



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XL
August 16, 2017

NUMBER 4
Pages 361 to 410

CONTENTS IN THIS ISSUE

Pages 369 to 410 include **ARC 3250C** to **ARC 3266C**

ADMINISTRATIVE SERVICES

DEPARTMENT[11]

- Filed, Terrace Hill endowment for the
musical arts, amendments to ch 116
ARC 3262C 400

ALL AGENCIES

- Agency identification numbers 367
Citation of administrative rules 363
Schedule for rule making 364

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Dental hygienists—provision
of educational services without
supervision, 10.3, 10.4 **ARC 3253C** 369
Notice, Dentists and dental
hygienists—alternative examination for
licensure, amendments to chs 11, 12,
15 **ARC 3252C** 370
Notice, Sedation and nitrous oxide
inhalation analgesia, 29.1, 29.3 to 29.5
ARC 3261C 375

ECONOMIC DEVELOPMENT

AUTHORITY[261]

- Notice, Community catalyst building
remediation program, ch 45 **ARC 3256C** 378

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Amended Notice, Air quality—permit
application process, 22.1(3), 22.105(1)
ARC 3251C 382
Notice, Electronic submittal of manure
management plan updates and
associated fees, 65.16(3)"b" **ARC 3257C** 383

HOMELAND SECURITY AND EMERGENCY

MANAGEMENT DEPARTMENT[605]

- Filed, Community disaster grants, rescind
ch 13 **ARC 3263C** 402

HUMAN SERVICES DEPARTMENT[441]

- Notice, Residential care facilities
(RCFs)—annual cost reports, cost
reimbursement methodology, 52.1(3),
54.3 **ARC 3259C** 385
Notice, Foster care—supervised
apartment living (SAL), 152.1, 156.12,
202.9 **ARC 3260C** 386

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Notice, Fees, 8.1, 8.2(2)"f," 8.3, 8.4,
8.5(1)"d," 8.7, 8.9 **ARC 3258C** 388
Filed, Physician supervision of a
physician assistant, amendments to
ch 21 **ARC 3264C** 403

PUBLIC HEARINGS

- Summarized list 365

RACING AND GAMING COMMISSION[491]
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Notice, Problem gambling policies and
procedures; racehorse medications,
5.4(12), 10.7(1)"k" **ARC 3255C**..... 390

**TELECOMMUNICATIONS AND
TECHNOLOGY COMMISSION, IOWA**

Public Notice 391

**WORKFORCE DEVELOPMENT
DEPARTMENT[871]**

Notice, Employer records, reports,
contribution and charges; claims;
benefits, amendments to chs 22 to 24
ARC 3250C 392

Notice, Employer contribution and
charges; cash value of room and board,
amendments to chs 23, 25 **ARC 3254C** 395

Filed, Procedures for department
interaction with employers and
claimants, amendments to chs 1, 22, 24
ARC 3265C 405

Filed, Unemployment appeal hearings;
updates related to technology,
amendments to ch 26 **ARC 3266C** 409

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 2017

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

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|--------------------|
| 6 | Wednesday, August 23, 2017 | September 13, 2017 |
| 7 | Friday, September 8, 2017 | September 27, 2017 |
| 8 | Friday, September 22, 2017 | October 11, 2017 |

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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*****

ACCOUNTANCY EXAMINING BOARD[193A]

| | | |
|---|---|---------------------------|
| Attest services; CPA firm licensure; definition of “state”; review of rules, amendments to chs 1, 6 to 8, 10, 13, 14, 20, 21 IAB 8/2/17 ARC 3224C | Professional Licensing and Regulation Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa | August 28, 2017 1 p.m. |
|---|---|---------------------------|

DENTAL BOARD[650]

| | | |
|--|--|------------------------------|
| Dental hygienists—provision of educational services without supervision, 10.3, 10.4 IAB 8/16/17 ARC 3253C | Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa | September 12, 2017 2 p.m. |
| Dentists and dental hygienists—alternative examination for licensure, amendments to chs 11, 12, 15 IAB 8/16/17 ARC 3252C | Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa | September 12, 2017 2 p.m. |
| Sedation and nitrous oxide inhalation analgesia, 29.1, 29.3 to 29.5 IAB 8/16/17 ARC 3261C | Board Office, Suite D 400 S.W. Eighth St. Des Moines, Iowa | September 12, 2017 2 p.m. |

ENVIRONMENTAL PROTECTION COMMISSION[567]

| | | |
|---|---|--------------------------------|
| Air quality—permit application process, 22.1(3), 22.105(1) IAB 8/16/17 ARC 3251C | Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa | September 5, 2017 10 a.m. |
| Bacteria water quality criteria; Iowa wasteload allocation (WLA) procedure, 61.2(4), 61.3, 62.8 IAB 7/19/17 ARC 3202C | State Bank Room Washington Public Library 115 W. Washington St. Washington, Iowa | September 5, 2017 4 p.m. |
| | Meeting Room B Urbandale Public Library 3520 86th St. Urbandale, Iowa | September 6, 2017 4 p.m. |
| | Harlan Community Library 718 Court St. Harlan, Iowa | September 7, 2017 4 p.m. |
| Electronic submittal of manure management plan updates and associated fees, 65.16(3)“b” IAB 8/16/17 ARC 3257C | Auditorium Wallace State Office Bldg. Des Moines, Iowa | September 5, 2017 1:30 p.m. |

IOWA FINANCE AUTHORITY[265]

| | | |
|---|--|---------------------------|
| Low-income housing tax credits, 12.1(2), 12.2(2) IAB 8/2/17 ARC 3225C | Authority Offices 2015 Grand Ave. Des Moines, Iowa | August 22, 2017 9 a.m. |
|---|--|---------------------------|

LABOR SERVICES DIVISION[875]

| | | |
|--|--|---|
| Child labor permit—proof of age, 32.2(2)“a” IAB 8/2/17 ARC 3220C | 150 Des Moines St. Des Moines, Iowa | August 23, 2017 9 a.m. (If requested) |
|--|--|---|

MEDICINE BOARD[653]

Fees, 8.1, 8.2(2)“f,” 8.3, 8.4,
8.5(1)“d,” 8.7, 8.9
IAB 8/16/17 ARC 3258C

Board Office, Suite C
400 S.W. Eighth St.
Des Moines, Iowa

September 5, 2017
10 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Optometrists—application for
licensure, contact lens and
spectacle lens prescriptions,
180.2(1), 182.3
IAB 8/2/17 ARC 3223C

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

August 22, 2017
8:30 to 9 a.m.

Physical therapists and
physical therapist assistants,
occupational therapists
and occupational therapy
assistants—licensure,
amendments to chs 200,
206
IAB 8/2/17 ARC 3221C

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

August 22, 2017
8 to 8:30 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Standards for electrical
work—2017 National Electrical
Code (NEC), 100.1
IAB 7/5/17 ARC 3153C

Public Conference Room 125
Oran Pape State Office Bldg.
Des Moines, Iowa

August 17, 2017
10 a.m.

Consumer fireworks sales
licensing and safety standards,
ch 265
IAB 6/21/17 ARC 3123C

Public Conference Room 125
Oran Pape State Office Bldg.
Des Moines, Iowa

September 8, 2017
10 a.m.

RACING AND GAMING COMMISSION[491]

Problem gambling policies
and procedures; racehorse
medications, 5.4(12),
10.7(1)“k”
IAB 8/16/17 ARC 3255C

Commission Office, Suite 100
1300 Des Moines St.
Des Moines, Iowa

September 5, 2017
9 a.m.

TRANSPORTATION DEPARTMENT[761]

General requirements and
covenants for highway and
bridge construction, rescind
ch 125
IAB 8/2/17 ARC 3219C

South Conference Room, First Floor
Administration Bldg.
800 Lincoln Way
Ames, Iowa

August 24, 2017
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Equipment distribution program,
37.1 to 37.6
IAB 6/21/17 ARC 3119C

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

August 16, 2017
10 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF CATTLE PRODUCERS ASSOCIATION, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
OMBUDSMAN[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Military Division[611]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 3253C

DENTAL BOARD[650]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76, 153.15 and 153.33, the Dental Board hereby gives Notice of Intended Action to amend Chapter 10, “General Requirements,” Iowa Administrative Code.

2017 Iowa Acts, Senate File 479, was signed into law by the Governor during the recent 2017 Legislative Session. The law, which went into effect on July 1, 2017, allows dental hygienists to provide educational services without the supervision of a licensed dentist.

These proposed amendments change the scope of practice of dental hygienists to include the provision of educational services without the supervision of a licensed dentist.

Any interested person may make written comments on the proposed amendments on or before September 12, 2017. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on September 12, 2017, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendments are not subject to waiver or variance pursuant to 650—Chapter 7.

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

These amendments are intended to implement Iowa Code section 153.15 as amended by 2017 Iowa Acts, Senate File 479.

The following amendments are proposed.

ITEM 1. Amend subrule 10.3(1) as follows:

10.3(1) “Practice of dental hygiene” as defined in Iowa Code section 153.15 as amended by 2017 Iowa Acts, Senate File 479, means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene ~~procedures which are~~ services. Such services, except educational services, shall be delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

a. to e. No change.

ITEM 2. Amend subrule 10.3(2) as follows:

10.3(2) All authorized services provided by a dental hygienist, except educational services, shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).

ITEM 3. Amend rule 650—10.4(153), introductory paragraph, as follows:

650—10.4(153) Unauthorized practice of a dental hygienist. A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental ~~service(s)~~ services, except educational services, directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally.

DENTAL BOARD[650](cont'd)

ITEM 4. Amend subrule 10.4(3) as follows:

10.4(3) A dental hygienist shall not ~~practice~~ provide services, except for educational services, independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

ARC 3252C

DENTAL BOARD[650]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.34 and 153.21, the Dental Board hereby gives Notice of Intended Action to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Chapter 12, “Dental and Dental Hygiene Examinations,” and Chapter 15, “Fees,” Iowa Administrative Code.

The purpose of the proposed amendments is to implement an alternative examination for licensure pursuant to 2016 Iowa Acts, House File 2387, signed by the Governor on March 31, 2016.

The amendments to Chapter 11 add an alternative examination for students at the University of Iowa College of Dentistry. These amendments allow students or graduates of the University of Iowa to complete a portfolio examination and submit it for the purposes of licensure on the basis of examination. These amendments also establish the time period during which an application on the basis of portfolio examination would be accepted.

The amendments to Chapter 12 establish the basis of the portfolio examination, the criteria for administering the portfolio examination and related procedures, and the scoring requirements for successful completion of the portfolio examination.

The amendments to Chapter 15 establish the fee for examination for licensure by portfolio. The fee is intended to cover the anticipated costs of proctoring the examination. These amendments also update several cross references within Chapter 15.

Any interested person may make written comments on the proposed amendments on or before September 12, 2017. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on September 12, 2017, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendments to Chapters 11 and 12 are subject to waiver or variance pursuant to 650—Chapter 7. The proposed amendments to Chapter 15 are not subject to waiver or variance pursuant to 650—Chapter 7.

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

These amendments are intended to implement 2016 Iowa Acts, House File 2387.

The following amendments are proposed.

ITEM 1. Amend subrule 11.2(2) as follows:

11.2(2) Applications for licensure must be filed with the board along with:

a. to *c.* No change.

d. *Documentation of passage of a ~~regional~~ clinical examination.*

(1) Successful passage of a ~~regional~~ board-approved clinical examination within the previous five-year period with a grade of at least 75 percent.

DENTAL BOARD[650](cont'd)

(2) The following regional clinical examinations are approved by the board for purposes of licensure by examination: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA).

(3) Beginning January 1, 2018, the 2014 California portfolio examination is approved by the board for the purposes of licensure by examination. To be eligible for licensure on the basis of portfolio examination, an applicant must be a student at the University of Iowa College of Dentistry or have graduated from the University of Iowa College of Dentistry within one year of the date of application.

e. to i. No change.

ITEM 2. Amend subrule 11.3(2) as follows:

11.3(2) Applications must be filed with the board along with:

a. Satisfactory evidence of graduation with a DDS or DMD from an accredited dental college approved by the board or satisfactory evidence of meeting the requirements specified in rule 650—11.4(153).

b. Evidence of attaining a grade of at least 75 percent on the examination of the Joint Commission on National Dental Examinations or evidence of attaining a grade of at least 75 percent on a written examination during the last ten years that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.

c. A statement of any dental examinations taken by the applicant, with indication of pass/fail for each examination taken. Any dentist who has lawfully practiced dentistry in another state or territory for five or more years may be exempted from presenting this evidence.

d. Evidence of a current, valid license to practice dentistry in another state, territory or district of the United States issued under requirements equivalent or substantially equivalent to those of this state.

e. Evidence that the applicant has met at least one of the following:

(1) Has less than three consecutive years of practice immediately prior to the filing of the application and evidence of attaining a grade of at least 75 percent on a regional board-approved clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by credentials: the Central Regional Dental Testing Service, Inc. examination as administered by the Central Regional Dental Testing Service, Inc. (CRDTS), the Western Regional Examining Board examination as administered by the Western Regional Examining Board (WREB), the Southern Regional Testing Agency, Inc. examination as administered by the Southern Regional Testing Agency, Inc. (SRTA), and the American Board of Dental Examiners, Inc. examination as administered by the Commission on Dental Competency Assessments (CDCA) and the Council of Interstate Testing Agencies, Inc. (CITA), and the 2014 California portfolio examination; or

(2) Has for three consecutive years immediately prior to the filing of the application been in the lawful practice of dentistry in such other state, territory or district of the United States.

f. Evidence from the state board of dentistry, or equivalent authority, from each state in which applicant has been licensed to practice dentistry, that the applicant has not been the subject of final or pending disciplinary action.

