**APPENDIX B**  
**Iowa Department of Public Health**  
**Table of Reportable Poisonings and Conditions**

Report cases of the poisonings and conditions listed in the following table to the department within the time frame specified in the When to Report column and by the reporting method in the How to Report column.

**To report diseases immediately, use the 24/7 disease reporting telephone hotline: 1-800-362-2736.**

**IMMEDIATELY report diseases, syndromes, poisonings and conditions of any kind suspected or caused by a biological, chemical, or radiological agent or toxin when there is reasonable suspicion that the disease, syndrome, poisoning or condition may be the result of a deliberate act such as terrorism.**

**IMMEDIATELY report to the department outbreaks of any kind, diseases that occur in unusual numbers or circumstances, unusual syndromes, or uncommon diseases.** Outbreaks may be infectious, environmental or occupational in origin and include food-borne outbreaks or illness secondary to chemical exposure (e.g., pesticides, anhydrous ammonia).

**Mailing address:**

**Bureau of ~~Lead Poisoning Prevention Division of Environmental Health Services~~**  
**Iowa Department of Public Health**  
**321 East 12th Street**  
**Des Moines, Iowa 50319-0075**

**Telephone: 1-800-972-2026**

**Fax: (515)281-4529**

Poisoning or Condition	Cases to Report	When to Report	How to Report
Arsenic poisoning	Blood arsenic values equal to or greater than 70 µg/L Urine arsenic values equal to or greater than 100 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Blood lead testing	All analytical results greater than or equal to 20 micrograms per deciliter (µg/dL) in a child under the age of 6 years or a pregnant woman	Daily	By telephone: 1-800-972-2026
	All other analytical values for all blood lead analyses	Weekly	Electronic format specified by the department
Cadmium poisoning	Blood cadmium values equal to or greater than 5 µg/L Urine cadmium values equal to or greater than 3 µg/g of creatinine	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Poisoning or Condition	Cases to Report	When to Report	How to Report
Carbon monoxide (CO) poisoning	Blood carbon monoxide level equal to or greater than 10% carboxyhemoglobin or its equivalent with a breath analyzer test, or a clinical diagnosis of CO poisoning regardless of any test results	Daily	By telephone: <u>1-800-972-2026</u>
Hypersensitivity pneumonitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Mercury poisoning	Blood mercury values equal to or greater than 2.8 µg/dL Urine mercury values equal to or greater than 20 µg/L	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Methemoglobinemia	Blood analyses showing greater than 5% of total hemoglobin present as methemoglobin	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
<u>Microcystin toxin poisoning</u>	<u>All cases</u>	<u>Weekly</u>	<u>Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.</u>
Noncommunicable respiratory illness	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Occupationally related asthma, bronchitis or respiratory hypersensitivity reaction	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Pesticide poisoning (including pesticide-related contact dermatitis)	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Severe skin disorder	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.
Toxic hepatitis	All cases	Weekly	Format specified by department. Web-based reporting if available. Alternatives include by mail, telephone, and facsimile.

**ARC 2082C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.131, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 3, “Early Hearing Detection and Intervention,” Iowa Administrative Code.

This chapter contains rules for the universal hearing screening of all newborns and infants in Iowa and the transfer of data to the Department to enhance the capacity of agencies and practitioners to provide services to children and their families. The goal of universal hearing screening of all newborns and infants in Iowa is early detection of hearing loss to allow children and their families the earliest opportunity to obtain appropriate early intervention services.

These amendments further define roles and responsibilities of the Department and providers for infants who did not receive a newborn hearing screening or did not pass their hearing screening and require follow-up; clarify who is eligible to perform hearing screens on infants and children under the age of three; add language to accommodate parental objection beyond the newborn hearing screening if an infant does not pass the hearing screening at birth; update Iowa Code citations; and outline the role of the Early Hearing Detection and Intervention (EHDI) Advisory Committee members, including service, attendance and voting. The changes facilitate timely follow up for infants in need of a hearing screening, rescreening or diagnostic assessment and help avoid unnecessary contact with parents and providers. The proposed changes also allow the Iowa EHDI program to monitor the quality of care and assist the Department in providing recommendations for improving care. These amendments further define the composition and role of the EHDI Advisory Committee and bring language into alignment with Iowa Code chapter 17A to offer better transparency in the operations of the Committee. All amendments have been reviewed and input gathered from the EHDI Advisory Committee members.

Persons may present their views either orally or in writing. Any interested person may make written suggestions or comments on the proposed amendments by August 25, 2015. Written comments should be directed to Tammy O’Hollearn, Iowa Early Hearing Detection and Intervention Coordinator, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [Tammy.OHollearn@idph.iowa.gov](mailto:Tammy.OHollearn@idph.iowa.gov).

A public hearing will be held on Wednesday, August 26, 2015, from 9 to 10 a.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The public hearing will originate from Room 523 on the fifth floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, and will also be accessible by telephone by calling 1-866-685-1580. Enter conference code 5152816466 followed by the # sign when prompted.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing impairments, should contact the Department of Public Health and advise of specific needs by Wednesday, August 19, 2015.

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

These amendments are intended to implement Iowa Code section 135.131.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 3**, title, as follows:

**EARLY HEARING DETECTION AND INTERVENTION (EHDI) PROGRAM**

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 2. Adopt the following **new** definitions in rule **641—3.1(135)**:

“*Audiology assistant*” means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in 645—Chapter 300.

“*Audiometrist*” means a technician who has received special training in the use of pure-tone audiometry equipment. An audiometrist conducts the hearing tests selected and interpreted by an audiologist, who supervises the process.

“*Health care professional*” means a licensed physician, nurse practitioner, physician assistant, certified midwife, registered nurse, licensed practical nurse, patient care technician, certified nursing assistant, licensed audiologist, audiology assistant, audiometrist, hearing aid specialist, speech-language pathologist or other licensed or certified professional for whom hearing screening is within the professional’s scope of practice.

“*Primary care provider*” means a licensed physician, nurse practitioner, physician assistant or certified midwife who undertakes primary pediatric care responsibility for an infant or child to provide ongoing medical care and referrals to promote overall health and well-being.

ITEM 3. Amend rule **641—3.1(135)**, definitions of “Discharge,” “Initial screening,” “Protocol” and “Provider,” as follows:

“*Discharge*” means a release from a birthing hospital to the parent or legal guardian of the child.

“*Initial screening*” or “*newborn hearing screening*” means a ~~newborn hearing screening performed during the birth admission for an infant born in a birthing hospital, birth center or the first newborn hearing screening performed on a newborn born in a facility other than a birthing hospital within the first month of life.~~

“*Protocol*” means a document which guides decision making and provides the criteria to be used regarding screening, diagnosis, management, and treatment of children related to hearing health care. Early hearing detection and intervention protocols not otherwise specified in this chapter are available on the department’s Web site at <http://www.idph.state.ia.us/iaehdi/professionals.asp> [www.idph.iowa.gov](http://www.idph.iowa.gov).

“*Provider*” means a licensed audiologist, otolaryngologist or hearing aid ~~dispenser~~ specialist who agrees to provide hearing aids or audiologic services to eligible patients.

ITEM 4. Amend rule 641—3.2(135) as follows:

**641—3.2(135) Purpose.** The overall purpose of this chapter is to establish administrative rules in accordance with Iowa Code section 135.131 ~~as amended by 2009 Iowa Acts, House File 314, division H,~~ relative to the following:

1. Universal hearing screening of all newborns and infants in Iowa.
2. Facilitating the transfer of data to the department to enhance the capacity of agencies and practitioners to provide services to children and their families.
3. Establishing procedures for infants who were not screened or do not pass their initial hearing screening to receive appropriate follow-up to determine if the infants have normal hearing or have hearing loss.
- ~~3- 4.~~ Establishing the procedure for distribution of funds to support the purchase of hearing aids and audiologic services for children in accordance with 2009 Iowa Acts, House File 811, section 60(2)“e.”.

ITEM 5. Amend subrule 3.4(1) as follows:

**3.4(1)** ~~The early hearing detection and intervention (EHDI) coordinator assigned within the department provides administrative oversight to, including follow-up activities, for the early hearing detection and intervention~~ EHDI program within Iowa.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 6. Rescind and reserve paragraphs **3.4(2)**“a” and “b.”

ITEM 7. Amend subrule 3.4(3) as follows:

**3.4(3)** The ~~early hearing detection and intervention~~ EHDI program has an association with the Iowa Title V maternal and child health programs to promote comprehensive services for infants and children with special health care needs.

ITEM 8. Adopt the following **new** subrule 3.4(4):

**3.4(4)** The EHDI program provides hearing screening surveillance and follow-up for infants and children under the age of three. Follow-up may include:

a. Contact with the parent or legal guardian of an infant who was not screened or does not pass the initial hearing screening, outpatient hearing screening or diagnostic audiologic assessment.

b. Contact with the infant’s primary care provider to ensure the infant receives appropriate follow-up no later than the recommended time line as outlined in the Joint Committee on Infant Hearing position statement at [www.jcih.org](http://www.jcih.org).

c. Contact with the birthing hospital or health care professional for inquiries on missing results, data entry discrepancies and recommendations for additional referrals.

d. Referrals to family support or early intervention service providers for infants or toddlers diagnosed with a hearing loss.

e. Technical assistance to birthing facilities, primary care providers and health care professionals regarding best practices related to newborn hearing screening, diagnosis and follow-up best practices.

ITEM 9. Amend subrule 3.6(1) as follows:

**3.6(1)** Each birthing hospital shall designate an employee of the hospital to be responsible for the newborn hearing screening program in that institution. If a birthing hospital contracts with a third party for newborn screening services, the hospital retains ultimate responsibility for screening and reporting.

ITEM 10. Amend subrules 3.6(4) to 3.6(7) as follows:

**3.6(4)** Newborn hearing screening shall be performed by ~~an audiologist, audiology assistant, audiometrist, registered nurse, licensed physician, or other person for whom newborn hearing screening is within the person’s scope of practice~~ a health care professional.

**3.6(5)** The birthing hospital shall report newborn hearing screening results to the parent or guardian in written form.

**3.6(6)** The birthing hospital shall report newborn hearing screening results to the department ~~in a manner prescribed in~~ pursuant to 641—3.9(135).

**3.6(7)** The birthing hospital shall report the results of the hearing screening to the primary care provider of the newborn or infant upon the newborn’s or infant’s discharge from the birthing hospital. If the newborn or infant was not tested prior to discharge, the birthing hospital shall report the status of the hearing screening to the primary care provider of the newborn or infant.

ITEM 11. Amend subrules 3.7(2) to 3.7(5) as follows:

**3.7(2)** Prior to discharge of the newborn, each birth center shall refer every newborn delivered in the birth center to ~~an audiologist, physician, or hospital~~ a health care professional for a newborn hearing screening. Before discharge of the newborn, the birth center shall arrange an appointment for the newborn hearing screening no more than 15 days from the date of discharge and report the appointment time, date and location to the parent ~~the appointment time, date, and location~~.

**3.7(3)** The facility health care professional to ~~which~~ whom the newborn is referred for screening shall complete the screening within 30 days of the newborn’s discharge from the birth center, unless the parent fails to attend the appointment. If the parent fails to attend the appointment, the facility health care professional shall document such failure in the medical or educational record and shall report such failure to the department.

**3.7(4)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

**3.7(5)** The ~~person~~ health care professional who completes the newborn hearing screening shall report screening results to the department ~~in the manner prescribed in~~ pursuant to 641—3.9(135).

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 12. Renumber subrule **3.7(6)** as **3.7(7)**.

ITEM 13. Adopt the following **new** subrule 3.7(6):

**3.7(6)** The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

ITEM 14. Amend subrules 3.8(1) to 3.8(3) as follows:

**3.8(1)** ~~A physician or other health care professional~~ The primary care provider who undertakes primary pediatric care of a newborn delivered in a location other than a birthing hospital or birth center shall refer the newborn to ~~an audiologist, physician, or hospital~~ a health care professional for completion of the newborn hearing screening ~~within three months of the newborn's birth~~ no later than one month of age. The health care professional ~~who undertakes primary pediatric care of the newborn~~ shall arrange an appointment for the newborn hearing screening and report to the parent the appointment time, date, and location.

**3.8(2)** ~~The person~~ health care professional who completes the newborn hearing screening shall report screening results to the parent in written form.

**3.8(3)** ~~The person~~ health care professional who completes the newborn hearing screening shall report screening results to the department ~~in the manner prescribed in~~ pursuant to 641—3.9(135). If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

ITEM 15. Renumber subrule **3.8(4)** as **3.8(5)**.

ITEM 16. Adopt the following **new** subrule 3.8(4):

**3.8(4)** The health care professional who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the newborn or infant.

ITEM 17. Amend rule 641—3.9(135), introductory paragraph, as follows:

**641—3.9(135) Reporting hearing screening results and information to the department and child's primary care provider.** Any birthing hospital, birth center, physician, audiologist or other health care professional required to report information pursuant to Iowa Code section 135.131 ~~as amended by 2009 Iowa Acts, House File 314, division II,~~ shall report all of the following information to the department relating to each newborn's hearing screening within six working days of the birth of the newborn and within six working days of any hearing rescreen, utilizing the department's designated reporting system.