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioner Data Bank (NPDB).

h. The nonrefundable application fee for licensure by credentials, plus the fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), as specified in 650—Chapter 15.

DENTAL BOARD[650](cont'd)

i. Current CPR certification. A statement:

- (1) Confirming that the applicant possesses a valid certificate from a nationally recognized course in cardiopulmonary resuscitation (CPR) that included a “hands-on” clinical component;
- (2) Providing the expiration date of the CPR certificate; and
- (3) Acknowledging that the CPR certificate will be retained and made available to board office staff as part of routine auditing and monitoring.

j. Evidence of successful completion of a board-approved jurisprudence examination with a grade of at least 75 percent.

k. A completed fingerprint packet to facilitate a criminal history background check by the DCI and FBI.

ITEM 3. Renumber rules **650—12.3(147,153)** and **650—12.4(147,153)** as **650—12.4(147,153)** and **650—12.5(147,153)**.

ITEM 4. Adopt the following **new** rule 650—12.3(147,153):

650—12.3(147,153) Portfolio examination procedure for dentistry.

12.3(1) Completion of a portfolio examination. The 2014 California portfolio examination is accepted for licensure by examination for University of Iowa graduates. To meet the requirements for dental licensure and portfolio examination, applicants shall complete the portfolio examination as administered at the University of Iowa College of Dentistry.

12.3(2) Compliance with testing requirements and procedures.

a. The board shall oversee all aspects of the portfolio examination process but shall not interfere with the College of Dentistry’s authority to establish and deliver an accredited curriculum. The board shall determine an end-of-year deadline, in consultation with the College of Dentistry, to determine when the portfolio examinations shall be completed and submitted to the board for review by the board’s examiners.

b. The portfolio examination shall be conducted while the applicant is actively enrolled as a student at the University of Iowa College of Dentistry. This examination shall utilize uniform standards of clinical experiences and competencies as outlined in the 2014 California portfolio examination. The applicant shall pass a final assessment of the submitted portfolio at the end of the applicant’s dental school education at the University of Iowa College of Dentistry.

c. Before any portfolio examination may be submitted to the board, the applicant shall remit to the board the required portfolio examination fee as specified in 650—Chapter 15 and a letter of good standing signed by the dean of the College of Dentistry stating that the applicant has graduated or will graduate with no pending ethical issues.

12.3(3) Scoring requirements.

a. Final clinical competencies performed by the applicant must be evaluated by two examiners who have participated in standardization, calibration and training. The examiners shall be approved by the board and may include faculty, board members or board member designees. Board members or board member designees shall have priority as examiners at all times. The College of Dentistry shall submit to the board the names of the portfolio examiners for consideration by January 1 of each calendar year.

b. The College of Dentistry shall provide a minimum of a seven-day notice for all final competencies. In the event that a seven-day notice cannot be provided, the College of Dentistry must notify the board immediately. In the event that no board members or designees are available to participate in an evaluation, the College of Dentistry may use two board-approved portfolio examiners.

c. Successful completion of each competency shall result in a score that meets minimum competence-level performance. Scoring criteria for each competency is outlined in the 2014/2015 California Examiner Training Manual.

d. The board shall monitor and audit the standardization and calibration of examiners at least biennially to ensure standardization and an acceptable level of calibration in the grading of

DENTAL BOARD[650](cont'd)

the examination. The College of Dentistry's competency examinations with regard to the portfolio examination shall be audited annually by the board.

12.3(4) Compliance with clinical operation requirements.

a. The board shall require and verify the successful completion of a minimum number of clinical experiences for the portfolio examination.

b. The board shall require and verify the successful completion of a set number of competency examinations performed on a patient of record. The clinical experiences include, but are not limited to, the following:

- (1) Comprehensive oral diagnosis and treatment planning;
- (2) Periodontics;
- (3) Direct restorations;
- (4) Indirect restorations;
- (5) Removable prosthodontics; and
- (6) Endodontics.

ITEM 5. Amend renumbered subrule 12.5(1) as follows:

12.5(1) Method of counting failures.

a. No change.

b. A dental hygiene examinee who has two examination failures will be required to complete the remedial education requirements set forth in subrule ~~12.4(2)~~ 12.5(2).

ITEM 6. Renumber rules ~~650—15.3(153)~~ to ~~650—15.14(17A,147,153,272C)~~ as ~~650—15.4(153)~~ to ~~650—15.15(17A,147,153,272C)~~.

ITEM 7. Adopt the following new rule 650—15.3(153):

650—15.3(153) Examination fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.3(1) Portfolio dental examination fee. The fee for dental examination on the basis of portfolio is \$1500.

15.3(2) Reserved.

ITEM 8. Amend renumbered rule 650—15.4(153) as follows:

650—15.4(153) Application fees. All fees are nonrefundable. In addition to the fees specified in this rule, an applicant will pay a service charge for filing online.

15.4(1) Dental licensure on the basis of examination. The fees for a dental license issued on the basis of examination include an application fee, a fee for evaluation of a fingerprint packet and criminal background check and, if the applicant is applying within three months or less of a biennial renewal due date, the renewal fee.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. *Fingerprint packet and criminal history check.* The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(2) Dental hygiene licensure on the basis of examination. The fees for a dental hygiene license issued on the basis of examination include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. *Initial licensure period and renewal period.* If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years

DENTAL BOARD[650](cont'd)

and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(3) and **15.4(4)** No change.

15.4(5) Dental licensure on the basis of credentials. The fees for a dental license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(6) Dental hygiene licensure on the basis of credentials. The fees for a dental hygiene license issued on the basis of credentials include an application fee, an initial licensure fee, and a fee for evaluation of a fingerprint packet and criminal background check.

a. No change.

b. Initial licensure period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the licensure application fee. A license shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a licensee shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

c. Fingerprint packet and criminal history check. The fee for evaluation of a fingerprint packet and criminal background check is as specified in subrule ~~15.7(4)~~ 15.8(4).

15.4(7) to 15.4(12) No change.

15.4(13) Dental assistant registration only application.

a. No change.

b. Initial registration period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the registration application fee. A dental assistant registration shall not be issued for a period less than three months or longer than two years and three months. Thereafter, a registrant shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

15.4(14) Combined application—dental assistant registration and qualification in radiography.

a. No change.

b. Initial combined registration and radiography qualification period and renewal period. If an applicant applies within three months or less of a biennial renewal due date, the applicant shall pay the renewal fee along with the combined registration/radiography qualification application fee. A dental assistant registration and radiography qualification shall not be issued for a period less than three months or longer than two years and three months. Thereafter, the applicant shall pay the renewal fee as specified in ~~650—15.4(153)~~ rule 650—15.5(153).

15.4(15) to 15.4(17) No change.

ITEM 9. Amend renumbered rule ~~650—15.7(147,153)~~ as follows:

650—15.7(147,153) Reinstatement fees. If a license, registration or permit lapses or is inactive, a licensee, registrant or permit holder may submit an application for reinstatement. Licensees, registrants or permit holders are subject to reinstatement fees as described in this rule.

15.7(1) Reinstatement of a dental license. In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750) and the

DENTAL BOARD[650](cont'd)

fee for evaluation of a fingerprint packet and criminal background check as specified in ~~15.7(4)~~ subrule 15.8(4).

15.7(2) *Reinstatement of a dental hygiene license.* In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750) and the fee for evaluation of a fingerprint packet and criminal background check as specified in ~~15.7(4)~~ subrule 15.8(4).

15.7(3) *Reinstatement of a dental assistant registration.* In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750).

15.7(4) *Combined reinstatement application—dental assistant registration and qualification in radiography.* The fee for a combined application to reinstate both a registration as a registered dental assistant and a radiography qualification is specified in ~~15.3(8)~~ subrule 15.4(8).

15.7(5) *Reinstatement of qualification in radiography.* In addition to the reinstatement application fee specified in ~~15.3(8)~~ subrule 15.4(8), the applicant must pay all back renewal fees (not to exceed \$750).

ARC 3261C**DENTAL BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 153.33, the Dental Board hereby gives Notice of Intended Action to amend Chapter 29, “Sedation and Nitrous Oxide Inhalation Analgesia,” Iowa Administrative Code.

These proposed amendments define “hospitalization” for the purpose of reporting an adverse occurrence, update requirements for the use of moderate sedation and deep sedation/general anesthesia in accordance with newly issued American Dental Association (ADA) guidelines for the use of sedation, and clarify the type of Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certification courses allowed for the purposes of application and renewal of a sedation permit.

These amendments clarify situations wherein a licensee would be required to report an adverse occurrence. The current rules require a report in the case of hospitalization, but hospitalization is not currently defined in the Board’s rules; this has led to some uncertainty about requirements for reporting of adverse occurrences.

The amendments update sedation guidelines to match the new guidelines issued by the ADA. Comments received during past rule making related to this chapter urged the Board to wait for guidelines to be issued by the ADA prior to implementing changes. In the fall of 2016, the ADA issued new guidelines recommended for use in moderate sedation and deep sedation/general anesthesia. The Anesthesia Credentials Committee, a committee of the Board, reviewed the recommendations and advocated their adoption in order to have additional safeguards in place during the administration of moderate sedation or deep sedation/general anesthesia. The amendments require general anesthesia permit holders to maintain and be trained on equipment that monitors end-tidal CO₂ and on a pretracheal or precordial stethoscope during the use of deep sedation/general anesthesia in order to monitor auscultation of breath sounds.

These amendments update the requirements for certification in ACLS and PALS, which is a requirement for moderate sedation and general anesthesia permits. The amendments would require acceptable certification courses to include a clinical component wherein the practitioner must demonstrate competency in life support services. Online-only certification courses would not be

DENTAL BOARD[650](cont'd)

accepted. These amendments would make the ACLS and PALS certification requirements consistent with the requirements for CPR certification for licensure and registration.

These amendments update the requirements for moderate sedation training. The ADA has recommended that moderate sedation training courses include training on rescuing a patient from a deeper level of sedation than intended, including training in airway management and the use of reversal medications.

These amendments require moderate sedation permit holders to maintain and be trained on equipment that monitors end-tidal CO₂ and on a pretracheal or precordial stethoscope unless precluded or invalidated by the nature of the patient, procedure or equipment.

Any interested person may make written comments on the proposed amendments on or before September 12, 2017. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on September 12, 2017, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

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

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

These amendments are intended to implement Iowa Code section 153.20.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “Hospitalization” in rule **650—29.1(153)**:

“Hospitalization” means in-patient treatment at a hospital or clinic. Out-patient treatment at an emergency room or clinic is not considered to be hospitalization for the purposes of reporting adverse occurrences.

ITEM 2. Amend subrule 29.3(2) as follows:

29.3(2) A dentist using deep sedation/general anesthesia shall maintain a properly equipped facility at each facility where sedation is administered. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography to monitor end-tidal CO₂, pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

ITEM 3. Amend subrule 29.3(4) as follows:

29.3(4) A dentist administering deep sedation/general anesthesia must document and maintain ~~current, successful completion of an~~ certification in Advanced Cardiac Life Support (ACLS) course. Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

ITEM 4. Amend subrule 29.4(1) as follows:

29.4(1) A permit may be issued to a licensed dentist to use moderate sedation for dental patients provided the dentist meets the following requirements:

a. Has successfully completed a training program approved by the board that meets the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students and that consists of a minimum of 60 hours of instruction and management of at least 20 patients; and

b. ~~Has formal training in airway management~~ Has successfully completed a training program that includes rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications; or

DENTAL BOARD[650](cont'd)

c. Has submitted evidence of successful completion of an accredited residency program that includes formal training and clinical experience in moderate sedation, which is approved by the board; and

d. Has completed a peer review evaluation, as may be required by the board, prior to issuance of a permit.

ITEM 5. Amend subrule 29.4(2) as follows:

29.4(2) A dentist utilizing moderate sedation shall maintain a properly equipped facility. The dentist shall maintain and be trained on the following equipment at each facility where sedation is provided: capnography or pretracheal/precordial to monitor end-tidal CO₂ unless precluded or invalidated by the nature of the patient, procedure or equipment, pretracheal or precordial stethoscope, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. A licensee may submit a request to the board for an exemption from any of the provisions of this subrule. Exemption requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the exemption.

ITEM 6. Amend subrule 29.4(4) as follows:

29.4(4) A dentist administering moderate sedation must document and maintain current, ~~successful completion of an~~ certification in Advanced Cardiac Life Support (ACLS) ~~course~~. A dentist administering moderate sedation to pediatric patients may maintain current certification in Pediatric Advanced Life Support (PALS) in lieu of ACLS. Current certification means certification by an organization on an annual basis or, if that certifying organization requires certification on a less frequent basis, evidence that the permit holder has been properly certified for each year covered by the renewal period. In addition, the course must include a clinical component.

ITEM 7. Amend subrule 29.5(11) as follows:

29.5(11) ~~Use of capnography required beginning January 1, 2014.~~ Use of capnography and pretracheal or precordial stethoscope.

a. Consistent with the practices of the American Association of Oral and Maxillofacial Surgeons (AAOMS), all general anesthesia/deep sedation permit holders shall use capnography at all facilities where they provide sedation beginning January 1, 2014.

b. All general anesthesia/deep sedation permit holders shall use a pretracheal or precordial stethoscope to continually monitor auscultation of breath sounds beginning January 1, 2018.

ITEM 8. Amend subrule 29.5(12) as follows:

29.5(12) Use of capnography or pretracheal/precordial stethoscope required for moderate sedation permit holders. Beginning January 1, ~~2015~~ 2018, all moderate sedation permit holders shall use capnography ~~or a pretracheal/precordial to monitor end-tidal CO₂ unless precluded or invalidated by the nature of the patient, procedure or equipment.~~ In cases where the use of capnography is precluded or invalidated for the reasons listed previously, a pretracheal or precordial stethoscope must be used to continually monitor the auscultation of breath sounds at all facilities where they permit holders provide sedation.

ARC 3256C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 15.106A and 15.231, the Iowa Economic Development Authority hereby gives Notice of Intended Action to adopt new Chapter 45, “Community Catalyst Building Remediation Program,” Iowa Administrative Code.

The proposed amendment creates a new chapter of rules governing the administration of the Community Catalyst Building Remediation Program. Pursuant to Iowa Code section 15.231, the Authority is directed to establish a community catalyst building remediation fund to provide grants to cities for the remediation or redevelopment of underutilized buildings. The new chapter contains definitions, a program description, a description of the application process by which cities apply for grant funds, program eligibility requirements, and application scoring criteria and includes that an agreement is required for the provision of any financial assistance awarded.

The Economic Development Authority Board approved these rules at its meeting held on July 21, 2017.

Interested persons may submit comments on or before September 5, 2017. Comments may be submitted to Jennifer Klein, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail Jennifer.Klein@iowaeda.com.

This rule making does not have any fiscal impact to the state of Iowa.

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

These rules are intended to implement Iowa Code section 15.231.

The following amendment is proposed.

Adopt the following **new** 261—Chapter 45:

CHAPTER 45

COMMUNITY CATALYST BUILDING REMEDIATION PROGRAM

261—45.1(15) Purpose. Pursuant to Iowa Code sections 15.231 and 15.106A, the authority is directed to establish a community catalyst building remediation program fund for the purpose of providing grants to cities for the remediation or redevelopment of underutilized buildings. The authority shall administer the fund in a manner to make grant moneys annually available to cities for the purposes of this chapter.

261—45.2(15) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

“*Applicant*” means a city applying for financial assistance under the program.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Building*” means a structure located in a city that is either:

1. Used or intended to be used for commercial or industrial purposes; or
2. Used or intended to be used for residential purposes.

“Building” includes structures in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“*Community catalyst*” means a building or buildings which, if remediated, would stimulate additional economic growth or reinvestment in the community, especially private sector financial investment. For purposes of this chapter, “economic growth” may include the creation of additional jobs, growth of new or existing businesses, development of new housing units, increased property values, or potential population growth. The building will be located in an area central to the city’s economic development activities. A community catalyst project will be expected to have a significant positive expected impact on the community.

“*Costs directly related*” means expenditures that are incurred for acquisition, deconstruction, disposal, redevelopment, or rehabilitation of a community catalyst to the extent that the expenditures are attributable directly to the remediation or redevelopment of the community catalyst. “Costs directly related” includes expenditures for site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. “Costs directly related” does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

“*Director*” means the director of the authority.

“*Financial assistance*” means a grant or loan made by the authority to an applicant approved for funding under the program.

“*Program*” means the procedures, agreement, terms, and assistance established and provided pursuant to this chapter.

“*Project*” means a proposed plan for the remediation of underutilized buildings in a city. “Project” must include at least one building but no more than two buildings. For two buildings to be considered part of the same project, the buildings must be contiguous and under the same ownership. All community catalyst buildings to be remediated must be included in the proposed plan upon application, and the proposed plan must demonstrate the steps and actions necessary to further remediation and redevelopment efforts in a comprehensive and coordinated manner.

“*Public nuisance*” means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. “Public nuisance” includes buildings with blighting characteristics as defined by Iowa Code section 403.2.

“*Redevelopment*” means development activities associated with a project that are undertaken either for the purpose of remediating underutilized buildings, for constructing new buildings or improvements at a site where formerly existing buildings have been demolished, or for rehabilitating, reusing or repurposing existing buildings or improvements at a project site. “Redevelopment” typically includes projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“*Remediation*” or “*remediating*” means the redevelopment, repair, improvement, rehabilitation, disposal, or deconstruction of at least one but no more than two underutilized buildings at a site included in a project.

“*Underutilized building*” means a building that is vacant or mostly vacant, is blighted or severely deteriorated, and contains potential safety hazards including structural instability, code noncompliance, vermin infestation, vandalism or potential for vandalism, vagrancy, hazardous materials or generally unsafe or hazardous conditions. The building may or may not be considered a public nuisance.

261—45.3(15) Program description.**45.3(1) Amount, form, and timing of assistance.**

a. The program provides financial assistance to cities for the redevelopment or remediation of underutilized buildings. The amount of assistance awarded will be determined by the authority based on the total amount of funds available to the authority for the program and based on the project details.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Each applicant shall receive no more than one grant per project per fiscal year. The maximum grant amount per applicant per fiscal year shall not exceed \$100,000. If an applicant received a technical assistance grant under paragraph 45.3(2)“b,” the amount of the financial assistance for redevelopment or remediation plus the amount of the technical assistance grant shall not exceed the maximum grant amount of \$100,000.

b. In providing grants under this chapter, the authority shall allocate 40 percent of the moneys available at the beginning of each fiscal year to funding grants to cities with populations of less than 1,500 as shown by the most recent federal census. If at the end of each application period the amount of grants awarded to cities with a population of less than 1,500 is less than the amount allocated to such grants under this rule, the balance may be awarded to any approved applicant, regardless of city population.

45.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority’s Web site:

Iowa Economic Development Authority
Community Development Division
200 East Grand Avenue, Des Moines, Iowa 50309
(515)725-3000
<http://iowaeconomicdevelopment.com/>

b. Preapplication. An application may not be submitted to the authority until a preapplication has been submitted to the authority and the authority has approved submission of the application. A preapplication may be submitted to the authority at any time. Following the receipt of a preapplication, the authority may offer technical assistance, including technical assistance grants up to \$5,000 per applicant per fiscal year. The purpose of such technical assistance and technical assistance grants shall be to ensure a complete application that is sufficiently detailed to enable the authority to make a determination. The authority reserves the right to deny an application if the applicant’s preapplication was submitted less than 30 days before the announced application period.

c. Application period. Each fiscal year during which funding is available, applications for financial assistance other than applications for emergency projects submitted pursuant to paragraph 45.3(2)“e” will only be accepted during the established application period, or periods, as identified by the authority on its Web site. The authority will accept applications year-round for emergency projects submitted pursuant to paragraph 45.3(2)“e.”

d. Complete application required. An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

e. Emergency project applications. Cities that identify projects which present a unique and immediate threat or opportunity may submit an application for funding at any time. For purposes of this subrule, a “unique or immediate threat” includes unforeseen challenges or problems that could result in catastrophic failure of a building’s structural system and overall integrity. A threat includes various acts of nature, such as flood, fire, or storm damage, or sudden and unexpected structural failures, such as partial wall collapse. Deferred maintenance will not be considered an immediate threat. For purposes of this subrule, a “unique or immediate opportunity” means a time-sensitive remediation project that is reasonably expected to result in economic growth. All applications for financial assistance for projects submitted under this subrule must meet all other requirements of this program and shall be scored using the same criteria as the criteria that are applied to applications for financial assistance for projects submitted during the regular application period.

45.3(3) Approval of assistance. The authority will review, score, and recommend applications for financial assistance under the program to the director. Authority staff will review applications for financial assistance and score the applications in accordance with subrule 45.4(2). A project that does not receive funding may reapply.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

45.3(4) *Contract required.* The authority shall enter into an agreement with each applicant for the receipt of a grant under this chapter. The agreement must state the terms on which the financial assistance is to be provided. For an applicant to receive grant moneys under this chapter, the agreement must require the applicant to provide resources, including financial or in-kind resources, to the remediation project. The authority may negotiate the terms of the agreement. The applicant shall execute the agreement before funds are disbursed under the program.

45.3(5) *Form of financial assistance.* The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.

45.3(6) *Use of funds.*

a. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

b. The authority shall coordinate with the applicant to develop a plan for the use of grant moneys that is consistent with the community development, housing, and economic development goals of the city. The terms of the agreement executed pursuant to these rules and the use of grants provided under this program shall be consistent with the plan developed.

261—45.4(15) Program eligibility, application scoring, and funding decisions.

45.4(1) *Program eligibility.* An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

a. The applicant must be a city. If the project building or buildings are owned by an entity other than the city, the city must provide information to the authority regarding ownership and the relationship between the owner and the city.

b. The building or buildings that constitute the project must meet the definition of “underutilized building” as determined by the authority.

c. The building or buildings that constitute the project must meet the definition of “community catalyst.” The authority shall determine whether the building or buildings meet the definition of “community catalyst” set out in rule 261—45.2(15).

d. The project must include financial or in-kind resources contributed by the city.

e. The applicant must complete the application and provide all other information and documents reasonably required by the authority.

45.4(2) *Application scoring criteria.* All completed applications will be reviewed and scored. In order for an applicant to be considered for funding, the application must meet or exceed a minimum score established by the authority. Each application will be scored using criteria set forth by the authority, which may include the following:

a. Economic impact of remediation project. The authority will take into account the potential economic growth and investment that is reasonably expected to occur as a result of the project. The applicant must provide information demonstrating that the expected economic impact of the project is reasonable based on existing factors.

b. Local government support. The level and amount of local government support, including financial support, will be considered for each applicant.

c. Readiness. The authority will assess whether the project is well-prepared and ready to begin within a reasonable amount of time.

d. Project plan and time line. The authority will assess whether the applicant has prepared a detailed project plan and time line for the execution of the project.

e. Project financing. The authority will assess whether the applicant has secured financing and is financially prepared to complete the project.

45.4(3) *Funding decisions.* Funding decisions will be made using the following process:

a. Staff review. Each application will be reviewed and scored by staff using the eligibility and scoring criteria under this rule. The scores assigned by all participating staff will be added together and

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

divided by the number of participating staff to determine an average numerical score. The application and the average numerical score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.

b. Director's decision. The director will make the final funding decision on each application, taking into consideration the amount of available funding, the average numerical score of the application, and the recommendations made by community development division staff. The director may approve, deny, or defer funding for any application.

c. Minimum score required. In order to receive financial assistance under this program, the application must receive an average minimum score established by the authority. A score exceeding the minimum does not guarantee that the applicant will receive funding.

d. Notification. Each applicant will be notified in writing of the funding decision within 60 days of receipt by the authority of a complete application unless extenuating circumstances exist.

261—45.5(15) Agreement required.

45.5(1) Each applicant that is approved for financial assistance under the program shall enter into an agreement with the authority for the provision of such financial assistance. The agreement will establish the terms on which the financial assistance is to be provided and may include any other terms reasonably necessary for the efficient administration of the program.

45.5(2) The authority and the applicant may amend the agreement at any time upon the mutual agreement of both the authority and the applicant.

45.5(3) The agreement may require an applicant that has been approved for financial assistance under the program to submit information reasonably required by the authority to make reports to the authority's board, the governor's office, or the general assembly.

These rules are intended to implement Iowa Code section 15.231.

ARC 3251C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) proposes to amend Chapter 22, "Controlling Pollution," Iowa Administrative Code.

The proposed amendments include clarifying the types of mailing services that may be used to submit air construction permit applications and Title V permit applications and clarifying that applications are not required to be submitted by certified mail. Additionally, the amendments establish electronic media submission requirements necessary for compliance with the federal Cross-Media Electronic Reporting Rule (CROMERR) adopted in 567—Chapter 15. The amendments also reduce the regulatory burden for construction permit applicants for projects that will not emit greenhouse gases (GHG) by eliminating the requirement for those applicants to submit the current three-page GHG form. Lastly, the amendments revise the requirements for Title V permit applications so that only one copy of the application (rather than two) needs to be submitted to the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 18, 2017, as **ARC 2895C**, and a public hearing was held on February 20, 2017, in Windsor Heights, Iowa. The Department received no comments at the public hearing. The Department received one written comment prior to the February 20, 2017, deadline for public comments.

The U.S. Environmental Protection Agency (EPA) submitted a comment stating that the portions of the amendments allowing submittal of a construction permit application or a Title V Operating Permit application by e-mail would not be approved into Iowa's State Implementation Plan (SIP). The EPA stated that it would not approve these rule changes into the SIP because Iowa has not submitted the electronic submittal method as part of a formal application for compliance with CROMERR.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Subsequently, the Department submitted a formal request to the EPA for an Applicability Determination on whether the e-mail submittal method, if submitted as part of a formal CROMERR application, would be CROMERR-compliant. The EPA responded to the Department in a letter dated May 25, 2017, indicating that such an application submittal method would not be considered CROMERR-compliant.

In response to the public comment received, the Commission is providing an additional opportunity for public comment on the proposed amendments. The Commission has not made any changes to the proposed amendments published under the Notice of Intended Action. (Please see **ARC 2895C**, Iowa Administrative Bulletin, January 18, 2017, for the complete description and proposed amendments to Chapter 22.)

Anyone may make written suggestions or comments on the proposed amendments (**ARC 2895C**) on or before September 5, 2017. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)725-9501; or by e-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Tuesday, September 5, 2017, at 10 a.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on September 5, 2017.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)725-9510 or by e-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

As noted in **ARC 2895C**, the Commission has determined after analysis and review that the proposed amendments will have a positive impact on private sector jobs.

ARC 3257C**ENVIRONMENTAL PROTECTION COMMISSION[567]****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 459.103 and 459.302, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 65, “Animal Feeding Operations,” Iowa Administrative Code.