ITEM 18. Amend subrules 3.9(1) and 3.9(6) as follows:

**3.9(1)** The name ~~and~~, date of birth, ~~and~~ gender of the newborn.

**3.9(6)** Known risk indicators for hearing loss of the ~~newborn or infant~~ or child.

ITEM 19. Adopt the following **new** subrules 3.9(7) and 3.9(8):

**3.9(7)** If the parent fails to attend the appointment, the facility shall document such failure in the medical or educational record and shall report such failure to the department.

**3.9(8)** The person who completes the newborn hearing screening shall report the results of the hearing screening to the primary care provider of the infant or child.

ITEM 20. Amend rule 641—3.10(135), introductory paragraph, as follows:

**641—3.10(135) Conducting and reporting screening results and diagnostic audiologic assessments to the department and child's primary care provider.** Any ~~facility, licensed audiologist or~~ health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results within six working days for any child under three years of age to the department utilizing the department's designated reporting system. The ~~facility~~ health care professional shall conduct the diagnostic hearing assessment in accordance with the Pediatric Audiologic Diagnostic Protocol ~~contained at Appendix A~~ prescribed by the department at [www.idph.iowa.gov](http://www.idph.iowa.gov). Results of a hearing screen, rescreen or diagnostic audiologic assessment shall be reported as follows.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 21. Amend paragraph **3.10(1)“a”** as follows:

a. The name ~~and~~, date of birth, and gender of the child.

ITEM 22. Adopt the following **new** paragraphs **3.10(1)“e”** to **“g”**:

e. The date the child is fit with a hearing aid(s) or a cochlear implant(s), if applicable.

f. The date of referral to early intervention, if applicable.

g. The date of referral to family support, if applicable.

ITEM 23. Amend subrule 3.10(5) as follows:

**3.10(5)** Any diagnosis of hearing loss shall also be reported except for transient conductive hearing loss lasting for less than 90 days in the professional judgment of the practitioner. This exception will apply only if the child passed the initial hearing screening or rescreening or had a diagnostic assessment resulting in normal hearing for both ears.

ITEM 24. Adopt the following **new** subrule 3.10(7):

**3.10(7)** Any health care professional conducting newborn hearing screens, rescreens, or diagnostic audiologic assessments shall report the results to the primary care provider of the infant or child.

ITEM 25. Amend rule 641—3.11(135), introductory paragraph, as follows:

**641—3.11(135) Sharing of information and confidentiality.** Reports, records, and other information collected by or provided to the department relating to a child’s newborn hearing screening, rescreen, ~~and~~ diagnostic audiologic assessment, and early intervention enrollment are confidential records pursuant to Iowa Code section 22.7.

ITEM 26. Amend subrule 3.11(1) as follows:

**3.11(1)** Personnel of the department shall maintain the confidentiality of all information and records used in the review and analysis of newborn hearing screenings, rescreens, ~~and~~ diagnostic audiologic assessments, and early intervention enrollment, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

ITEM 27. Amend paragraph **3.11(3)“c”** as follows:

c. A ~~local~~ health care professional or primary care provider.

ITEM 28. Amend subrules 3.13(1) and 3.13(2) as follows:

**3.13(1)** If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian on the department newborn hearing screening or diagnostic assessment refusal form and shall maintain the original copy of the written refusal in the newborn’s ~~or~~, infant’s or child’s medical record.

**3.13(2)** The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written newborn hearing screening or diagnostic assessment refusal form to the department within six days of the birth of the newborn.

ITEM 29. Adopt the following **new** subrule 3.13(3):

**3.13(3)** If a parent objects to a hearing rescreen or diagnostic assessment orally to a department EHDI staff member during follow-up, the staff member shall document the refusal in the department’s designated reporting system and mail to the parent or guardian the department newborn hearing screening or diagnostic assessment refusal form in an attempt to obtain a written refusal to be maintained in the newborn’s, infant’s or child’s medical record.

ITEM 30. Adopt the following **new** rule 641—3.15(135):

**641—3.15(135) Early hearing detection and intervention advisory committee.**

**3.15(1) Membership.** The membership of the advisory committee shall be geographically representative of stakeholders with an interest in and concern for newborn hearing screening and follow-up. The advisory committee shall be appointed by the department director and consist of no more than 25 members and include the state EHDI coordinator. The EHDI coordinator will assist in

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

facilitation of committee meetings. Membership will include a minimum of one representative from each of the following areas:

- a. Advocate (e.g., office of deaf services).
- b. Audiology.
- c. Children with special health care needs program.
- d. Deaf/hard-of-hearing community.
- e. Early intervention services.
- f. Ears, nose and throat specialist/otolaryngologists.
- g. Family support.
- h. Iowa Hospital Association or designee.
- i. Hospitals (preferably hearing screening coordinator).
- j. Parent(s) of deaf or hard-of-hearing child.
- k. Family practice physician.
- l. Pediatrician.
- m. Representation from a state agency that is not the department.

**3.15(2) Meetings.** The committee shall meet three times per year. Location and times will be prescribed by the department.

**3.15(3) Voting.** The committee will make its recommendations by consensus. In the event that consensus cannot be reached within a reasonable time frame, there will be a majority rule, as in a simple majority of those present or more than 50 percent. At least 50 percent of the members must be present.

**3.15(4) Service, vacancies and attendance.**

a. Each committee member is appointed to serve a term of three years. Members may serve longer at the request of the department director unless their absence at meetings exceeds that permitted by the attendance policy. Terms for existing members will begin at the first of the year or as positions vacate. The term for a new member replacing a member before the member's term is up will begin when the vacancy is filled.

b. Vacancies will be filled within six months. The term will begin when the vacancy is filled. The EHDI coordinator will work with advisory committee members, EHDI program staff and associations to identify new members. Names and short biographies will be given to the department director to make a final determination for committee member vacancies.

c. Committee members are expected to be present in person for advisory committee meetings with the exception of extenuating circumstances that have been communicated to the state EHDI coordinator. Any member who cannot attend the scheduled meetings should notify the state EHDI coordinator at least 24 hours prior to the start of the regularly scheduled meeting. If there are extenuating circumstances and a member can send a representative, the member is encouraged to do so. Appointed members may be recommended for dismissal from the committee if the members miss more than two meetings per year.

ITEM 31. Amend subrule 3.18(2) as follows:

**3.18(2)** Funding does not pay for services ~~denied~~ covered by insurance ~~because the applicant received services outside the provider network.~~

ITEM 32. Amend paragraph **3.19(2)“g”** as follows:

g. Parent/guardian's or child's medical insurance plan ~~name~~ coverage.

ITEM 33. Amend paragraph **3.21(7)“a”** as follows:

a. ~~Health Care Financing Administration Form HCFA 1500~~ Centers for Medicare and Medicaid Services Form CMS 1500. Forms will be furnished by the providers and will include the applicant's enrollee number in the upper right-hand corner of the form.

ITEM 34. Rescind and reserve **641—Chapter 3, Appendix A**.

**ARC 2084C****PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 144D.2, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 145, “Iowa Physician Orders for Scope of Treatment,” Iowa Administrative Code.

These proposed rules specify the characteristics of the physician orders for scope of treatment (POST) form and specify who can complete the POST form. These rules also establish the process for the review, modification, and posting of the POST form.

Persons may present their views either orally or in writing. Any interested person may make written suggestions or comments on the proposed rules on or before August 25, 2015. Such written comments should be directed to Rebecca Curtiss, Bureau Chief of Emergency and Trauma Services, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [Rebecca.Curtiss@idph.iowa.gov](mailto:Rebecca.Curtiss@idph.iowa.gov).

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

These rules are intended to implement Iowa Code section 144D.2.

The following amendment is proposed.

Adopt the following new 641—Chapter 145:

## CHAPTER 145

## IOWA PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

**641—145.1(144D) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Advanced registered nurse practitioner*” means an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.

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

“*Director*” means the director of the department of public health.

“*Emergency medical care provider*” means emergency medical care provider as defined in Iowa Code section 147A.1.

“*Health care facility*” means health care facility as defined in Iowa Code section 135C.1, a hospice program as defined in Iowa Code section 135J.1, an elder group home as defined in Iowa Code section 231B.1, and an assisted living program as defined in Iowa Code section 231C.2.

“*Health care provider*” means an individual, including an emergency medical care provider and an individual providing home- and community-based services, and including a home health agency, licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

“*Home health agency*” means home health agency as defined in 42 CFR Part 484.

“*Hospital*” means hospital as defined in Iowa Code section 135B.1.

“*Legal representative*” means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in Iowa Code section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or, if such intentions are unknown, by the patient’s best interests given the patient’s overall medical condition and prognosis.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*“Patient”* means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment is consistent with the individual’s goals of care.

*“Physician”* means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

*“Physician assistant”* means a person licensed as a physician assistant under Iowa Code chapter 148C.

*“Physician orders for scope of treatment form”* or *“POST form”* means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient’s preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

**641—145.2(144D) Purpose.** The purpose of this chapter is to establish the process for the development, review, modification, and posting of the POST form.

**641—145.3(144D) Responsibilities of the department.**

**145.3(1)** The department shall prescribe the uniform POST form and shall post the form on the department’s Web site [www.idph.iowa.gov](http://www.idph.iowa.gov) for public availability.

**145.3(2)** The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment (POLST) paradigm form. The form shall have all of the following characteristics:

- a. The form shall include the patient’s name and date of birth.
- b. The form shall be signed and dated by the patient or the patient’s legal representative.
- c. The form shall be signed and dated by the patient’s physician, advanced registered nurse practitioner, or physician assistant.
- d. If preparation of the form was facilitated by an individual other than the patient’s physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.
- e. The form shall include the patient’s wishes regarding the care of the patient, including but not limited to all of the following:
  - (1) The administration of cardiopulmonary resuscitation.
  - (2) The level of medical interventions in the event of a medical emergency.
  - (3) The use of medically administered nutrition by tube.
  - (4) The rationale for the orders.
- f. The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.
- g. An incomplete section on the form shall imply the patient’s wishes for full treatment for the type of treatment addressed in that section.

**145.3(3)** The POST form shall be reviewed by the department on an annual basis and may be reviewed more frequently at the discretion of the director. The POST form may be modified based on changes to the national POLST paradigm, input from interested parties, advances in evidence-based research or quality improvement processes, or clinical experience. The director shall review and approve all modifications to the POST form before it is posted on the department’s Web site.

These rules are intended to implement Iowa Code section 144D.2.

**ARC 2070C****TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code section 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20, and 2015 Iowa Acts, House File 635, sections 50 and 53, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 602, "Classes of Driver's Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

These proposed amendments implement 2015 Iowa Acts, House File 635, Division V, which requires the Department to adopt rules to implement changes in the Federal Motor Carrier Safety Administration's federal regulations within 49 Code of Federal Regulations (CFR) Part 383 to commercial driver's licenses (CDL) and commercial learner's permits (CLP). The primary change within the rule making is the implementation of the CLP as a prerequisite to obtain a new CDL or to upgrade an existing CDL by adding an endorsement or removing a restriction if doing so requires a skills test. The purpose of the CLP is to allow accompanied behind-the-wheel training in a type and class of commercial motor vehicle that the individual's current license (commercial or noncommercial) is not valid to operate. A CLP will be required before the applicant can take the required skills testing and obtain a new or upgraded CDL. Applicants must also meet eligibility requirements and must pass the general knowledge examination to obtain a CLP. The CLP must be held by the applicant for at least 14 days before skills testing can be administered, is valid for 180 days, and can be renewed for another 180-day period without retesting. A CLP is a separate document from the person's underlying license containing the information and markings required by the Iowa Code.

Other proposed amendments make changes to definitions, endorsements, restrictions, testing requirements and military waivers and make other changes to conform rules to comply with 49 CFR Part 383 and 2015 Iowa Acts, House File 635, Division V. The Department is also adopting the applicable portions of the CFR as of October 1, 2014. The following Federal Register citations affect amendments to 49 CFR Part 383 that became effective between October 1, 2013, and October 1, 2014.

Amendments to Part 383, Federal Motor Carrier Safety Regulations  
Part 383 (FR Vol. 79, No. 53, Pages 15245-15250, 3-19-2014)

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

Part 383 (FR Vol. 78, No. 190, Pages 60226-60234, 10-1-2013)

This final rule adopted certain Federal Motor Carrier Safety Administration regulations required by the Moving Ahead for Progress in the 21st Century surface transportation reauthorization legislation. The majority of the statutory changes were effective on October 1, 2012, while others were effective on October 1, 2013. Conforming changes were made to ensure that the regulations were current and consistent with the applicable statutes. Effective Date: October 1, 2013.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

## TRANSPORTATION DEPARTMENT[761](cont'd)

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).

5. Be received by the Office of Policy and Legislative Services no later than August 25, 2015.

A meeting to hear requested oral presentations is scheduled for Friday, August 28, 2015, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by September 8, 2015.