The purpose of the proposed amendment is to allow for the submittal of manure management plan updates and associated fees electronically through the Department of Natural Resource's Web application system. Under the current rules, those who are required to submit manure management plan updates and associated fees must submit the documents and fees either through the mail or in person to the various field offices around the state. The manure management plan update must also have a county receipt signature, which requires the person filing the manure management plan update to receive a signature from each county where the animal feeding operation is located and each county where manure is applied. With the proposed amendment, the manure management plan updates and associated fees will be able to be submitted electronically, and impacted counties will receive the submittals electronically. This amendment will allow those who are required to submit manure plan updates and associated fees to save costs associated with postage, time, plan preparation and transportation.

Anyone may make written suggestions or comments on the proposed amendment on or before September 6, 2017. Written comments should be directed to Kelli Book, Department of Natural Resources, 7900 Hickman Road Suite 1, Windsor Heights, Iowa 50324; or by e-mail to kelli.book@dnr.iowa.gov.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

A public hearing will be held on September 5, 2017, at 1:30 p.m. in the Wallace State Office Building Auditorium, 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 proposed amendment. All comments must be received no later than 4:30 p.m. on September 6, 2017.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact Kelli Book at (515)725-9572 or by e-mail at kelli.book@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

After analysis and review, the Commission has determined that the proposed amendment may have a positive impact on private sector jobs due to savings in costs associated with postage, time, plan preparation and transportation. The complete jobs impact statement is available from the Department upon request.

This amendment is intended to implement Iowa Code sections 459.103 and 459.302.

The following amendment is proposed.

Amend paragraph **65.16(3)“b”** as follows:

b. The owner of a confinement feeding operation who is required to submit a manure management plan under this rule shall submit an updated manure management plan on an annual basis to the department. The updated manure management plan may be submitted by hard copy or by electronic submittal. The updated plan must reflect all amendments made during the period of time since the previous manure management plan submission.

(1) If the plan is submitted by hard copy, the submittal process shall be as follows: The owner of the animal feeding operation shall also submit the updated manure management plan on an annual basis to the board of supervisors of each county where the confinement feeding operation is located and to the board of supervisors of each county where manure from the confinement feeding operation is land-applied. If the owner of the animal feeding operation has not previously submitted a manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied, the owner must submit a complete manure management plan to each required county. The county auditor or other county official or employee designated by the county board of supervisors may accept the updated plan on behalf of the board. The updated plan shall include documentation that the county board of supervisors or other designated county official or employee received the manure management plan update.

(2) If the plan is submitted electronically, the submittal process shall be as follows: The owner of the animal feeding operation shall submit the updated manure management plan to the department through the department's electronic Web application. Once the submittal has been completed, the department shall provide electronic access of the updated manure management plan to the board of supervisors of each county where the confinement feeding operation is located and each county where manure is land-applied.

(3) The department will stagger the dates by which the updated manure management plans are due and will notify each confinement feeding operation owner of the date on which the updated manure management plan is due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation must submit one of the following:

- (1) 1. A complete manure management plan;
- (2) 2. A department-approved document stating that the manure management plan submitted in the prior year has not changed; or
- (3) 3. A department-approved document listing all the changes made since the previous manure management plan was submitted and approved.

ARC 3259C

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 2017 Iowa Acts, House File 653, section 108, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 52, “Payment,” and Chapter 54, “Facility Participation,” Iowa Administrative Code.

These proposed amendments remove the requirement for an annual cost report for privately operated residential care facilities (RCFs) and change the cost reimbursement methodology to be based on the maximum per diem rate pursuant to subrule 52.1(3).

Any interested person may make written comments on the proposed amendments on or before September 5, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

These amendments are intended to implement Iowa Code section 249A.4 and 2017 Iowa Acts, House File 653, section 108.

The following amendments are proposed.

ITEM 1. Amend subrule 52.1(3) as follows:

52.1(3) Residential care. ~~Payment to~~ For periods of eligibility before July 1, 2017, the department will reimburse a recipient in either a privately operated or non-privately operated residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of \$30.11. The department shall establish a cost-related per diem rate for each licensed residential care facility choosing this the cost-related reimbursement method of payment according to rule 441—54.3(249). For periods of eligibility beginning July 1, 2017, and thereafter, payment to a recipient in a privately operated licensed residential care facility shall be based on the maximum per diem rate of \$30.11, but reimbursement for recipients in non-privately operated residential care facilities will continue to be based on the flat per diem rate of \$17.86 or be based on the cost-related reimbursement system with a maximum per diem rate of \$30.11.

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. to g. No change.

ITEM 2. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) Financial and statistical report Payment for residential care facilities. Payments for privately operated residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3). All Non-privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules.

ARC 3260C**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 hereby gives Notice of Intended Action to amend Chapter 152, “Foster Care Contracting,” Chapter 156, “Payments for Foster Care,” and Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

These proposed amendments align program and payment changes under the competitive child welfare services procurement for supervised apartment living (SAL) based on Request for Proposal ACFS 18-016, Child Welfare Crisis Intervention, Stabilization, and Reunification (CISR) Services, Supervised Apartment Living (SAL), with new contracts anticipated to begin October 1, 2017. Alignment will address payment, service determinations, and eligibility.

Any interested person may make written comments on the proposed amendments on or before September 5, 2017. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend rule **441—152.1(234)**, definition of “Unit of service,” as follows:

“Unit of service” means one day for group care and child welfare emergency services shelter, and one hour or any portion thereof for supervised apartment living as set forth in 441—paragraph 202.9(4)“b.”

ITEM 2. Amend rule 441—156.12(234) as follows:

441—156.12(234) Supervised apartment living.

156.12(1) *Maintenance Child monthly stipend.* ~~Effective July 1, 2013, when a child at least aged 16½ but under the age of 20 is~~ For each eligible child living in a supervised apartment living situation, the monthly ~~maintenance~~ stipend payment for the child shall be \$787.50. This payment may be paid to the child or another payee, other than a department employee, for the child’s living expenses.

156.12(2) *Service.* When services for a youth in supervised apartment living are purchased, the service components and ~~number of hours purchased~~ any special provisions shall be specified by the service worker in the youth’s case permanency plan.

This rule is intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

ITEM 3. Amend subrule 202.9(2) as follows:

202.9(2) *Eligibility.* To be eligible for supervised apartment living placement, a child shall meet all of the following conditions:

a. No change.

b. The child must be at least 17 years old, for and it has been determined by the department or juvenile court services referral worker that the child has lived successfully in a SAL cluster setting until the child is able to live in a more independent placement in a scattered-site setting.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- c.* If the child is under the age of 18, the child must:
- (1) Satisfactorily attend school, in accordance with the school's attendance policies, with the objective of obtaining a high school diploma; or
 - (2) Satisfactorily attend an instructional program, pursuant to the program's policies, necessary to obtain a general high school equivalency diploma (GED); or
 - (3) Attend school to obtain postsecondary education or training on a full-time basis (based upon the institution's definition of full-time) or attend on a part-time basis and be either working or participating in a work training program leading to employment; or
 - (4) Work at least an average of 80 hours per month if not enrolled in school; or
 - (5) Participate in a work training program leading to employment if not enrolled in school.
- d.* If the child is aged 18 or older, the child must:
- (1) Meet the definition of "child" in Iowa Code section 234.1; and
 - (2) Have been in foster care immediately before reaching the age of 18 and have continued in foster care since reaching the age of 18. The service area manager or designee may waive the requirement for continuous placement for a child who leaves foster care at age 18 and voluntarily returns before the child's twentieth birthday in order to complete high school or obtain a GED high school equivalency diploma, consistent with Iowa Code sections 234.35(1) "f" and 234.35(3) "c"; and
 - (3) Attend school on a full-time basis leading to a high school diploma or attend an instructional program leading to a GED high school equivalency diploma.
- e. to j.* No change.

ITEM 4. Amend subparagraph **202.9(3)"a"(4)** as follows:

- (4) A budget, developed with the child, based upon the child's monthly maintenance stipend payment, any start-up allowance, any earned or unearned incomes and financially related assistance (e.g., food assistance). Staff will work with the child to ensure payment of bills and receipt of necessary items as outlined in the budget.

ITEM 5. Amend subrule 202.9(4) as follows:

202.9(4) Method of service provision. Supervised apartment living services may be provided directly by the department or purchased from an agency that has a contract with the department to provide supervised apartment living foster care services. If services are purchased:

a. Department staff shall be responsible to determine the specific service components ~~and the specific number of service units to be provided for required services and any special provisions of this care.~~ The department case permanency plan shall specify the goals and objectives (action steps) of the services that are being purchased. If services are purchased, the worker shall complete Form 470-5081, Placement Agreement and Service Authorization for Supervised Apartment Living (SAL), to place the child with the contractor, to authorize the SAL service, and to ~~authorize service codes (scattered site or cluster setting; individual services or services provided with a group of children in supervised apartment living placement) and the specific number of units to be provided and billable~~ identify any special provisions for the case.

b. ~~Service billings for services~~ Supervised apartment living billings shall be based on one hour (one unit equals one hour of service), or any portion thereof (with monthly cumulative units rounded up or down to the nearest whole unit), of: follow the terms of the contract with the department.

- (1) ~~Direct face-to-face contact between the service provider and the child.~~
- (2) ~~Activities undertaken to assist the child in developing the needed structure and supports to live in the supervised apartment living setting.~~
- (3) ~~Activities undertaken to assist the child in locating and using other needed services, supports, and community resources and to consult and collaborate on service directions on behalf of the child with schools, employers, landlords, volunteers, extended family members, peer support groups, training resources, or other community resources.~~

c. ~~Service billings for group services shall be based on one hour (one unit equals one hour of service), or any portion thereof (with monthly cumulative units rounded up or down to the nearest whole unit), for each child in the group.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~d.—Expenses of transporting the child, service management activities, and other administrative functions shall be allowable indirect costs subject to the restrictions set forth in 441—subrule 152.2(6) and are not billable units of service.~~

~~e.—Contractors providing a cluster setting shall be paid \$551.25 per month per child in the setting for agency staffing costs, in addition to billable units of services provided to the child, but are eligible for this payment only when two or more children are in the setting. For a child who enters a cluster setting during the month, the prorated amount per day is \$18.12. If a child exits the setting on or before the last day of the month, the \$551.25 shall be prorated up to the date before the date of exit.~~

ARC 3258C

MEDICINE BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby proposes to amend Chapter 8, “Fees,” Iowa Administrative Code.

The purpose of Chapter 8 is to establish fees for application and licensure of professions regulated under Iowa Code chapters 148 and 148E, for public records and for services performed by the Board. The proposed amendments recognize the fees associated with licensure through the new Interstate Medical Licensure Compact, add the fee for reinstatement of an acupuncture license, and update language throughout Chapter 8.

The Board approved this Notice of Intended Action during the Board’s regularly scheduled meeting held on July 21, 2017.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on September 5, 2017. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on September 5, 2017, at 10 a.m. at the Board’s office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

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, 148, 148E and 272C.

The following amendments are proposed.

ITEM 1. Amend rule 653—8.1(147,148,272C) as follows:

653—8.1(147,148,272C) Definitions.

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

“*Online transaction fee*” means a fee of \$7 assessed by the board for completing an online purchase.

The online transaction fee is in addition to the actual service provided.

~~“*Service charge*” means the amount charged for making a service available on line and is in addition to the actual fee for a service itself. For example, one who renews a license on line will pay the license renewal fee and a service charge.~~

ITEM 2. Adopt the following **new** paragraph **8.2(2)“f”**:

f. Fee for reinstatement of an acupuncture license, \$400.

MEDICINE BOARD[653](cont'd)

ITEM 3. Rescind rule 653—8.3(147,148,272C) and adopt the following **new** rule in lieu thereof:

653—8.3(147,148,272C) Interstate medical licensure compact (IMLC). Provisions for the interstate medical licensure compact are located in 653—Chapter 9, “Permanent Physician Licensure.” The following fees shall apply to the compact.

8.3(1) Service fee for an application for an IMLC letter of qualification. The service fee, described in Chapter 3 of the rules of the interstate medical licensure compact commission, is paid directly to the interstate medical licensure compact commission. The interstate commission retains a portion of this service fee and remits a portion of this service fee to the board. The service fee paid to the interstate commission includes the \$45 fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

8.3(2) Licensure fee for an Iowa license issued through the IMLC. The licensure fee is paid directly to the interstate medical licensure compact commission. An applicant shall pay a licensure fee of \$450 plus a service fee retained by the interstate commission.

8.3(3) Licensure fee for renewal of active Iowa license issued through the IMLC. The licensure fee is paid directly to the interstate medical licensure compact commission. The licensee shall pay the licensure fee described in 8.4(1)“c”(1) plus a service fee retained by the interstate commission. If the license is not renewed prior to expiration, the licensee will incur a penalty as described in 8.4(1)“d.”

ITEM 4. Amend rule 653—8.4(147,148,272C), catchwords, as follows:

653—8.4(147,148,272C) Application and licensure fees to practice medicine and surgery or osteopathic medicine and surgery or administrative medicine.

ITEM 5. Amend paragraph **8.5(1)“d”** as follows:

d. The board shall provide an automated telephone or electronic verification service whereby users can input the licensee’s license number ~~or social security number~~ to learn the licensee’s current licensure status. There is no fee for this service.

The board shall provide a license number for an individual caller to use in the automated telephone or electronic verification service. Businesses that utilize verifications will be required to utilize the automated telephone or electronic verification service or the alternative outlined in 8.5(1)“c.”

ITEM 6. Amend rule 653—8.7(147,148,272C) as follows:

653—8.7(147,148,272C) Licensee data list. A data list of all physicians and acupuncturists includes the following information about each licensee: full name, year of birth, mailing work address, ~~business and~~ telephone number (or other contact information on file if licensee’s work address and telephone number are not available), Iowa county (if applicable), medical school (if applicable), year of graduation from medical school (if applicable), two medical specialties (if available), license issue date, license expiration date, license number, license type, license status, and an indicator of whether the board has taken any public action on the license. There is no fee for an electronic file of this list. A printed copy of the data list is available at the board’s office at fees described in rule 653—8.6(147,148,272C). Payment made to the Iowa Board of Medicine shall be received in the board office prior to the release of a printed copy of the list.

ITEM 7. Amend rule 653—8.9(147,148,272C) as follows:

653—8.9(147,148,272C) Copies of the laws and rules. Electronic copies of laws and rules pertaining to the practice of medicine or acupuncture are available ~~on the board’s Web site, www.medicalboard.iowa.gov, at <https://www.legis.iowa.gov/>~~ at no cost. Printed copies of these laws and rules are available at the board’s office at fees described in rule 653—8.6(147,148,272C).

ARC 3255C**RACING AND GAMING COMMISSION[491]****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 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” and Chapter 10, “Thoroughbred and Quarter Horse Racing,” Iowa Administrative Code.

The amendment in Item 1 to subrule 5.4(12), which relates to problem gambling policies and procedures, specifically, voluntary exclusion, implements legislation passed in 2017 to amend Iowa Code sections 99D.7(23) and 99F.4(22).

The amendment in Item 2 to paragraph 10.7(1)“k,” which relates to racehorse medication requirements, implements legislation passed in 2017 to amend Iowa Code section 99D.25A.

Any person may make written suggestions or comments on the proposed amendments on or before September 5, 2017. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309; or to irgc@iowa.gov. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

A public hearing will be held on September 5, 2017, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F and 2017 Iowa Acts, Senate File 442 and House File 568.

The following amendments are proposed.

ITEM 1. Amend subrule 5.4(12) as follows:

5.4(12) Problem gambling.

a. The holder of a license to operate gambling games shall adopt and implement policies and procedures designed to:

- (1) Identify problem gamblers; and
- (2) Allow persons to be voluntarily excluded for five years or life from all facilities. Each facility will disseminate information regarding the exclusion to all other facilities.

b. The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

- (1) Training of key employees to identify and report suspected problem gamblers;
- (2) Procedures for recording and tracking identified problem gamblers;
- (3) Policies designed to prevent serving alcohol to intoxicated casino patrons;
- (4) Steps for removing problem gamblers from the casino; and
- (5) Procedures for preventing reentry of problem gamblers.

c. A licensee shall include information on the availability of the gambling treatment program in a substantial number of its advertisements and printed materials.

ITEM 2. Amend paragraph **10.7(1)“k”** as follows:

k. Non-steroidal anti-inflammatory drugs (NSAIDs).

- (1) The use of one of three approved NSAIDs shall be permitted under the following conditions:

RACING AND GAMING COMMISSION[491](cont'd)

1. The level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:

- Phenylbutazone (or its metabolite oxyphenylbutazone) – ~~5~~ 2 micrograms per milliliter;
- Flunixin – 20 nanograms per milliliter;
- Ketoprofen – 2 nanograms per milliliter.

2. The NSAIDs listed in numbered paragraph “1” or any other NSAIDs are prohibited from being administered within the 24 hours before post time for the race in which the horse is entered.

3. The presence of more than one of the three approved NSAIDs, with the exception of phenylbutazone in a concentration below ~~1 microgram~~ 0.3 micrograms per milliliter, flunixin in a concentration below 3 nanograms per milliliter, or ketoprofen in a concentration below 1 nanogram per milliliter of serum or plasma, or the presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(2) Any horse to which an NSAID has been administered shall be subject to having a blood sample(s), urine sample(s) or both taken at the direction of the official veterinarian to determine the quantitative NSAID level(s) or the presence of other drugs which may be present in the blood or urine sample(s).

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA

Public Notice

NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT FOR THE PERIOD COMMENCING SEPTEMBER 1, 2017, AND ENDING AUGUST 31, 2018

In accordance with Iowa Code section 8D.11, subsection 1, paragraph “c,” the Iowa Telecommunications and Technology Commission’s (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2017, and ending on August 31, 2018, of \$2,354,781.90.

The adjusted contract limitation amount becomes effective on September 1, 2017. The amount was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 1.6 percent from June 2016 to June 2017.

Pursuant to Iowa Code section 8D.11, subsection 1, paragraph “c,” this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice should be directed to:

ICN Executive Director
Iowa Telecommunications and Technology Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: (515)725-4692

ARC 3250C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 22, “Employer Records and Reports,” Chapter 23, “Employer’s Contribution and Charges,” and Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before September 5, 2017, by sending them to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend rule 871—22.4(96) as follows:

871—22.4(96) Reporting of earnings data by secure file transfer.

22.4(1) The employer may submit an electronic file ~~in lieu of Form 65-5300, Employer’s Contribution & Payroll Report.~~ Authorization for this reporting method will be given if the employer meets the specification requirements to be compatible with the department’s computer capabilities. Such specifications will be furnished upon request.

22.4(2) The electronic file submitted ~~will~~ must contain, for each reporting unit, all of the required employer information, wage information, and labor market information ~~required when filing using the Form 65-5300, Employer’s Contribution & Payroll Report.~~ If this method of filing is selected, all wages must be filed using this method. ~~The report will not be considered filed until all worksite reporting units have filed.~~ All corrections to previous reports submitted to the department must be listed ~~and~~ submitted ~~on Form 68-0061, Employer’s Wage Adjustment Report~~ electronically.

22.4(3) The director shall annually designate the number of wage lines per report that will require the report be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)“a.”

ITEM 2. Amend rule 871—22.5(96) as follows:

871—22.5(96) Filing of quarterly report forms contribution and payroll by newly subject or covered employers. Any employing unit which becomes an employer subject to this chapter within any calendar quarter other than by a voluntary election of the employing unit shall file reports contribution and payroll for each calendar quarter ~~on Form 65-5300, Employer’s Contribution and Payroll Report.~~ Reports Payroll shall include all wages paid during the current quarter as well as separate quarterly reports for wages paid in prior quarters of the same calendar year. The first quarterly reports of that

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

employer shall be due on the last day of the calendar month following the close of the calendar quarter in which the employing unit becomes subject to the Iowa Code and shall be considered delinquent if not submitted and paid by that date. Any employer filing a voluntary election for coverage must begin filing reports in the quarter the employer's election is effective.

This rule is intended to implement Iowa Code sections 96.7(1), 96.14(1), 96.14(2) and 96.8(3).

ITEM 3. Amend subrule 22.9(2) as follows:

22.9(2) Each employing unit which shall hereafter begin business in the state of Iowa in any manner whatsoever whether by succession to a business already being operated, by starting a new business, or otherwise, shall, within 30 days after beginning such business, inform the department of that fact, ~~request the forms referred to in 22.9(1) and make and file the report required of all employing units by said rule~~ complete a registration and file contribution and payroll for all reporting units.

ITEM 4. Amend subrule 22.10(1) as follows:

22.10(1) Change in partnership. In any case in which a partnership consisting of two or more partners adds to or deletes a partner or partners and is not required by the Internal Revenue Service to obtain a new federal identification number after such addition or deletion of partner or partners, the partnership shall notify the department of such change ~~by filing a Form 68-0234, Report of a Partnership on Change in Partners,~~ within ten days from the date the change occurred. The department will subsequently correct the partnership account to reflect this change.

ITEM 5. Amend subrule 22.13(1), introductory paragraph, as follows:

22.13(1) Any employing unit reporting under an assigned account and having one or more reporting units in the state of Iowa may request ~~in writing or electronically~~ the assignment of a reporting unit number which will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the reporting unit so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request ~~in writing~~ that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

ITEM 6. Amend paragraph **22.17(4)“e”** as follows:

e. To verify the reporting of all workers reportable to the department under Iowa Code chapter 96, questionable entries will be investigated and documented. Under rule 871—22.7(96)₂ if the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, ~~Job Service~~ Questionnaire ~~For~~ for Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

ITEM 7. Amend paragraph **22.17(5)“b”** as follows:

b. When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under Iowa Code chapter 96. Form 68-0192, ~~Job Insurance~~ Questionnaire ~~For~~ for Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

ITEM 8. Amend paragraph **22.17(5)“c”** as follows:

c. When an employer fails or refuses to file ~~a report~~ contribution and payroll, the auditor may examine the records to determine the correct amount of wages that should be reported, ~~prepare the report,~~ and may compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 9. Amend subrule 23.1(30) as follows:

23.1(30) *Quarterly Wage report.* A report ~~by an employer of the wages of individual workers~~ that generates after the employer has electronically submitted its quarterly contribution and payroll.

ITEM 10. Amend subrule 23.1(31) as follows:

23.1(31) *Quarterly Wage listing wage detail.* A report listing workers and their wages by social security number.

ITEM 11. Amend paragraph **23.70(11)“a”** as follows:

a. A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will ~~retain the same~~ be given a new employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph “b.”

ITEM 12. Amend subparagraph **24.2(1)“e”(2)** as follows:

(2) In order for an individual to receive payment by direct deposit, the individual must provide the financial institution selected by the department with the appropriate bank routing code number and a checking or savings account number.

ITEM 13. Adopt the following **new** subrule 24.26(17):

24.26(17) Separation due to incarceration.

a. The claimant shall be eligible for benefits if the department finds that all of the following conditions have been met:

- (1) The employer was notified by the claimant prior to the absence;
- (2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the claimant was found not guilty of all criminal charges relating to the incarceration;
- (3) The claimant reported back to the employer within two work days of the release from incarceration and offered services to the employer; and
- (4) The employer rejected the offer of services.

b. If the claimant fails to satisfy the requirements of subparagraph 24.26(17)“a”(1), the claimant shall be considered to have voluntarily quit the employment if the claimant was absent for three work days or more under subrule 24.25(4). If the absence was two days or less, the separation shall be considered a discharge under rule 871—24.32(96). If all of the conditions of subparagraphs 24.26(17)“a”(2), (3) and (4) are not satisfied, the separation should be considered a discharge under rule 871—24.32(96).

This subrule is intended to implement Iowa Code section 96.5 and Supreme Court of Iowa decision, *Irving v. Employment Appeal Board*, 883 N.W.2d 179.

ITEM 14. Rescind subrule 24.32(3) and adopt the following **new** subrule in lieu thereof:

24.32(3) *Gross misconduct.*

a. For the purposes of these rules, gross misconduct shall be defined as misconduct involving an indictable offense in connection with the claimant’s employment, provided that such claimant is duly convicted thereof, has signed a statement admitting that such claimant has committed such act, or has admitted to the department that claimant has committed such act.

b. An indictable offense means a common law or statutory offense presented on indictment or on county attorney’s information, and includes all felonies and all indictable misdemeanors punishable by a fine of more than \$500 or by imprisonment in the county jail for more than 30 days.

c. If gross misconduct is established, the department shall cancel the individual’s wage credits earned, prior to the date of discharge, from all employers regardless of when the act occurred during the benefit year.

ARC 3254C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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 96.11, the Director of the Department of Workforce Development hereby gives Notice of Intended Action to amend Chapter 23, “Employer’s Contribution and Charges,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

These proposed amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development. The amendments also bring the rules up to date by reflecting changes in technology and efficiencies developed within the agency since the affected rules were adopted. The agency needs to have administrative rules that address these changes.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before September 5, 2017, by sending them to David J. Steen, Attorney, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to david.steen@iwd.iowa.gov.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

The following amendments are proposed.

ITEM 1. Amend paragraph **23.2(6)“c”** as follows:

c. In the absence of an agreement in a contract of hire, the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an employed individual, shall be deemed to have not less than the following cash value except as provided in paragraph “d” of this subrule.

| | | |
|--|----------|---------------|
| Full board and room per week | \$272.00 | <u>300.00</u> |
| Meals (without lodging) per week | 92.00 | <u>100.00</u> |
| Meals (without lodging) per day | 18.40 | <u>20.20</u> |
| Lodging (without meals) per week | 180.00 | <u>198.00</u> |
| Lodging (without meals) per day | 36.00 | <u>40.00</u> |
| Individual meals: | | |
| Breakfast | 4.00 | <u>4.50</u> |
| Lunch | 4.80 | <u>5.30</u> |
| Dinner | 9.60 | <u>10.50</u> |
| A meal not identifiable as either breakfast, lunch or dinner | 4.00 | <u>4.50</u> |

ITEM 2. Amend subrule 23.14(1), introductory paragraph, as follows:

23.14(1) An employing unit having services performed for it which are not subject to the compulsory coverage provisions of the Act may file an application ~~Form 68-0598, Voluntary Election~~, for voluntary election to become an employer under the law or to extend its coverage to individuals performing services which do not constitute employment as defined in the law.