The Department shall not grant any waivers under the provisions of these amendments since the amendments are needed to comply with 49 CFR Part 383 and 2015 Iowa Acts, House File 635, Division V.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 2071C**, which became effective July 14, 2015. The purpose of this Notice is to solicit public comment on that submission, the subject matter of which is incorporated by reference.

After analysis and review of this rule making, these amendments will have a positive impact on jobs. Implementing these amendments allows Iowa's CDL program to continue under the new federal regulations and allows CDL drivers from Iowa to continue to drive out of state. Businesses will be able to maintain and rely on interstate drivers and drivers will be allowed to maintain employment as interstate drivers.

These amendments are intended to implement 2015 Iowa Acts, House File 635, Division V.

## USURY

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

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

## ARC 2075C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency

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

This amendment changes the current threshold for inpatient hospital readmissions combined into a single claim from 7 days to 30 days, effective July 1, 2015. As a function of the amendment, the Iowa Medicaid program will combine claims for a given member’s inpatient readmissions to the same hospital for the same conditions occurring within 30 days.

This amendment implements a cost-savings initiative that is part of the basis for the Department’s budgets for state fiscal years 2016 and 2017, beginning July 1, 2015, as appropriated by the Iowa Legislature in 2015 Iowa Acts, Senate File 505. The change to a 30-day standard, which is the policy of the Medicare program, was incorporated into the Governor’s budget as proposed to the Legislature and used by the Legislature’s Conference Committee in estimating the needs to be met by the Medicaid budget. In both the Governor’s and the Committee’s budgets, it was assumed that the change would be effective for dates of service on or after July 1, 2015. Therefore, this amendment provides that the change will be effective for dates of service on or after July 1, 2015. To the extent necessary, the policy will be applied to hospital claims retroactively after the effective date of the amendment.

This amendment will result in cost savings over the current 7-day standard because it will allow a greater number of inpatient readmissions for the same condition to be combined with the original inpatient hospital stay.

Pursuant to Iowa Code section 17A.4(3), the Department of Human Services finds that notice and public participation are unnecessary, impracticable, and contrary to the public interest. Further public participation is unnecessary because the public’s elected representatives in the Iowa Legislature have approved this change by incorporating the projected savings into the Department’s budget for state fiscal years 2016 and 2017, effective July 1, 2015. Notice and public participation are impracticable because the Department’s budget, as approved by the Legislature, assumes savings from this change effective July 1, 2015, and allowing for notice and public comment would delay implementation. Finally, notice and public participation would be contrary to the public interest because delaying implementation would require retroactive adjustment of more claims at greater administrative expense to the Department and affected hospitals.

In compliance with Iowa Code section 17A.4(3), the Administrative Rules Review Committee at its July 14, 2015, meeting reviewed the Department’s findings and the amendment and approved the Emergency adoption.

Pursuant to Iowa Code section 17A.5(2)“b”(2) as amended by 2015 Iowa Acts, House File 536, section 27, the Department also finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 15, 2015, because the amendment confers a benefit on the public by keeping state Medicaid expenditures within the appropriated budget.

This amendment is also published herein under Notice of Intended Action as **ARC 2076C** to allow for public comment.

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

The Council on Human Services adopted this amendment on July 15, 2015.

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

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

This amendment became effective July 15, 2015.

The following amendment is adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend subparagraph 79.1(5)“g”(5) as follows:

(5) Inpatient readmissions within ~~seven~~ 30 days for same condition. ~~When~~ Effective for dates of service on or after July 1, 2015, when an inpatient is discharged or transferred from an acute care hospital and is readmitted as an inpatient to the same hospital within ~~seven~~ 30 days for the same condition, any claim for the subsequent inpatient stay shall be combined with the claim for the original inpatient stay and payment shall be under a single DRG for both stays.

[Filed Emergency 7/15/15, effective 7/15/15]

[Published 8/5/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2071C**

## **TRANSPORTATION DEPARTMENT[761]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20, and 2015 Iowa Acts, House File 635, sections 50, 53 and 75, the Iowa Department of Transportation, on July 14, 2015, adopted amendments to Chapter 602, “Classes of Driver’s Licenses,” Chapter 604, “License Examination,” Chapter 605, “License Issuance,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

These amendments implement 2015 Iowa Acts, House File 635, Division V, which requires the Department to adopt rules to implement changes in the Federal Motor Carrier Safety Administration’s federal regulations within 49 Code of Federal Regulations (CFR) Part 383 to commercial driver’s licenses (CDL) and commercial learner’s permits (CLP). The primary change within the rule making is the implementation of the CLP as a prerequisite to obtain a new CDL or to upgrade an existing CDL by adding an endorsement or removing a restriction if doing so requires a skills test. The purpose of the CLP is to allow accompanied behind-the-wheel training in a type and class of commercial motor vehicle that the individual’s current license (commercial or noncommercial) is not valid to operate. A CLP will be required before the applicant can take the required skills testing and obtain a new or upgraded CDL. Applicants must also meet eligibility requirements and must pass the general knowledge examination to obtain a CLP. The CLP must be held by the applicant for at least 14 days before skills testing can be administered, is valid for 180 days, and can be renewed for another 180-day period without retesting. A CLP is a separate document from the person’s underlying license containing the information and markings required by the Iowa Code.

Other amendments make changes to definitions, endorsements, restrictions, testing requirements and military waivers and make other changes to conform rules to comply with 49 CFR Part 383 and 2015 Iowa Acts, House File 635, Division V. The Department is also adopting the applicable portions of the CFR as of October 1, 2014. The following Federal Register citations affect amendments to 49 CFR Part 383 that became effective between October 1, 2013, and October 1, 2014.

#### Amendment to Part 383, Federal Motor Carrier Safety Regulations

Part 383 (FR Vol. 79, No. 53, Pages 15245-15250, 3-19-2014)

This final rule amended the federal motor carrier safety regulations by revising the definition of “gross combination weight rating” (or GCWR) to clarify the applicability of the Federal Motor Carrier Safety Administration’s safety regulations for single-unit trucks (vehicles other than truck tractors) when they are towing trailers and when the GCWR information is not included on the vehicle manufacturer’s certification label. Effective Date: April 18, 2014.

Part 383 (FR Vol. 78, No. 190, Pages 60226-60234, 10-1-2013)

This final rule adopted certain Federal Motor Carrier Safety Administration regulations required by the Moving Ahead for Progress in the 21st Century surface transportation reauthorization legislation. The majority of the statutory changes were effective on October 1, 2012, while others were effective

TRANSPORTATION DEPARTMENT[761](cont'd)

on October 1, 2013. Conforming changes were made to ensure that the regulations were current and consistent with the applicable statutes. Effective Date: October 1, 2013.

The Transportation Commission approved these amendments on July 14, 2015.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and participation are impracticable because the Federal Motor Carrier Safety Administration's regulations require the states to implement CLP requirements by July 8, 2015. In addition, 2015 Iowa Acts, House File 635, section 75, which was effective upon enactment and signed by the Governor on June 26, 2015, permits the Department to adopt emergency rules for this purpose.

Pursuant to Iowa Code section 17A.5(2)"b"(1) and (2) as amended by 2015 Iowa Acts, House File 536, section 27, and to 2015 Iowa Acts, House File 635, section 75, the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 14, 2015, upon filing with the Administrative Rules Coordinator. These amendments confer a benefit on the public and are in compliance with 2015 Iowa Acts, House File 635, Division V.

These amendments are also published herein under Notice of Intended Action as **ARC 2070C** to allow for public comment.

The Department shall not grant any waivers under the provisions of these amendments since the amendments are needed to comply with 49 CFR Part 383 and 2015 Iowa Acts, House File 635, Division V.

After analysis and review of this rule making, these amendments will have a positive impact on jobs. Implementing these amendments allows Iowa's CDL program to continue under the new federal regulations and allows CDL drivers from Iowa to continue to drive out of state. Businesses will be able to maintain and rely on interstate drivers, and drivers will be allowed to maintain employment as interstate drivers.

These amendments are intended to implement 2015 Iowa Acts, House File 635, Division V.

These amendments became effective July 14, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 602.1(2) as follows:

**602.1(2)** *Special licenses and permits.* The department issues the following special licenses and permits. More than one type of special license or permit may be issued to an applicant. On the driver's license, a restriction number designates the type of special license or permit issued, as follows:

1—Motorcycle instruction permit—includes motorcycle instruction permits issued under Iowa Code subsections 321.180(1) and 321.180B(1)

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)—includes instruction permits, other than motorcycle instruction permits, issued under Iowa Code subsection 321.180(1) and section 321.180A and subsection 321.180B(1)

3—Commercial ~~driver's instruction~~ learner's permit

4—Chauffeur's instruction permit

5—Motorized bicycle license

6—Minor's restricted license

7—Minor's school license

ITEM 2. Amend subrule 602.1(3) as follows:

**602.1(3)** *Commercial driver's license (CDL).* See 761—Chapter 607 for information on the procedures, requirements and validity of a commercial driver's license (Classes A, B and C); and a commercial ~~driver's instruction~~ learner's permit, and their restrictions and endorsements.

ITEM 3. Amend paragraph **602.12(1)"b"** as follows:

*b.* The license shall have one endorsement authorizing a specific type of motor vehicle or type of operation, as listed in 761—subrule ~~605.4(2)~~ 605.4(3). The gross vehicle weight rating shall be determined pursuant to rule 761—604.35(321).

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ITEM 4. Amend subrule 604.1(2) as follows:

**604.1(2)** This chapter of rules shall apply to the examination for all driver's licenses. Information on the additional examination procedures and requirements for a commercial driver's license or commercial ~~driver's instruction~~ learner's permit is given in 761—Chapter 607.

ITEM 5. Amend paragraph **604.31(1)“c”** as follows:

*c. Class D driver's licenses.* For a Class D driver's license, a driving test in a representative vehicle for the endorsement requested, as set out in 761—subrule ~~605.4(2)~~ 605.4(3), is required.

ITEM 6. Amend rule 761—605.1(321) as follows:

**761—605.1(321) Scope.** This chapter of rules applies to the issuance of all Iowa driver's licenses. Additional information on the issuance of a commercial driver's license or a commercial ~~driver's instruction~~ learner's permit is given in 761—Chapter 607.

This rule is intended to implement Iowa Code section 321.174.

ITEM 7. Amend rule 761—605.4(321) as follows:

**761—605.4(321) Endorsements.** The endorsements shall be coded on the face of the driver's license and explained in text on the back of the driver's license.

**605.4(1)** No change.

**605.4(2)** *For a commercial learner's permit.* The following endorsements are the only endorsements that may be added to a commercial learner's permit using these letter codes. All other endorsements are prohibited on a commercial learner's permit.

P—Passenger

N—Tank

S—School bus

**605.4(2) 605.4(3)** *For a Class D driver's license (chauffeur).* The following endorsements may be added to a Class D driver's license using these number codes:

1—Truck-tractor semitrailer combination

2—Vehicle with 16,001 pounds gross vehicle weight rating or more. Not valid for truck-tractor semitrailer combination

3—Passenger vehicle less than 16-passenger design

**605.4(3) 605.4(4)** *Motorcycle endorsement.* A motorcycle endorsement may be added to any driver's license that permits unaccompanied driving, other than a Class M driver's license or a motorized bicycle license, using the following letter code:

L—Motorcycle

This rule is intended to implement Iowa Code ~~section~~ sections 321.180 as amended by 2015 Iowa Acts, House File 635, section 50, and 321.189.

ITEM 8. Amend rule 761—605.5(321) as follows:

**761—605.5(321) Restrictions.** Restrictions shall be coded on the face of the driver's license and explained in text on the back of the driver's license. For purposes of this rule, “CMV” means commercial motor vehicle.

**605.5(1)** *For all licenses.* The following restrictions may apply to any driver's license:

B—Corrective lenses required

C—Mechanical aid (as detailed in the restriction on the back of the card)

D—Prosthetic aid (as detailed in the restriction on the back of the card)

~~E—Automatic transmission~~

F—Left and right outside rearview mirrors

G—No driving when headlights required

H—Temporary restricted license or permit (work permit)

I—Ignition interlock required

J—Restrictions on the back of card

## TRANSPORTATION DEPARTMENT[761](cont'd)

S—SR required (proof of financial responsibility for the future)

T—Medical report required at renewal

U—Not valid for 2-wheel vehicle

W—Restricted commercial driver's license (CDL)

Y—Intermediate license

**605.5(2)** *For a noncommercial driver's license.* The following restrictions apply only to a noncommercial driver's license:

P 8—Special instruction permit

9—Passenger restriction for intermediate license

Q—No interstate or freeway driving

**605.5(3)** *For a commercial driver's license.* The following restrictions apply ~~only~~ to a commercial driver's license:

E—No manual transmission equipped CMV

K—~~Commercial driver's license intrastate~~ Intrastate only

L—~~Vehicle without air brakes~~ No air brake equipped CMV

M—~~Except Class A bus~~ No Class A passenger vehicle

N—~~Except Class A and Class B bus~~ No Class A and B passenger vehicle

O—~~Except tractor-trailer~~ No tractor trailer CMV

V—~~Medical Variance document required~~ variance

Z—No full air brake equipped CMV

**605.5(4)** *For a commercial learner's permit.* The following restrictions apply to a commercial learner's permit.

K—Intrastate only

L—No air brake equipped CMV

M—No Class A passenger vehicle

N—No Class A and B passenger vehicle

P—No passengers in CMV bus

V—Medical variance

X—No cargo in CMV tank vehicle

**605.5(4) 605.5(5)** *Special licenses.* A numbered restriction will designate a special driver's license using these codes:

1—Motorcycle instruction permit

2—Noncommercial instruction permit (vehicle less than 16,001 gross vehicle weight rating)

3—Commercial ~~driver's instruction~~ learner's permit

4—Chauffeur's instruction permit

5—Motorized bicycle license

6—Minor's restricted license

7—Minor's school license

**605.5(5) 605.5(6)** *Additional information.*

*a. to d.* No change.