ITEM 3. Amend paragraph **23.14(1)“e”** as follows:

e. ~~The effective date of filing of a the voluntary election shall be deemed to be~~ is the date on which ~~the written election, signed by a legally authorized individual, that it is received by the department.~~

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 4. Rescind subrule 23.31(1) and adopt the following **new** subrule in lieu thereof:

23.31(1) Application and required information.

a. The experience of a distinct and segregable portion of an organization, trade, or business shall be transferred to an employing unit which has acquired such portion only if the successor employing unit:

- (1) Completes an electronic registration within 90 days after the date of purchase;
- (2) Submits necessary information establishing the separate identity of the accounts within 30 days after request is made by the department unless the time is extended for good cause shown; and
- (3) Continues to operate the acquired portion of the business.

b. Necessary information establishing the separate identity of the account includes but is not limited to:

- (1) Authorized agreement to the transfer by the predecessor;
- (2) Date of acquisition of the segregable portion;
- (3) Date of commencement of the segregable portion by the predecessor;
- (4) The names of employees, their social security numbers, and their wages attributable to the acquired portion of the business for the six calendar quarters including and immediately preceding the quarter in which the acquisition occurred; and
- (5) The predecessor and successor names, addresses, and account numbers and information showing the total taxable wages and benefit charges to be transferred by quarter, for the 20 calendar quarters including and immediately preceding the date of the acquisition.

c. It shall be the sole responsibility of the successor employer to determine whether or not to apply for a partial transfer of experience. An application for a partial transfer may be withdrawn at any time prior to the department's notice that the transfer has been approved.

d. It shall be the sole responsibility of the predecessor employer to determine whether or not to grant the partial transfer of experience. Permission to grant the partial transfer of experience may be withdrawn at any time prior to the department's notice that the transfer has been approved.

ITEM 5. Amend subparagraph **23.31(2)“b”(3)** as follows:

- (3) The individual wage records attributable to the acquired portion (~~as supplied on Form 68-0065~~);
- or

ITEM 6. Amend paragraph **23.31(2)“c”** as follows:

c. If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, benefit charges, and individual wage records (~~as supplied on Form 68-0065~~) attributable to the acquired portion shall be transferred; or

ITEM 7. Amend paragraph **23.32(5)“a”** as follows:

a. The employer will be notified of the penalty contribution rate ~~on Form 95-5306, Notice of Unemployment Insurance Contribution Rate.~~

ITEM 8. Rescind subrule 23.37(2) and adopt the following **new** subrule in lieu thereof:

23.37(2) If the contribution and wage report first submitted by an employer understates the amount of wages paid for a given period, the employer will electronically submit a wage adjustment for the period and make payment covering all additional contributions, penalty and interest due.

a. If it is apparent, upon examination of any wages reported or adjusted, that a greater contribution than is required by law has been paid, the department may, within three years from the date of such overpayment, make an adjustment and issue a credit for such overpayment.

b. If it is not apparent from the examination of any wages reported or adjusted that a contribution greater than that required by law has been made, any employer or employing unit claiming a credit shall submit a request within three years from the date on which such overpayment was made. A credit shall be granted only after a review of the request which will set forth such information in the matter as may be required. If, after such review, the adjustment is found to be in order, the department shall issue a credit or refund for the overpayment.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

ITEM 9. Amend paragraph **23.43(9)“b”** as follows:

b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified on ~~Form 65-5522, Notice of Wage Transfer~~, that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date ~~the Form 65-5522 was mailed~~ on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.

ITEM 10. Amend subrule 23.54(2) as follows:

23.54(2) An employing unit which has appealed a determination of liability, or a payment of contributions due, shall file ~~Form 65-5300, Employer's Contribution and Payroll Report~~, quarterly contribution and payroll for all quarters for which the employer is held liable regardless of any appeal. ~~Such reports are to be marked by the employer "Appeal Filed" and submitted with full~~ Full payment of the disputed assessment, ~~without payment or with a payment in the or~~ amount estimated to be owed by the employing unit shall be submitted.

ITEM 11. Amend subrule 23.57(1) as follows:

23.57(1) If an employer, on its own motion, submits an adjustment for an error made on ~~a previous report~~ previously submitted wage detail and pays any additional contributions due on the adjustment when the employer submits the adjustment, no interest on the additional contributions will be charged if it is shown to the satisfaction of the department that the error on the original report and subsequent late payment of the contribution due on the adjustment was not the result of negligence, fraud, intentional disregard of the law or rules of the department.

ITEM 12. Amend subrule 23.59(1) as follows:

23.59(1) If the department finds from the examination of the employer's ~~reports or~~ account that the contributions have been underpaid because of a department error in assigning the contribution rate, the additional contributions shall be paid within 30 days after the department notifies the employer; however, no interest or penalty will accrue until 30 days after the notification.

ITEM 13. Rescind subrule 23.59(2) and adopt the following **new** subrule in lieu thereof:

23.59(2) Assessment—failure to file quarterly contribution and payroll.

a. If any employing unit fails to file quarterly contribution and payroll as required, the department shall make an estimate based upon any information in its possession or that may come into its possession of the amount of wages paid for employment in the period or periods for which no wage detail was filed. The basis of such estimates shall compute and assess the amounts of employer contributions payable by the employing unit together with interest and penalty.

b. Whenever the department determines that the collection of contributions from an employer is in jeopardy and the employer has failed to file the necessary wages paid for the quarter for which such contributions are due and payable or have been declared due and payable prior to the reporting date set out in rule 871—23.8(96), the department shall prepare estimated reports.

c. Such estimates may be made by authorized personnel in the tax bureau and shall be referred to the collection unit.

ITEM 14. Amend subrule 23.60(1) as follows:

23.60(1) An employer who fails to file ~~or make sufficient a report of~~ wages paid to each of its employees for any period in the time and manner set forth in Iowa Code section 96.7 and rule 871—22.3(96) shall pay to the department a penalty in accordance with Iowa Code section 96.14(2).

ITEM 15. Amend subrule 23.60(2) as follows:

23.60(2) The amount of the penalty for a delinquent or insufficient ~~report~~ quarterly contribution and payroll shall be based on the total wages paid by the employer in the period for which the report was due, ~~except that the~~ The penalty shall not be less than \$35 for the ~~delinquent report~~ delinquency or the insufficient ~~report~~ wage detail not made sufficient within 30 days of a request to do so. ~~An insufficient report~~ Insufficient wage detail is defined as a quarterly ~~report~~ submission that does not have all social

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

security numbers, all corresponding names, total wages for each employee, or a reporting unit number. ~~Reports~~ Wage detail submitted without a correct account number, federal employer identification number, labor market information, ~~signature~~, or ~~report~~ wage detail submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.

ITEM 16. Amend rule 871—23.61(96) as follows:

871—23.61(96) Collection of interest and penalties. When a ~~report~~ wage detail is filed with contributions paid but penalties and interest due, penalties and interest may be assessed and a lien filed in the same manner as for unpaid contributions.

ITEM 17. Amend subrule 23.62(1) as follows:

23.62(1) Interest and penalty charges may be rescinded whenever an employer can provide documentary evidence to the satisfaction of the department that an inquiry in writing was directed to the department within 15 days following the end of the quarter for the ~~report(s) or contribution(s)~~ contribution or payroll, untimely filed or paid, and such contributions are paid in full.

ITEM 18. Amend subrule 23.65(1) as follows:

23.65(1) Filing of liens and notice of jeopardy assessments.

a. If ~~reports~~ wages are filed by an employer for the purpose of determining the amount of contribution due, or an assessment of contribution due, and the employer fails to pay any part of the contributions, interest and penalties due ~~as determined by the report or assessment, Form 68-0043, a~~ Notice of Assessment and Lien, will be ~~sent~~ issued to the employer.

b. If, 30 days after a Notice of Assessment and Lien, or a Notice of Jeopardy Assessment, has been ~~served~~ issued (see subrule 23.59(2)) and the employer has failed to make payment in full of the amounts that were assessed, the department may file a lien with the county recorder of the county in which the employer has its principal place of business, or with the county recorder of any county in which the employer has real or personal property.

c. The lien, known as a ~~Form 68-0024~~, Notice of Lien, shall state the date of assessment, the employer's name, address and account number, and the amount due. The recorder shall record the Notice of Lien as provided in Iowa Code section 96.14(3).

ITEM 19. Amend subrule 23.65(3) as follows:

23.65(3) As provided in Iowa Code section 96.14(3), the lien shall attach as of the date the assessment is ~~mailed or personally served upon~~ issued to the employer.

ITEM 20. Amend subrule 23.65(10) as follows:

23.65(10) Upon payment of contributions, interest, penalty, and costs, the department shall execute a ~~Form 68-0199, Satisfaction of Lien~~, by filing it with the recorder's office for the county where the lien was filed. A copy of this satisfaction shall be ~~mailed~~ provided to the employer.

ITEM 21. Amend subrule 23.66(1) as follows:

23.66(1) If the department believes the collection of any contribution will be jeopardized by delay, the department may, whether or not the time otherwise prescribed by rule 871—23.8(96) for ~~making return~~ filing and paying any contribution has expired, immediately assess the contributions, together with all interest and penalty. The contributions, penalty and interest shall become immediately due and payable. The jeopardy assessment may be made by personal service upon the employer or the employer's agent by a representative of the department or civil officer of the state. Should immediate personal service not be possible, the jeopardy assessment shall be sent by certified mail to the employer's address of record and such mailing shall be a satisfactory service.

ITEM 22. Amend rule **871—25.1(96)**, definition of "Wages," as follows:

"Wages" means the same as earnings. See rules 871—24.13(96) and 871—24.16(96).

a. When a money value for board or lodging, or both, furnished a worker is agreed upon in a contract of hire, the amount so agreed upon, if more than the rates determined by the department or the rates prescribed herein, shall be deemed the cash value of the board and lodging.

b. Cash value of room and board.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

(1) If board, rent, housing, lodging, meals, or similar advantage is extended in any medium other than cash as partial or entire remuneration for service constituting employment as defined in the Act (Iowa Code chapter 96) the reasonable cash value of same shall be deemed wages.

(2) Where the cash value for such board, rent, housing, lodging, meals, or similar advantage is agreed upon in any contract of hire, the amount so agreed upon shall be deemed the value of such board, rent, housing, lodging, meals, or similar advantage. Check stubs, pay envelopes, contracts, and the like, furnished to employees setting forth such cash value, are acceptable evidence as to the amount of the cash value agreed upon in any contract of hire except as provided in subparagraphs (4) and (5) of this paragraph.

(3) In the absence of an agreement in a contract of hire, the rate for board, rent, housing, lodging, meals, or similar advantage, furnished in addition to money wages or wholly comprising the wages of an employed individual, shall be deemed to have not less than the following cash value except as provided in subparagraph (4) of this paragraph.

| | | |
|---|----------|--------|
| Full board and room per week | \$272.00 | 300.00 |
| Meals (without lodging) per week | 92.00 | 100.00 |
| Meals (without lodging) per day | 18.40 | 20.20 |
| Lodging (without meals) per week | 180.00 | 198.00 |
| Lodging (without meals) per day | 36.00 | 40.00 |
| Individual meals: | | |
| Breakfast | 4.00 | 4.50 |
| Lunch | 4.80 | 5.30 |
| Dinner | 9.60 | 10.50 |
| A meal not identifiable as either breakfast, lunch, or dinner | 4.00 | 4.50 |

(4) The department or its authorized representative may, after affording reasonable opportunity at a hearing for the submission of relevant information in writing or in person, determine the reasonable cash value of such board, rent, housing, lodging, meals, or similar advantage in particular instances or group of instances, if it is determined that the values fixed in or arrived at in accordance with subparagraph (3) of this paragraph, or in the contract of hire do not properly reflect the reasonable cash value of such remuneration.

ITEM 23. Amend subrule 25.16(1) as follows:

25.16(1) ~~If the individual has made no attempt to repay the overpayment of benefits within the preceding six months, the~~ The individual's name and social security number are given to the department of revenue.

ARC 3262C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services hereby amends Chapter 116, “Terrace Hill Endowment for the Musical Arts,” Iowa Administrative Code.

The Terrace Hill Commission has reviewed and is amending these rules to be consistent with statute and to reflect and clarify Commission practice. The amendment aligns Chapter 116 with Iowa Code section 8A.326, which was amended in 2013.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3113C** on June 7, 2017. A public hearing was held on June 27, 2017, from 9 to 10 a.m. in the Carriage House Visitors Center at Terrace Hill, 2300 Grand Avenue, Des Moines, Iowa, at which time the following public comments were made:

Arden Borgen read a written statement at the public hearing discussing the history of the Terrace Hill Society Foundation and the Terrace Hill Endowment for the Musical Arts. At 4:30 p.m. on the day of the hearing, Mr. Borgen submitted written comments to Tami Wiencek with the Department of Administrative Services. The written comments also included history of the Terrace Hill Society Foundation and the Terrace Hill Endowment for the Musical Arts. Mr. Borgen stated that the written comments were presented to the Administrative Rules Review Committee on behalf of the Terrace Hill Society Foundation and outlined a request to the Committee to oppose changes in rule 11—116.1(8A), Structure, and in rule 11—116.4(8A), Funding. The written comments stated that the result of the proposed changes would be the loss of a public nongovernment support organization.

In addition, at the public hearing, Gloria Filean stated that the Terrace Hill Society Foundation has grown the Terrace Hill Endowment for the Musical Arts endowment and that the money has been well-invested.

Will Page stated at the public hearing that the Terrace Hill Society Foundation has been a good steward of the Terrace Hill Endowment for the Musical Arts funds. Mr. Page commented that Tim Anderson, the Terrace Hill Society Foundation Treasurer, said there is a problem with the way the Iowa Code and the Terrace Hill Endowment for the Musical Arts rules are written because the funds are not sustainable.

This amendment is identical to that published under Notice of Intended Action.

The Department will not grant waivers under the provisions of these rules, other than as may be allowed under Chapter 9 of the Department’s rules concerning waivers.

The Department adopted this amendment on July 24, 2017.

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

This amendment is intended to implement Iowa Code section 8A.326.

This amendment will become effective September 20, 2017.

The following amendment is adopted.