This rule is intended to implement Iowa Code chapter 321A and sections 321.178, 321.180 as amended by 2015 Iowa Acts, House File 635, section 50, 321.180A, 321.180B, 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, 321.189, 321.193, 321.194, 321.215, 321J.4, and 321J.20.

ITEM 9. Amend subparagraph **605.25(7)“a”(10)** as follows:

(10) The applicant is not subject to any of the following restrictions:

G—No driving when headlights required

J—Restrictions on the back of card

T—Medical report required at renewal

P 8—Special instruction permit

Q—No interstate or freeway driving

R—Maximum speed of 35 mph

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ITEM 10. Amend rule 761—607.3(321) as follows:

**761—607.3(321) Definitions.** The definitions in Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44, apply to this chapter of rules. In addition, the following definitions are adopted:

“Air brake system” means a system that uses air as a medium for transmitting pressure or force from the driver’s control to the service brake. “Air brake system” shall include any braking system operating fully or partially on the air brake principle.

“Air over hydraulic brakes” means any braking system operating partially on the air brake and partially on the hydraulic brake principle.

“Automatic transmission” means any transmission other than a manual transmission.

“Commercial driver’s license” or “CDL” means a license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR Part 383, which authorizes the individual to operate a class of a commercial motor vehicle.

“Commercial driver’s license downgrade” or “CDL downgrade” means either:

1. The driver changes the driver’s self-certification of type of driving from non-expected interstate to expected interstate, non-expected intrastate, or expected intrastate driving, or
2. The department removed the CDL privilege from the driver’s license.

~~“Commercial driver’s license information system driver’s record”~~ or ~~“CDLIS driver’s record”~~ means ~~the electronic record of the individual’s CDL driver’s status and history stored by the state of record as part of the commercial driver’s license information system established under 49 U.S.C. Section 31309~~ “commercial driver’s license information system” as defined in Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44.

“Commercial motor vehicle” or “CMV” as defined in Iowa Code section 321.1 does not include a motor vehicle designed as off-road equipment rather than as a motor truck, such as a forklift, motor grader, scraper, tractor, trencher or similar industrial-type equipment. “Commercial motor vehicle” also does not include self-propelled implements of husbandry described in Iowa Code subsection 321.1(32).

“Controlled substance” as used in Iowa Code section 321.208 means a substance defined in Iowa Code section 124.101.

“Hazardous materials” means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded under 49 CFR Part 172, Subpart F, or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.

“Manual transmission” means a transmission utilizing a driver-operated clutch that is activated by a pedal or lever and a gear-shift mechanism operated either by hand or by foot. All other transmissions, whether semi-automatic or automatic, will be considered automatic.

“Medical examiner” means a person who is licensed, certified or registered, in accordance with applicable state laws and regulations, to perform physical examinations. The term includes but is not limited to doctors of medicine, doctors of osteopathy, physician assistants, advanced registered nurse practitioners, and doctors of chiropractic.

“Medical examiner’s certificate” means a certificate completed and signed by a medical examiner under the provisions of 49 CFR Section 391.43.

“Medical variance” means a driver has received one of the following from the Federal Motor Carrier Safety Administration that allows the driver to be issued a medical certificate:

1. An exemption letter permitting operation of a commercial motor vehicle pursuant to 49 CFR Part 381, Subpart C, or 49 CFR Section 391.62, or 49 CFR Section 391.64.
2. A skill performance evaluation certificate permitting operation of a commercial motor vehicle pursuant to 49 CFR Section 391.49.

“Passenger vehicle” means either of the following:

1. A motor vehicle designed to transport 16 or more persons including the operator.
2. A motor vehicle of a size and design to transport 16 or more persons including the operator which is redesigned or modified to transport fewer than 16 persons with disabilities. The size of a

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redesigned or modified vehicle shall be any such vehicle with a gross vehicle weight rating of 10,001 or more pounds.

“*School bus*” means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. “School bus” does not include a bus used as a common carrier.

“*Self-certification*” means a written certification of which category of type of driving an applicant for a commercial driver’s license engages in or intends to engage in, from the following categories:

1. Non-excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR Part 391, and is required to obtain a medical examiner’s certificate by 49 CFR Section 391.45.

2. Excepted interstate. The person certifies that the person operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR Section 390.3(f), 391.2, 391.68 or 398.3 from all or parts of the qualification requirements of 49 CFR Part 391, and is therefore not required to obtain a medical examiner’s certificate by 49 CFR Section 391.45.

3. Non-excepted intrastate. The person certifies that the person operates only in intrastate commerce and is subject to state driver qualification requirements.

4. Excepted intrastate. The person certifies that the person operates only in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements as set forth in Iowa Code section 321.449.

“*State,*” as used in this chapter and in “another state” in Iowa Code subsection 321.174(2), “~~Former former~~ state of residence” in Iowa Code subsection 321.188(5), or “any state” in Iowa Code subsection 321.208(1), means one of the United States, or the District of Columbia, ~~a Canadian province or a Mexican state~~ unless the context means the state of Iowa.

This rule is intended to implement Iowa Code sections 321.1 as amended by 2015 Iowa Acts, House File 635, section 44, 321.174, 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, 321.191, 321.193, 321.207 and 321.208 and 2011 Iowa Code Supplement sections 321.188 and 321.207.

ITEM 11. Amend rule 761—607.7(321) as follows:

**761—607.7(321) Records.** The operating record of a person who has been issued a commercial driver’s license or a commercial learner’s permit or a person who has been disqualified from operating a commercial motor vehicle shall be maintained as provided in the department’s “Record Management Manual” adopted in 761—Chapter 4.

This rule is intended to implement Iowa Code sections 22.11, 321.12 as amended by 2015 Iowa Acts, House File 635, section 46, and 321.199.

ITEM 12. Amend rule 761—607.10(321) as follows:

**761—607.10(321) Adoption of federal regulations.**

**607.10(1) Code of Federal Regulations.** The department’s administration of commercial driver’s licenses shall be in compliance with the state procedures set forth in 49 CFR Section 383.73, and this chapter shall be construed to that effect. The department adopts the following portions of the Code of Federal Regulations which are referenced throughout this chapter of rules:

- a. 49 CFR Section 391.11 as adopted in 761—Chapter 520.
- b. 49 CFR Section 392.5 as adopted in 761—Chapter 520.
- c. The following portions of 49 CFR Part 383 (October 1, ~~2011~~ 2014):
  - (1) Section ~~383.51(b)~~ 383.51, ~~Disqualification for major offenses, and Section 383.51(a)(5),~~ Reinstatement after lifetime disqualification of drivers.
  - (2) Subpart E—Testing and Licensing Procedures, ~~which contains Sections 383.71–383.77.~~
  - (3) Subpart G—Required Knowledge and Skills, ~~which contains Sections 383.110–383.123.~~
  - (4) Subpart H—Tests, ~~which contains Sections 383.131–383.135.~~

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**607.10(2)** No change.

This rule is intended to implement Iowa Code sections 321.187, 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, 321.207, 321.208 and 321.208A and ~~2011 Iowa Code Supplement section 321.207.~~

ITEM 13. Amend rule 761—607.15(321) as follows:

**761—607.15(321) Application.** An applicant for a commercial driver's license shall comply with the requirements of Iowa Code sections 321.180(2)“e” as amended by 2015 Iowa Acts, House File 635, section 50, 321.182 and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, and 761—Chapter 601, and must provide the proofs of citizenship or lawful permanent residence and state of domicile required by 49 CFR Section 383.71. If the applicant is domiciled in a foreign jurisdiction and applying for a nondomiciled commercial driver's license, the applicant must provide a document required by 49 CFR Section 383.71(f).

This rule is intended to implement Iowa Code sections 321.180 as amended by 2015 Iowa Acts, House File 635, section 50, 321.182 and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

ITEM 14. Amend paragraph **607.16(3)“b”** as follows:

*b.* The applicant shall meet the requirements of ~~Iowa Code sections 321.182 and 321.188 set forth in rule 761—607.15(321).~~

ITEM 15. Amend rule 761—607.17(321) as follows:

**761—607.17(321) Endorsements.** All endorsements except the hazardous material endorsement continue to be valid without retesting or additional fees when renewing or upgrading a license. The endorsements that authorize additional commercial motor vehicle operations with a commercial driver's license are:

**607.17(1) Hazardous material.** A hazardous material endorsement (~~Hazmat H~~ H) is required to transport hazardous ~~material of a type or quantity requiring placarding materials.~~ Upon license renewal, retesting and fee payment are required. Retesting and fee payment are also required when an applicant upgrades an Iowa license or transfers a commercial driver's license from another state unless the applicant provides evidence of passing the endorsement test within the preceding 24 months. A farmer or a person working for a farmer is not subject to the hazardous material endorsement while operating either a pickup or a special truck within 150 air miles of the farmer's farm to transport supplies to or from the farm.

**607.17(2) Passenger vehicle.** A passenger vehicle endorsement (~~Pass P~~ P) is required to operate a passenger vehicle as defined in rule 761—607.3(321).

**607.17(3) Tank vehicle.** A tank vehicle endorsement (~~Tank N~~ N) is required to operate a tank vehicle as defined in Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44. ~~A commercial motor vehicle upon which is transported an empty storage tank as the vehicle cargo is not a tank vehicle.~~ A vehicle transporting a tank, regardless of the tank's capacity, which does not otherwise meet the definition of a commercial motor vehicle in Iowa Code section 321.1 is not a tank vehicle.

**607.17(4) Double/triple trailer.** A double/triple trailer endorsement (~~Dbl/Trpl Trlr T~~ T) is required to operate a commercial motor vehicle with two or more towed trailers when the combination of vehicles meets the criteria for a Class A commercial motor vehicle. Operation of a triple trailer combination vehicle is not permitted in Iowa.

**607.17(5) Hazardous material and tank.** A combined endorsement (~~Hazmat & Tank X~~ X) authorizes both hazardous material and tank vehicle operations.

**607.17(6) School bus.** After September 30, 2005, a school bus endorsement (S) is required to operate a school bus as defined in rule 761—607.3(321). An applicant for a school bus endorsement must also qualify for a passenger vehicle endorsement.

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**607.17(7)** No change.

This rule is intended to implement Iowa Code sections 321.1 as amended by 2015 Iowa Acts, House File 635, section 44, 321.176A, and 321.189.

ITEM 16. Amend rule 761—607.18(321) as follows:

**761—607.18(321) Restrictions.** The restrictions that may limit commercial motor vehicle operation with a commercial driver's license are listed in 761—subrule 605.5(3) and are explained below:

**607.18(1) *Air brake.*** ~~The air brake restriction (Vehicle without air brakes L, no air brake equipped CMV) applies to a licensee who either fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes and prohibits the operation of a commercial motor vehicle equipped with an air brake system, as defined in rule 761—607.3(321), until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when renewing the license is renewed.~~

**607.18(2) *Class B vehicle Full air brake.*** ~~The Class B vehicle restriction (except tractor-trailer) prohibits operation of a motor vehicle that meets the criteria for a Class A commercial motor vehicle. The full air brake restriction (Z, no full air brake equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with air over hydraulic brakes and prohibits the operation of a commercial motor vehicle equipped with any braking system operating fully on the air brake principle until the licensee passes the required air brake tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.~~

**607.18(3) *Manual transmission.*** The manual transmission restriction (E, no manual transmission equipped CMV) applies to a licensee who performs the skills test in a vehicle equipped with automatic transmission and prohibits the operation of a commercial motor vehicle equipped with a manual transmission until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

**607.18(4) *Tractor-trailer.*** The tractor-trailer restriction (O, no tractor trailer CMV) applies to a licensee who performs the skills test in a combination vehicle for a Class A commercial driver's license with the power unit and towed unit connected with a pintle hook or other non-fifth wheel connection and prohibits operation of a tractor-trailer combination connected by a fifth wheel that requires a Class A commercial driver's license until the licensee passes the required tests and pays the fee for upgrading the license. Retesting and fee payment are not required when the license is renewed.

~~**607.18(3)**~~ **607.18(5) *Class B A passenger vehicle.*** The Class B A passenger vehicle restriction (except Class A bus M, no Class A passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class B commercial driver's license and prohibits operation of a passenger vehicle that ~~meets the criteria for~~ requires a Class A commercial motor vehicle driver's license.