Amend **11—Chapter 116** as follows:

CHAPTER 116

TERRACE HILL ENDOWMENT FOR THE MUSICAL ARTS

[Prior to 5/31/89, see Historical Division[223] Ch 27]

[Prior to 2/16/94, see Historical Division[223] Ch 57]

[Prior to 1/21/04, see 401—Ch 16]

11—116.1(8A) Structure. The Terrace Hill endowment for the musical arts (THEMA) functions under the Terrace Hill commission with all final authority resting with the commission. A board of not less than seven members called the board of trustees will conduct two piano competitions: a senior competition for high school seniors and a junior competition for students in grades 9 through 11. The board will direct payments from the endowment for scholarships to one or more winners of the senior competition. No endowment money is to be used for awards to winners of the junior competition. The board will be appointed by the commission. ~~The majority of the members of the board of trustees shall be members~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~of the Terrace Hill commission and the Terrace Hill Society. Staggered terms of three years will be set by the commission for THEMA trustees. All policies, fund-raising activities and decisions concerning the competition and the scholarship, its growth, and presentation scholarships are under the jurisdiction of the trustees, subject to Terrace Hill commission oversight and approval.~~

11—116.2(8A) Scholarship Senior competition scholarship established. ~~The Terrace Hill commission maintains an endowment fund to be used for the sole purpose purposes of providing a biennial grant, and a one-time second and third place grant, to an Iowa high school senior or resident conducting a piano competition and providing scholarships to the winners of the senior piano competition. Participants in the competition must be Iowa high school seniors who will be an entering freshman freshmen with a piano major or minor at one of Iowa's public or private colleges or universities. The scholarship is called "The First Lady Family of Iowa Award Scholarship from the Terrace Hill Endowment for the Musical Arts." The successful applicant shall receive a one-time grant of not less than \$2,000. One thousand dollars of this grant will be presented each year for a two-year period. The first-, second- and third-place participants shall receive one-time scholarships. One-half of each scholarship shall be presented each year for a two-year period. In the event the successful applicant first-place participant is disqualified or otherwise unable to utilize the grant scholarship, the judges may choose to award the grant first-place scholarship to the second- or third-place applicant participant. Such a decision must be accompanied by a written statement in which the judges set out their opinion that the second- or third-place contestant participant has sufficient talent to merit the increased award scholarship. The cash award scholarship may be supplemented by other benefits, publicity or opportunities as may be arranged by the commission.~~

~~In addition to the first place grant, a one-time \$750 grant will be made to the second place applicant and a one-time \$500 grant will be made to the third place applicant. All scholarships will be determined by the THEMA board of trustees as set forth in the requirements the board establishes and posts on the THEMA Web site: www.TerraceHillPianoCompetition.org. The grants scholarships will be paid directly to the college colleges or university universities attended by the applicants participants.~~

~~The successful applicant is not eligible to compete again for the grant.~~

11—116.3(8A) Application. ~~Application forms for both competitions are available from the Terrace Hill Commission, 2300 Grand Avenue, Des Moines, Iowa 50312, and on the THEMA Web site: www.TerraceHillPianoCompetition.org. Telephone requests may be made by calling the commission at (515)281-7205. The form contains the date it must be submitted deadline for submission to the commission in order for a participant to be eligible for the grant scholarship awarded for that particular school year. Applications are not held over from one contest to another. Applicants must submit new applications each time they wish to be eligible for the grant. Procedures and standards for application and acceptance are set by the THEMA board of trustees.~~

11—116.4(8A) Funding. ~~All funds to support and maintain the scholarship piano competitions and scholarships have been raised by public and private donations and shall not be used for any other purpose. They are held in trust under the Terrace Hill foundation, a nonprofit, charitable foundation. Funds are deposited into a segregated account with the Terrace Hill partnership, a public charitable foundation organization of which the commission is the sole member. Funds are disbursed as directed by the THEMA board of trustees, subject to commission approval. All proceeds generated from investment interest by the scholarship moneys are themselves deposited into the scholarship trust account. The treasurer for the scholarship THEMA endowment fund is the treasurer for the commission and the foundation Terrace Hill partnership.~~

11—116.5(8A) Selection criteria and judging. ~~The sole criterion for the grant scholarships will be the talent of the applicant, as determined by a competition conducted by a panel of judges participants. Representatives of the board of trustees may conduct an initial review of the participants' applications~~

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

to narrow the field of participants. The selected participants will perform before a panel of judges, who will select the scholarship winners.

116.5(1) *Selection of judges.* ~~The THEMA board of trustees of the endowment shall establish a selection committee to choose judges for the competition competitions. All members of the selection committee shall have a background in piano and piano education. To ensure the competence of the judges, each must be approved by the selection committee as being competent to judge piano talent. The committee will assist and advise in the actual ceremonies for the scholarship judging and presentation and in the additional appearances by the scholarship recipient.~~

116.5(2) *The competition Competitions.* All rules and procedures for the competitions will be determined by the THEMA board of trustees and will be posted on the THEMA Web site: www.TerraceHillPianoCompetition.org. All applicants participants shall be given not less than at least two weeks' notice of the date, time, and location of the competition competitions, and the amount of time available for each applicant's recital participant's performance. The recitals shall be performed All participants shall perform on a piano furnished by the commission. The judges may impose additional requirements as needed to preserve the order and decorum of the competition competitions and to ensure that each applicant participant has a fair opportunity to perform.

~~The successful competitor will be asked during the two-year course of the scholarship to perform at several functions at the pleasure of the governor or the governor's spouse.~~

116.5(3) *Selection.* ~~At the conclusion of the competition competitions, the judges shall meet in closed session to review the performances and select the successful applicant participants. The decision of the judges is final, with no review available by the Terrace Hill commission.~~

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

[Filed 7/28/17, effective 9/20/17]

[Published 8/16/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/16/17.

ARC 3263C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Department hereby rescinds Chapter 13, "Community Disaster Grants," Iowa Administrative Code.

In accordance with Iowa Code section 17A.7(2), the Department finds that Chapter 13 should be rescinded and reserved as the chapter is no longer being utilized. The grant program created in the chapter operated for a defined term, all funds have been expended and all grant administration processes have been completed.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 3129C** on June 21, 2017. No public comment was received. This amendment is identical to that published under Notice of Intended Action.

The Homeland Security and Emergency Management Department adopted this amendment on July 26, 2017.

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

This amendment is intended to implement Iowa Code section 17A.7(2).

This amendment will become effective September 20, 2017.

The following amendment is adopted.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

Rescind and reserve **605—Chapter 13**.

[Filed 7/26/17, effective 9/20/17]

[Published 8/16/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/16/17.

ARC 3264C**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Medicine hereby amends Chapter 21, "Physician Supervision of a Physician Assistant," Iowa Administrative Code.

One purpose of Chapter 21 is to establish factors that would render a physician ineligible to supervise a physician assistant. These amendments establish that a physician is ineligible to supervise a physician assistant if the physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

The Board approved a Notice of Intended Action on April 28, 2017. The Notice was published as **ARC 3069C** in the Iowa Administrative Bulletin on May 24, 2017. A public hearing was held on June 13, 2017. Several revisions were made from the amendments published under Notice, based on comments received in writing or presented at the public hearing.

In rule 653—21.3(148), the reporting period was expanded from 30 days to 60 days.

In rule 653—21.4(148,272C), the Board determined it would provide a sample supervisory agreement form instead of approving forms used by the supervising physician.

In subrule 21.4(4), the Board added patient complaints to the topics of conversation between the supervising physician and the physician assistant. Also, the Board determined that the supervisory agreement shall also include a provision which ensures that each supervising physician and physician assistant conduct an ongoing discussion and evaluation of the supervisory agreement.

In subrule 21.4(5), the Board determined that chart review documentation may include a supervising physician's signing or initialing the chart of a patient diagnosed and/or treated by the physician assistant. The Board determined that each supervising physician shall ensure that there is an ongoing review of a representative sample of the physician assistant's charts and that the findings from the ongoing review are discussed with the physician assistant.

The Board did not adopt proposed subrule 21.4(6) and renumbered the remaining subrules accordingly.

At its regularly scheduled meeting held on July 21, 2017, the Board voted to adopt and file the Noticed amendments published on May 24, 2017, with the changes detailed above.

After analysis and review of this rule making, no negative impact on private sector jobs and employment opportunities within the state of Iowa has been found. Other than requiring a written supervisory agreement, the elements covered in the agreement are existing supervisory requirements found in the Iowa Code and the Iowa Administrative Code.

These amendments are intended to implement Iowa Code chapters 147, 148 and 272C.

These amendments will become effective September 20, 2017.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 21.1(3):

21.1(3) The physician does not have a written supervisory agreement in place with each physician assistant supervised by the physician.

MEDICINE BOARD[653](cont'd)

ITEM 2. Amend rule 653—21.3(148) as follows:

653—21.3(148) Board notification. A physician who supervises a physician assistant shall notify the board of the supervisory relationship within 60 days of the provision of initial supervision and at the time of the physician's license renewal.

ITEM 3. Renumber rules **653—21.4(148,272C)** to **653—21.7(17A,147,148,272C)** as **653—21.5(148,272C)** to **653—21.8(17A,147,148,272C)**.

ITEM 4. Adopt the following new rule 653—21.4(148,272C):

653—21.4(148,272C) Supervisory agreements. Each physician who supervises a physician assistant shall establish a written supervisory agreement prior to supervising a physician assistant. A sample supervisory agreement form is available from the board. The purpose of the supervisory agreement is to define the nature and extent of the supervisory relationship and the expectations of each party. The supervisory agreement shall take into account the physician assistant's demonstrated skills, training and experience, proximity of the supervising physician to the physician assistant, and the nature and scope of the medical practice. The supervising physician shall maintain a copy of the supervisory agreement and provide a copy of the agreement to the board upon request. The supervisory agreement shall, at a minimum, address the following provisions.

21.4(1) Review of requirements. The supervisory agreement shall include a provision which ensures that the supervising physician and the physician assistant review all of the requirements of physician assistant licensure, practice, supervision, and delegation of medical services as set forth in Iowa Code section 148.13 and chapter 148C, this chapter, and 645—Chapters 326 to 329.

21.4(2) Assessment of education, training, skills, and experience. The supervisory agreement shall include a provision which ensures that each supervising physician assesses the education, training, skills, and relevant experience of the physician assistant prior to providing supervision. Each supervising physician and physician assistant shall ensure that the other party has the appropriate education, training, skills, and relevant experience necessary to successfully collaborate on patient care delivered by the team. Thereafter, each supervising physician shall regularly evaluate the clinical judgment, skills, performance and patient care of the physician assistant and shall provide appropriate feedback to the physician assistant.

21.4(3) Delegated services. The supervisory agreement shall include a provision which addresses the services the supervising physician delegates to the physician assistant. The medical services and medical tasks delegated to and provided by the physician assistant shall be in compliance with 645—subrule 327.1(1). All delegated medical services shall be within the scope of practice of the supervising physician and the physician assistant. The supervising physician and the physician assistant shall have the education, training, skills, and relevant experience necessary to perform the delegated services prior to delegation.

21.4(4) Communication. The supervisory agreement shall include a provision which sets forth expectations for communication. Each supervising physician and physician assistant shall communicate about and consult on patient complaints, medical problems, complications, emergencies, and patient referrals as indicated by the clinical condition of the patient. The supervising physician shall be available for timely consultation with the physician assistant, either in person or by telephonic or other electronic means. The supervisory agreement shall also include a provision which ensures that each supervising physician and physician assistant conduct ongoing discussions and evaluation of the supervisory agreement, including supervision; expectations for both parties; assessment of education, training, skills, and relevant experience; review of delegated services; review of the medical services provided by the physician assistant; and the types of cases and situations when the supervising physician expects to be consulted.

21.4(5) Chart review. The supervisory agreement shall include a provision which sets forth the plan for completing and documenting chart reviews. Documentation may include, but is not limited to, the supervising physician's placing the supervising physician's signature or initials on the charts

MEDICINE BOARD[653](cont'd)

reviewed. Each supervising physician shall ensure that an ongoing review of a representative sample of the physician assistant's patient charts encompassing the scope of the physician assistant's practice provided under the physician's supervision occurs and that the findings of the review are discussed with the physician assistant.

21.4(6) Remote medical site. The supervisory agreement shall include a provision which ensures that the supervising physician visits a remote medical site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in unusual or emergency circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the physician shall notify the board in writing of these circumstances within 30 days. "Remote medical site" means a medical clinic for ambulatory patients which is away from the main practice location of a supervising physician and in which a supervising physician is present less than 50 percent of the time when the remote medical site is open. "Remote medical site" will not apply to nursing homes, patient homes, hospital outpatient departments, outreach clinics, or any location at which medical care is incidentally provided (e.g., diet center, free clinic, site for athletic physicals, jail facility). The board shall only grant a waiver or variance of this provision if substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in this rule.

21.4(7) Alternate supervision. The supervisory agreement shall include a provision which sets forth the expectations and plan for alternate supervision. If the supervising physician will not be available for any reason, an alternate supervising physician must be available to ensure continuity of supervision. The supervising physician will ensure that the alternate supervising physician is available for a timely consultation and will ensure that the physician assistant is notified of the means by which to reach the alternate supervising physician. The physician assistant may not practice if supervision is unavailable, except as otherwise provided in Iowa Code chapter 148C or 645—Chapters 326 to 329.

ITEM 5. Adopt the following **new** subrule 21.5(4):

21.5(4) The physician fails to adequately direct and supervise a physician assistant or fails to comply with the minimum standards of supervision in accordance with this chapter, Iowa Code section 148.13 and chapter 148C, and 645—Chapters 326 to 329.

[Filed 7/25/17, effective 9/20/17]

[Published 8/16/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/16/17.