~~**607.18(4)**~~ **607.18(6) *Class C A and B passenger vehicle.*** The Class C A and B passenger vehicle restriction (except Class A and Class B bus N, no Class A and B passenger vehicle) applies to a licensee who applies for a passenger endorsement and performs the skills test in a passenger vehicle that requires a Class C commercial driver's license and prohibits operation of a passenger vehicle that ~~meets the criteria for~~ requires a Class A or Class B commercial motor vehicle driver's license.

**607.18(7) *Intrastate only.*** The intrastate only restriction (K, intrastate only) applies to a licensee who self-certifies to non-expected intrastate or expected intrastate driving and prohibits the operation of a commercial motor vehicle in interstate commerce.

**607.18(8) *Medical variance*** The medical variance restriction (V, medical variance) applies to a licensee when the department is notified pursuant to 49 CFR Section 383.73(o)(3) that the driver has been issued a medical variance and indicates there is information about a medical variance on the CDLIS driver record.

This rule is intended to implement Iowa Code sections 321.189 and 321.191 as amended by 2015 Iowa Acts, House File 635, section 55.

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ITEM 17. Amend rule 761—607.20(321) as follows:

**761—607.20(321) Commercial driver's instruction learner's permit.**

**607.20(1) *Validity.***

~~a. A commercial driver's instruction learner's permit allows the permit holder to operate a commercial motor vehicle when accompanied by a person licensed for the vehicle being operated. Examples of permissible vehicle operation include but are not limited to: as required by Iowa Code section 321.180(2) "d" as amended by 2015 Iowa Acts, House File 635, section 50.~~

~~(1) Operation of a vehicle requiring a higher class license than the license to which the permit is added.~~

~~(2) Operation of a vehicle requiring an endorsement other than a hazardous material endorsement.~~

~~(3) Operation of a vehicle equipped with air brakes.~~

~~b. A commercial driver's instruction learner's permit is valid for six months 180 days and may be renewed once within two years from the date of issuance of the first permit for an additional 180 days without retaking the general and endorsement knowledge tests required by Iowa Code section 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.~~

~~c. A commercial driver's instruction learner's permit is invalid after the expiration date of the underlying commercial or noncommercial driver's license to which the permit is added issued to the permit holder or the expiration date of the permit whichever occurs first.~~

~~d. The issuance of a commercial learner's permit is a precondition to the initial issuance of a commercial driver's license. The issuance of a commercial learner's permit is also a precondition to the upgrade of a commercial driver's license if the upgrade requires a skills test. The holder of a commercial learner's permit is not eligible to take a required driving skills test for the first 14 days after the permit holder is issued the permit. The 14-day period includes the day the commercial learner's permit was issued.~~

~~EXAMPLE: The commercial learner's permit is issued on September 1. The earliest date the permit holder would be eligible to take the skills test is September 15.~~

~~e. A commercial learner's permit is not valid for the operation of a vehicle transporting hazardous materials.~~

**607.20(2) *Requirements.***

~~a. An applicant for a commercial driver's instruction learner's permit must be at least 18 years of age and eligible for a commercial driver's license.~~

~~b. The applicant must have hold a valid Class A, B, C, or D driver's license issued in this state other than an instruction permit, a special instruction permit, a motorized bicycle license or a temporary restricted license, must be at least 18 years of age, and must meet the requirements to obtain a valid commercial driver's license, including the requirements set forth in Iowa Code section 321.188 as amended by 2015 Iowa Acts, House File 635, section 53. However, the applicant does not have to complete the driving skills tests required for a commercial driver's license to obtain a commercial learner's permit.~~

~~e. b. The applicant must successfully pass the a general knowledge test for a commercial driver's license that meets the federal standards contained in 49 CFR Part 383, Subparts F, G and H, for the commercial motor vehicle the applicant operates or expects to operate, including any endorsement for which the applicant applies.~~

**607.20(3) *Endorsements.*** A commercial learner's permit may include the following endorsements. All other endorsements are prohibited on a commercial learner's permit.

~~a. An applicant for a passenger endorsement (P) must take and pass the passenger endorsement knowledge test. A commercial learner's permit holder with a passenger endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d" as amended by 2015 Iowa Acts, House File 635, section 50.~~

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*b.* An applicant for a school bus endorsement (S) must take and pass the school bus endorsement knowledge test. A commercial learner's permit holder with a school bus endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d" as amended by 2015 Iowa Acts, House File 635, section 50.

*c.* An applicant for a tank vehicle endorsement (N) must take and pass the tank vehicle endorsement knowledge test. A commercial learner's permit holder with a tank vehicle endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

**607.20(4) Restrictions.** A commercial learner's permit may include the air brake (L), medical variance (V), Class A passenger vehicle (M), Class A and B passenger vehicle (N) and intrastate only (K) restrictions described in rule 761—607.18(321). In addition, a commercial learner's permit may include the following restrictions that are specific to the commercial learner's permit:

*a. Passenger.* The passenger restriction (P, no passengers in CMV bus) applies to a permit holder who has a commercial learner's permit with a passenger or school bus endorsement and prohibits the operation of a commercial motor vehicle carrying passengers, other than federal/state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the permit holder required by Iowa Code section 321.180(2) "d" as amended by 2015 Iowa Acts, House File 635, section 50.

*b. Cargo.* The cargo restriction (X, no cargo in CMV tank vehicle) applies to a permit holder who has a commercial learner's permit with a tank vehicle endorsement and prohibits the operation of any tank vehicle containing cargo or any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

This rule is intended to implement Iowa Code sections 321.180 as amended by 2015 Iowa Acts, House File 635, section 50, 321.186, and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

ITEM 18. Amend rule 761—607.26(321) as follows:

**761—607.26(321) Vision screening.** An applicant for a commercial driver's license or commercial learner's permit must pass a vision screening test administered by the department. The vision standards are given in 761—604.11(321).

This rule is intended to implement Iowa Code sections 321.186 and 321.186A.

ITEM 19. Amend subrule 607.27(3) as follows:

**607.27(3) ~~Oral-test~~ Test methods.** All knowledge tests shall be administered in compliance with 49 CFR Section 383.133(b). All tests other than the hazardous material endorsement test may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test. ~~An oral~~ A verbal test shall be offered only at specified locations. Information about the locations is available at any driver's license examination station.

ITEM 20. Amend subrule 607.27(5) as follows:

**607.27(5) Requirement.** An applicant must pass the applicable knowledge test(s) before taking the skills test. Passing scores for a knowledge test shall meet the standards contained in 49 CFR Section 383.135(a).

ITEM 21. Amend rule **761—607.27(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.186 and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

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ITEM 22. Amend rule 761—607.28(321) as follows:

**761—607.28(321) Skills test.**

**607.28(1)** *Content and order.* The skills test for a commercial driver's license is a three-part test as required in 49 CFR Part 383, Subparts E, G and H. ~~The three parts must be taken in the following order: the pretrip inspection, the basic vehicle control skills, and an on-the-road driving demonstration. Those elements of the skills test that are not applicable to the vehicle being used in the skills test may be waived by the department. The basic vehicle control skills may be accomplished as part of the on-the-road driving demonstration. The department shall terminate the skills test when it is determined that the applicant has failed the test.~~

**607.28(2)** *Test methods.* All skills tests shall be administered in compliance with 49 CFR Section 383.133(c). Interpreters are prohibited during the administration of skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

**607.28(3)** *Order.* The skills test must be administered and successfully completed in the following order: pre-trip inspection, basic vehicle control skills, on-road skills. If an applicant fails one segment of the skills test, the applicant cannot continue to the next segment of the test, and scores for the passed segments of the test are only valid during initial issuance of the commercial learner's permit. If the commercial learner's permit is renewed, all three segments of the skills test must be retaken. However:

*a.* If the applicant wants to remove an air brake restriction, full air brake restriction, or manual transmission restriction, the applicant does not have to retake the complete skills test, and may complete a modified skills test that demonstrates the applicant can safely and effectively operate the vehicle's full air brakes, air over hydraulic brakes, or manual transmission. In addition, to remove the air brake or full air brake restriction, the applicant must successfully perform the air brake pre-trip inspection and pass the air brake knowledge test.

*b.* If the applicant wants to remove the tractor-trailer restriction, the applicant must retake all three skills tests in a representative tractor-trailer.

**607.28(2) 607.28(4)** *Vehicle.* The applicant shall provide a representative vehicle for the skills test. "Representative vehicle" means a commercial motor vehicle that meets the statutory description for the class of license applied for.

*a. and b.* No change.

*c.* To remove an air brake or full air brake restriction, the applicant must take the skills test in a vehicle equipped with an air brake system, as defined in rule 761—607.3(321) and as required in 49 CFR Section 383.113.

*d.* To remove a manual transmission restriction, the applicant must take the skills test in a vehicle equipped with a manual transmission, as defined in rule 761—607.3(321).

**607.28(5)** *Skills test scoring.* Passing scores for a skills test shall meet the standards contained in 49 CFR Section 383.135(b).

**607.28(6)** *Military waiver.* The department may waive the requirement that an applicant pass a required skills test for an applicant who is on active duty in the military service or who has separated from such service in the past year, provided the applicant meets the requirements of Iowa Code subsection 321.188(6) as amended by 2015 Iowa Acts, House File 635, section 53.

**607.28(3) 607.28(7)** *Locations.* The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license examination station for the location of the nearest skills testing station. A skills test by appointment shall be offered only at specified regional test sites.

This rule is intended to implement Iowa Code ~~sections~~ section 321.186 and section 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

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ITEM 23. Amend rule 761—607.31(321) as follows:

**761—607.31(321) Test results.**

**607.31(1) *Proof of passing score Period of validity.*** ~~When necessary, the department shall issue a form valid for 90 days showing the knowledge test(s) or part(s) of the skills test that the applicant passed. The applicant shall retain the form(s) until all tests are passed and present the form(s) to the department to obtain the license.~~ Passing knowledge and skills test results shall remain valid for a period of 180 days.

**607.31(2) *Retesting.*** ~~An~~ Subject to rule 761—607.28(321), an applicant shall be required to repeat only the knowledge test(s) or part(s) of the skills test that the applicant failed. An applicant who fails a test shall not be permitted to repeat that test the same day.

**607.31(3) *Skills test results from other states.*** As required by 49 CFR Section 383.79, the department shall accept the valid results of a skills test administered to an applicant who is domiciled in the state of Iowa and that was administered by another state, in accordance with 49 CFR Part 383, Subparts F, G and H, in fulfillment of the applicant's testing requirements under 49 CFR Section 383.71 and the state's test administration requirements under 49 CFR Section 383.73. The results must be transmitted directly from the testing state to the department as required by 49 CFR Section 383.79.

This rule is intended to implement Iowa Code ~~section~~ sections 321.186 and 321.188 as amended by 2015 Iowa Acts, House File 635, section 53.

ITEM 24. Amend rule 761—607.35(321) as follows:

**761—607.35(321) Issuance of commercial driver's license and commercial learner's permit.** A commercial driver's license or commercial learner's permit issued by the department shall be identified by "commercial driver's license" or "CDL" on the face of the license include the information and markings required by Iowa Code section 321.189(2) "b" as amended by 2015 Iowa Acts, House File 635, section 54.

This rule is intended to implement Iowa Code section 321.189 as amended by 2015 Iowa Acts, House File 635, section 54.

ITEM 25. Amend rule 761—607.37(321) as follows:

**761—607.37(321) Commercial driver's license renewal.** The department shall administer commercial driver's license renewals as required by 49 CFR Section 383.73.

**607.37(1) *Licensee requirements.*** To renew a commercial driver's license, the licensee shall apply at a driver's license examination station, certify eligibility and, if required, pass the appropriate test(s) and complete the following:

a. Make a written self-certification of type of driving as required by rule 761—607.50(321) and provide a current medical examiner's certificate if required.

b. If the licensee has and wishes to retain a hazardous material endorsement, the licensee shall pass the test required in 49 CFR Section 383.121 and comply with the Transportation Security Administration security threat assessment standards specified in 49 CFR Sections 383.71(b)(8) and 383.141 for such endorsement. A lawful permanent resident of the United States must also provide the licensee's U.S. Citizenship and Immigration Services alien registration number.

c. Provide proof of citizenship or lawful permanent residency and state of domicile as required by rule 761—607.15(321) and 49 CFR 383.71(d)(7). Proof of citizenship or lawful permanent residency is not required if the licensee provided such proof at initial issuance or a previous renewal or upgrade of the license and the department has a notation on the licensee's record confirming that the required proof of legal citizenship or legal presence check was made and the date on which it was made.

d. If the applicant is domiciled in a foreign jurisdiction and renewing a non-domiciled commercial driver's license, the applicant must provide a document required by 49 CFR 383.71(f) at each renewal.

**607.37(2) *Early renewal.*** A valid commercial driver's license may be renewed 30 days before the expiration date. If this is impractical, the department for good cause may renew a license earlier, not to exceed one year prior to the expiration date. The department may allow renewal earlier than one year

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prior to the expiration date for active military personnel being deployed due to actual or potential military conflict.

~~607.37(3) A valid commercial driver's license may be renewed within 60 days after the expiration date, unless otherwise specified.~~

This rule is intended to implement Iowa Code sections 321.186, 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, and 321.196.

ITEM 26. Amend paragraph 607.49(4)“c” as follows:

c. An applicant who currently holds a commercial driver's license or a commercial ~~driver's instruction~~ learner's permit is not eligible for issuance of a restricted commercial driver's license.

ITEM 27. Amend rule 761—607.50(321) as follows:

**761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.**

**607.50(1)** Applicants for commercial learner's permit or new, transferred, renewed or upgraded CDL.

a. A person shall provide to the department a self-certification of type of driving if the person is applying for:

(1) A commercial learner's permit,

~~(1)~~ (2) An initial commercial driver's license,

~~(2)~~ (3) A transfer of a commercial driver's license from a prior state of domicile to the state of Iowa,

~~(3)~~ (4) Renewal of a commercial driver's license, or

(4) (5) A license upgrade for a commercial driver's license or an endorsement authorizing the operation of a commercial motor vehicle not covered by the current commercial driver's license.

b. No change.

**607.50(2) to 607.50(4)** No change.

**607.50(5)** CDL downgrade. If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of “not certified” to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of “certified” as required by subrule 607.50(4) shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person's medical certification status is “not certified” and that the commercial ~~driver's license privilege~~ motor vehicle privileges will be removed from the person's commercial driver's license or commercial learner's permit 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the person submits to the department a current medical certificate or medical variance or self-certifies to a type of driving other than non-excepted interstate.

b. If the person submits a current medical examiner's certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status of “certified” on the person's CDLIS driver's record and shall terminate the downgrade of the person's commercial driver's license or commercial learner's permit.

c. If the person self-certifies to a type of driving other than non-excepted interstate before the end of the 60-day period, the department shall not remove the commercial ~~driver's license privilege~~ motor vehicle privileges from the person's commercial driver's license or commercial learner's permit, and the person will have no medical certification status on the person's CDLIS driver's record.

d. If the person fails to take the action in either paragraph 607.50(5)“b” or “c” before the end of the 60-day period, the department shall remove the commercial ~~driver's license privilege~~ motor vehicle

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privileges from the person's commercial driver's license or commercial learner's permit and shall leave the person's medical certification status as "not certified" on the person's CDLIS driver's record.

**607.50(6) and 607.50(7)** No change.

**607.50(8)** *Reestablishment of the CDL privilege.* A person whose commercial driver's license privilege has motor vehicle privileges have been removed from the person's commercial driver's license or commercial learner's permit under the provisions of paragraph 607.50(5) "d" may reestablish the commercial driver's license privilege to the person's driver's license motor vehicle privileges by either of the following methods:

*a.* Submitting a current medical examiner's certificate or medical variance to the department. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of "certified" on the person's CDLIS driver's record and reestablish the commercial driver's license privilege to the person's driver's license motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit.

*b.* Self-certifying to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial driver's license privilege to the person's driver's license motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver's license or commercial learner's permit; the person will have no medical certification status on the driver's CDLIS driver's record.

**607.50(9) and 607.50(10)** No change.

This rule is intended to implement Iowa Code section sections 321.182, and 2011 Iowa Code Supplement sections 321.188 as amended by 2015 Iowa Acts, House File 635, section 53, and 321.207 as amended by 2015 Iowa Acts, House File 635, section 60.

ITEM 28. Amend rule 761—607.51(321) as follows:

**761—607.51(321) Determination of gross vehicle weight rating.**

**607.51(1)** *Actual weight prohibited.* In determining whether the vehicle is a representative vehicle for the skills test and the group of commercial driver's license for which the applicant is applying, the vehicle's gross weight rating or gross combination weight rating must be used, not the vehicle's actual gross weight or gross combination weight. For purposes of this rule, "gross weight rating" and "gross combination weight rating" mean as defined in 49 CFR section 383.5.

**607.51(1) 607.51(2)** *Vehicle other than towed vehicle without legible manufacturer's certification label.* ~~For To complete a skills test using a vehicle other than a towed vehicle that has no legible manufacturer's certification label, whether a power unit or towed vehicle, the applicant may must provide documentation of the vehicle's gross vehicle weight rating, such as a manufacturer's certificate of origin, a title, a vehicle registration document, or the vehicle identification number information for the vehicle. In the absence of the above such documentation, the registered weight of the vehicle shall be presumed to be the gross vehicle weight rating vehicle may not be used, either alone or in combination.~~

**607.51(2)** *Towed vehicle.* For a towed vehicle without a gross vehicle weight rating specified by the manufacturer, the gross vehicle weight rating shall be its gross weight.

This rule is intended to implement Iowa Code section 321.1 as amended by 2015 Iowa Acts, House File 635, section 44.

[Filed Emergency 7/14/15, effective 7/14/15]

[Published 8/5/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

## ARC 2069C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.3 and 217.6 and the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), the Department of Human Services amends Chapter 112, "Licensing and Regulation of Child Foster Care Facilities," Chapter 113, "Licensing and Regulation of Foster Family Homes," Chapter 117, "Foster Parent Training," Chapter 175, "Abuse of Children," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

The purpose of these amendments is to implement federal law, namely, the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which was issued October 23, 2014, to require state child welfare agencies to implement procedures for the identification of, and provision of services to, victims of sex trafficking. The law also includes requirements for state child welfare agencies to enhance foster care transition programs in such a way that caretakers will make better decisions that better prepare youth for adulthood. The requirements include, for example, providing the child who ages out of foster care proper identification needed to gain employment.

These amendments, some of which align definitions across chapters and resolve an inconsistency in current rules with regard to the reporting of an address change by a foster parent, are to be implemented by October 1, 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1997C** on May 27, 2015.

The Department received comments from two respondents during the public comment period. Both respondents suggested that the Department not use a specific URL within the amendments as it will need to be updated with each Web-site change and could add to confusion for the reader, especially because the Iowa Department of Public Health (IDPH) is about to launch a new Web site, after which the URL proposed in the amendments will not be valid. The following wording was suggested: "Training for mandatory reporters can be found on the Iowa Department of Public Health website by searching for mandatory reporter training on their website."

The Department agreed with the comments of the respondents and has revised the amendment found in Item 5, paragraph 117.8(4)"b." Paragraph 117.8(4)"b" now reads as follows:

*"b. Training provider.* The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training on child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available on the Iowa department of public health Web site by searching 'mandatory reporter training.'"

In addition, a technical change has been made to correct the punctuation in the first sentence of subparagraph 202.11(7)"c"(6).

The Council on Human Services adopted these amendments on July 8, 2015.

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

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

These amendments are intended to implement Iowa Code section 217.6 and P.L. 113-183.

These amendments will become effective October 1, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **112.6(2)"a"** as follows:

a. ~~The~~ When moving to a new home, the foster family fails to notify the licensing worker when moving to a new home department and the recruitment and retention contractor within 30 seven working days after the date of moving of the move to a new home.

ITEM 2. Adopt the following **new** rule 441—112.11(237):

**441—112.11(237) Required training on the reasonable and prudent parent standard.** Each group facility shall have an on-site official authorized to apply the reasonable and prudent parent standard as

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

defined in rule 441—202.1(234). Within one year of being identified as an authorized on-site official, each authorized official shall complete the same department-approved training on the reasonable and prudent parent standard as required for foster parents and referenced in 441—subrule 117.8(6).

ITEM 3. Amend rule **441—113.2(237)**, definitions of “Department,” “Foster family home” and “Service area manager,” as follows:

“*Department*” means the Iowa department of human services and includes the local offices of the department.

“*Foster family home*” means a home in which an individual person or married couple ~~who~~ wishes to provide or is providing, for a period exceeding 24 consecutive hours, board, room, and care for a child in a single family living unit.

“*Service area manager*” means the department employee responsible for managing department offices ~~within a department service area~~ and personnel within the service area and for implementing policies and procedures of the department.

ITEM 4. Amend subrule 113.8(2) as follows:

**113.8(2) *In-service training.*** All licensed foster parents shall complete six hours of in-service training annually as required by rule 441—117.7(237).

*a.* All foster parents shall complete training in medication management, cardiopulmonary resuscitation, ~~and~~ first aid, and the reasonable and prudent parent standard in their first year of licensure as required by rule 441—117.8(237).

*b.* All licensed foster parents shall complete mandatory reporter training on child abuse identification and reporting in their first year of licensure and every five years thereafter as required by rule 441—112.10(232) and 441—subrule 117.8(4).

ITEM 5. Amend paragraph **117.8(4)“b”** as follows:

*b. Training provider.* The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training ~~in~~ on child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available at: [http://www.idph.state.ia.us/bh/abuse\\_ed\\_review.asp](http://www.idph.state.ia.us/bh/abuse_ed_review.asp). on the Iowa department of public health Web site by searching “mandatory reporter training.”

ITEM 6. Adopt the following **new** subrule 117.8(6):

**117.8(6) *Reasonable and prudent parent standard.*** Before the end of the foster parent’s initial license year, each foster parent shall complete training on the reasonable and prudent parent standard as defined in rule 441—202.1(234). Foster parents licensed before October 1, 2015, shall complete this training no later than September 30, 2016.

ITEM 7. Amend rule **441—175.21(232,235A)**, definition of “Department,” as follows:

“*Department*” means the Iowa department of human services and includes the local offices of the department.

ITEM 8. Adopt the following **new** definitions of “Commercial sex act,” “Severe form of trafficking in persons,” “Sex trafficking” and “Sex trafficking victim,” in rule **441—175.21(232,235A)**:

“*Commercial sex act,*” as provided in 22 U.S.C. Section 7102(4), means any sex act on account of which anything of value is given to or received by any person.

“*Severe form of trafficking in persons,*” as provided in 22 U.S.C. Section 7102(9)(A), means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

“*Sex trafficking,*” as provided in 22 U.S.C. Section 7102(10), means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“*Sex trafficking victim,*” as provided in 42 U.S.C. Section 675(9), means any of the following:

1. A victim of sex trafficking.
2. A victim of a severe form of trafficking in persons.

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ITEM 9. Amend subrule 175.22(1) as follows:

**175.22(1)** Any report made to the department which alleges child abuse, as defined in Iowa Code section 232.68, or constitutes a complaint that a child is a child in need of assistance, as defined in Iowa Code section 232.2(6), shall be accepted for assessment.

ITEM 10. Amend subrule 175.24(4) as follows:

**175.24(4)** If the report of suspected child abuse fails to constitute a child abuse allegation.

a. When it is determined that the report of suspected child abuse fails to constitute an a child abuse allegation of child abuse, the report of suspected child abuse shall become a rejected intake and shall be evaluated to determine whether the information reported constitutes a complaint that a child is a child in need of assistance.

b. When it is determined that a report of a child needing the assistance of the court fails to meet the definition of a child in need of assistance, the report shall become a rejected intake.

c. Rejected intake information shall be maintained by the department for three years from the date the report was rejected and shall then be destroyed.

ITEM 11. Amend subrule 175.24(5) as follows:

**175.24(5)** Intake information shall be provided as follows:

a. The county attorney shall be notified of all reports of suspected child abuse.

b. When a report of suspected child abuse is received which does not meet the requirements for an assessment or is accepted as a family assessment, and there is information about a criminal act harming a child, the department shall notify law enforcement of the report.

c. If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and refer the information as necessary to determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 12. Rescind subrule **175.24(6)**.

ITEM 13. Adopt the following **new** paragraph **175.25(1)“c”**:

c. If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 14. Adopt the following **new** definitions of “Age- or developmentally appropriate activities” and “Reasonable and prudent parent standard” in rule **441—202.1(234)**:

*“Age- or developmentally appropriate activities”* means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

*“Reasonable and prudent parent standard”* means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encourage the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. For the purposes of this definition, “caregiver” means a foster parent with whom a child in foster care has been placed or a

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

designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which a child in foster care has been placed.

ITEM 15. Amend rule 441—202.11(234) as follows:

**441—202.11(234) Services to the child.** The department service worker shall maintain a continuous relationship with the child.

**202.11(1) to 202.11(5)** No change.

**202.11(6)** ~~When the child has reached the age of majority under state law, the department shall provide a free copy of the child's health and education records to the child when the child leaves foster care. Throughout the provision of care, the foster care provider is permitted to use the reasonable and prudent parent standard to create opportunities for participation of the child in age- or developmentally appropriate activities.~~

**202.11(7) Independent living Transition planning program.** The purpose of the independent living transition planning program is to provide supports and services, supports, activities and referrals to programs that assist children currently or formerly in foster care in acquiring skills and abilities necessary for transition to successful adult living adulthood. The independent living transition planning program offers a life skills assessment, transition plan development, and transition-related services, supports, activities and referrals to programs.