ARC 3265C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of the Department of Workforce Development hereby amends Chapter 1, "Administration," Chapter 22, "Employer Records and Reports," and Chapter 24, "Claims and Benefits," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development.

Notice of Intended Action for these amendments was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3138C**. No comments were received. The Notice was on the agenda for the Administrative Rules Review Committee (ARRC) meeting held on July 6, 2017. No questions or comments were received during this public meeting of the ARRC. These amendments are identical to those published under Notice.

These amendments do not have any fiscal impact on the State of Iowa.

Waiver provisions do not apply to this rule making.

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

These amendments are intended to implement Iowa Code chapter 96.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

These amendments will become effective September 20, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 1.1(10) as follows:

1.1(10) *Division of workforce development center administration.* The division is under the direction of a division administrator who reports to the director. ~~The budget and rules relating to workforce development must be approved by the Iowa workforce development board.~~ The division's function is to administer, inform, regulate and enforce workforce development issues and services such as employment, training and placement as provided in Iowa Code chapters 7B, 84A and 96. A specific description of ~~board duties and division responsibilities is contained in 877—Chapters 2 and 3~~ ~~877—Chapter 2.~~

ITEM 2. Amend rule 871—22.3(96), catchwords, as follows:

871—22.3(96) Filing of Employer's Contribution and Payroll Report, 65-5300, and Employer's Payroll Continuation Sheet, 60-0103.

ITEM 3. Amend subrule 22.3(4) as follows:

22.3(4) Employer to file report even when no payroll. Every qualified or subject employer is required to ~~send in an Employer's Contribution and Payroll Report, Form 65-5300, file contribution and payroll~~ each quarter. Even though an employer finds that for some particular quarter no contributions are due; ~~or they have~~ the employer has no employees during the period covered, a report must be filed with the department.

ITEM 4. Amend subrule 22.3(6) as follows:

22.3(6) Each Form 65-5300, Employer's Contribution & ~~and~~ Payroll Report, shall include:

a. The social security number, name (last name first), and total wages paid to each employee during the calendar quarter. All corrections to previous reports must be submitted ~~on Form 68-0061, Employer's Wage Adjustment Report~~ electronically. All employees' wages will be reported by the reporting unit under which the work was performed. See rules 871—23.3(96) through 871—23.6(96).

b. The sum of the total and taxable wages paid to all employees during the calendar quarter. ~~If reported electronically, the~~ The sum of the total and taxable wages will be computed for the employer. The electronic system will compute the taxable wages for each employee. If the employer is claiming taxable wages reported to another state, the amount claimed and the state that the wages were reported to will be listed.

c. The amount of contribution due for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter the contribution due.

d. The amount of interest due, if any, for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter the interest due.

e. The amount of penalty due, if any, for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter any penalty due.

f. The total amount of contribution, interest and penalty due for the calendar quarter. ~~If the report is filed electronically, the~~ The system will compute and enter the total amount due.

g. Rescinded IAB 5/5/10, effective 6/9/10.

h. The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than \$1, the employer need not submit payment. ~~If the report is filed electronically, the~~ The system will compute and enter the net remittance due.

i. The total number of employees listed on the report. ~~If the report is filed electronically, the~~ The system will compute and enter the total number of employees on the report.

j. The amount of extraordinary pay which was paid to the employees during the calendar quarter for each reporting unit.

k. The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for each reporting unit.

l. The number of the county in which the reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall also be required to complete and return the Form 65-5519, Multiple Worksite Report, which shall include for each worksite the total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages if the report is filed electronically.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total number of employees reported for that month on the Form 65-5300, Employer's Contribution & Payroll Report.

(2) The total wages paid to all employees at all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total wages reported on the Form 65-5300, Employer's Contribution & Payroll Report.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full 13-week period in the calendar quarter, while employment. Employment is reportable on the Form 65-5300, Employer's Contribution & Payroll Report, when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

m. The reason (seasonal change, labor dispute, layoff, recall, worksite opening, or worksite closing) for the increase or decrease in total employment during the calendar quarter.

n. Rescinded IAB 3/5/03, effective 4/9/03.

o. The electronic signature, ~~written or electronic~~, of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number of the signer.

p. Such other schedules or reports as may be required, duly completed in all substantial respects on such forms and in accordance with such instructions as the department may provide or approve.

ITEM 5. Rescind and reserve subparagraph **24.1(25)“b”(13)**.

ITEM 6. Rescind and reserve subrule **24.1(68)**.

ITEM 7. Rescind and reserve subrule **24.1(72)**.

ITEM 8. Amend subrule 24.2(2) as follows:

24.2(2) Filing a claim for unemployment insurance benefits (not applicable to interstate claims).

a. A notice of claim filing, which includes the name and social security number of the individual claiming benefits, shall be sent to each base period employer on record and the last employer if different than the base period employer unless the separation issue has previously been adjudicated.

b. Even though the claims taker may believe that the claimant cannot meet the eligibility conditions required by statute, the claims taker shall in no instance refuse to accept a claim from any unemployed individual. If the claimant elects to file a claim, even though the claimant's eligibility may be questionable, the claim shall be accepted without hesitance. The claimant ~~must~~ may be required to provide adequate proof of identification such as a driver's license, proof of citizenship, car registration, or union membership card or supply personally identifying information.

c. If a claim was filed in a previous quarter and was determined not eligible because of no wage records, or lack of qualifying earnings, a benefit year has not been established and a new claim will be taken. A new claim should not be taken if the claimant previously has filed an ineligible claim in the same quarter unless the claimant insists on filing after being advised of ineligibility. The claims taker shall explain or send notice to the claimant that another claim filed in the same quarter would also be determined as ineligible because additional wage credits (if any) would not be available until a subsequent quarter. The claimant should be advised to file a new claim during the first full week of the next calendar quarter.

d. If the check of the files does not disclose a previous claim and the claimant states that a claim has not been filed during the past year, a new claim shall be taken.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

e. Partially unemployed claims.

(1) A partially unemployed individual shall file a claim for benefits in the same manner as an initial claim for unemployment insurance.

(2) Reporting wages. A partially unemployed individual shall report all wages which are earned for each week benefits are claimed.

(3) A claimant in a continuous reporting status, employed with the same employer, may exceed the claimant's weekly benefit amount plus \$15 for four consecutive weeks before the individual is required to file an additional claim for benefits.

f. If the check of the files does not disclose a monetarily valid claim in another state, a new claim shall be taken.

ITEM 9. Amend paragraph **24.2(4)“a”** as follows:

a. A request for cancellation of an unemployment insurance claim may be made by the individual ~~in writing~~ and be directed to the ~~Unemployment Insurance Service Center, Department of Workforce Development, P.O. Box 10332, Des Moines, Iowa 50306~~ benefits bureau of the unemployment insurance services division. The statement must include the specific reason for the request and contain as much pertinent information as possible so that a decision can be made. A notice with the result of the request will be sent.

ITEM 10. Amend paragraph **24.2(4)“c,”** introductory paragraph, as follows:

c. Cancellation requests within the ten-day protest period. ~~The claims section~~ benefits bureau, upon review of the timely request and before payment is made, may cancel the claim for the following reasons:

ITEM 11. Amend subrule 24.5(2), introductory paragraph, as follows:

24.5(2) Cooperation of employers. To enable workforce development centers to make the preliminary arrangements for mass claim taking, the major employers in the area should notify the local office in advance, as soon as they know that a mass separation will take place. The workforce development center shall provide the information to legal counsel for the unemployment insurance services ~~bureau~~ division so that the mass claim separation can be coordinated between the affected parties. This information should include:

ITEM 12. Amend paragraph **24.9(1)“a”** as follows:

a. When an initial claim for benefits is filed, the department shall ~~mail~~ send to the individual claiming benefits ~~a Form 65-5318, Iowa Monetary Record, which is,~~ including a notification statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

ITEM 13. Amend subrule 24.19(3) as follows:

24.19(3) Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the ~~claims section~~ benefits bureau may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. The claimant or any other party filing the request for review shall be promptly notified of the decision or referral. Unless the claimant or any other party files an appeal within ten days after the date of mailing, the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

ITEM 14. Amend paragraph **24.33(2)“k”** as follows:

k. The requirements in subrules 24.33(1) and 24.33(2) will cover the establishment and termination reports of the work stoppage and give the information necessary for the ~~claims section~~ benefits bureau to investigate the work stoppage when claims are filed on which a protest is made that the claimant is involved in a work stoppage.

[Filed 7/26/17, effective 9/20/17]

[Published 8/16/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/16/17.

ARC 3266C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 26, "Contested Case Proceedings," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures in preparing for and participating in unemployment appeal hearings.

Notice of Intended Action for these amendments was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3137C**. No comments were received. The Notice was on the agenda for the Administrative Rules Review Committee (ARRC) meeting held on July 6, 2017. No questions or comments were received during this public meeting of the ARRC. These amendments are identical to those published under Notice.

This rule making does not have a fiscal impact on the state of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

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

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective September 20, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 871—26.9(17A,96) as follows:

871—26.9(17A,96) Discovery.

26.9(1) Discovery procedures applicable to civil actions are available to all parties in interest in contested cases.

26.9(2) Unless otherwise limited by a protective order, ~~the frequency of use of discovery methods~~ is not limited. Upon application by any adversely affected party or upon the presiding officer's own motion, the presiding officer may ~~order otherwise~~ limit discovery in the following situations:

- a. The discovery sought is unduly repetitious, or the information sought ~~may~~ can be obtained ~~in~~ by another method that is more convenient, less burdensome or less expensive; or
- b. The party seeking discovery has had prior ample opportunity to obtain the information; or
- c. The discovery is unduly burdensome or expensive when viewed in the context of the factual issues to be resolved, the limited resources of the parties, and the parties' interest in prompt resolution of the contested case.

26.9(3) A party may obtain discovery regarding any matter, not privileged, relevant to the subject matter involved in the contested case, including the existence, description, nature, custody, condition and location of any tangible items and the identity and location of persons having knowledge of discoverable matters. Information may be discovered, even if inadmissible itself, if it appears reasonably calculated to lead to the discovery of admissible evidence. ~~In any event, the~~ The names of a party's witnesses, their expected testimony, and exhibits to be offered into evidence may be obtained by discovery.

26.9(4) A party who ~~has~~ responded to a request for discovery with a response which was complete and accurate when made need not supplement the response to include information obtained ~~after the response~~ later. However, a party must promptly supplement its response to requests for the identity and location of persons having knowledge of discoverable matters; and the identity of each person expected to be called to testify at the hearing, and the party must produce copies of exhibits expected to be offered into evidence at the hearing as such decisions are made. A party must also promptly amend any response if it obtains information ~~establishing~~ showing that its prior response was incorrect when made or, though correct when made, is no longer correct.

26.9(5) No motion relating to discovery, including motions for imposition of sanctions, will be considered unless the moving party ~~alleges~~ states that it ~~has~~ made a good-faith but unsuccessful effort to resolve the issues raised in the motion with the opposing party without intervention by the presiding officer.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

26.9(6) Upon motion by a party or the person from whom discovery is sought or by any person who may be adversely affected thereby, and for good cause shown, the presiding officer before whom the contested case is pending may make any order which justice requires to protect a party or person from oppression or undue burden ~~of~~ or expense. Such order may deny the request for discovery or limit terms, conditions, manner and scope thereof.

26.9(7) A party may, in accordance with subrule 26.9(5), ~~apply to ask~~ the presiding officer ~~before whom a contested case is pending~~ for an order compelling discovery if the other party upon whom the request has been served fails within a reasonable time to make a complete, good-faith response. After notice to both parties and hearing ~~upon~~ on the motion, the presiding officer shall enter an order which denies or compels discovery, ~~which~~. This order may be combined with a protective order pursuant to subrule 26.9(6).

26.9(8) Upon ~~application~~ written request by any party or upon the presiding officer's own motion, the presiding officer may impose sanctions for the failure to ~~make~~ respond to discovery requests; however, sanctions shall not be imposed without prior specific notice from the presiding officer of the contemplated sanction, opportunity to be heard, and, if necessary, further opportunity to cure its failure. The sanctions may include the following:

- a. ~~The granting of a postponement to a~~ Postponing and rescheduling the hearing if requested by the party demonstrably prejudiced by the failure;
- b. ~~The exclusion of the~~ Excluding testimony of witnesses not identified in response to a specific request for such information;
- c. ~~The exclusion~~ Excluding from the record of those exhibits not identified in response to a specific request for such information;
- d. ~~The exclusion of~~ Excluding the party from ~~participation~~ participating in the contested case proceedings;
- e. ~~The dismissal of~~ Dismissing the party's appeal.

26.9(9) Requests for discovery shall be ~~filed with the Appeals Bureau, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, for service on other parties and persons served on the opposing party by ordinary mail, fax or e-mail.~~ Responses must be ~~filed with~~ served on the party requesting the discovery within ten days after mailing by the department the discovery request is sent unless the presiding officer grants an extension of time in which to comply has been granted by the presiding officer. Requests for discovery ~~received within five~~ must be made at least ten days before a scheduled contested case hearing ~~will not be honored in the absence of a request for a postponement showing good cause therefor.~~ A party's inattention to preparation is not good cause ~~for postponement to~~ postpone the hearing.

ITEM 2. Amend subrule 26.15(5) as follows:

26.15(5) Proposed exhibits ~~should~~ must be sent to the appeals bureau and to the other party or parties to the proceeding ~~prior to~~ before the hearing date by mail, fax, ~~or~~ e-mail or hand-delivery.

[Filed 7/26/17, effective 9/20/17]

[Published 8/16/17]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/16/17.