*a. Eligibility.* To be eligible for the independent living transition planning program, a child must be or have been in foster care as defined by rule 441—202.1(234) or 45 Code of Federal Regulations 1355.20 as amended to October 1, 2008, and must meet at least one of the following eligibility requirements:

- (1) Is currently in foster care and is ~~16~~ 14 years of age or older.
- (2) Is under the age of 21 and was adopted from foster care ~~on or after October 7, 2008, and was at least 16 years of age at the time of adoption or older.~~
- (3) Is under the age of 21 and was placed in a subsidized guardianship arrangement from foster care ~~on or after October 7, 2008, and was at least 16 years of age at the time of placement or older.~~
- (4) No change.
- (5) Was formerly in foster care and is eligible for and participating in Iowa's postsecondary education and training voucher (ETV) program as described at 42 U.S.C. Section 677(a)(6-7).

*b. Assessment.* A life skills assessment shall be administered to all children in foster care who are aged ~~16~~ 14 or older. An assessment shall be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph "a." The assessment is designed to evaluate the child's strengths and needs in areas including, but not limited to:

- (1) Education,
- (2) Physical and mental health,
- (3) Employment,
- (4) Housing and money management, and
- (5) Supportive relationships.

*c. Transition plan development.* A transition plan shall be completed for all children in foster care who are aged ~~16~~ 14 or older, as provided in Iowa Code section 232.2(4) "f." Transition plan development shall also be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph "a," but the transition plan will not be part of a case permanency plan. Transition plan requirements include the following:

- (1) The transition plan shall be personalized at the direction of the child and shall be developed in consultation with the child and reviewed by the department in collaboration with a child-centered transition team, honoring the goals and concerns of the child.
- (2) The transition plan shall document that the child received and signed a document that describes the rights of the child with respect to education, health, visitation, and court participation. The document must be signed by the child indicating that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.
- (3) The transition plan shall document that the child received a copy of any credit report pertaining to the child as provided by the child's caseworker on an annual basis until the child is discharged from

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

foster care. The child must receive assistance from the child's caseworker in interpreting and resolving any inaccuracies in the report.

(4) The transition plan shall document that any child leaving foster care at the age of 18 or older was provided with the following documents and information unless the child has been in foster care for less than six months or is not eligible to receive such document:

1. An official or certified copy of the child's birth certificate.
2. The child's social security card.
3. A driver's license or identification card issued by the state to the child.
4. Health insurance information.
5. A copy of the child's medical and education records.

(5) The transition plan shall document that the caseworker provided to the child, at the case permanency plan review in the 90 days before the child reached the age of 18, information and education about the importance of having a durable power of attorney for health care and a copy of the state's form used to identify such a proxy. The child has the option to complete the form at the age of 18 or older.

(2) (6) The transition plan shall address the strengths and needs identified in the assessment; and detail the steps, services, supports, activities and referrals to programs needed to implement the plan to best assist the child in preparing for successful adulthood; and document the membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

(3) (7) The transition plan shall be reviewed and updated at each case review after the plan's initial development; within 90 days before the child's eighteenth birthday; and within 90 days before the child is expected to leave foster care if the child remains in care after reaching the age of 18.

d. Transition services. Children shall be offered services, supports, activities and referrals to programs within, ~~some or all of~~ but not limited to, the five areas described below according to the child's age and development, strengths and needs, permanency goal, and placement as documented by in the ~~transition~~ case permanency plan.

(1) Education skills increase the child's chances of completing high school or obtaining a ~~GED~~ high school equivalency and of entering a satisfying career. Services may include assistance in academic advising and guidance, secondary and postsecondary educational support, records transfer coordination, tutoring, financial aid planning, career exploration, mentoring, and career advising. ~~Education financial~~ Financial assistance for postsecondary education and training may be available to eligible children.

(2) Physical and mental health skills promote healthy physical, mental and emotional functioning. Health education services may include guidance on risk prevention, how to be healthy and fit, how to self-advocate for health care needs and access to health insurance, how to select medical professionals, and how to make informed decisions regarding treatment, lifestyle considerations, spirituality, and recreation. Provision must be made for the child's application for adult services if it is likely the child will need or be eligible for services or other support from the adult service system.

(3) No change.

(4) Housing and money management skills prepare a child to select, manage, and maintain safe and stable housing. Services may include lessons on the physical maintenance and cleaning of a house and guidance on managing personal finances, such as financial decisions, budgeting, bill paying, use of credit, and financing. Financial assistance for items, including room and board, may be available to children who meet the eligibility criteria of the ~~preparation for adult living~~ aftercare services program pursuant to 441—Chapter 187.

(5) No change.

ITEM 16. Amend subrule 202.15(2) as follows:

**202.15(2)** The department worker shall develop the case permanency plan with the child's parents, unless the child's parents are unwilling to participate in the plan's development, and with the child, unless the child is unable or unwilling to participate. For a child 14 years of age or older in foster care, the case permanency plan must be developed in consultation with the child. The child may choose up to two members of the case planning team who are not the child's foster parent or caseworker. The department may reject an individual selected by a child at any time if the department has good cause to believe the

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individual would not act in the best interests of the child. One individual selected by the child to be a member of a child's case planning team may be designated to be the child's advisor and, as necessary, advocate with respect to the use of the reasonable and prudent parent standard.

[Filed 7/13/15, effective 10/1/15]

[Published 8/5/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2088C**

## **IOWA PUBLIC INFORMATION BOARD[497]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 1, "Organization and General Administration," Iowa Administrative Code.

These amendments are necessary to reflect the Board's current procedures on issuing advisory opinions.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 27, 2015, as **ARC 2012C**. The Board received no public comment on the proposed amendments. No changes were made to the amendments as published under Notice of Intended Action.

The Iowa Public Information Board adopted these amendments on July 16, 2015.

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

These amendments are intended to implement Iowa Code section 23.6.

These amendments will become effective on September 9, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 497—1.2(84GA,ch1115) as follows:

#### **497—1.2(~~84GA,ch1115~~ 23) Requirements for requesting board advisory opinions.**

**1.2(1)** No change.

**1.2(2)** *Who may request an advisory opinion.* Any person may request a board advisory opinion ~~construing or applying Iowa Code chapters 21, and 22, and 23.~~ An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

**1.2(3)** No change.

This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 9(3)~~ Iowa Code section 23.6.

ITEM 2. Amend rule 497—1.3(84GA,ch1115) as follows:

#### **497—1.3(~~84GA,ch1115~~ 23) Processing of advisory opinion requests.**

**1.3(1)** No change.

**1.3(2)** After receiving an opinion request, the board's executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. ~~The executive director may also cause an opinion to be issued on a routine matter on behalf of the board and shall provide notice to the board in writing of the opinion given.~~ Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

**1.3(3) to 1.3(5)** No change.

**1.3(6)** On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.

[Filed 7/17/15, effective 9/9/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2090C**

## **IOWA PUBLIC INFORMATION BOARD[497]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 1, "Organization and General Administration," Iowa Administrative Code.

These amendments are necessary to ensure that the Board's administrative rule on conflicts of interest applies to all staff members and that the administrative rule reflects the requirements in the State Code of Ethics in Iowa Code chapter 68B.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 27, 2015, as **ARC 2013C**. The Board received no public comment on the proposed amendments. No changes were made to the amendments as published under Notice of Intended Action.

The Iowa Public Information Board adopted these amendments on July 16, 2015.

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

These amendments are intended to implement Iowa Code sections 23.6 and 68B.2A.

These amendments will become effective on September 9, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 497—1.4(84GA, ch1115) as follows:

#### **497—1.4(84GA, ch1115 23) Conflict of interest.**

**1.4(1) Definition.** "Conflict of interest" means that a board member, ~~the executive director~~ an employee of the board, or a board member's immediate family, or an immediate family member of an employee of the board has a significant personal, financial, or employment relationship with: a person who has requested an advisory opinion; a person who has petitioned for a declaratory order; a complainant; or a government employee or official or a governmental body that would be directly impacted by an advisory opinion, a declaratory order, or a complaint. For purposes of this rule, "immediate family" means ~~a member's spouse, child, grandchild, or parent~~ the same as "immediate family members" in Iowa Code section 68B.2(11).

**1.4(2) Procedures.** As soon as a member of the board or ~~the executive director~~ an employee of the board becomes aware of a conflict of interest, the member or ~~executive director~~ employee of the board shall follow these procedures:

*a.* If the conflict is known before a meeting, the member or ~~executive director~~ employee of the board shall fully disclose the interest to the chairperson of the board in writing at least 24 hours before the meeting.

*b.* If the conflict is discovered during a meeting, the member or ~~executive director~~ employee of the board shall orally inform the board, and the nature of the conflict shall be reported in writing to the chairperson of the board within 24 hours after the meeting.

*c.* The board member or ~~executive director~~ employee of the board who has the conflict shall not participate in discussion or vote on any advisory opinion, declaratory order, or complaint.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

1.4(3) State code of ethics. Board members and employees of the board shall comply with the state code of ethics found in Iowa Code chapter 68B and in the corresponding administrative rules adopted by the Iowa ethics and campaign disclosure board.

ITEM 2. Amend ~~497—Chapter 1~~, implementation sentence, as follows:

~~These rules are~~ This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 6~~ Iowa Code sections 23.6 and 68B.2A.

[Filed 7/17/15, effective 9/9/15]

[Published 8/5/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2089C**

## **IOWA PUBLIC INFORMATION BOARD[497]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 2, "Complaint Investigation and Resolution Procedures," Iowa Administrative Code.

This amendment is necessary to reflect the Board's current procedures for handling a complaint.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on May 27, 2015, as **ARC 2011C**. The Board received no public comment on the proposed amendment. No changes were made to the amendment as published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code section 23.8.

This amendment will become effective on September 9, 2015.

The following amendment is adopted.

Amend rule 497—2.1(84GA,ch1115) as follows:

### **497—2.1(84GA, ~~ch1115~~ 23) Complaints.**

**2.1(1) and 2.1(2)** No change.

**2.1(3) Delegation.** In order to expedite proceedings, the board may delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board. The board's staff may conduct an initial review of the complaint and obtain more information to assist in the decision to accept or dismiss the complaint.

**2.1(4)** No change.

**2.1(5) Board review.** The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint and the results of the initial review conducted by the board's staff.

This rule is intended to implement Iowa Code section 23.8.

[Filed 7/17/15, effective 9/9/15]

[Published 8/5/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2091C**

## **IOWA PUBLIC INFORMATION BOARD[497]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby adopts new Chapter 8, "Open Meetings," Iowa Administrative Code.

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

This amendment reflects Board decisions on complaints involving the open meetings laws in Iowa Code chapter 21.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on May 27, 2015, as **ARC 2010C**. The Board received comments from the Iowa League of Cities and the Iowa Hospital Association. Based on these comments, two changes were made. In subrule 8.1(2), it was clarified that if the area normally used for the posting of a notice could not be utilized due to factors such as renovation or remodeling, the posting could be done at another area easily accessible or viewable by the public. In subrule 8.1(3), it was clarified that notice of closed session does not require more information than what is required in Iowa Code section 21.5, and another example of a permissible notice concerning patient care quality or discussing marketing and pricing was included in the subrule.

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

This amendment is intended to implement Iowa Code chapter 21.

This amendment will become effective on September 9, 2015.

The following amendment is adopted.

Adopt the following **new** 497—Chapter 8:

CHAPTER 8  
OPEN MEETINGS

**497—8.1(21,23) Notice.**

**8.1(1) *When posted.*** As provided in Iowa Code section 21.4, a governmental body shall give notice of the time, date, and place of the meeting and the tentative agenda at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The notice requirement also applies when there is a change to the original notice except as provided in Iowa Code section 21.4(3).

**8.1(2) *Where posted.*** Notice shall be posted at those locations designated in Iowa Code section 21.4. The notice shall be posted in an area that is easily accessible by the public or in an area where the notice is easily viewable by the public and shall be posted for at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The posting of a notice in an area that is not normally used for the posting of notices or public announcements shall not be deemed proper notice. However, if the posting of a notice in an area normally used for posting of notices is not reasonable or practical such as the area is under construction or renovation, the notice shall be posted in an area that is otherwise easily accessible by the public or in an area where the notice is easily viewable by the public.

**8.1(3) *Closed session.*** When a governmental body includes a closed session item on the tentative agenda, the notice shall include a brief statement of the purpose of the closed session. It shall not be deemed sufficient notice for the governmental body to only reference the statute by number and subparagraph without more information. For example, it shall not be sufficient notice for the governmental body to list as an agenda item “closed session 21.5(1)(a).” The brief statement of purpose does not require the governmental body to provide more information than what is required under subparagraphs (a) through (l) in Iowa Code section 21.5(1). Examples of notice deemed sufficient would be “closed session 21.5(1)(c) discuss litigation with counsel” or “closed session 21.5(1)(l) discuss patient care quality or discuss marketing and pricing strategies.”

This rule is intended to implement Iowa Code chapter 21.

[Filed 7/17/15, effective 9/9/15]

[Published 8/5/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2087C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, and 481A.48, the Natural Resource Commission hereby amends Chapter 97, “Common Snipe, Virginia Rail and Sora, Woodcock, Ruffed Grouse and Dove Hunting Seasons,” Iowa Administrative Code.

Chapter 97 contains the season dates, bag limits, possession limits, shooting hours, and areas open to hunting for the above-listed species. The adopted amendment increases the possession limits for common snipe, Virginia rail and sora, woodcock and doves and is consistent with the 2015-2016 federal regulations on possession limits for these species.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2015, as **ARC 2032C**. A public hearing was held on June 30, 2015. One written comment was received requesting that the Eurasian-collared dove be removed from the mourning dove season dates, bag limits and possession limits. No changes from the Notice were made.

After analysis and review of this rule making, there will not be an impact on jobs in the state since the changes only affect possession limits.

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

This amendment shall become effective September 9, 2015.

The following amendment is adopted.

Amend rules 571—97.1(481A) to 571—97.3(481A) and 571—97.6(481A) as follows:

**571—97.1(481A) Common snipe season.** Open season for hunting common snipe shall be from the first Saturday in September through November 30. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit 8 birds; possession limit ~~46~~ 24 birds. Entire state open.

**571—97.2(481A) Virginia rail and sora season.** Open season for hunting Virginia rail and sora shall be from the first Saturday in September and continue for 70 consecutive days. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit 12 and possession limit ~~24~~ 36 in aggregate of both species. Entire state open.

**571—97.3(481A) Woodcock season.** Open season for hunting woodcock shall be from the first Saturday in October and continue for 45 consecutive days. Shooting hours shall be from sunrise to sunset each day. Daily bag limit 3; possession limit ~~6~~ 9. Entire state open.

**571—97.6(481A) Dove season.** Open season for hunting mourning doves and Eurasian collared-doves shall begin on September 1 and continue for 70 consecutive days. Shooting hours shall be from one-half hour before sunrise to sunset each day. Daily bag limit is 15; possession limit is ~~30~~ 45. The entire state is open.

[Filed 7/17/15, effective 9/9/15]

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**ARC 2086C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B, the Natural Resource Commission hereby amends Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

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

Chapter 106 sets regulations for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

The adopted amendments:

1. Keep the antlerless-deer-only license quotas the same for 2015. The regulation changes enacted for the 2014 season appear to have stabilized deer numbers at the levels agreed to in 2009 by the Deer Study Advisory Group (DSAG). The DSAG was created to review, analyze, and make recommendations on issues relating to the state's deer population;

2. Amend the requirement for the type of broadhead for use with crossbows during the late muzzleloader season to be the same as that required for archery equipment during the regular bow season; and

3. Clarify which professionals are considered attending physicians for purposes of signing the affidavit needed to obtain a disabled hunter license. The amendment clarifies that a medical doctor, doctor of osteopathy, physician assistant, or nurse practitioner may certify the form.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 10, 2015, as **ARC 2031C**. A public hearing was held on June 30, 2015. Eleven written comments were received from the public during the comment period. Eight of the comments supported the proposed changes. Three comments expressed concern that deer numbers were increasing and that regulations should be liberalized. No changes were made to the Notice.

These amendments will have a neutral impact on jobs in the state. The following types of jobs are positively impacted by deer hunting generally and should see no noticeable change due to this rule making: hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

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

These amendments shall become effective September 9, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 106.6(6) as follows:

**106.6(6) Antlerless-deer-only licenses.** Paid antlerless-deer-only licenses will be available by county for the ~~2014~~ 2015 deer season as follows:

County	Quota	County	Quota	County	Quota
Adair	1025	Floyd	0	Monona	850
Adams	1450	Franklin	0	Monroe	1950
Allamakee	2975	Fremont	525	Montgomery	750
Appanoose	2200	Greene	0	Muscatine	775
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	1950	Osceola	0
Black Hawk	0	Hamilton	0	Page	750
Boone	450	Hancock	0	Palo Alto	0
Bremer	650	Hardin	0	Plymouth	0
Buchanan	200	Harrison	850	Pocahontas	0
Buena Vista	0	Henry	925	Polk	1350
Butler	0	Howard	200	Pottawattamie	850
Calhoun	0	Humboldt	0	Poweshiek	300
Carroll	0	Ida	0	Ringgold	2200
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	675	Scott	200

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

County	Quota	County	Quota	County	Quota
Cerro Gordo	0	Jasper	775	Shelby	225
Cherokee	0	Jefferson	1650	Sioux	0
Chickasaw	375	Johnson	850	Story	150
Clarke	2100	Jones	525	Tama	200
Clay	0	Keokuk	450	Taylor	2200
Clayton	2775	Kossuth	0	Union	1500
Clinton	400	Lee	1275	Van Buren	3800
Crawford	150	Linn	850	Wapello	1825
Dallas	1875	Louisa	775	Warren	2200
Davis	2800	Lucas	2200	Washington	750
Decatur	2200	Lyon	0	Wayne	2200
Delaware	525	Madison	2100	Webster	0
Des Moines	800	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1650	Winneshiek	1975
Dubuque	725	Marshall	150	Woodbury	850
Emmet	0	Mills	750	Worth	0
Fayette	1500	Mitchell	0	Wright	0

ITEM 2. Amend subrule 106.7(3) as follows:

**106.7(3) Muzzleloader seasons.** Only muzzleloading rifles and muzzleloading pistols will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloader, centerfire handgun, crossbow or bow as described in 106.7(1). Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. Legal handgun calibers are listed on the department of natural resources list of acceptable handgun calibers for hunting deer in Iowa. Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead ~~with at least three blades.~~

ITEM 3. Amend paragraph **106.10(1)“b”** as follows:

*b. Severely disabled hunt.* Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one general deer license to hunt deer during the youth season. A person applying for this license must either possess a disability parking permit or provide a completed form from the department of natural resources. The form must be signed by a physician verifying that the person's disability meets the criteria defined in Iowa Code section 321L.1(8). The attending physician shall be currently practicing medicine and shall be a medical doctor, a doctor of osteopathy, a physician assistant, or a nurse practitioner. Forms are available online at [www.iowadnr.gov](http://www.iowadnr.gov), by visiting the DNR office at the Wallace State Office Building, Des Moines, Iowa, or any district office, or by calling (515)281-5918 ~~725-8200~~. A person between 16 and 65 years of age must also possess a regular hunting license and have paid the habitat fee to obtain a license (if normally required to have a hunting license and to pay the habitat fee to hunt). A severely disabled person obtaining this license may obtain any other paid and free general deer and antlerless-deer-only licenses that are available to other hunters.

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

Antlerless-deer-only licenses must be obtained in the same manner by which other hunters obtain them, as described in 106.6(2).

[Filed 7/17/15, effective 9/9/15]

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**ARC 2092C**

**NATURAL RESOURCES DEPARTMENT[561]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 461A.81, the Department of Natural Resources hereby adopts new Chapter 13, "State Lands Volunteer Program," Iowa Administrative Code.

The purpose of this new chapter is to implement the State Lands Volunteer Program created in 2014 by the passage of 2014 Iowa Acts, House File 2397 (found in new Iowa Code section 461A.81), signed by Governor Branstad on March 26, 2014. The Department establishes a registration program for select nonprofit organizations that, along with individuals providing services on behalf of those nonprofits, will be eligible for liability protections under Iowa Code chapter 669 (Iowa Tort Claims Act) while performing qualifying volunteer services. The significance of this new program is that qualifying "volunteer" services, triggering volunteer liability protection under Iowa Code section 669.24, will include more than the manual labor assistance activities traditionally associated with the term "volunteer" (all of which are still covered). For example, in addition to more routine activities, like trail work, litter pickup, mowing, and other maintenance-type activities, concession operations in which the net proceeds are donated to the state park and park fundraising events may now be considered "volunteer" activities.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1989C** on May 13, 2015. A public hearing was held on June 2, 2015. Two public comments were received. One comment was in support of the rules. The other comment included questions asking for clarification regarding the registration process and stated that it seemed like the process involved a lot of paperwork. No changes to the rules were made based on the comments received. These rules are identical to those published under Notice of Intended Action.

The Department of Natural Resources adopted these rules on July 17, 2015.

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

These rules are intended to implement Iowa Code section 461A.81.

These rules will become effective September 9, 2015.

The following amendment is adopted.

Adopt the following **new** 561—Chapter 13:

CHAPTER 13

STATE LANDS VOLUNTEER PROGRAM

**561—13.1(461A) Definitions.**

*"Department"* means the department of natural resources.

*"Director"* means the director of the department of natural resources.

*"Volunteer"* means an organization incorporated under Iowa Code chapter 504 as a nonprofit organization, or an individual providing services on behalf of the nonprofit organization, that provides volunteer services for the benefit of lands under the jurisdiction of the department and that registers as a volunteer under this chapter. A volunteer may include a friends group or organization as defined in rule 571—14.1(461A). A volunteer shall not include an organization or individual that operates a concession operation, as defined in rule 571—14.1(461A), unless that concession operation remits all receipts and returns all net proceeds after qualifying expenses from such operations to the department for the benefit

NATURAL RESOURCES DEPARTMENT[561](cont'd)

of the state parks system, or otherwise procures goods or services for the benefit of the department. Qualifying volunteer services are, unless otherwise specified, limited to activities undertaken on lands under the jurisdiction of the department to benefit such lands. Volunteer services do not include any administrative functions of a nonprofit organization registered under this program.

**561—13.2(461A) Registration.** Organizations seeking to provide services under this program for the benefit of lands under the jurisdiction of the department must register with the department. The department shall make forms available for such application. The department may request additional information as part of its review. Registration must be renewed every other year or as soon as substantial changes are planned to the approved services contained in the authorization letter referenced in this chapter, whichever occurs first.

**561—13.3(461A) Review.** The department will review requests for registration to determine whether the registrant will be designated a volunteer under this program. The department shall evaluate the volunteer's ability to perform the services, the department's identified need for such services, and the department's ability to manage the volunteer's proposed activities, if applicable.

**561—13.4(461A) Department decision.** The department shall notify the registrant of its decision within a reasonable time period. If the department admits the registrant into the program, the department shall issue an authorization letter that shall be acknowledged by the registrant and shall state the terms of the registrant's participation in the program. The department may authorize the registrant's proposed activities in part and deny them in part. The department may provide reasons for any program denials.

**561—13.5(461A) Program benefit.** Volunteers providing services consistent with this program shall be afforded liability protection consistent with Iowa Code section 669.24, provided the volunteers are complying with the terms of the authorization letter issued by the department.

**561—13.6(461A) Limitation.** Nothing in these rules shall expand liability protection afforded volunteers beyond what is authorized by Iowa Code section 669.24. Failure to comply with department directives or policies, including those that may be described in the authorization letter and any amendments, may negate this liability protection. Nothing in these rules shall require registered volunteers to secure insurance for activities approved in the department's authorization letter.

These rules are intended to implement Iowa Code section 461A.81.

[Filed 7/17/15, effective 9/9/15]

[Published 8/5/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/5/15.

**ARC 2074C**

## **SECRETARY OF STATE[721]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.4, the Secretary of State hereby amends Chapter 22, "Voting Systems," Iowa Administrative Code.

These amendments are necessary to ensure that computers used to tabulate election results are secure and that county commissioners acknowledge risks associated with connecting election computers to the county network or to the Internet.

These amendments were published under Notice of Intended Action in the January 21, 2015, Iowa Administrative Bulletin as **ARC 1828C**. No public comments were received. The adopted amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code section 52.5.

SECRETARY OF STATE[721](cont'd)

These amendments will become effective September 9, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 22.50(1) as follows:

**22.50(1) Staff access.** The security policy shall describe who shall have access to the voting equipment, including the computers used in the commissioner's office to prepare ballots and voting equipment programs or to compile election results.

ITEM 2. Amend subrule 22.50(2) as follows:

**22.50(2) Computers.** For security purposes, computers used in the commissioner's office to prepare ballots and voting equipment programs or to compile ~~and report~~ election results ~~should~~ shall not be used for any other function and ~~should~~ shall not be linked to any computer network or to the Internet unless the commissioner has on file in the office of the state commissioner a current Election Computer Risk Acceptance Form indicating acceptance of this security risk. The Election Computer Risk Acceptance Form, once submitted, is current until the end of the next even-numbered calendar year.

*a.* If the election computers are linked to a network or to the Internet, the commissioner shall use a firewall to filter network traffic. Data transmissions over the Internet shall be encrypted and password-protected. Information posted to a Web site shall not be considered transmission of data over the Internet.

*b.* Access to the computer(s) used to prepare ballots and voting equipment programs or to compile election results shall be limited to persons specified by the commissioner in the written security policy. The level of access granted to each person identified in the policy shall be included in a written security policy specified.

(1) ~~Uniqueness. Every ID and password~~ The usernames and passwords for each user authorized in the security policy shall be unique. The creation of generic or shared user IDs usernames is specifically prohibited. Each user shall have exactly one user ID username and password, except where job requirements necessitate the creation of multiple IDs usernames to access different business functions.

(2) No change.

(3) ~~Generic user IDs usernames.~~ Staff members with generic user IDs usernames are not allowed to sign on to voting systems.

(4) No change.

*c.* No change.

[Filed 7/15/15, effective 9/9/15]

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